AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Federal Register

10–6–03 Monday
Vol. 68 No. 193 Oct. 6, 2003

Pages 57607–57782

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *http://www.nara.gov/fedreg.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.access.gpo.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via email at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 5:30 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $699, or $764 for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $10.00 for each issue, or $10.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 40% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, *bookstore@gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 68 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to **http://listserv.access.gpo.gov** and select:

Online mailing list archives
FEDREGTOC-L
Join or leave the list

Then follow the instructions.

Printed on recycled paper.

Contents

Federal Register

Vol. 68, No. 193

Monday, October 6, 2003

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service
See Natural Resources Conservation Service

Air Force Department
NOTICES
Meetings:
Scientific Advisory Board, 57674

Animal and Plant Health Inspection Service
RULES
Viruses, serums, toxins, etc.:
Desiccated biological products; moisture content, 57607–57608
PROPOSED RULES
Viruses, serums, toxins, etc.:
Bovine virus diarrhea and bovine rhinotracheitis vaccines; standard requirements, 57638–57639
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 57653–57654
Meetings:
Exotic big cats; care and maintenance symposia, 57655
Veterinary services user fees; 2003 FY reimbursable overtime charges, 57655–57660

Antitrust Division
NOTICES
National cooperative research notifications:
Advanced Technology Institute, 57709–57710

Army Department
See Engineers Corps

Centers for Disease Control and Prevention
NOTICES
Meetings:
National Institute for Occupational Safety and Health, National Institues of Health, and National Cancer Institute—
Lung cancer and diesel exhaust among non-metal miners; cohort mortality study with nested case-control study, 57696

Centers for Medicare & Medicaid Services
RULES
Medicare:
Hospital inpatient prospective payment systems and 2004 FY rates
Correction, 57731–57758

Coast Guard
RULES
Drawbridge operations:
Florida, 57614–57616
Ports and waterways safety:
Ninth Coast Guard District; Illinois Waterway System; barges loaded with dangerous cargoes; reporting requirements, 57616–57624

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 57663

Defense Department
See Air Force Department
See Engineers Corps

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Postsecondary education—
Jacob K. Javits Fellowship Program, 57675
Meetings:
National Institutional Quality and Integrity Advisory Committee, 57675–57677

Employee Benefits Security Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 57711–57712

Employment and Training Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 57712–57713

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Grants and cooperative agreements; availability, etc.:
Plasma Physics Junior Faculty Development Program, 57677–57678

Engineers Corps
RULES
Danger zones and restricted area regulations:
Charleston, SC; Cooper River and Tributaries in vicinity of Naval Weapons Station, 57624
PROPOSED RULES
Danger zones and restricted areas:
Sheboygan County, WI; Lake Michigan shoreline between Manitowac and Port Washington, 57642–57643
NOTICES
Environmental statements; notice of intent:
Los Angeles County, CA—
Port of Long Beach, Pier S marine terminal development, 57674–57675

Environmental Protection Agency
NOTICES
Reports and guidance documents; availability, etc.:
Clean Water Act—
Ferrocyanide; qualification as a cyanide within meaning of toxic pollutants list, 57690–57691
Facilities Subject to Corrective Action Under Subtitle C of Resource Conservation and Recovery Act; Results-Based Approaches and Tailored Oversight Guidance, 57691–57692
Water supply:
Public water supply supervision program—
West Virginia, 57692

Executive Office of the President
See Trade Representative, Office of United States

Federal Accounting Standards Advisory Board
NOTICES
Committees; establishment, renewal, termination, etc.:
Agency charter amendment, 57692

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 57609–57611
Bombardier, 57611–57613
PROPOSED RULES
Airworthiness directives:
Boeing, 57639–57642

Federal Communications Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 57692–57694
Meetings:
Technological Advisory Council, 57695

Federal Emergency Management Agency
RULES
Flood elevation determinations:
Various States, 57625–57629
NOTICES
Radiological Emergency Preparedness:
Indian Point Energy Center, 57702

Federal Energy Regulatory Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 57678–57683
Electric rate and corporate regulation filings:
Fresno Power Investors, L.P., et al., 57685–57687
Plymouth Energy LLC, et al., 57687–57689
Meetings:
Outreach Integrated Licensing Process, 57689–57690
Practice and procedure:
Off-the-record communications, 57690
Applications, hearings, determinations, etc.:
Dominion Cover Point LNG LP, 57683
Sitka, AK, 57683–57684
Texas-New Mexico Power Co., 57684
Universal Electric Power Corp., 57684
Valley Electric Association, Inc., 57685

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Syracuse, UT, 57728–57729

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Critical habitat designations—
Tennessee and Cumberland River Basin mussels; technical correction, 57643–57646
Finding on petitions, etc—
Tibetan Antelope, 57646–57652
NOTICES
Endangered and threatened species:
Incidental take permits—
Cochise County, AZ and Hidalgo County, NM; Chiricahua leopard frog, 57702–57703
Recovery plans—
San Francisco lessingia and Raven's manzanita, 57703–57704

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Progesterone intravaginal inserts, 57613–57614
PROPOSED RULES
Human drugs—
Oral health care drug products (OTC)—
Antigingivitis/antiplaque products; monograph establishment; correction, 57642
NOTICES
Reports and guidance documents; availability, etc.:
Continuous marketing applications—
Pilot 1; fast track products under Prescription Drug User Fee Act of 1992; reviewable units, 57697–57698
Continuous marketing applictions—
Pilot 2; fast track products development under Prescription Drug User Fee Act of 1992; scientific feedback and interactions, 57696–57697

Forest Service
NOTICES
Environmental statements; notice of intent:
Beaverhead-Deerlodge National Forest, MT; correction, 57660–57662
Meetings:
Resource Advisory Committees—
Yakutat, 57662

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
NOTICES
Meetings:
Vital and Health Statistics National Committee, 57695
Organization, functions, and authority delegations:
Office of Budget, Technology and Finance, 57695–57696

Health Resources and Services Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 57698–57699

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency

Indian Affairs Bureau
NOTICES
Committees; establishment, renewal, termination, etc.:
Land Consolidation Program Working Group, 57704
Re-Engineering (To-Be) Process and Fiduciary Trust Improvement Efforts Working Group, 57704–57705
Environmental statements; notice of intent:
St. Regis Band of Mohawk Indians; Sullivan County, NY; Mohawk Mountain resort and casino, 57705–57706
Grants and cooperative agreements; availability, etc.:
Tribal courts, 57706

Interior Department
See Fish and Wildlife Service

See Indian Affairs Bureau
See Land Management Bureau
See National Park Service
See Special Trustee for American Indians Office
NOTICES
Committees; establishment, renewal, termination, etc.:
Grand Staircase-Escalante National Monument Advisory Committee, 57702

International Trade Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 57663–57664
Antidumping:
Hard red spring wheat from—
Canada, 57666–57667
Light-walled rectangular pipe and tube from—
Mexico and Turkey, 57667–57670
Silicon metal from—
Brazil, 57670–57672
Antidumping and countervailing duties:
Carbon and alloy steel wire rod from—
Various countries, 57664–57666

Justice Department
See Antitrust Division

Labor Department
See Employee Benefits Security Administration
See Employment and Training Administration
See Occupational Safety and Health Administration
RULES
Nondiscrimination on basis of race, color, national origin, handicap, or age in federally assisted programs or activities
Correction, 57730
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 57710–57711

Land Management Bureau
NOTICES
Meetings:
Resource Advisory Councils—
John Day/Snake, 57706

National Aeronautics and Space Administration
RULES
Acquisition regulations:
Interagency acquisitions; five year limitation, 57629
NOTICES
Committees; establishment, renewal, termination, etc.:
Education Advisory Committee, 57714

National Institutes of Health
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 57699–57701
Meetings:
National Heart, Lung, and Blood Institute, 57701
National Institute of Environmental Health Sciences, 57701

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Pacific cod, 57636–57637
Pollock, 57634–57636
NOTICES
Damage Assessment and Restoration Program:
Indirect cost rates (2002 FY), 57672–57673
Permits:
Marine mammals, 57673–57674

National Park Service
NOTICES
Environmental statements; availability, etc.:
Glacier Bay National Park and Preserve, AK, 57706–57708
National Register of Historic Places:
Pending nominations, 57708–57709

National Transportation Safety Board
NOTICES
Meetings; Sunshine Act, 57714

Natural Resources Conservation Service
NOTICES
Field office technical guides; changes:
Tennessee, 57662–57663

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Florida Power Corp., 57714–57715
Southern Nuclear Operating Co., 57715

Occupational Safety and Health Administration
NOTICES
Meetings:
Ergonomics National Advisory Committee, 57713

Office of United States Trade Representative
See Trade Representative, Office of United States

Overseas Private Investment Corporation
NOTICES
Meetings; Sunshine Act, 57715–57716

Research and Special Programs Administration
RULES
Hazardous materials:
Editorial corrections and clarifications, 57629–57634

Securities and Exchange Commission
RULES
Investment companies:
Advertising rules; amendments, 57759–57782
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 57716–57720
International Securities Exchange, Inc., 57720–57721
Pacific Exchange, Inc., 57721–57723
Philadelphia Stock Exchange, Inc., 57724–57726

Social Security Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 57726–57727

Special Trustee for American Indians Office
NOTICES
Committees; establishment, renewal, termination, etc.:
Land Consolidation Program Working Group, 57704
Re-Engineering (To-Be) Process and Fiduciary Trust Improvement Efforts Working Group, 57704–57705

State Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 57727–57728
Art objects; importation for exhibition:
Jasper Johns: Numbers, 57728

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Camas Prairie Railnet, Inc., 57729

Trade Representative, Office of United States
NOTICES
Meetings:
Industry Sector Advisory Committees—Services, 57728

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Research and Special Programs Administration
See Surface Transportation Board

Separate Parts In This Issue

Part II
Health and Human Services Department, Centers for Medicare & Medicaid Services, 57731–57758

Part III
Securities and Exchange Commission, 57759–57782

Reader Aids

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

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

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

9 CFR
113.....57607
Proposed Rules:
113.....57638

14 CFR
39 (2 documents) 57609, 57611
Proposed Rules:
39.....57639

17 CFR
230.....57760
239.....57760
270.....57760
274.....57760

21 CFR
529.....57613
Proposed Rules:
356.....57642

33 CFR
117.....57614
165.....57616
334.....57624
Proposed Rules:
334.....57642

41 CFR
101–8.....57730

42 CFR
412.....57732
413.....57732

44 CFR
65.....57625

48 CFR
1817.....57629

49 CFR
171.....57629
172.....57629
173.....57629
175.....57629
176.....57629
177.....57629
178.....57629
179.....57629

50 CFR
679 (2 documents) 57634, 57636
Proposed Rules:
17 (2 documents) 57643, 57646

Rules and Regulations

Federal Register

Vol. 68, No. 193

Monday, October 6, 2003

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

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 01–067–2]

Viruses, Serums, Toxins, and Analogous Products; Determination of Moisture Content in Desiccated Biological Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Virus-Serum-Toxin Act regulations for the determination of moisture content in desiccated biological products to require that such determinations be made using a gravimetric method that expresses moisture content as the percentage of weight a product loses during a drying cycle, and to require that the maximum percentage of moisture permitted for a satisfactory test must be specified in a filed Outline of Production. The gravimetric method has been adopted as an international standard by scientific experts and regulatory authorities in the United States, Canada, Japan, and the European Union. In addition, we are amending the regulations pertaining to general requirements for live bacterial vaccines and general requirements for live virus vaccines to specify the gravimetric method when testing for moisture content. These actions will update the regulations by providing a uniform method of determining moisture content in desiccated products and ensure the stability of that product during its dating period.

EFFECTIVE DATE: November 5, 2003.

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

SUPPLEMENTARY INFORMATION:

Background

The Virus-Serum-Toxin Act regulations in 9 CFR part 113 (referred to below as the regulations) prescribe standard requirements for the preparation and testing of veterinary biological products. Standard requirements consist of test methods, procedures, and criteria that define the standards for purity, safety, potency, and efficacy for a given type of veterinary biologic product. When a standard procedure for testing veterinary biological products is validated and approved by the Animal and Plant Health Inspection Service (APHIS) for general use, it is proposed for codification in the regulations. Section 113.29 of the regulations sets forth the requirement for determination of moisture content in desiccated biological products.

On August 5, 2002, we published in the **Federal Register** (67 FR 50606–50608, Docket No. 01–067–1) a proposal to amend the regulations for determination of moisture content in desiccated biological products to specify that such determinations be made using a gravimetric method, and to require that the maximum percentage of moisture permitted for a satisfactory test must be specified in a filed Outline of Production. The proposed rule was intended to update the regulations by providing a uniform method of determining moisture content in desiccated products and ensure the stability of that product during its dating period.

We solicited comments on our proposed rule for 60 days ending on October 4, 2002. We received two comments by that date, from a veterinary biologics manufacturer and a national trade association representing veterinary biologics manufacturers. Both commenters supported the proposed rule. One commenter did, however, request that we ''clarify the exceptions to the use of the proposed method.'' The commenter recommended that if we intend to handle such instances via outline exemptions, then that should be stated. Additionally, the commenter asked that we indicate whether one valid reason for an exemption would be that a firm does not have the equipment necessary to conduct the test.

In this final rule, we are adopting the gravimetric method as the standard procedure for determining moisture content. As a Standard Requirement test, the gravimetric method should be used whenever the test for moisture content is performed. However, we note that exemptions to the use of the gravimetric method, like exemptions to any test prescribed in the various standard requirements found in part 113, may be granted for any valid reason in accordance with § 113.4, ''Exemptions to tests.'' Exemption requests are evaluated on a product-by-product basis, and in our review of such requests, we focus on the methods, equipment, and procedures that would be used in place of those prescribed in the Standard Requirement. It is the validity of the alternative methods and procedures that serves as the basis for the granting of an exemption.

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

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the Virus-Serum-Toxin Act regulations for determination of moisture content in desiccated biological products to require that such moisture determinations be made using a gravimetric method that determines residual moisture by measuring the percentage of weight a product loses during a product drying cycle. In addition, this rule provides that the maximum percentage of moisture permitted for a satisfactory test must be specified in a filed Outline of Production. The effect of this action will be to provide a standardized method for the determination of moisture content in desiccated biological products that has been adopted internationally and ensure that such moisture determinations are uniform and reproducible.

This rule will affect all licensed manufacturers of veterinary biologics that test desiccated vaccines for moisture content. Currently, there are approximately 135 veterinary biologics

establishments, including permittees. According to the standards of the Small Business Administration, most veterinary biologics establishments would be classified as small entities.

We do not expect that this rule will impose any additional testing or economic burden on these manufacturers because manufacturers currently test their products for moisture content by methods specified in their filed Outline of Production and the reagents and equipment necessary to perform the gravimetric test for moisture content that will be required under this rule are expected to be comparable in cost.

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

Executive Order 12372

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

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Virus-Serum-Toxin Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 113

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

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

PART 113—[AMENDED]

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

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

■ 2. Section 113.29 is revised to read as follows:

§ 113.29 Determination of moisture content in desiccated biological products.

Methods provided in this section must be used when a determination of moisture content in desiccated biological products is prescribed in an applicable Standard Requirement or in the filed Outline of Production for the product. Firms currently using methods other than those provided in this section for determining the moisture content in desiccated biological products have until November 5, 2004 to update their Outlines of Production to be in compliance with this requirement.

(a) Final container samples of completed product shall be tested. The weight loss of the sample due to drying in a vacuum oven shall be determined. All procedures should be performed in an environment with a relative humidity less than 45 percent. The equipment necessary to perform the test is as follows:

(1) Cylindrical weighing bottles with airtight glass stoppers.

(2) Vacuum oven equipped with validated thermometer and thermostat. A suitable air-drying device should be attached to the inlet valve.

(3) Balance, accurate to 0.1 mg (rated precision ±0.01mg).

(4) Desiccator jar equipped with phosphorous pentoxide, silica gel, or equivalent.

(5) Desiccated vaccine in original sealed vial. Sample and control should be kept at room temperature in their original airtight containers until use.

(b) Test procedure:

(1) Thoroughly cleaned and labeled sample-weighing bottles with stoppers should be allowed to dry at 60 ±3 °C under vacuum at less than 2.5 kPa.

(i) Transfer hot bottles and stoppers into the desiccator and allow to cool to room temperature.

(ii) After bottles have cooled, insert stoppers and weigh and record the weights of the bottles as ''A.''

(iii) Return weighing bottles to the desiccator.

(2) Remove the sample container seal.

(i) Using a spatula, break up the sample plug and transfer the required amount of sample to the previously tared weighing bottle.

(ii) Insert the stopper and weigh and record the weights of the weighing bottles as ''B.''

(3) Place the weighing bottle with the stopper at an angle in the vacuum oven. Set the vacuum to < 2.5 kPa and the temperature to 60 ±3 °C.

(4) After a minimum of 3 hours of drying time, turn off the vacuum pump and allow dry air to bleed into the oven until the pressure inside the oven is equalized with the prevailing atmospheric pressure.

(5) While the bottle is still warm, replace the stopper in its normal position and transfer the weighing bottle to the desiccator.

(i) Allow a minimum of 2 hours for the weighing bottle to cool to room temperature or for its weight to reach equilibrium.

(ii) Weigh, and record the weight as ''C.''

(6) Calculate the percentage of moisture in the original sample as follows:

$(B - C)/(B - A) \times (100)$ = Percentage of residual moisture, where:

A = tare weight of weighing bottle

B − A = weight of sample before drying

B − C = weight of sample after drying

(7) The results are considered satisfactory if the percentage of residual moisture is less than or equal to the manufacturer's specification.

■ 3. In § 113.64, paragraph (e) is amended by adding a new paragraph (e)(3) to read as follows:

§ 113.64 General requirements for live bacterial vaccines.

* * * * *

(e) * * *

(3) Final container samples of completed product from each serial and subserial must be tested for moisture content in accordance with the test provided in § 113.29.

■ 4. Section 113.300 is amended by revising paragraph (e) to read as follows:

§ 113.300 General requirements for live virus vaccines.

* * * * *

(e) *Moisture content.* (1) The maximum moisture content in desiccated vaccines must be stated in the filed Outline of Production.

(2) Final container samples of completed product from each serial or subserial must be tested for moisture content in accordance with the test prescribed in § 113.29.

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–25251 Filed 10–3–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–106–AD; Amendment 39–13326; AD 2003–20–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747SP and 747SR; 747–100B, –200B, –200C, –200F, –300, –400, and –400D; and 767–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing transport category airplanes. This action requires inspection of the attachment of the shoulder restraint harness to the mounting bracket on certain observer and attendant seats to determine if a C-clip is used in the attachment, and corrective action, if necessary. This action is necessary to prevent detachment of the shoulder restraint harness of the attendant or observer seat from its mounting bracket during service, which could result in injury to the occupant of the seat. This action is intended to address the identified unsafe condition.

DATES: Effective October 21, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 21, 2003.

Comments for inclusion in the Rules Docket must be received on or before December 5, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–106–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–106–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 this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: The FAA has received reports that the shoulder restraint harness of the attendant or observer seat detached from the mounting bracket during service on two Boeing Model 737–300 series airplanes. In the reported incidents, the restraint harness was attached to the mounting bracket with a C-clip. Such detachment of the shoulder restraint harness from its mounting bracket during service, if not corrected, could result in injury to the occupant of the seat.

Similar Model Airplanes

The shoulder restraint harness installations on Boeing Model 737–300 series airplanes are identical to those on certain Boeing Model 747SP and 747SR; 747–100B, –200B, –200C, –200F, –300, –400, and –400D; and 767–200 and –300 series airplanes. Therefore, the shoulder restraint harnesses on these models may have a C-clip installed and thus be subject to the same unsafe condition.

Related Rulemaking

On November 16, 2001, the FAA issued AD 2001–24–02 (66 FR 59681, November 30, 2001), which is applicable to certain Boeing Model 707–100, –100B, –300, and –E3A (military airplanes); 727–100 and –200; 737–200, –200C, –300, –400, and –500; 747SP and 747SR; 747–100B, –200B, –200C, –200F, –300, –400, and –400D; 757–200 and –200PF; and 767–200 and –300 series airplanes. That AD requires inspection of the attachment of the shoulder restraint harness to the mounting bracket on certain observer and attendant seats to determine if a C-clip is used in the attachment, and corrective action, if necessary. That action is necessary to prevent detachment of the shoulder restraint harness of the attendant or observer seat from its mounting bracket during service, which could result in injury to the occupant of the seat.

Since the Issuance of That AD

Since the issuance of that AD, the FAA has determined that the same unsafe condition addressed in that AD may exist on an additional 21 Model 747SP and 747SR, 747–100B, –200B, –200C, –200F, –300, –400, and –400D series airplanes; and an additional 23 Model 767–200 and –300 series airplanes. None of the additional airplanes are on the U.S. registry.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Special Attention Service Bulletin 747–25–3244, Revision 4, dated June 26, 2003; and Boeing Service Bulletin 767–25–0288, Revision 3, dated August 1, 2002. Those service bulletins describe procedures for a one-time inspection of the attachment of the shoulder restraint harness of certain attendant or observer seats to the mounting bracket to determine if a C-clip is used in the attachment. If the shoulder restraint harness is looped through the bracket and attached to itself with a C-clip, the service bulletins provide two alternative methods for correcting this condition. One method instructs operators to attach the shoulder restraint harness directly to the mounting bracket by removing and discarding the C-clip, removing the mounting bracket, putting the mounting bracket through the loop of the shoulder harness, and attaching the mounting bracket in its original position. The service bulletin also describes a second method to correct the condition that involves installation of a second C-clip with the clip's opening positioned in the opposite direction of the opening of the existing C-clip. The service bulletins also revise the effectivity by adding certain airplanes and removing certain other airplanes. Accomplishment of either of the methods described in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, this AD is being issued to prevent detachment of the shoulder restraint harness of the attendant or observer seat from its mounting bracket during service, which could result in injury to the occupant of the seat. This AD

requires inspection of the attachment of the shoulder restraint harness to the mounting bracket on certain observer and attendant seats to determine if a C-clip is used in the attachment, and corrective action, if necessary. The actions are required to be accomplished in accordance with the service bulletins described previously, except as discussed below.

Differences Between the Service Bulletins and This AD

Operators should note that, although the service bulletins recommend accomplishing the inspection ''at the next scheduled maintenance period when manpower and equipment are available,'' the FAA has determined that such an indefinite compliance time would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the required actions. In light of all of these factors, the FAA finds a 36-month compliance time for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

In addition, the service bulletins do not identify the type of inspection that is involved in the procedures for inspecting the attachment of the shoulder restraint harness to determine if a C-clip is used. The FAA refers to this inspection in this AD as a ''general visual'' inspection.

Changes to 14 CFR part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance (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

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require between 1 hour and 5 hours (depending on the number of attendant/observer seats installed on the airplane) to accomplish the inspection, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of this AD would be between $65 and $325 per airplane.

Determination of Rule's Effective Date

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

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–106–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–20–08 Boeing: Amendment 39–13326. Docket 2002–NM–106–AD.

Applicability: Airplanes, certificated in any category, as listed in Table 1 of this AD below:

TABLE 1.—APPLICABILITY

Models and series	As listed in the following Boeing Service Bulletins
Model 747SR and 747SP, and 747–100B, –200B, –200C, –200F, –300, –400, and –400D.	747–25–3244, Revision 4, dated June 26, 2003.
Model 767–200 and –300.	767–25–0288, Revision 3, dated August 1, 2002.

Compliance: Required as indicated, unless accomplished previously.

To prevent detachment of the shoulder restraint harness of the attendant or observer seat from its mounting bracket during service, which could result in injury to the occupant of the seat, accomplish the following:

Inspection and Corrective Action

(a) Within 36 months after the effective date of this AD, do a one-time general visual inspection of the attachment of the shoulder restraint harness of each observer or attendant seat to determine if a C-clip is used in the attachment. Do the inspection according to Boeing Service Bulletin 747–25–3244, Revision 4, dated June 26, 2003; or Boeing Special Attention Service Bulletin 767–25–0288, Revision 3, dated August 1, 2002; as applicable. If the shoulder harness is looped through the bracket and attached to itself with a C-clip, do paragraph (a)(1) or (a)(2) of this AD.

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

(1) Remove and discard the C-clip, and reattach the shoulder harness to the mounting bracket, according to the service bulletin.

(2) Install a second C-clip with the clip's opening positioned in the opposite direction of the opening of the existing C-clip, according to the optional method described in Steps 19 and 20 of Figure 1 or 2 of the applicable service bulletin.

Acceptable for Compliance

(b) Removing and discarding the C-clip and reattaching the shoulder harness to the mounting bracket; according to Boeing Service Bulletin 747–25–3244, Revision 1, dated May 17, 2001, Revision 2, dated April 4, 2002, or Revision 3, dated August 1, 2002; Boeing Service Bulletin 767–25–0288, Revision 1, dated May 17, 2001, or Revision 2, dated April 4, 2002; as applicable; is acceptable for compliance with the requirements of paragraph (a)(1) of this AD.

Parts Installation

(c) As of the effective date of this AD, do not attach the shoulder restraint harness of an observer or attendant seat on any airplane to the mounting bracket using a C-clip, unless the required actions specified in paragraph (a)(2) of this AD are done.

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.

Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Service Bulletin 747–25–3244, Revision 4, dated June 26, 2003; or Boeing Special Attention Service Bulletin 767–25–0288, Revision 3, dated August 1, 2002; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on October 21, 2003.

Issued in Renton, Washington, on September 26, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–24976 Filed 10–3–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–143–AD; Amendment 39–13321; AD 2003–20–03]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, that requires revising the airworthiness limitations section of the Instructions for Continued Airworthiness by incorporating new structural inspection intervals for the vertical beams of the pressure bulkheads at fuselage stations 409+128 and 559; repairing the vertical beams if necessary; and submitting inspection findings to the airplane manufacturer. This action is necessary to detect and correct, in a timely manner, fatigue cracks in the vertical beams of the pressure bulkheads at fuselage stations 409+128 and 559, which could result in the reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective November 10, 2003.

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

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

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York

11581; telephone (516) 256–7512; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes was published in the **Federal Register** on July 9, 2003 (68 FR 40829). That action proposed to require revising the airworthiness limitations section of the Instructions for Continued Airworthiness by incorporating new structural inspection intervals for the vertical beams of the pressure bulkheads at fuselage stations 409+128 and 559; repairing the vertical beams if necessary; and submitting inspection findings to the airplane manufacturer.

Comments

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

Conclusion

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

Interim Action

This is considered to be interim action. The inspection reports required by this AD will enable the manufacturer to obtain better insight into the cause of the fatigue cracks in the vertical beams of the pressure bulkheads at fuselage stations 409+128 and 559. Once final action has been identified, the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 533 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $34,645, or $65 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 adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–20–03 Bombardier, Inc. (Formerly Canadair): Amendment 39–13321. Docket 2003–NM–143–AD.

Applicability: Model CL–600–2B19 (Regional Jet series 100 & 440) airplanes, serial numbers 7003 through 7999 inclusive; certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance from the office identified in paragraph (d) of this AD and Sections 39.19 and 39.21 of the Federal Aviation Regulations (14 CFR 39.19 and 39.21). The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct, in a timely manner, fatigue cracks in the vertical beams of the pressure bulkheads at fuselage stations 409+128 and 559, which could result in the reduced structural integrity of the airplane, accomplish the following:

Revise Airworthiness Limitations (AWL) Section

(a) Within 14 days after the effective date of this AD, revise the AWL section of the Instructions for Continued Airworthiness by incorporating the contents of Canadair Temporary Revision (TR) 2B–1566, dated January 31, 2003, to the Canadair Regional Jet Maintenance Requirements Manual, Part 2, Appendix B, ''Airworthiness Limitations,'' into the AWL section. Thereafter, except as provided in paragraph (d) of this AD, no alternative structural inspection intervals may be approved for the vertical beams on the pressure bulkheads at fuselage stations 409+128 and 559.

Note 2: When the contents of TR 2B–1566 have been included in the general revisions of the AWL section, the general revisions may be incorporated into the AWL section, and the TR may be removed from the AWL section.

Repair and Revise AWL Section

(b) If any crack is found during any inspection done according to the AWL section of the Instructions for Continued Airworthiness specified in paragraph (a) of this AD, do the actions specified in paragraphs (b)(1) and (b)(2) of this AD.

(1) Before further flight: Repair per a method approved by either the Manager, New York Aircraft Certification Office (ACO), FAA; or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

(2) Within 14 days after receiving the new AWL associated with a repair: Revise the AWL section of the Instructions for Continued Airworthiness by inserting a copy of the new airworthiness limitation and inspection requirements associated with the FAA- or TCCA-approved repair referred to in paragraph (b)(1) of this AD into the Canadair Regional Jet Maintenance Requirements Manual, Part 2, Appendix B, ''Airworthiness Limitations'' section. Thereafter, except as provided in paragraph (d) of this AD, no alternative structural inspection intervals specified in the FAA- or TCCA-approved repair may be approved for the vertical beams on the pressure bulkheads at fuselage stations 409+128 and 559.

Reporting

(c) Submit a report of the findings (both positive and negative) of the inspection required by paragraph (a) of this AD to Bombardier, Inc., Canadair, Aerospace Group, CRJ Technical Help Desk, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada; fax (514) 855–8501; at the applicable time specified in paragraph (c)(1) or (c)(2) of this AD. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provision of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) If the inspection was done after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done prior to the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

Alternative Methods of Compliance

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

Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions shall be done in accordance with Canadair Temporary Revision 2B–1566, dated January 31, 2003, to the Canadair Regional Jet Maintenance Requirements Manual, Part 2, Appendix B, ''Airworthiness Limitations.'' This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–2003–08, dated April 23, 2003.

Effective Date

(f) This amendment becomes effective on November 10, 2003.

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

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–24679 Filed 10–3–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 529

Certain Other Dosage Form New Animal Drugs; Progesterone Intravaginal Inserts

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pharmacia & Upjohn Co. The supplemental NADA provides for use of progesterone intravaginal inserts for synchronization of the return to estrus in lactating dairy cows inseminated at the immediately preceding estrus.

DATES: This rule is effective October 6, 2003.

FOR FURTHER INFORMATION CONTACT: Harlan J. Howard, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0231, e-mail: *hhoward@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: Pharmacia & Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001–0199 filed a supplement to NADA 141–200 that provides for use of EAZI–BREED CIDR Progesterone Intravaginal Inserts for synchronization of the return to estrus in lactating dairy cows inseminated at the immediately preceding estrus. The NADA is approved as of July 29, 2003, and the regulations are amended in 21 CFR 529.1940 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)(iii) of the Federal Food, Drug, and Cosmetics Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval qualifies for 3 years of marketing exclusivity beginning July 29, 2003.

The agency has determined under 21 CFR 25.33(c) 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 529

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 529 is amended as follows:

PART 529–CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 529 continues to read as follows:

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

■ 2. Section 529.1940 is amended in paragraph (e)(3) in the first sentence by removing the phrase ''; or in lactating dairy cows''; and by revising paragraphs (d)(1), (d)(2), (e)(1), and (e)(2) to read as follows:

§ 529.1940 Progesterone intravaginal inserts.

* * * * *

(d) * * *

(1) Product labeling shall bear the following warnings: ''Avoid contact with skin by wearing latex gloves when handling inserts. Store removed inserts in a plastic bag or other sealable container until they can be disposed of in accordance with applicable local, State, and Federal regulations.''

(2) This product is approved with the concurrent use of dinoprost solution on day 6 of the 7-day administration period when used for indications listed in paragraph (e)(2)(i) of this section. See § 522.690(c) of this chapter.

* * * * *

(e) * * *

(1) *Amount.* Administer one intravaginal insert per animal for 7 days. When used for indications listed in paragraph (e)(2)(i) of this section, administer 25 milligrams (mg) dinoprost (5 milliliters (mL) of 5 mg/mL solution as in § 522.690(a) of this chapter) as a single intramuscular injection one day prior to insert removal.

(2) *Indications for use*—(i) For synchronization of estrus in suckled beef cows and replacement beef and dairy heifers, for advancement of first postpartum estrus in suckled beef cows,

and for advancement of first pubertal estrus in replacement beef heifers.

(ii) For synchronization of the return to estrus in lactating dairy cows inseminated at the immediately preceding estrus.

* * * * *

Dated: September 24, 2003.

Steven D. Vaughn,

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

[FR Doc. 03–25249 Filed 10–3–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07–03–131]

RIN 1625–AA09

Drawbridge Operation Regulations; St. Johns River, mile 24.7 at Jacksonville, Duval County, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; change of effective date; request for comments.

SUMMARY: The Coast Guard is changing the effective dates for the temporary regulations governing the operation of the Main Street Bridge, mile 24.7, St. Johns River, Jacksonville, Florida. The contractor for the bridge repairs was unable to start work as scheduled in our temporary rule published on August 11, 2003. This change in effective dates is required to allow the bridge owner to begin the work on October 1, 2003 and complete the project by January 31, 2004.

DATES: This rule is effective from 6:01 a.m., October 30, 2003, until 6 a.m., January 31, 2004. Comments must be received by November 1, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [CGD07–03–131] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE 1st Avenue, Room 432, Miami, FL 33131, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Project Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415–6743.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD07–03–131], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to confirm they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received. The Coast Guard may amend this temporary final rule based on comments received.

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM was impracticable and contrary to the public interest, because the rule was needed to allow the contractor to provide for worker safety while repairing the bridge. Also, since the temporary rule provides for bridge openings during the majority of the day, during daytime hours when the area is most heavily traveled, vessel traffic will not be unduly disrupted during the repair process. A Temporary Rule was previously published as 68 FR 47462 which requested the same schedule changes but occurring on different dates. The contractor contacted the Coast Guard on August 11, 2003 and requested the date change due to delays in obtaining materials.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after **Federal Register** publication. Though the contractor submitted a letter on May 29, 2003, requesting a change to the bridge's operating schedule to effect repairs, that request was incorrectly addressed and did not reach the Seventh Coast Guard Bridge Branch until faxed there on July 7, 2003. Accordingly, there was insufficient time remaining to either publish an NPRM or delay the effective date of the rule. This temporary rule provides for a reduction in bridge openings so as to allow the contractor to safely repair the bridge while providing for the reasonable needs of navigation during daylight hours.

Background and Purpose

The Main Street Bridge, mile 24.7, St. Johns River at Jacksonville, Duval County, Florida, has a vertical clearance of 40 feet at mean high water and a horizontal clearance of 350 feet between the fender systems. The existing operating regulation in 33 CFR 117.325 (a) requires the bridge to open on signal except that, from 7 a.m. to 8:30 a.m. and 4:30 p.m. to 6 p.m., Monday through Saturday, except Federal holidays, the draw need not open for the passage of vessels. The draw opens at any time for vessels in an emergency involving life or property.

Royal Bridge, Inc., contractors, notified the Coast Guard on July 7, 2003, that work on the vertical lift bridge was scheduled from August 18, 2003, to October 31, 2003 and we published a temporary rule (68 FR 47462, August 11, 2003) to change the bridge operating schedule to accommodate the work. On August 11, 2003 the contractor again contacted the Coast Guard and requested the same operating schedule for a different time period, October 1, 2003 until January 31, 2004. The new work period is a month and a half longer than the original work period to allow for additional holidays and winter weather delays. For worker safety reasons, there will be a 5-foot reduction in vertical clearance, due to scaffolding. This temporary rule is necessary to provide for worker safety during repairs to the bridge and does not significantly hinder navigation, as openings will be provided throughout the remainder of the day.

Discussion of Rule

Under this temporary rule, the bridge need not open from 8 p.m. until 6 a.m., October 1, 2003, to January 31, 2004. This action is necessary for worker safety during repairs to the bridge and does not significantly hinder navigation.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The temporary rule will impact vessels of greater than 35 feet in height because of the reduction in vertical clearance. The temporary rule, however, will only affect a small percentage of vessel traffic through the bridge, because of limited nighttime navigation at this location and

openings are available during daylight hours.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule would not have a significant economic impact on a substantial number of small entities, because the regulations will affect only a limited amount of marine traffic and will still provide for navigation needs by opening on signal from 6:01 a.m. to 7:59 p.m.

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

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. From 6:01 a.m., October 30, 2003, until 6 a.m. on January 31, 2004, in § 117.325, paragraph (a) is suspended and a new paragraph (d) is added to read as follows:

§ 117.325 St. Johns River.

* * * * *

(d) The draw of the Main Street (US 17) Bridge, mile 24.7 at Jacksonville, shall open on signal, except that from 8 p.m. until 6 a.m., the draw need not open for the passage of vessels. The draw shall open at any time for vessels in an emergency involving life or property.

Dated: September 18, 2003.

H.E. Johnson, Jr.,

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

[FR Doc. 03–25047 Filed 10–3–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–03–241]

RIN 1625–AA11

Regulated Navigation Area; Reporting Requirements for Barges Loaded With Certain Dangerous Cargoes, Illinois Waterway System Within the Ninth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Interim final rule; request for comments.

SUMMARY: The Coast Guard is establishing a regulated navigation area (RNA) for all portions of the Illinois Waterway System located within the Ninth Coast Guard District. This RNA applies to towing vessel operators and fleeting area managers who are responsible for the movement of barges carrying certain dangerous cargoes on the Illinois Waterway System and requires them to report their position and other information to the Inland River Vessel Movement Center (IRVMC). This action is necessary to ensure public safety, prevent sabotage or terrorist acts, and facilitate the efforts of emergency services and law enforcement officers responding to terrorist attacks.

DATES: This rule is effective on November 1, 2003. Comments and related material must reach the Coast Guard on or before January 5, 2004.

ADDRESSES: You may mail comments and related material to Commander, Ninth Coast Guard District (m), 1240 E. Ninth Street, Cleveland, Ohio, 44199–2060. Commander, Ninth Coast Guard District (m) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–03–241] and are available for inspection or copying at Commander, Ninth Coast Guard District (m), 1240 E. Ninth Street, Cleveland, Ohio, 44199–2060 between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

FOR FURTHER INFORMATION CONTACT: Commander Michael Gardiner or Lieutenant Matthew Colmer, Ninth Coast Guard District Marine Safety Division, at (216) 902–6045.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 2, 2003, the Coast Guard published a temporary final rule and request for comments entitled ''Regulated Navigation Area; Reporting Requirements for Barges Loaded With Certain Dangerous Cargoes, Illinois Waterway System within the Ninth Coast Guard District'' in the **Federal Register** (68 FR 23399). We did not receive any comments. However, the Eight Coast Guard District published a parallel temporary final rule on May 2, 2003 (68 FR 23393). As of July 9, 2003, the Eight Coast Guard District had received six written comments in response to their temporary final rule.

On July 30, 2003, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Regulated Navigation Area; Reporting Requirements for Barges Loaded With Certain Dangerous Cargoes, Illinois Waterway System located within the Ninth Coast Guard District'' in the **Federal Register** (68 FR 44706). When drafting the NPRM, we considered all written comments submitted to the docket for the parallel temporary final rule issued by the Eight Coast Guard District that was published on May 2, 2003 (68 FR 23399). The Coast Guard's responses to those comments are explained under the ''Discussion of Comments and Changes'' section of the NPRM (68 FR 44706).

As of September 15, 2003, we have only received one written comment on the NPRM. No public meeting was requested so one was not held.

As indicated in our ''Discussion of Comments and Changes'' section below, we have considered this comment in this interim final rule and, where appropriate, we have made the rule less burdensome than the temporary final rule currently in effect. In issuing this interim final rule, we have allowed for an additional comment period before we impose any final rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. On May 2, 2003, we published a temporary final rule (TFR) entitled ''Regulated Navigation Area; Reporting Requirements for Barges Loaded With Certain Dangerous Cargoes, Illinois Waterway System with the Ninth Coast Guard District'' in the **Federal Register** (68 FR 23399) that is set to expire 11:59 p.m. EDT on October 31, 2003.

The continued threat of maritime attacks is real as evidenced by the October 2002 attack of a tank vessel off the coast of Yemen and the continuing threat to U.S. assets as described in the President's finding, found at Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002) that the security of the U.S. is endangered as evidenced by the September, 11, 2001 attacks and that such disturbances continue to endanger the international relations of the United States. *See also* Continuation of the National Emergency with Respect to Certain Terrorist Attacks, (67 FR 58317, September 13, 2002); Continuation of the National Emergency With Respect To Persons Who Commit, Threaten To Commit, Or Support Terrorism, (67 FR 59447, September 20, 2002). Additionally, a Maritime Advisory was issued to: Operators of U.S. Flag and Effective U.S. controlled Vessels and other Maritime Interests, detailing the current threat of attack, MARAD 02–07 (October 10, 2002). Consequently, heightened measures have been instituted to ensure the safety of vessels, ports and waterway users. The measures contemplated by this rule are intended to prevent future terrorist attacks against individuals, vessels or facilities on the Illinois Waterway System within the Ninth Coast Guard District. Any delay in the effective date of this TFR is impractical and contrary to the public interest. The original temporary final rule was urgently required to prevent possible terrorist strikes against the United States and more specifically the people, waterways, and properties on the navigable waters of the U.S.

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD09–03–241], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during

the comment period before issuing any final rule.

Public Meeting

We do not now plan to hold a public meeting. You may submit a request for a meeting by writing to Commander, Ninth Coast Guard District (m) at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Terrorist attacks on September 11, 2001, inflicted catastrophic human casualties and property damage. These attacks highlighted the terrorists' abilities to utilize multiple means in different geographic areas thereby increasing their opportunities to maximize destruction.

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. The threat of maritime attacks is real as evidenced by the October 2002 attack on a tank vessel off the coast of Yemen and the prior attack on the USS COLE. These attacks manifest a continuing threat to U.S. assets as described in the President's finding in Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002). The President found that the security of the U.S. is endangered by the September 11, 2001 attacks and terrorist attacks continue to endanger the international relations of the United States. *See also Continuation of the National Emergency with Respect to Certain Terrorist Attacks,* (68 FR 53665, September 10, 2003); *Continuation of the National Emergency With Respect to Persons Who Commit, Threaten To Commit, or Support Terrorism,* (68 FR 55189, September 18, 2003). The references to these Presidential Documents as they appear in this interim final rule have updated those referenced in the NPRM (68 FR 44697). The U.S. Maritime Administration (MARAD) in Advisory 02–07 advised U.S. shipping interests to maintain a heightened state of alert against possible terrorist attacks. MARAD also issued Advisory 03–03 informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attacks to the transportation community in the United States. The ongoing hostilities in Afghanistan and Iraq have made it prudent for U.S. ports and waterways to be on a higher state of alert due to the Al Qaeda organization and other similar organizations who have declared their intentions to conduct armed attacks on U.S. interests worldwide.

Therefore, on April 16, 2003, the Coast Guard established a temporary RNA within that portion of the Illinois Waterway System located within the Ninth Coast Guard District in order to safeguard vessels, ports and waterfront facilities from sabotage or terrorist acts. The temporary RNA remains in effect and applies to barges loaded with certain dangerous cargoes (CDCs) operating on the Illinois Waterway System above mile 187.2 to the Chicago Lock on the Chicago River at mile 326.7, and to the confluence of the Calumet River and Lake Michigan at mile 333.5 of the Calumet River. The RNA affects vessels transporting barges loaded with CDCs that if used as weapons of terrorism could result in substantial loss of life, property, environmental damage, and grave economic consequences. The temporary final rule requires operators of barges loading or loaded with CDCs within the RNA to periodically report their position and other specified information to the IRVMC for protection against sabotage and terrorist acts. The temporary final rule published May 2, 2003, (68 FR 23399) expires on October 31, 2003.

The Coast Guard has determined that there is a need to continue the reporting requirements for barges loaded with CDCs operating on Illinois Waterway System and therefore we are issuing an interim rule while we continue to consider alternatives to increase maritime domain awareness on the Illinois Waterway System within the Ninth Coast Guard District. This rule allows the Coast Guard to enhance maritime security, protect ports and facilities and high-density population centers (metropolitan areas), control vessel traffic, develop contingency plans, and enforce regulations.

Discussion of Comments and Changes

As of September 15, 2003, we received one written comment to the NPRM. The comment was addressed to both the Eighth and Ninth Coast Guard Districts. Two parts of the comment were focused specifically on the Ninth Coast Guard District. We will address those two areas of concern first.

The first concern was that rather than have specific reporting points, that operators be permitted to report while within a particular segment like what is already permitted in the Eighth Coast Guard District. The Ninth Coast Guard District is adopting this recommendation so that the reporting system process is identical whether you are in the Eighth or Ninth Coast Guard District. The second concern requested that we remove two reporting points: the Lockport Lock & Dam and the Dresden Lock & Dam. Since vessels are reporting in upon entry into the RNA, and upon dropping off or picking up a CDC barge from a fleeting area or facility, the Coast Guard will follow this recommendation.

Several other comments were received that were more general in nature. Since the Eighth Coast Guard District has a parallel rule, we are adopting their responses to those comments to ensure uniformity between the Eighth and Ninth District and the requirements of the IRVMC. The comment focused generally on 4 concerns: (a) Reporting the planned route, (b) notifying the IRVMC 4 hours prior to originating a voyage within the RNA with one or more CDC barges, (c) notifying the IRVMC upon moving one or more CDC barges from one fleeting area to another fleeting area or facility, and (d) reporting information as directed by the Coast Guard. Each section of this comment is discussed in more detail in the following six paragraphs.

Planned Route. The one comment we received stated that the requirement for submission of a planned route will increase the burden upon the mariner while providing no improvement on the information already required since point-to-point movements rarely allow for more than one route. We agree and have removed the requirement to report the planned route because the IRVMC will be receiving periodic updates on a CDC barge(s)'s location as the towing vessel operator checks in at designated reporting points along the planned route. The requirement to submit a report with the name and location of the destination for each CDC barge and the estimated time of arrival remains unchanged.

Four hour advance notification. The one comment we received stated a concern regarding the requirement to report information 4 hours before originating a voyage within the RNA with one or more CDC barges. The comment indicates that fleeting area managers do not always have 4 hours advance notice of movement between receipt of an order and origination of the voyage. The comment suggested the requirement be amended to allow fleeting area managers to notify the IRVMC as soon as possible after the fleeting area manager receives a request to make up a tow or to deliver a CDC

barge at a terminal. While we agree that in certain cases a fleeting area manager will not have sufficient time to make a 4-hour advance notification of movement to the IRVMC, this regulation does not require fleeting area managers to provide such notification. This regulation requires towing vessel operators to notify the IRVMC 4 hours before originating a voyage within the RNA with one or more CDC barges. However, we believe the conceptual basis of the comment applies to this requirement. For example, an operator of a towing vessel without any CDC barges operating in the RNA may receive an order to pick up a CDC barge. If the towing vessel is in close proximity to where the CDC barge is located, the evolution of making up the new tow with the CDC barge and originating the voyage may take less than 4 hours. According to the existing requirement in the NPRM, the towing vessel operator would then qualify as originating a voyage within the RNA with one or more CDC barges and as such would be required to provide the IRVMC with a notice 4 hours before originating the voyage. The Coast Guard understands that delaying the voyage to comply with the 4-hour advance notification requirement could negatively affect commercial operations. To alleviate this potential problem, we are adding an exception to the existing requirement. This exception will permit the towing vessel operator to make the required report to the IRVMC as soon as possible before originating a voyage in the RNA with one or more CDC barges. This exception is valid only if the following conditions exist—

(a) The evolution of making up a tow with a CDC barge will take less than 4 hours before originating a voyage; and

(b) The towing vessel operator did not receive the order to make up a tow with a CDC barge in advance of 4 hours before originating the voyage with one or more CDC barges.

If the previous two conditions exist, the towing vessel operator must submit the required report to the IRVMC as soon as possible after receiving orders to make up a tow with one or more CDC barges.

Movement of barges from fleeting area to fleeting area or facility. The one comment we received stated that companies routinely move barges from one fleeting area to another fleeting area or facility and that reporting each of these movements would impose an excessive burden. It further states that one company may operate multiple fleeting areas within a limited geographic area. The comment recommends that the Coast Guard define fleeting areas within a certain geographic area as a ''single fleet'' and allow movement within that ''single fleet'' to occur without reporting each movement to the IRVMC. The purpose of knowing the specific location of a CDC barge is to allow for a more efficient response to an incident or threatened incident. It is the intention of this regulation to give the Coast Guard the necessary information to be able to track and have knowledge of the location of each CDC barge at all times. Under the existing requirements, we are only asking the fleeting area manager to provide limited information regarding the movement of a CDC barge from one fleeting area to another fleeting area or facility. We are not changing this requirement, however, we do feel that definitions are needed for ''fleeting area'', ''fleet tow boat'', and ''towing vessel''. For the purposes of this requirement, the term ''fleeting area'' will be defined to mean any fleet, including any facility, located within the area covered by one single port. The term ''fleet tow boat'' will be defined to mean any size vessel that is used to move, transport, or deliver a CDC barge within a fleeting area. The term ''towing vessel'' will be defined to mean any size vessel that is used to move, transport, or deliver a CDC barge to a fleet or facility that is located in a different port than where the voyage originated.

The following example is provided to illustrate the intention of these definitions: A fleeting area manager is required to provide notification to the IRVMC of the movement of a CDC barge from fleet ''A'' located in port ''A'', to fleet ''B'' located in port ''A'' when such movement is conducted by a fleet tow boat. If the movement of a CDC barge were to occur from fleet ''A'' located in port ''A'', to fleet ''Z'' located in port ''Z'', such movement is considered to have been done by a towing vessel and the notifications requirements would reside with the towing vessel operator when the CDC barge was picked up at fleet ''A'' and dropped off at fleet ''Z''.

When directed by the IRVMC. The one comment we received indicated that there was a lack of coordination within the Coast Guard that led to mariners having to submit duplicate reports of required information. There is a concern that a towing vessel operator may receive multiple calls from various government agencies requesting similar information. These multiple calls could create an unnecessary distraction for the towing vessel operator. The comment requested the Coast Guard clarify the information reporting requirement to read ''As directed by the IRVMC.'' The published NPRM currently reads ''When directed by the IRVMC'' and as such will not be changed. However, we feel it is necessary to explain the different types of calls a towing vessel operator can expect while transporting one or more CDC barges in the RNA. The first type of call would be from the IRVMC for the following reasons: (1) Obtaining missing or illegible information, (2) investigating missed or inaccurate reports, (3) collecting information for the purposes of responding to an incident or threatened incident, (4) responding to an increase in the maritime security level, or (5) advising the mariner on new or unexpected changes in procedures. This list of reasons is not all-inclusive. The second type of call would be from the United States Army Corps of Engineers (USACE) requesting information from the mariner as the towing vessel approaches a USACE controlled lock and dam. As many of the reporting points required by this regulation are located at USACE controlled locks and dams, the Coast Guard understands that some information provided by the towing vessel operator will have to be supplied twice—once to the USACE and once to the IRVMC. The Coast Guard and USACE are currently working to address the issue of duplicative reporting and are researching methods to use existing technology to serve as a single point of collection. The third type of call would be from a Coast Guard Captain of the Port office for issues pertaining to the coordination of vessel escorts or boardings or other marine safety issues. Calls for these purposes are unrelated to the information collection requirements outlined by this regulation and are necessary for the Coast Guard Captain of the Port to meet Coast Guard mission requirements. The final type of call would be from a Coast Guard vessel or boarding team located in close proximity to the towing vessel for the purposes of conducting law enforcement operations or vessel escorts. These types of calls are also unrelated to the information collection requirements outlined by this regulation and are necessary to meet Coast Guard mission requirements.

Response to Comments Summary

In response to the received comment the Coast Guard is (1) removing the requirement to report the planned route of one or more CDC barges, (2) establishing an exception to the 4-hour advance notification for originating a voyage in the RNA with one or more CDC barges, (3) defining the terms ''fleeting area'', fleet tow boat'', and ''towing vessel'' to clarify fleeting area manager reporting requirements, and (4)

explaining the different types of calls a towing vessel operator can expect while transporting one or more CDC barges in the RNA.

Portions of this regulation have been revised to reflect the usage of these new definitions. The addition of the new definitions does not create any substantial changes. The portions of the regulatory text that are affected by these new definitions include the ''Applicability'', ''Definitions'', and ''Regulations'' sections.

Company Representative or Dispatcher Making Required Reports. The NPRM indicated that a company representative or dispatcher would be allowed to report the required information to the IRVMC on behalf of the towing vessel operator or fleeting area manager. With the addition of the definitions for ''fleet tow boat'' and ''towing vessel'', we realized that allowing a company representative or dispatcher to make reports on behalf of a towing vessel operator is contrary to the intentions of this regulation. The intention of this regulation is to provide the Coast Guard with positive reports generated by towing vessel operators and fleeting area managers who have direct control over CDC barges. Because fleets and facilities typically have multiple persons who have direct control over CDC barges, we are allowing a fleeting area manager, company representative, or dispatcher to make the required reports. In contrast, a towing vessel operator is the only person who will have direct control over CDC barges in their tow. As it relates to this regulations, we have clarified the definition of ''towing vessel operator'' to mean the Captain or pilot who is on watch on board a towing vessel. The portions of the regulatory text that are affected by this clarification include the ''Definitions'' and ''Regulations'' sections.

Discussion of Rule

The Coast Guard is establishing a regulated navigation area for the Illinois Waterway System above mile 187.2 to the Chicago Lock on the Chicago River at mile 326.7, and to the confluence of the Calumet River and Lake Michigan at mile 333.5 of the Calumet River. This rule applies to: (1) towing vessel operators responsible for one or more CDC barges within the regulated area, and (2) fleeting area managers responsible for CDC barges in a fleeting area. The terms ''barge'', ''certain dangerous cargo or (CDC)'', ''CDC barge'', ''downbound'', ''fleet tow boat'', ''fleeting area'', ''Ninth Coast Guard District'', ''towing vessel'', ''towing vessel operator'', and ''upbound'' are defined in the regulatory section of this rule.

Towing vessel operators responsible for one or more CDC barges are required to report specific information to the IRVMC under the following conditions: (1) Upon point of entry into the RNA with one or more CDC barges; (2) 4 hours prior to originating a voyage within the RNA with one or more CDC barges, except if (a) the evolution of making up a tow with a CDC barge will take less than 4 hours before originating a voyage, and (b) the towing vessel operator did not receive the order to make up a tow with a CDC barge in advance of 4 hours before originating the voyage with one or more CDC barges, in which case the towing vessel operator must submit the required report to the IRVMC as soon as possible after receiving orders to make up a tow with one or more CDC barges (3) upon dropping off one or more CDC barges at a fleeting area or facility; (4) upon picking up one or more additional CDC barges from a fleeting area or facility; (5) at designated reporting points in paragraph (e) of this section; (6) when the estimated time of arrival (ETA) to a reporting point varies by 6 hours from the previously reported ETA; (7) any significant deviation from previously reported information; (8) upon departing the RNA with one or more CDC barges; and (9) when directed by the IRVMC.

Fleeting area managers are required to report specific information to the IRVMC under the following conditions: (1) Once daily, report all CDC barges within the fleeting area; (2) upon moving a CDC barge within a fleeting area by a fleet tow boat; (3) any significant deviation from previously reported information; and (4) when directed by the IRVMC.

A company representative or dispatcher may report the required information to the IRVMC on behalf of the fleeting area manager.

Each report made to the IRVMC by a towing vessel operator or fleeting area manager must contain all the information items specified in tables 165.921(f) and 165.921(g), respectively.

Reports must be made to the IRVMC by telephone to (866) 442–6089, by fax to (866) 442–6107, or by e-mail to *irvmc@cgstl.uscg.mil.* A reporting form and e-mail link is available at *http://www.uscg.mil/d8/Divs/M/IRVMC.htm.*

The Coast Guard will consider and approve alternative reporting methods to meet any reporting requirements if: (1) the request for the alternative is submitted in writing to Commander, Ninth Coast Guard District (m), 1240 E. Ninth Street, Cleveland, Ohio, 44199–2060; and (2) the alternative provides an equivalent level of reporting to that which would be achieved by the Coast Guard with the required check-in points.

The Coast Guard encourages the submission of requests for alternative reporting methods. It is the Coast Guard's hope that companies will embrace current modern technology or future technology as it becomes available to automatically report the locations of the towing vessels and the CDC barges they are responsible for directly to the Coast Guard in real or as close to real time as possible. We believe that the development of such systems will significantly reduce the burden imposed upon the towing vessel operator and fleeting area manager who must submit the reports, as well as those Coast Guard personnel who must process those reports.

Deviation from this rule is prohibited unless specifically authorized by the Commander, Ninth Coast Guard District or the IRVMC.

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. We present this Regulatory Evaluation for the purposes of information.

Evaluation. The regulatory baseline for this rule is the existing temporary rule. The cost for complying with the rule will differ depending on the means used to make a report to the IRVMC and the type of report, either an initial report or an update. The cost of the rule presented below is based on the average number of reports received by the IRVMC in April 2003 and May 2003.

ESTIMATED ANNUAL COST AND BENEFIT OF THE RULE

[2003 Dollars]

Item	Cost per initial call	Cost per update call	Total
Personnel	$9,462	$17,871	$27,333
Operating Expenses	28,386	53,613	81,999
Total	$37,848	$71,484	$109,332

This cost estimate assumes: (1) The average merchant mariner's hourly rate is $30, (2) the average initial call is 6 minutes, (3) the average update call is 2 minutes, (4) the average cost per cell phone call is $1.50 per minute, and (5) 15 percent of all responses are initial reports to the IRVMC. Therefore, based on 177 respondents, the average cost is $618 per CDC barge per year. The reporting requirements are necessary to provide immediate, improved security for the public, vessels, and U.S. ports and waterways. The requirements do not alter normal barge transits. The minimal hardships that may be experienced by persons or vessels, as a result of this rule, are necessary to the national interest in protecting the public, vessels, and vessel crews from the devastating consequences of acts of terrorism, and from sabotage or other subversive acts, accidents, or other causes of a similar nature.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: towing vessel operators and fleeting area managers responsible for CDCs barges on inland waterways within the Ninth Coast Guard District. This RNA will not have a significant economic impact on a substantial number of small entities because this rule does not require any alteration of barge operations or transits. The operational communications required by this RNA do not require towing vessel operators or fleeting area managers to obtain new equipment and can be made toll free to the IRVMC.

If you are a small business entity and are significantly affected by the regulation, please contact CDR Michael Gardiner or LT Matthew Colmer, Project Managers for the Ninth Coast Guard District Commander, 1240 E. Ninth Street, Cleveland, Ohio 44199–2060, telephone (216) 902–6045.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding 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 calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

This rule revises an existing OMB-approved collection of information (1625–0105). The new collection of information estimate is based on data gathered as a result of the information collected under the temporary rule and is based on actual reports received by the IRVMC, as well as actual observation and tracking, for April 2003 and May 2003.

Title: Regulated Navigation Areas; Reporting Requirements for Barges Loaded with Certain Dangerous Cargoes, Inland Rivers, Eighth Coast Guard District and the Illinois Waterway, Ninth Coast Guard District.

OMB Control Number: 1625–0105.

Summary of the Collection of Information: The Coast Guard requires position and intended movement reporting, and fleeting operations reporting, from barges carrying CDCs in the inland rivers within the Eighth and Ninth Coast Guard Districts. This rule amends 33 CFR part 165 to require:

Towing vessel operators and fleeting area managers responsible for CDC barges must report the following information via toll free telephone, toll free fax, or email:

a. Name of barge and towing vessel;

b. Name of fleeting area and facility;

c. Estimated time of arrival (ETA) at fleeting area and facility;

d. Estimated time of departure (ETD) from fleeting area and facility;

e. Upon entry into the covered geographical area;

f. Four hours prior to originating a voyage with a CDC within the RNA, except if (a) the evolution of making up a tow with a CDC barge will take less than 4 hours before originating a voyage, and (b) the towing vessel operator did not receive the order to make up a tow with a CDC barge in advance of 4 hours before originating the voyage with one or more CDC barges, in which case towing vessel operator shall submit the required report to the IRVMC as soon as possible after receiving orders to make up a tow with one or more CDC barges;

g. Upon picking up an additional CDC barge from a fleeting area or facility;

h. Upon dropping off a CDC barge at a fleeting area or facility;

i. Upon moving a CDC barge within a fleeting area by a fleet tow boat;

j. Once daily, all CDC barges within a fleeting area;

k. ETA at approximately 90 designated reporting points within the covered geographical area;

l. At any time the ETA to a reporting point varies by 6 hours from the previously reported ETA;

m. Any significant deviation from previously reported information;

n. Upon departing the covered geographical area; and

o. When directed by the IRVMC.

A company representative or dispatcher may report to the IRVMC on behalf of the fleeting area manager.

Need for Information: To ensure port safety and security and to ensure the uninterrupted flow of commerce, the Coast Guard is issuing regulations requiring position and intended movement reporting and fleeting operations reporting from barges carrying CDCs in the inland rivers within the Eighth and Ninth Coast Guard Districts.

Use of Information: The information is required to enhance maritime security, protect ports and facilities and high-density population centers (metropolitan areas), control vessel traffic, develop contingency plans, and enforce regulations. The Coast Guard will use the information to maintain continuous maritime domain awareness on the inland rivers so that we may respond as appropriate to an actual or threatened terrorist action and enhance maritime security by boarding and/or escorting CDC barges in the vicinity of high-density population areas.

Description of the Respondents: The respondents are owners, agents, masters, towing vessel operators, or persons in charge of barges loaded with CDCs or having CDC residue operating on the inland rivers located within the Eighth and Ninth Coast Guard Districts.

Number of Respondents: The existing OMB-approved collection number of respondents is 3,505. This rule will decrease the number of respondents by 3,328 to a total of 177.

Frequency of Response: Towing vessel operators moving barges carrying CDCs or CDC residue will submit reports as necessary. The existing OMB-approved collection annual number of responses is 7,711. This rule will increase the number of responses by 13,313 to a total of 21,024.

Burden of Response: The existing OMB-approved collection burden of response is 15 minutes (0.25 hours)(burden of response is the time required to complete the paperwork requirements of the rule for a single response). This rule will decrease the burden of response by 9 minutes (0.15 hours) to a total of 6 minutes (0.10 hours).

Estimate of Total Annual Burden: The existing OMB-approved collection total annual burden is 1,928 hours (total annual burden is the time required to complete the paperwork requirements of the rule for all responses). This rule will decrease the total annual burden by 1017 hours to a total of 911 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this rule to the Office of Management and Budget (OMB) for its review and approval of the revised collection of information. The existing OMB-approved collection (1625–1505) expires on October 31, 2003.

We ask for public comment on the collection of information to help us determine how useful the information is, whether it can help us perform our functions better, whether it is readily available elsewhere, how accurate our estimate of the burden of collection is, how valid our methods for determining burden are, how we can improve the quality, usefulness, and clarity of the information, and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. If and when OMB approves this revised collection of information, we will publish a separate notice in the **Federal Register**.

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1 paragraph (34)(g), of the instruction, from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in NEPA. A final ''Environmental Analysis Check List'' and a final ''Categorical

Exclusion Determination'' are available where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 166 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.921 to read as follows:

§ 165.921 Regulated Navigation Area; Reporting Requirements for Barges Loaded with Certain Dangerous Cargoes, Illinois Waterway System located within the Ninth Coast Guard District.

(a) *Regulated Navigation Area.* The following waters are a regulated navigation area (RNA): the Illinois Waterway System above mile 187.2 to the Chicago Lock on the Chicago River at mile 326.7 and to the confluence of the Calumet River and Lake Michigan at mile 333.5 of the Calumet River.

(b) *Applicability.* This section applies to towing vessel operators and fleeting area managers responsible for CDC barges in the RNA. This section does not apply to towing vessel operators responsible for barges not carrying CDC barges, or fleet tow boats moving one or more CDC barges within a fleeting area.

(c) *Definitions.* As used in this section—

Barge means a non-self propelled vessel engaged in commerce, as set out in 33 CFR 160.204.

Certain Dangerous Cargo or *(CDC)* includes any of the following:

(1) Division 1.1 or 1.2 explosives as defined in 49 CFR 173.50.

(2) Division 1.5D blasting agents for which a permit is required under 49 CFR 176.415 or, for which a permit is required as a condition of a Research and Special Programs Administration exemption.

(3) Division 2.3 ''poisonous gas'', as listed in 49 CFR 172.101 that is also a ''material poisonous by inhalation'' as defined in 49 CFR 171.8, and that is in a quantity in excess of 1 metric ton per barge.

(4) Division 5.1 oxidizing materials for which a permit is required under 49 CFR 176.415 or, for which a permit is required as a condition of a Research and Special Programs Administration exemption.

(5) A liquid material that has a primary or subsidiary classification of Division 6.1 ''poisonous material'' as listed in 49 CFR 172.101 that is also a ''material poisonous by inhalation'', as defined in 49 CFR 171.8 and that is in a bulk packaging, or that is in a quantity in excess of 20 metric tons per barge when not in a bulk packaging.

(6) Class 7, ''highway route controlled quantity'' radioactive material or ''fissile material, controlled shipment'', as defined in 49 CFR 173.403.

(7) Bulk liquefied chlorine gas and bulk liquefied gas cargo that is flammable and/or toxic and carried under 46 CFR 154.7.

(8) The following bulk liquids—

(i) Acetone cyanohydrin,

(ii) Allyl alcohol,

(iii) Chlorosulfonic acid,

(iv) Crotonaldehyde,

(v) Ethylene chlorohydrin,

(vi) Ethylene dibromide,

(vii) Methacrylonitrile,

(viii) Oleum (fuming sulfuric acid), and

(ix) Propylene Oxide.

CDC barge means a barge containing CDCs or CDC residue.

Downbound means the tow is traveling with the current.

Fleet tow boat means any size vessel that is used to move, transport, or deliver a CDC barge within a fleeting area.

Fleeting area means any fleet, including any facility, located within the area covered by one single port.

Inland River Vessel Movement Center or *(IRVMC)* means the Coast Guard office that is responsible for collecting the information required by this section.

Ninth Coast Guard District means the Coast Guard District as set out in 33 CFR 3.45–1.

Towing vessel means any size vessel that is used to move, transport, or deliver a CDC barge to a fleet or facility that is located in a different port than where the voyage originated.

Towing vessel operator means the Captain or pilot who is on watch on board a towing vessel.

Upbound means the tow is traveling against the current.

(d) *Regulations.* The following must report to the Inland River Vessel Movement Center (IRVMC):

(1) The towing vessel operator responsible for one or more CDC barges in the RNA must report all the information items specified in table 165.921(f), in paragraph (f) of this section, to the IRVMC:

(i) Upon point of entry into the RNA with one or more CDC barges;

(ii) Four hours before originating a voyage within the RNA with one or more CDC barges, except if the evolution of making up a tow with a CDC barge will take less than 4 hours before originating a voyage, and the towing vessel operator did not receive the order to make up a tow with a CDC barge in advance of 4 hours before originating the voyage with one or more CDC barges, in which case the towing vessel operator shall submit the required report to the IRVMC as soon as possible after receiving orders to make up a tow with one or more CDC barges;

(iii) Upon dropping off one or more CDC barges at a fleeting area or facility;

(iv) Upon picking up one or more additional CDC barges from a fleeting area or facility;

(v) At designated reporting points, set forth in paragraph of this section;

(vi) When the estimated time of arrival (ETA) to a reporting point varies by 6 hours from the previously reported ETA;

(vii) Any significant deviation from previously reported information;

(viii) Upon departing the RNA with one or more CDC barges; and

(ix) When directed by the IRVMC.

(2) The fleeting area manager responsible for one or more CDC barges in the RNA must report all the information items specified in table 165.921(g), in paragraph (g) of this section, to the IRVMC:

(i) Once daily, report all CDC barges within the fleeting area;

(ii) Upon moving one or more CDC barges within a fleeting area by a fleet tow boat;

(iii) Any significant deviation from previously reported information; and

(iv) When directed by the IRVMC.

(3) Reports required by this section may be made by a company representative or dispatcher on behalf of the fleeting area manager.

(4) Reports required by this section must be made to the IRVMC either by telephone to (866) 442–6089, by fax to (866) 442–6107, or by e-mail to *irvmc@cgstl.uscg.mil.* A reporting form and e-mail link are available at *http://www.uscg.mil/d8/Divs/M/IRVMC.htm.*

(5) The general regulations contained in 33 CFR 165.13 apply to this section.

(e) *Ninth Coast Guard District Illinois Waterway System RNA Reporting points.* Towing vessel operators responsible for one or more CDC barges in the RNA must make reports to the Inland River Vessel Movement Center at each point listed in this paragraph (e).

(1) Illinois River (ILR) Upbound, at Mile Markers (M) and when Departing Lock & Dam (L&D)—

(i) M 187.2 (Southern Boundary MSO Chicago AOR),

(ii) M 303.5 Junction of Chicago Sanitary Ship Canal and Calumet-Sag Channel,

(iii) M 326.4 Thomas S. O'Brien L&D, Calumet River,

(iv) M 333.5 Confluence of Calumet River and Lake Michigan, and

(v) M 326.7 Chicago L&D, Chicago River.

(2) Illinois River (ILR) Downbound Reporting Points, at Mile Markers (M) and when Departing Lock & Dam (L&D)—

(i) M 326.7 Chicago L&D, Chicago River,

(ii) M 333.5 Confluence of Calumet River and Lake Michigan,

(iii) M 326.4 Thomas S. O'Brien L&D, Calumet River,

(iv) M 303.5 Junction of Chicago Sanitary Ship Canal and Calumet-Sag Channel, and

(v) M 187.2 (Southern Boundary MSO Chicago AOR).

(f) *Information to be reported to the IRVMC by towing vessel operators.* With the exception noted in paragraph (d)(1)(ii) of this section, towing vessel operators responsible for one or more CDC barges in the RNA must report all the information required by this section as set out in table 165.921(f) of this paragraph.

TABLE 165.921(F).—INFORMATION TO BE REPORTED TO THE IRVMC BY TOWING VESSEL OPERATORS

	24-hour contact number	Name of vessel moving barge(s)	Barge(s) name and official number	Type, name and amount of CDC onboard	Estimated time of departure from fleeting area or facility	Name and location of destination of CDC barge (fleeting area or facility), including estimated time of arrival	Reporting point	Estimated time of arrival (ETA) to next reporting point (If applicable)
(1) Upon point of entry into the RNA with a CDC barge	X	X	X	X	.....	X	X	X
(2) 4 hours before originating a voyage within the RNA with one or more CDC barges; but see exception in paragraph (d)(1)(ii) of this section.	X	X	X	X	X	X	.....	X
(3) Upon dropping off one or more CDC barges at a fleeting area or facility	.....	X	X					
(4) Upon picking up one or more additional CDC barges from a fleeting area or facility.	.....	X	X	X				
(5) At designated reporting points in 165.921(e)	.....	X	X	(1)	.....	(1)	X	X
(6) When ETA to a reporting point varies by 6 hours from previously reported ETA	.....	X	(1)	(1)	.....	.....	.....	X
(7) Any significant deviation from previously reported information (all that apply)	X	X	X	X	X	X	X	X
(8) Upon departing the RNA with a CDC barge (s)	.....	X	X	.....	.....	.....	X	
(9) When directed by the IRVMC	X	X	X	X	X	X	X	X

[1] If changed.

(g) *Information to be reported to the IRVMC by fleeting area managers.* Fleeting area managers responsible for one or more CDC barges in the RNA must report the information required by this section as set out in table 165.921(g) to this paragraph.

TABLE 165.921(G).—INFORMATION TO BE REPORTED TO THE IRVMC BY FLEETING AREA MANAGERS

	24-hour contact number	Barge(s) name and official number	Type, name and amount of CDC onboard	Location of CDC barge (fleeting area or facility)
(1) Once daily, all CDC barges in a fleeting area	X	X	X	X
(2) Upon moving one or more CDC barges within a fleeting area by a fleet tow boat	.....	X	X	X
(3) Any significant deviation from previously reported information (all that apply)	X	X	X	X
(4) When directed by the IRVMC	X	X	X	X

(h) *Alternative reporting.* The Ninth Coast Guard District Commander may consider and approve alternative methods to be used by a reporting party to meet any reporting requirements if—

(1) The request is submitted in writing to Commander, Ninth Coast Guard District (m), 1240 E. Ninth Street, Cleveland, Ohio, 44199–2060; and

(2) The alternative provides an equivalent level of the reporting that which would be achieved by the Coast Guard with the required check-in points.

(i) Deviation from this section is prohibited unless specifically authorized by the Commander, Ninth Coast Guard District or the IRVMC.

Dated: September 29, 2003.

Ronald F. Silva,

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

[FR Doc. 03–25296 Filed 10–1–03; 3:55 pm]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Cooper River and Tributaries, Naval Weapons Station Charleston, Charleston, SC

AGENCY: United States Army Corps of Engineers, Department of Defense.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is amending existing regulations to expand the authority of the Commanding Officer, Naval Weapons Station Charleston to restrict passage of persons, watercraft and vessels within currently designated restricted areas in the Cooper River and its tributaries in the vicinity of the Naval Weapons Station in Charleston, South Carolina. The purpose of the proposed change is to provide effective security in the area of the Naval Weapons Station.

EFFECTIVE DATE: November 5, 2003.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC, at (202) 761–4618, or Mr. Nathaniel Ball, Corps of Engineers, Charleston District, at (843) 329–8044.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and chapter XIX, of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3) the Corps is amending the restricted area regulations published at 33 CFR 334 by modifying 334.460(b)(6) to expand the authority of the Commanding Officer, Naval Weapons Station Charleston to restrict the passage of persons, watercraft and vessels within the Cooper River and its tributaries in the vicinity of the Naval Weapons Station in Charleston, South Carolina. The boundaries of restricted areas and danger zones identified in 33 CFR 334.460 (a) are unchanged. The regulation at 33 CFR 334.460(b)(6) is being amended to include restricted area (a)(8) of 334.460. The amended regulation will allow the Commanding Officer of the Naval Weapons Station to restrict the passage of persons, watercraft, and vessels, at his/her discretion in the interest of National Security until such time as he/she determines such restrictions may be terminated.

Procedural Requirements

a. Review Under Executive Order 12866

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

This rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small businesses and small governments). The Corps expects that the economic impact of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

The Charleston District has prepared an Environmental Assessment (EA) for this action. The District has concluded, based on the minor nature of the proposed additional restricted area, that this action will not have a significant impact to the quality of the human environment, and preparation of an Environmental Impact Statement (EIS) is not required. The EA may be reviewed at the Charleston District office listed at the end of **FOR FURTHER INFORMATION CONTACT** above.

d. Unfunded Mandates Act

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of section 202 or 205 of the Unfunded Mandates Act. The District has also found under section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

e. Submission to Congress and the General Accounting Office

Pursuant to section 801(a)(1)(A) of the Administrative Procedure Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this Rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office. This rule is not a major rule within the meaning of section 804(2) of the Administrative Procedure Act, as amended.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Restricted areas, Waterways.

■ For the reasons set out in the preamble, the Corps of Engineers is amending 33 CFR part 334 as follows:

PART 334—DANGER ZONES AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

■ 2. Amend § 334.460 by revising paragraph (b)(6) to read as follows:

§ 334.460 Cooper River and tributaries at Charleston, SC.

* * * * *

(b) * * *

(6) In the interest of National Security, Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, may at his/her discretion, restrict passage of persons, watercraft and vessels in the areas described in paragraphs (a)(7), (a)(8) and (a)(11) of this section until such time as he/she determines such restriction may be terminated.

* * * * *

Dated: September 16, 2003.

Lawrence A. Lang,

Deputy Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 03–25205 Filed 10–3–03; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket No. FEMA–B–7438]

Changes in Flood Elevation Determinations

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

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1-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 Base Flood Elevations 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 Maps in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Mitigation Division Director for the Emergency Preparedness and Response Directorate reconsider the changes. The modified elevations 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, P.E. Hazard Identification Section, Emergency Preparedness and Response Directorate, 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 elevations, together with the floodplain management criteria required by 44 CFR 60.3, are 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 the other Federal, State, or regional entities.

The changes in 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 for 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 and Case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona:					
Gila	City of Globe, (03–09–0187P).	June 18, 2003, June 25, 2003, *Arizona Silver Belt*.	The Honorable Stanley Gibson, Mayor, City of Globe, 150 North Pine Street, Globe, Arizona 85501.	Sept. 24, 2003	040029
Gila	Unincorporated Areas, (03–09–0187P).	June 18, 2003, June 25, 2003, *Arizona Silver Belt*.	The Honorable Cruz Salas, Chairman, Gila County Board of Supervisors, 1400 East Ash Street, Globe, Arizona 85501.	Sept. 24, 2003	040028
Maricopa	City of Avondale, (02–09–190P).	May 29, 2003, June 5, 2003, *Arizona Republic*.	The Honorable Ronald J. Drake, Mayor, City of Avondale, 525 North Central Avenue, Avondale, Arizona 85323.	May 22, 2003	040038

State and County	Location and Case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Maricopa	Town of Buckeye, (03–09–0245P).	June 19, 2003, June 26, 2003, *Buckeye Valley News*.	The Honorable Dusty Hull, Mayor, Town of Buckeye, 100 North Apache Road, Suite A, Buckeye, Arizona 85326.	May 20, 2003	040039
Maricopa	City of Chandler, (03–09–0353P).	May 29, 2003, June 5, 2003, *Arizona Business Gazette*.	The Honorable Boyd Dunn, Mayor, City of Chandler, 55 North Arizona Place, Suite 301, Chandler, Arizona 85225.	May 7, 2003	040040
Maricopa	City of El Mirage, (02–09–945P).	May 22, 2003, May 29, 2003, *Arizona Republic*.	The Honorable Robert Robles, Mayor, City of El Mirage, P.O. Box 26, El Mirage, Arizona 85335.	Aug. 28, 2003	040041
Maricopa	Town of Gila Bend, (02–09–858P).	July 3, 2003, July 10, 2003, *Arizona Business Gazette*.	The Honorable Chuck Turner, Mayor, Town of Gila Bend, P.O. Box A, Gila Bend, Arizona 85337.	Oct. 9, 2003	040043
Maricopa	City of Phoenix, (03–09–0290P).	June 12, 2003, June 19, 2003, *Arizona Business Gazette*.	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, Arizona 85003–1611.	May 29, 2003	040051
Maricopa	City of Surprise, (02–09–945P).	May 22, 2003, May 29, 2003, *Arizona Republic*.	The Honorable Joan H. Shafer, Mayor, City of Surprise, 12425 West Bell Road, Suite D–100, Surprise, Arizona 85374.	Aug. 28, 2003	040053
Maricopa	Unincorporated Areas, (02–09–945P).	May 22, 2003, May 29, 2003, *Arizona Republic*.	The Honorable R. Fulton Brock, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson, 10th Floor, Phoenix, Arizona 85003.	Aug. 28, 2003	040037
Maricopa	Unincorporated Areas, (02–09–858P).	July 3, 2003, July 10, 2003, *Arizona Business Gazette*.	The Honorable Don Stapley, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson, 10th Floor, Phoenix, Arizona 85003.	Oct. 9, 2003	040037
Maricopa	Town of Youngtown, (03–09–1014X).	May 22, 2003, May 29, 2003, *Arizona Republic*.	The Honorable Daphne Green, Mayor, Town of Youngtown, 12030 Clubhouse Square, Youngtown, Arizona 85363.	Aug. 28, 2003, ...	040057
Pima	City of Tucson, (02–09–873P).	July 17, 2003, July 24, 2003, *Daily Territorial*.	The Honorable Bob Walkup, Mayor, City of Tucson, City Hall, 255 West Alameda Street, Tucson, Arizona 85701.	Oct. 23, 2003	040076
Pima	Unincorporated Areas, (03–09–0541P).	June 19, 2003, June 26, 2003, *Arizona Daily Star*.	The Honorable Ray Carroll, Republican County Supervisor, Pima County District Four, 130 West Congress Street, 11th Floor, Tucson, Arizona 85701.	Sept. 25, 2003	040073
California:					
Contra Costa	City of Clayton, (03–09–0387P).	May 29, 2003, June 6, 2003, *Contra Costa Times*.	The Honorable Gregory J. Manning, Mayor, City of Clayton, City Hall, 6000 Heritage Trail, Clayton, California 94517.	May 9, 2003	060027
Los Angeles	Unincorporated Areas, (02–09–404P).	May 22, 2003, May 29, 2003, *Los Angeles Times*.	The Honorable Yvonne B. Burke, Chair, Los Angeles County Board of Supervisors, 500 West Temple Street, Los Angeles, California 90012.	April 21, 2003	065043
Placer	City of Rocklin, (02–09–810P).	May 7, 2003, May 14, 2003, *The Rocklin*.	The Honorable Kathy Lund, Mayor, City of Rocklin, 3970 Rocklin Road, Rocklin, California 95677–2720.	Aug. 13, 2003	060242
Placer	Unincorporated Areas, (02–09–810P).	May 7, 2003, May 14, 2003, *The Rocklin*.	The Honorable Rex Bloomfield, Chairman, Placer County, Board of Supervisors, 175 Fulweiler Avenue, Auburn, California 95603.	Aug. 13, 2003	060239
Sacramento	Unincorporated Areas, (03–09–0080P).	May 8, 2003, May 15, 2003, *Daily Recorder*.	The Honorable Illa Collin, Chair, Sacramento County Board of Supervisors, 700 H Street, Room 2450 Sacramento, California 95814.	Aug, 14, 2003	060262

State and County	Location and Case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
San Diego ...	City of San Diego, (03–09–0578P).	June 26, 2003, July 3, 2003, *San Diego Union-Tribune*.	The Honorable Richard M. Murphy, Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, California 92101.	June 9, 2003	060295
San Diego ...	City of San Marcos (03–09–0123P).	April 24, 2003, May 1, 2003, *The Paper*.	The Honorable F. H. ''Corky'' Smith Mayor, City of San Marcos, One Civic Center Drive, San Marcos, California 92069–2949.	July 31, 2003	060296
Santa Cruz ..	Unincorporated Areas, (03–09–0475P).	May 8, 2003, May 15, 2003, *Register-Pajaronian*.	The Honorable Ellen Pirie Chair, Santa Cruz County Board of Supervisors, 701 Ocean Street, Room 500, Santa Cruz, California 95060.	Aug. 14, 2003	060353
Santa Cruz ..	City of Watsonville, (03–09–0475P).	May 8, 2003, May 15, 2003, *Register-Pajaronian*.	The Honorable Richard de la Paz, Jr. Mayor, City of Watsonville, Administration Building, Second Floor, 215 Union Street Watsonville, California 95076.	Aug. 14, 2003	060357
Santa Barbara.	City of Solvang, (02–09–1302P).	May 29, 2003, June 5, 2003, *Santa Barbara News Press*.	The Honorable Beverly Russ, Mayor, City of Solvang, P.O. Box 107, Solvang, California 93464–0107.	May 7, 2003, ...	060756
Santa Barbara.	Unincorporated Areas, (02–09–179P).	July 3, 2003, July 10, 2003, *Santa Barbara News Press*.	The Honorable Naomi Schwartz, Chair, Santa Barbara County, Board of Supervisors, 105 East Anapamu Street, Santa Barbara, California 93101.	Oct. 9, 2003	060331
Colorado:					
Adams	Unincorporated Areas, (03–08–0104P).	May 14, 2003, May 21, 2003, *Brighton Standard-Blade*.	The Honorable Elaine T. Valente, Chairman, Adams County, Board of Commissioners, 450 South Fourth Avenue Brighton, Colorado 80601.	Aug. 20, 2003	080001
Arapahoe	City of Littleton, (03–08–0030P).	May 22, 2003, May 29, 2003, *Littleton Independent*.	The Honorable Susan M. Thornton, Mayor, City of Littleton, 2255 West Berry Avenue, Littleton, Colorado 80165.	Aug. 28, 2003	080017
Broomfield ...	City and County of Broomfield, (03–08–0061P).	June 19, 2003, June 26, 2003, *Boulder Daily Camera*.	The Honorable Karen Stuart, Mayor, City and County of Broomfield, One DesCombes Drive, Broomfield, Colorado 80020.	Sept. 25, 2003	085073
Broomfield ...	City and County of Broomfield, (03–08–0270P).	July 16, 2003, July 23, 2003 *Broomfield Enterprise*.	The Honorable Karen Stuart, Mayor, City and County of Broomfield, One DesCombes Drive, Broomfield, Colorado 80020.	June 27, 2003	085073
Denver	City and County of Denver, (03–08–0210P).	May 15, 2003, May 22, 2003, *Denver Post*.	The Honorable Wellington E. Webb, Mayor, City and County of Denver, 1437 Bannock Street, Suite 350, Denver, Colorado 80202.	April 24, 2003	080046
Adams, Arapahoe, Denver.	City of Aurora, (03–08–0210P).	May 15, 2003, May 22, 2003, *Denver Post*.	The Honorable Paul E. Tauer, Mayor, City of Aurora, 15151 East Alameda Parkway, Fifth Floor, Aurora, Colorado 80012.	April 24, 2003	080002
Douglas	Town of Parker, (02–08–186P).	April 23, 2003, April 30, 2003, *Douglas County News-Press*.	The Honorable Gary Lasater, Mayor, Town of Parker, 20120 East Mainstreet, Parker, Colorado 80138–7334.	July 30, 2003	080310
Douglas	Unincorporated Areas, (02–08–186P).	April 23, 2003, April 30, 2003, *Douglas County News-Press*.	The Honorable James R. Sullivan, Chairman, Douglas County Board of Commissioners, 100 Third Street, Castle Rock, Colorado 80104.	July 30, 2003	080049
Douglas	Unincorporated Areas, (03–08–0096P).	April 23, 2003, April 30, 2003, *Douglas County News-Press*.	The Honorable James R. Sullivan, Chairman, Douglas County Board of Commissioners, 100 Third Street, Castle Rock, Colorado 801049.	July 30, 2003	080049

State and County	Location and Case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
El Paso	City of Colorado Springs, (02–08–394P).	April 24, 2003, May 1, 2003, *The Gazette*.	The Honorable Mary Lou Makepeace, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, Colorado 80901.	July 31, 2003	080060
El Paso	City of Colorado Springs, (03–08–0223P).	June 5, 2003, June 12, 2003, *The Gazette*.	The Honorable Mary Lou Makepeace, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, Colorado 80901.	May 13, 2003	080060
Jefferson	Unincorporated Areas, (03–08–0099P).	March 19, 2003, March 26, 2003, *Canyon Courier*.	The Honorable Richard M. Sheehan, Chairman, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Golden, Colorado 80419.	June 25, 2003	080087
Hawaii:					
Hawaii	Hawaii County, (02–09–368P).	July 10, 2003, July 17, 2003, *Hawaii Tribune Herald*.	The Honorable Harry Kim, Mayor, County of Hawaii, 25 Aupuni Street, Hilo, Hawaii 96720.	Oct. 16, 2003	155166
Maui	Maui County, (03–09–0116P).	May 29, 2003, June 5, 2003, *Maui News*.	The Honorable Alan M. Arakawa, Mayor, Maui County, 200 South High Street, Wailuku, Hawaii 96793.	May 6, 2003	150003
Maui	Maui County, (03–09–0107P).	July 3, 2003, July 10, 2003, *Maui News*.	The Honorable Alan M. Arawaka, Mayor, Maui County, 200 South High Street, Wailuku, Hawaii 96793.	June 13, 2003	150003
Idaho:					
Bonneville	City of Ammon, (03–10–0229P).	July 3, 2003, July 10, 2003, *Post Register*.	The Honorable Bruce Ard, Mayor, City of Ammon, 2135 South Ammon Road, Ammon, Idaho 83406.	June 13, 2003	160028
Bonneville	Unincorporated Areas, (03–10–0229P).	July 3, 2003, July 10, 2003, *Post Register*.	The Honorable Lee Stake, Chairman, Bonneville County Board of Commissioners, 605 North Capitol Avenue, Idaho Falls, Idaho 83402,.	June 13, 2003	160027
Nevada:					
Independent City.	City of Carson City, (01–09–592P).	June 19, 2003, June 26, 2003, *Nevada Appeal*.	The Honorable Ray Masayko, Mayor, City of Carson City, 201 North Carson Street, Suite 2, Carson City, Nevada 89701.	May 29, 2003	320001
Clark	City of Henderson (03–09–0861X).	May 1, 2003, May 8, 2003, *Las Vegas Review-Journal*.	The Honorable James Gibson, Mayor, City of Henderson, 240 South Water Street, Henderson, Nevada 89015.	April 21, 2003	320005
Clark	Unincorporated Areas, (03–09–0861X).	May 1, 2003, May 8, 2003, *Las Vegas Review-Journal*.	The Honorable Mary J. Kincaid-Chauncey, Chair, Clark Country, Board of Commissioners, 500 South Grand Central Parkway, Las Vegas, Nevada 89155.	April 21, 2003	320003
Clark	Unincorporated Areas, (02–09–1071P).	April 24, 2003, May 1, 2003, *Las Vegas Review-Journal*.	The Honorable Mary J. Kincaid-Chauncey, Chair, Clark County, Board of Commissioners, 500 South Grand Central Parkway, Las Vegas, Nevada 89155.	July 31, 2003	320003
Clark	Unincorporated Areas, (02–09–718P).	July 10, 2003, July 17, 2003, *Las Vegas Review-Journal*.	The Honorable Mary J. Kincaid-Chauncey, Chair, Clark County Board of Commissioners, 500 South Grand Central Parkway, Las Vegas, Nevada 89155.	June 19, 2003	320003
Texas: Dallas	City of Dallas, (00-06-248P).	January 31, 2002, February 7, 2002), *Dallas Morning News*.	The Honorable Ron Kirk, Mayor, City of Dallas, 1500 Marilla Street, Dallas, Texas 75201.	Nov. 8, 2000	480171

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

Dated: September 23, 2003.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 03–25215 Filed 10–3–03; 8:45 am]

BILLING CODE 6718–04–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1817

RIN 2700–AC78

Interagency Acquisition Approvals

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This final rule amends the NASA Federal Acquisition Regulation Supplement (NFS) by establishing a five-year limitation on interagency acquisitions. Individual orders or successive non-competitive orders for the same requirement with the same servicing agency that will exceed five years require approval of a deviation. This final rule also requires determinations and findings (D&Fs) for interagency acquisitions to identify the period of performance and whether the acquisition is for a non-competitive follow-on for the same requirement with the same servicing agency. These changes result from NASA's agreement with OMB on an action plan regarding the President's Management Agenda Competitive Sourcing element. These changes will establish greater consistency in the approval requirements for contracts, grants, cooperative agreements, and interagency acquisitions with anticipated periods of performance exceeding five years.

EFFECTIVE DATE: October 6, 2003.

FOR FURTHER INFORMATION CONTACT: Joseph Le Cren, NASA Headquarters, Office of Procurement, Program Operations Division (Code HS), Washington, DC 20546–0001, (202) 358–0431, e-mail: *jlecren@hq.nasa.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

OMB and NASA entered into an agreement on an action plan regarding the President's Management Agenda Competitive Sourcing element. That agreement called for NASA to put in place plans for reviews and recompetitions of contracts, interagency acquisitions, and partnerships identified in inventories submitted to OMB in September 2002. In developing NASA's plan for reviews and recompetitions, existing guidance pertaining to interagency acquisitions was reviewed and areas requiring revision or coverage were identified.

Contracts (inclusive of options), grants, and cooperative agreements that are planned to exceed five years, generally require the prior approval of the Assistant Administrator for Procurement. However, there are no limits for interagency acquisitions. This final rule establishes a similar requirement for interagency acquisitions, as well as the information to be provided for a deviation from the rule.

The FAR specifies information that is to be included in the D&Fs for interagency acquisitions. However, there is no requirement for the period of performance to be identified. This final rule establishes such a requirement in order to restrict the use of long-term acquisitions (greater than five years) that preclude the opportunity for competition. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This final rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Pub. L. 98–577, and publication for public comment is not required. However, NASA will consider comments from small entities concerning the affected NFS Part 1817 in accordance with 5 U.S.C. 610.

C. Paperwork Reduction Act

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

List of Subjects in 48 CFR Part 1817

Government procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

■ Accordingly, 48 CFR Part 1817 is amended as follows:

■ 1. The authority citation for 48 CFR Part 1817 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1817—SPECIAL CONTRACTING METHODS

■ 2. Amend section 1817.7201 by redesignating the existing text as paragraph (a) and adding paragraphs (b) and (c) to read as follows:

1817.7201 Policy.

* * * * *

(b) Individual orders or successive non-competitive interagency orders for the same requirement with the same servicing agency shall not exceed five years.

(c) Requests for deviation from the five year limitation in paragraph (b) of this section shall require the approval of the Center Director if the estimated value of the order is $5 million or less, or the Assistant Administrator for Procurement (Code HS) if the estimated value of the order exceeds $5 million. Requests for deviation shall address:

(1) Why more than five years is required;

(2) Why the work must be performed by the same servicing agency; and

(3) How long beyond the current order the requirement is expected to continue.

■ 3. Amend section 1817.7202 by redesignating existing paragraphs (c) and (d) as (d) and (e) respectively, and adding a new paragraph (c) to read as follows:

1817.7202 Determinations and findings requirements.

* * * * *

(c) In addition to the requirements in FAR 17.503, the D&F must identify the period of performance and whether the acquisition is a non-competitive follow-on for the same services from the same servicing agency. (*See* 1817.7201(b).)

* * * * *

[FR Doc. 03–25290 Filed 10–3–03; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 175, 176, 177, 178, and 179

[Docket No. RSPA–03–16099 (HM–189V)]

RIN 2137–AD85

Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the Hazardous Materials Regulations (HMR). The

intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this rule are minor changes and do not impose new requirements.

DATES: Effective date: October 1, 2003.

FOR FURTHER INFORMATION CONTACT: Darral Relerford, Office of Hazardous Materials Standards, (202) 366–8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

The Research and Special Programs Administration (RSPA, we) annually reviews the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) to identify errors that may confuse readers. Inaccuracies corrected in this final rule include typographical and printing errors, incorrect references to regulations in the CFR, inconsistent use of terminology, and misstatements of certain regulatory requirements. In addition, we are making certain other changes to improve the clarity of certain HMR requirements.

Because these amendments do not impose new requirements, notice and public procedure are unnecessary. For this same reason, we are making these amendments effective without the customary 30-day delay following publication.

The following is a section-by-section summary of the amendments made under this final rule. It does not discuss all minor editorial corrections (for example, typographical and punctuation errors) and certain other minor adjustments to enhance the clarity of the HMR.

II. Section-by-Section Review

Part 171

Sections 171.15 and 171.16. In §§ 171.15(b) and 171.16(b), we are updating the term ''FAA Civil Aviation Security Office'' to read ''FAA Regional or Field Security Office.''

Part 172

Section 172.101 Hazardous Materials Table (HMT). We are amending the HMT by correcting certain entries as follows:

—The hazard class for the entry ''Combustible liquid, n.o.s.,'' NA1993, is revised by correcting Column (3) to read ''Combustible liquid.'' Due to a typographical error, the entry currently reads ''Combustible.''

—For the entry ''Self-reactive liquid type F,'' UN3229, we are correcting the reference ''114'' to read ''224.''

Section 172.102. We are correcting Special Provision 15 by removing text that conflicts with the assigned packaging authorization section, § 173.161, for the entries ''Chemical kits,'' and ''First aid kits.'' This correction is based on comments from the public stating that the text is confusing.

Section 172.201. We are revising paragraph (e) to clarify that the use and retention of a permanent shipping paper for multiple shipments of one or more hazardous materials being transported on a regular basis over an extended period is authorized. In the final rule published on July 12, 2002 (67 FR 46123) under Docket HM–207B, we authorized operators to retain a single copy of such permanent shipping papers for the period in which the shipping paper is used and 375 days thereafter, provided that the operator also retains a record of each shipment made under the shipping paper. Also, *see* § 177.817.

Section 172.321. We are editorially revising paragraph (c)(5) by removing the semi-colon and the word ''and.''

Section 172.332. We are revising paragraph (b)(3) by adding ''0.25 inches'' as the conversion for ''18 points.''

Part 173

Section 173.32. We are editorially revising paragraph (c)(2) for clarity by changing the word ''it'' to read ''the portable tanks.''

Section 173.134. In paragraph (c)(1)(ii), we are changing the wording ''the specific packaging requirements of this section'' to read ''the specific packaging requirements of § 173.197.''

Section 173.164. We are removing paragraph (a)(2) because it is redundant with the introductory paragraph (a).

Section 173.166. As revised in the final rule, HM–215E (68 FR 44992), published on July 31, 2003, we are editorially revising introductory paragraph (e) by adding ''as follows'' to connect the introductory paragraph to its subparagraphs.

Section 173.197. We are revising paragraph (e)(1)(i) by correcting two American Society for Testing and Materials Standard numbers.

Section 173.241. In paragraph (c), we are adding a sentence to refer the reader to the portable tank requirements in § 176.340 applicable to combustible liquids being transported by vessel.

Section 173.304a. In the table in paragraph (d), we are correcting the entry for hydrogen sulfide, in column 3, to remove an inconsistency with provisions in §§ 173.40(b) and 173.301a(d)(3) that state the pressure of a gas at 55 °C (131 °F) may not exceed the cylinder's service pressure. The service pressure of hydrogen sulfide at 55 °C (131 °F) exceeds the marked service pressure, 480 psi, specified in the table.

Section 173.315. In paragraph (b)(1), we are correcting the word ''That'' to read ''that'.

Section 173.337. In paragraph (a), we are removing an incorrect reference to ''3ALM'' cylinders.

Section 173.412. In paragraph (l), we are correcting ''40 TBq (1000Ci)'' to read ''40 TBq (1080Ci)'' because it is a more precise conversion of the activity of 40 TBq to curies.

Section 173.420. In paragraph (a)(2)(i), we are removing the edition dates for American National Standard (ANSI) N 14.1 because they are indicated in § 171.7.

Part 175

Section 175.31 In paragraph (a), we are updating the term ''FAA Civil Aviation Security Office'' to read ''FAA Regional or Field Security Office.''

Part 176

Section 176.340 We are revising paragraph (a) to clarify the type of authorized portable tanks by adding the word ''Specification.''

Part 177

Section 177.817 We are revising paragraph (f) to clarify that the use and retention of a permanent shipping paper for multiple shipments of one or more hazardous materials being transported on a regular basis over an extended period is authorized. Also, *see* § 172.201.

Section 177.854. We are revising paragraph (f)(1) by correcting the spelling of the word ''motor.''

Part 178

Section 178.61. We are revising paragraph (g) to correct the location in 49 CFR for the heat treatment methods. The methods are contained in Table 1 of Appendix A to Part 178—Specifications for Steel. Currently, the paragraph incorrectly cites paragraph (b), which contains requirements for authorized steel and references Table 1 of Appendix A for chemical composition limits and makes no reference to heat treatment.

Section 178.274. We are revising paragraph (b)(1) to clarify that portable tanks used for Zone A or B toxic-by-inhalation liquids are required to have an ASME Certification and U Stamp.

This revision is consistent with § 178.273(b)(6). We are also correcting the section reference § 178.247(a)(2)'' in paragraph (i) (1) to read ''§ 178.274(a)(2).''

Section 178.337–10. In paragraph (a), we are revising the wording ''safety relief devices'' to read ''pressure relief devices.''

Section 178.337–17. In paragraph (d), we are correcting the section reference § 178.337(3)(b)'' to read ''§ 178.337–3(b).''

Section 178.338–3. In paragraphs (c)(3)(ii), (c)(3)(iii), (c)(3)(iv), (c)(3)(v), (c)(3)(vi) and (c)(4), we are removing the wording ''and (c)'' as an incorrect paragraph reference.

Section 178.338–9. In paragraph (c)(2), we are correcting the section reference § 178.320 (a) (3)'' to read ''§ 178.320(a).''

Section 178.338–18. In paragraph (d), we are removing the wording ''and (c)'' as an incorrect reference.

Part 179

Section 179.102–4. We are revising the section heading to correct a proper shipping name.

Sections 179.300–12 and 179.500–12. In paragraph (b) of each section, we are revising the wording ''safety relief devices'' to read ''pressure relief devices.''

III. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3 (f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). Because there in no economic impact of this rule, preparation of a regulatory impact analysis is not warranted.

B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 13132 (''Federalism''). This final rule does not adopt any regulation that: (1) Has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts state law.

RSPA is not aware of any State, local, or Indian tribe requirements that would be preempted by correcting editorial errors and making minor regulatory changes. This final rule does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

C. Executive Order 13175

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this rule does not have tribal implications and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor regulatory changes which will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses or other organizations.

E. Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

F. Paperwork Reduction Act

There are no new information collection requirements in this final rule.

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned 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. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Incorporation by reference, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Incorporation by reference, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 179

Hazardous materials transportation, Railroad safety, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 2. In § 171.15, the introductory text to paragraph (b) is revised to read as follows:

§ 171.15 Immediate notice of certain hazardous materials incidents.

* * * * *

(b) Except for transportation by aircraft, each notice required by paragraph (a) of this section shall be given to the National Response Center by telephone (toll-free) on 800–424–8802. Notice involving shipments transported by aircraft must be given to the nearest FAA Regional or Field Security Office by telephone at the

earliest practical moment after each incident in place of the notice to the National Response Center. Notice involving infectious substances may be given to the Director, Centers for Disease Control, U.S. Public Health Service, Atlanta, Ga. (800) 232–0124, in place of the notice to the Department or (toll call) on 202–267–2675; however, a written report is still required as stated in paragraph (c) of this section.

* * * * *

■ 3. In § 171.16, paragraph (b) is revised to read as follows:

§ 171.16 Detailed hazardous materials incident reports.

* * * * *

(b) Each carrier making a report under this section shall send the report to the Information Systems Manager, DHM–63, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590–0001; and, for incidents involving transportation by aircraft, a copy of the report shall also be sent to the FAA Regional or Field Security Office, nearest the location of the incident. A copy of the report shall be retained for a period of two years at the carrier's principal place of business or at other places as authorized and approved in writing by an agency of the Department of Transportation.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

■ 4. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 172.101 [Amended]

■ 5. In § 172.101, the Hazardous Materials Table is amended as follows:

■ a. For the entry ''Combustible liquid, n.o.s., NA1993'', in Column (3), the word ''Combustible'' is removed and ''Combustible liquid'' is added in its place.

■ b. For the entry ''Self-reactive liquid type F, UN3229'', in Column (8B), as amended at 68 FR 45024, the reference ''114'' is removed and ''224'' is added in its place.

§ 172.102 [Amended]

■ 6. In § 172.102, paragraph (c)(1) in Special Provision 15, as amended at 68 FR 44992, the third and fourth sentences are removed.

■ 7. In § 172.201, in paragraph (e), the fifth sentence is revised to read as follows:

§ 172.201 Preparation and retention of shipping papers.

* * * * *

(e) * * * A motor carrier (as defined in § 390.5 of subchapter B of chapter III of subtitle B) using a shipping paper without change for multiple shipments of one or more hazardous materials having the same shipping name and identification number may retain a single copy of the shipping paper, instead of a copy for each shipment made, if the carrier also retains a record of each shipment made, to include shipping name, identification number, quantity transported, and date of shipment.

■ 8. In § 172.321, paragraph (c)(5), as amended at 68 FR 45031, is revised to read as follows:

§ 172.321 Air eligibility mark.

* * * * *

(c) * * *

(5) Packages or articles which are excepted from the marking requirements of this subchapter (for example, non-spillable batteries, vehicles).

* * * * *

■ 9. In § 172.332, paragraph (b)(3) is revised to read as follows:

§ 172.332 Identification number markings.

* * * * *

(b) * * *

(3) The name and hazard class of a material may be shown in the upper left border of the orange panel in letters not more than 18 points (0.25 in.) high.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 10. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

§ 173.32 [Amended]

■ 11. In § 173.32, in the first sentence of paragraph (c)(2), the wording ''and provided it conforms to the periodic inspection and tests'' is revised to read ''and provided the portable tanks conform to the periodic inspection and tests''.

■ 12. In § 173.134, paragraph (c)(1)(ii) is revised to read as follows:

§ 173.134 Class 6, Division 6.2—Definitions and exceptions.

* * * * *

(c) * * *

(1) * * *

(ii) For other than a waste culture or stock of an infectious substance, the specific packaging requirements of § 173.197, if packaged in a rigid non-bulk packaging conforming to the general packagings requirements of §§ 173.24 and 173.24a and packaging requirements specified in 29 CFR 1910.103.

* * * * *

§ 173.164 [Amended]

■ 13. In § 173.164, paragraph (a) (2) is removed and reserved.

§ 173.166 [Amended]

■ 14. In § 173.166, as amended at 68 FR 45034, effective October 1, 2003, in introductory paragraph (e), the wording ''performance level are authorized'' is revised to read ''performance level are authorized as follows''.

■ 15. In § 173.197, paragraph (e)(1)(i) is revised to read as follows:

§ 173.197 Regulated medical waste.

* * * * *

(e) * * *

(1) * * *

(i) The film bag may not exceed a volume of 175 L (46 gallons). The film bag must be marked and certified by its manufacturer as having passed the tests prescribed for tear resistance in ASTM D 1922, ''Standard Test Method for Propagation Tear Resistance of Plastic Film and Thin Sheeting by Pendulum Method'' (IBR, § 171.7 of this subchapter) and for impact resistance in ASTM D 1709, ''Standard Test Methods for Impact Resistance of Plastic Film by the Free-Falling Dart Method'' (IBR, § 171.7 of this subchapter). The film bag must meet an impact resistance of 165 grams and a tearing resistance of 480 grams in both the parallel and perpendicular planes with respect to the length of the bag.

* * * * *

■ 16. In § 173.241, in paragraph (c), a new sentence is added at the end of the paragraph to read as follows:

§ 173.241 Bulk packagings for certain low hazard liquid and solid materials.

* * * * *

(c) * * * For transportation by vessel, also see § 176.340 of this subchapter.

* * * * *

§ 173.304a [Amended]

■ 17. In § 173.304a, in the paragraph (a)(2) Table entry for ''Hydrogen sulfide'', the third column is revised to read ''DOT–3A; DOT–3AA; DOT–3B; DOT–4A; DOT–4B; DOT–4BA; DOT–4BW; DOT–3E1800; DOT–3AL.''

■ 18. In § 173.315, paragraph (b) (1) is revised to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tanks.

* * * * *

(b) * * *

(1) *Odorization.* All liquefied petroleum gas shall be effectively odorized as required in Note 2 of this paragraph to indicate positively, by a distinctive odor, the presence of gas down to a concentration in air of not over one-fifth the lower limit of combustibility provided, however, that odorization is not required if harmful in the use or further processing of the liquefied petroleum gas, or if odorization will serve no useful purpose as a warning agent in such use or further processing.

* * * * *

■ 19. In § 173.337, paragraph (a) is revised to read as follows:

§ 173.337 Nitric oxide.

* * * * *

(a) Transportation in DOT 3AL cylinders is authorized only by highway or rail.

* * * * *

§ 173.412 [Amended]

■ 20. In paragraph (l), the wording ''40 TBq (1000Ci)'' is revised to read ''40 TBq (1080Ci)''.

* * * * *

■ 21. In § 173.420, paragraph (a) (2) (i) is revised to read as follows:

§ 173.420 Uranium hexafluoride (fissile, fissile excepted and non-fissile).

(a) * * *

(2) * * *

(i) ANSI N14.1 in effect at the time the packaging was manufactured;

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

■ 22. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 23. In § 175.31, the introductory text to paragraph (a) is revised to read as follows:

§ 175.31 Reports of discrepancies.

(a) Each person who discovers a discrepancy, as defined in paragraph (b) of this section, relative to the shipment of a hazardous material following its acceptance for transportation aboard an aircraft shall, as soon as practicable, notify the nearest FAA Regional or Field Security Office, by telephone or electronically, and shall provide the following information:

* * * * *

PART 176—CARRIAGE BY VESSEL

■ 24. The authority citation for part 176 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 25. In § 176.340, paragraph (a) is revised to read as follows:

§ 176.340 Combustible liquids in portable tanks.

* * * * *

(a) Specification portable tanks authorized in § 173.241 of this subchapter.

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

■ 26. The authority citation for Part 177 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 27. In § 177.817, in paragraph (f), the last sentence is revised to read as follows:

§ 177.817 Shipping papers.

* * * * *

(f) * * * A motor carrier (as defined in § 390.5 of subchapter B of chapter III of subtitle B) using a shipping paper without change for multiple shipments of one or more hazardous materials having the same shipping name and identification number may retain a single copy of the shipping paper, instead of a copy for each shipment made, if the carrier also retains a record of each shipment made that includes shipping name, identification number, quantity transported, and date of shipment.

■ 28. In § 177.854, paragraph (f) (1) is revised to read as follows:

§ 177.854 Disabled vehicles and broken or leaking packages; repairs.

* * * * *

(f) * * *

(1) For motor vehicles other than cargo tank motor vehicles used for the transportation of Class 3 (flammable liquid) or Division 2.1 (flammable gas) materials and not transporting Division 1.1, 1.2, or 1.3 (explosive) materials, warning devices must be set out in the manner prescribed in § 392.22 of this title.

* * * * *

PART 178—SPECIFICATIONS FOR PACKAGINGS

■ 29. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 178.61 [Amended]

■ 30. In § 178.61, in the first sentence of paragraph (g), remove the wording ''referenced in paragraph (b) of this section'' and add ''referenced in Table 1 of appendix A to this part'' in its place.

* * * * *

§ 178.274 [Amended]

■ 31. In § 178.274, the following changes are made:

■ a. In paragraph (b)(1), in the fourth sentence, the wording ''used for non-refrigerated'' is revised to read ''used for Zone A or B toxic by inhalation liquids or non-refrigerated''.

■ b. In paragraph (i)(1), in the list following the third sentence in the fifth entry, the wording ''Alternative Arrangements (*see* § 178.247(a)(2))'' is revised to read ''Alternative Arrangements (*see* § 178.274(a)(2))''.

* * * * *

■ 32. In § 178.337–10, paragraph (a) is revised to read as follows:

§ 178.337–10 Protection of fittings.

(a) All valves, fittings, pressure relief devices, and other accessories to the tank proper shall be protected in accordance with paragraph (b) of this section against such damage as could be caused by collision with other vehicles or objects, jack-knifing and overturning. In addition, pressure relief valves shall be so protected that in the event of overturn of the vehicle onto a hard surface, their opening will not be prevented and their discharge will not be restricted.

* * * * *

■ 33. In § 178.337–17, as amended at 68 FR 19281, paragraph (d) is revised to read as follows:

§ 178.337–17 Marking.

* * * * *

(d) The design weight of lading used in determining the loading in § § 178.337–3(b), 178.337–10(b) and (c), and 178.337–13(a) and (b), must be shown as the maximum weight of lading marking required by paragraph (c) of this section.

§ 178.338–3 [Amended]

■ 34. In § 178.338–3, in paragraphs (c)(3)(ii), (c)(3)(iii), (c)(3)(iv), (c)(3)(v), (c)(3)(vi) and (c)(4), the wording ''and (c)'' is removed each place it appears.

§ 178.338–9 [Amended]

■ 35. In § 178.338–9, in paragraph (c) (2), in the last sentence, the section reference ''§ 178.320(a) (3)'' is revised to read ''§ 178.320 (a)''.

* * * * *

■ 36. In § 178.338–18, as amended at 68 FR 19283, paragraph (d) is revised to read as follows:

§ 178.338–18 Marking.

* * * * *

(d) The design weight of lading used in determining the loading in §§ 178.338–3 (b), 178.338–10 (b) and (c), and 178.338–13 (b), must be shown as the maximum weight of lading marking required by paragraph (c) of this section.

PART 179—SPECIFICATIONS FOR TANK CARS

■ 37. The authority citation for part 179 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 38. In § 179.102–4, the section heading is revised to read as follows:

§ 179.102–4 Vinyl fluoride, stabilized.

* * * * *

■ 39. In § 179.300–12, paragraph (b), the second sentence is revised to read as follows:

§ 179.300–12 Protection of fittings.

* * * * *

(b) * * * Pressure relief devices shall not be covered by the housing.

■ 40. In § 179.500–12, paragraph (b) is revised to read as follows:

§ 179.500–12 Pressure relief devices.

* * * * *

(b) Pressure relief devices shall open at a pressure not exceeding the marked test pressure of tank and not less than 7/10 of marked test pressure. (For tolerance for pressure relief valves, see § 179.500–16(a).)

* * * * *

Issued in Washington, DC, on September 24, 2003, under authority delegated in 49 CFR part 1.

Samuel G. Bonasso,

Acting Administrator.

[FR Doc. 03–24814 Filed 10–3–03; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021212307–3037–02; I.D. 092603C]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea Subarea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Reallocation.

SUMMARY: NMFS is reallocating projected unused amounts of Bering Sea subarea (BS) pollock from the incidental catch account to the directed fisheries. This action is necessary to allow the 2003 total allowable catch (TAC) of pollock to be harvested.

DATES: Effective October 1, 2003, until 2400 hrs, A.l.t., December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(5)(i)(A)(*1*) and the American Fisheries Act (AFA) (Public Law 105–277, Division C, Title II), NMFS specified a pollock incidental catch allowance equal to 3.5 percent of the pollock total allowable catch after subtraction of the ten percent Community Development Quota reserve in the final 2003 harvest specifications for groundfish in the BSAI (68 FR 9907, March 3, 2003).

On August 29, 2003 NMFS apportioned the projected unused amount, 6,500 mt, of pollock from the incidental catch account to the directed fishing allowances established pursuant to § 679.20(a)(5)(i)(A)(68 FR 51,928, August 29, 2003).

As of September 13, 2003, the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that approximately 8,616 metric tons (mt) of pollock remain in the incidental catch account. Based on projected harvest rates of other groundfish species and the expected incidental catch of pollock in those fisheries, the Regional Administrator has determined that 4,000 mt of pollock specified in the incidental catch account will not be necessary as incidental catch. Therefore, NMFS is apportioning the projected unused amount, 4,000 mt, of pollock from the incidental catch account to the directed fishing allowances established pursuant to § 679.20(a)(5)(i)(A).

Pursuant to the pollock allocation requirements set forth in 679.20(a)(5)(i), this transfer will increase the allocation to catcher vessels harvesting pollock for processing by the inshore component by 2,000 mt, to catcher/processors and catcher vessels harvesting pollock for processing by catcher processors in the offshore component by 1,600 mt and to catcher vessels harvesting pollock for processing by motherships in the offshore component by 400 mt. Pursuant to § 679.20(a)(5)(i)(A)(*4*), no less than 8.5 percent of the 1,600 mt allocated to catcher processors in the offshore component, 136 mt, will be available for harvest only by eligible catcher vessels delivering to listed catcher processors. Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), an additional 8 mt or 0.5 percent of the catcher/processor sector allocation of pollock will be available to unlisted AFA catcher/processors.

Pursuant to § 679.20(a)(5)(i)(A)(*3*), Table 1 revises the final 2003 BS subarea allocations for the seven inshore catcher vessel pollock cooperatives that have been approved and permitted by NMFS and the open access AFA vessels for the 2003 fishing year consistent with this reallocation.

TABLE 1.—2003 BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS

Cooperative name and member vessels	Sum of member vessel's official catch histories[1](mt)	Percentage of inshore sector allocation	Annual co-op allocation (mt)
Akutan Catcher Vessel Association ALDEBARAN, ARCTIC EXPLORER, ARCTURUS, BLUE FOX, CAPE KIWANDA, COLUMBIA, DOMINATOR, EXODUS, FLYING CLOUD, GOLDEN DAWN, GOLDEN PISCES, HAZEL LORRAINE, INTREPID EXPLORER, LESLIE LEE, LISA MELINDA, MAJESTY, MARCY J, MARGARET LYN, NORDIC EXPLORER, NORTHERN PATRIOT, NORTHWEST EXPLORER, PACIFIC RAM, PACIFIC VIKING, PEGASUS, PEGGY JO, PERSEVERANCE, PREDATOR, RAVEN, ROYAL AMERICAN, SEEKER, SOVEREIGNTY, TRAVELER, VIKING EXPLORER	245,527	28.085%	183,407
Arctic Enterprise Association BRISTOL EXPLORER, OCEAN EXPLORER, PACIFIC EXPLORER	36,807	4.210%	27,494
Northern Victor Fleet Cooperative ANITA J, COLLIER BROTHERS, COMMODORE, EXCALIBUR II, GOLDRUSH, HALF MOON BAY, MISS BERDIE, NORDIC FURY, PACIFIC FURY, POSEIDON, ROYAL ATLANTIC, SUNSET BAY, STORM PETREL	73,656	8.425%	55,020
Peter Pan Fleet Cooperative AMBER DAWN, AMERICAN BEAUTY, ELIZABETH F, MORNING STAR, OCEAN LEADER, OCEANIC, PROVIDIAN, TOPAZ, WALTER N	18,693	2.138%	13,964
Unalaska Cooperative ALASKA ROSE, BERING ROSE, DESTINATION, GREAT PACIFIC, MESSIAH, MORNING STAR, MS AMY, PROGRESS, SEA WOLF, VANGUARD, WESTERN DAWN	106,737	12.209%	79,732
UniSea Fleet Cooperative ALSEA, AMERICAN EAGLE, ARGOSY, AURIGA, AURORA, DEFENDER, GUN-MAR, NORDIC STAR, PACIFIC MONARCH, SEADAWN, STARFISH, STARLITE	201,566	23.056%	150,568
Westward Fleet Cooperative A.J., ALASKAN COMMAND, ALYESKA, ARCTIC WIND, CAITLIN ANN, CHELSEA K, DONA MARTITA, FIERCE ALLEGIANCE, HICKORY WIND, OCEAN HOPE 3, PACIFIC CHALLENGER, PACIFIC KNIGHT, PACIFIC PRINCE, STARWARD, VIKING, WESTWARD I	189,942	21.727%	141,886
Open access AFA vessels	1,309	0.150%	978
Total inshore allocation	874,238	100%	653,047

[1] According to regulations at 679.62 the individual catch history for each vessel is equal to the vessel's best 2 of 3 years inshore pollock landings from 1995 through 1997 and includes landings to catcher/processors for vessels that made 500 or more mt of landings to catcher/processors from 1995 through 1997.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the implementation of these measures in a timely fashion in order to allow full

utilization of the pollock TAC, and therefore reduce the public's ability to use and enjoy the fishery resource.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is taken under 50 CFR 679.20, and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 29, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–25264 Filed 10–1–03; 2:46 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021212306–2306–01; I.D. 093003B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Central Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment closing the fishery for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2003 total allowable catch (TAC) of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Central Regulatory Area of the GOA.

DATES: Effective 2400 hrs, Alaska local time (A.l.t.), October 1, 2003, until 2400, hrs A.l.t., December 31, 2003. Comments must be received at the following address no later than 4:30 p.m., A.l.t., October 16, 2003.

ADDRESSES: Comments may be mailed to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Durall. Comments also may be sent via facsimile (fax) to 907 586 7557. Comments will not be accepted if submitted via e-mail or Internet. Courier or hand delivery of comments may be made to NMFS in the Federal Building, Room 453, Juneau, AK 99801.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2003 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the GOA is 2,269 metric tons (mt) as established by the final 2003 harvest specifications for groundfish of the GOA (68 FR 9924, March 3, 2003)

As of Setember 20, 2003, 812 mt of Pacific cod remain in the 2003 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area. Regulations at § 679.23(b) specify that the time of all openings and closures of fishing seasons other than the beginning and end of the calendar fishing year is 1200 hrs, A.l.t. The fifth seasonal allowance of halibut mortality for trawl gear in the Gulf of Alaska becomes available at 1200 hrs, A.l.t., October 1, 2003. Vessels using trawl gear for catching Pacific cod for processing by the offshore component in the Central Regulatory Area will be able to begin directed fishing for Pacific cod at that time. Current information shows the catching capacity of trawl vessels catching Pacific cod for processing by the offshore component the Central Regulatory Area of the GOA is about 1,500 mt per day. The Administrator, Alaska Region, NMFS, has determined that the TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the GOA could be exceeded if a 24–hour fishery were allowed to occur. NMFS intends that the TAC not be exceeded and, therefore, will not allow the fishery to close at 12:00 hrs on October 2, 2003. NMFS, in accordance with § 679.25(a)(1)(i), and § 679.25(a)(2)(i), is adjusting the 2003 fishing season for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the GOA by closing the fishery at 24:00 hrs, A.l.t., October 1, 2003, at which time directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the GOA will be prohibited.

NMFS is taking this action to allow a controlled fishery to occur, thereby preventing the overharvest of the 2003 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the GOA. In accordance with § 679.25(a)(2)(iii), NMFS has determined that prohibiting directed fishing at 2400 hrs, A.l.t., October 1, 2003, is the least restrictive management adjustment to achieve the 2003 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the GOA. Pursuant to § 679.25(b)(2), NMFS has considered data regarding catch per unit of effort and rate of harvest in making this adjustment.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA,(AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, not allow the full utilization of the Pacific cod TAC, and therefore reduce the public's ability to use and enjoy the fishery resource.

The AA for Fisheries, NOAA, also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the remaining 2003 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until October 16, 2003.

This action is required by §§ 679.20 and 679.25 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 30, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–25265 Filed 10–1–03; 2:46 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 193
Monday, October 6, 2003

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 03–054–1]

Viruses, Serums, Toxins, and Analogous Products; Standard Requirements for Bovine Virus Diarrhea and Bovine Rhinotracheitis Vaccines

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Virus-Serum-Toxin Act regulations concerning Standard Requirements for Bovine Virus Diarrhea Vaccine, Killed Virus, and Bovine Rhinotracheitis Vaccine, Killed Virus, to require that those vaccines elicit specific antibody titer that is at least 80 percent of the geometric mean antibody titer obtained in the vaccinates in the host animal protection study to pass the potency test. We are proposing these changes based on data showing that the 1:8 minimum antibody titer for vaccinates specified in the current standard requirement potency tests may not be adequate to protect animals challenged with virulent virus. The effect of the proposed changes would be to establish potency test requirements for these vaccines that are based on the host animal protection study performed by the licensee.

DATES: We will consider all comments that we receive on or before December 5, 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. 03–054–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–054–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–054–1'' on the subject line.

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

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

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

SUPPLEMENTARY INFORMATION:

Background

The Virus-Serum-Toxin Act regulations in 9 CFR part 113 (referred to below as the regulations) prescribe standard requirements for the preparation and testing of veterinary biological products. A standard requirement consists of test methods, procedures, and criteria established by the Animal and Plant Health Inspection Service (APHIS) to help ensure that veterinary biological products are pure, safe, potent, and efficacious. The requirements in § 113.215 for Bovine Virus Diarrhea Vaccine, Killed Virus, and in § 113.216 for Bovine Rhinotracheitis Vaccine, Killed Virus, specify minimum potency requirements for those products. Under those regulations, a serial of vaccine must induce antibody titers of at least 1:8 in calves.

The current standard requirements state that four of the five calves vaccinated with bovine virus diarrhea vaccine or bovine rhinotracheitis vaccine in a valid potency test must respond with minimum antibody titers of at least 1:8 or greater for a satisfactory serial, but do not specify that the titers must have been shown to be protective in a host animal protection study. Post-vaccinal antibody titers of 1:8 were once considered to be the minimal index of protection for bovine virus diarrhea vaccines and bovine rhinotracheitis vaccines, but more recent data suggest that while some bovine virus diarrhea vaccines and bovine rhinotracheitis vaccines may induce antibody titers of 1:8, those titers may not be indicative of protection in all cases.

We are proposing to amend the standard requirements in §§ 113.215 and 113.216 by changing the minimum specific antibody titers that must be obtained in calves in a satisfactory potency test from at least 1:8 to at least 80 percent of the geometric mean antibody titer elicited in vaccinates challenged successfully in the manufacturer's host animal protection study. We believe that a minimum antibody titer that is based on the protective titer determined in the host animal protection study will be more indicative of an efficacious product than the 1:8 titer currently specified in the standard requirements.

We are proposing to establish minimum potency requirements for Bovine Virus Diarrhea Vaccine, Killed Virus, and Bovine Rhinotracheitis Vaccine, Killed Virus, that are specific to the products that each manufacturer has shown to be efficacious in a host animal protection study. We would set 80 percent of the geometric mean antibody titer elicited in vaccinates used in the host animal protection study as the minimum specific antibody titer that each vaccine must induce to pass the potency test. We have determined that vaccines that induce titers similar to the titers elicited in the efficacy study are more likely to protect cattle against disease.

Potency

Under this proposed rule, vaccinates in a valid potency test would have to develop minimum antibody titers that are at least 80 percent of the geometric mean antibody titer developed by vaccinates that were protected against challenge in the manufacturer's host animal protection study.

Miscellaneous

The regulations in §§ 113.215(c)(2)(vii) and 113.216(c)(2)(vii) provide that prevaccination and postvaccination sera from a satisfactory potency test shall be submitted to the National Veterinary Services Laboratories (NVSL) for testing by APHIS. The testing referred to in those paragraphs is now performed by APHIS' Center for Veterinary Biologics-Laboratory, and not by NVSL, so we would amend §§ 113.215(c)(2)(vii) and 113.216(c)(2)(vii) to reflect that change.

Executive Order 12866 and Regulatory Flexibility Act

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

Currently, only 7 of the approximately 135 licensed veterinary biologics manufacturers produce Bovine Virus Diarrhea Vaccine, Killed Virus, and Bovine Rhinotracheitis Vaccine, Killed Virus, and would thus be affected by this proposal. According to the standards of the Small Business Administration, most veterinary biologics establishments would be classified as small entities.

This proposed rule would amend the standard requirements in § 113.215 for Bovine Virus Diarrhea Vaccine, Killed Virus, and in § 113.216 for Bovine Rhinotracheitis Vaccine, Killed Virus, by specifying that the effectiveness of the antibody titers based on host animal studies is the basis for determining the potency of the vaccine. We believe that the antibody titer elicited in the manufacturer's host animal protection study would be more indicative of the efficacy of the vaccine than the titer currently specified in the regulations. This change would affect all licensed manufacturers of veterinary biologics producing Bovine Virus Diarrhea Vaccine, Killed Virus, and Bovine Rhinotracheitis Vaccine, Killed Virus. However, we do not expect that there would be any increase in costs for the biologics manufacturers affected by this proposed rule. The changes should actually be cost neutral for most affected manufacturers because those manufacturers would not be required to change the way that their products are manufactured or tested.

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

Executive Order 12372

This program/activity is listed in the category 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. The Virus-Serum-Toxin Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

This proposed 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 113

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

Accordingly, we propose to amend 9 CFR part 113 as follows:

PART 113—STANDARD REQUIREMENTS

1. The authority citation for part 113 would continue to read as follows:

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

2. In § 113.215, paragraphs (c)(2)(v) and (c)(2)(vii) would be revised to read as follows.

§ 113.215 Bovine Virus Diarrhea Vaccine, Killed Virus.

* * * * *

(c) * * *

(2) * * *

(v) *Test interpretation.* If the controls have not remained seronegative at 1:2, the test is a No Test (NT) and may be repeated. If at least four of the five vaccinates in a valid test have not developed 50 percent endpoint titers that are at least 80 percent of the geometric mean antibody titer developed in the vaccinates in the host animal protection study provided for in paragraph (b) of this section, the serial is unsatisfactory except as provided in paragraph (c)(2)(vi) of this section.

* * * * *

(vii) The prevaccination and postvaccination sera from a satisfactory potency test shall be submitted to the Center for Veterinary Biologics-Laboratory for confirmatory testing.

3. In § 113.216, paragraphs (c)(2)(v) and (c)(2)(vii) would be revised to read as follows.

§ 113.216 Bovine Rhinotracheitis Vaccine, Killed Virus.

* * * * *

(c) * * *

(2) * * *

(v) *Test interpretation.* If the three controls have not remained seronegative at 1:2, the test is a No Test (NT), and may be repeated. If at least four of the five vaccinates in a valid test have not developed 50 percent endpoint titers that are at least 80 percent of the geometric mean antibody titer developed in the vaccinates in the host animal protection study provided for in paragraph (b) of this section, the serial is unsatisfactory, except as provided in paragraph (c)(2)(vi) of this section.

* * * * *

(vii) The prevaccination and postvaccination sera from a satisfactory potency test shall be submitted to the Center for Veterinary Biologics-Laboratory for testing by the Animal and Plant Health Inspection Service.

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–25252 Filed 10–3–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–49–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200, –300, and –300F 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 all Boeing Model 767–200, –300, and –300F series airplanes. This proposal

would require repetitive inspections of the aft pressure bulkhead web, and corrective action, if necessary. This action is necessary to detect and correct fatigue cracks in the aft pressure bulkhead web, which could result in uncontrolled rapid decompression. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 20, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–49–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. 2003–NM–49–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: Suzanne Masterson, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6441; 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 2003–NM–49–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. 2003–NM–49–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of fatigue cracks at the aft pressure bulkhead web on Boeing Model 737 and 747 series airplanes. This condition, if not detected and corrected, could result in uncontrolled rapid decompression.

The aft pressure bulkhead web on Boeing Model 767–200, –300, and –300F series airplanes is almost identical to that on the affected Boeing Model 737 and 747 series airplanes. Therefore, those Boeing Model 767–200, –300, and –300F series airplanes may be subject to the unsafe condition revealed on the Boeing Model 737 and 747 series airplanes.

Other Relevant Rulemaking

The FAA has previously issued AD 1999–08–23, amendment 39–11132 (64 FR 19879, May 10, 1999), applicable to certain Boeing Model 737 series airplanes. That AD requires repetitive inspections to detect cracking in the web of the aft pressure bulkhead at body station 1016 at the aft fastener row attachment to the ''Y'' chord; and corrective actions, if necessary. This proposed AD would not affect the current requirements of that AD.

The FAA has also previously issued AD 2000–15–08, amendment 39–11840 (65 FR 47255, September 6, 2000), applicable to certain Boeing Model 747 series airplanes. That AD requires repetitive inspections for damage or cracking of the aft pressure bulkhead; cracking of the bulkhead web-to-Y-ring lap joint area; cracking of the upper segment of the bulkhead web; and cracking of the upper and lower segments of the aft bulkhead web. This proposed AD would not affect the current requirements of that AD.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–53A0087, dated October 21, 1999, which describes procedures for performing repetitive high frequency eddy current inspections for fatigue cracking of the aft pressure bulkhead web and contacting Boeing for repair or inspection instructions. Accomplishment of the actions specified in the service bulletin 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 similar type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished per 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.

Operators should also note that, although the service bulletin specifies that the manufacturer may be contacted for certain inspection details, this proposal would require an alternative method of compliance to be approved as required by sections 39.15, 39.17, and 39.19 of the Code of Federal Regulations (14 CFR 39.15, 39.17, 39.19).

Operators should also note that, although the service bulletin does not

list a grace period in the compliance times, this proposal adds a grace period to the compliance times. The FAA finds that such a grace period will keep airplanes from being grounded unnecessarily.

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 848 airplanes of the affected design in the worldwide fleet. The FAA estimates that 357 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 14 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $324,870, or $910 per airplane, per inspection cycle.

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 2003–NM–49–AD.

Applicability: Model 767–200, –300, –300F series airplanes, as listed in Boeing Alert Service Bulletin 767–53A0087, dated October 21, 1999; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracks in the aft pressure bulkhead web, which could result in uncontrolled rapid decompression, accomplish the following:

Initial and Repetitive Inspections

(a) Do high frequency eddy current inspections of the aft pressure bulkhead web, per the Accomplishment Instructions of Boeing Alert Service Bulletin 767–53A0087, dated October 21, 1999; at the later of the applicable ''Threshold'' and ''Grace Period'' times specified in Table 1 of this AD. Table 1 as follows:

TABLE 1.—COMPLIANCE TIMES FOR INSPECTION

For	Compliance times	
	Threshold	Grace period
(1) Group 1 airplanes as identified in the service bulletin.	Prior to the accumulation of 37,500 total flight cycles.	Within 18 months or within 3,000 flights after the effective date of this AD, whichever comes first.
(2) Group 2 and 3 airplanes as identified in the service bulletin.	Prior to the accumulation of 50,000 total flight cycles.	Within 18 months or within 3,000 flights after the effective date of this AD, whichever comes first.
(3) Group 4 airplanes as identified in the service bulletin.	Prior to the accumulation of 40,000 total flight cycles.	Within 18 months or within 3,000 flights after the effective date of this AD, whichever comes first.

(b) If no crack is found during any inspection required by paragraph (a), repeat the high frequency eddy current inspections at intervals specified in paragraphs (b)(1) or (b)(2) of this AD, as applicable:

(1) For Group 1 and 2 airplanes, at intervals not to exceed 6,000 flight cycles, per the Accomplishment Instructions of Boeing Alert Service Bulletin 767–53A0087, dated October 21, 1999.

(2) For Group 3 and 4 airplanes, at intervals not to exceed 12,000 flight cycles, per the Accomplishment Instructions of Boeing Alert Service Bulletin 767–53A0087, dated October 21, 1999.

Corrective Actions

(c) If any crack is found during any inspection required by paragraph (a) or (b) of this AD and Boeing Alert Service Bulletin 767–53A0087, dated October 21, 1999, specifies to contact Boeing for repair: Before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

Previously Installed Repairs

(d) If previously installed repairs are installed in the inspection area, and Boeing Alert Service Bulletin 767–53A0087, dated October 21, 1999, specifies to contact Boeing for inspection details, an alternative method of compliance must be approved as required by sections 39.15, 39.17, and 39.19 of the Code of Federal Regulations (14 CFR 39.15, 39.17, 39.19).

Alternative Methods of Compliance

(e) 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 29, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–25230 Filed 10–3–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 356

[Docket No. 81N–033P]

Oral Health Care Drug Products for Over-the-Counter Human Use; Antigingivitis/Antiplaque Drug Products; Establishment of a Monograph; Extension of Comment Period; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking; extension of comment period; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that appeared in the **Federal Register** of August 25, 2003 (68 FR 50991). The document announced that FDA extended to November 25, 2003, the comment period for an advance notice of proposed rulemaking (ANPR) for over-the-counter antigingivitis/antiplaque drug products. The ANPR was published in the **Federal Register** of May 29, 2003 (68 FR 32232). The document published with an inadvertent error. This document corrects that error.

DATES: Submit written or electronic comments by November 25, 2003. Submit reply comments by February 23, 2004.

FOR FURTHER INFORMATION CONTACT: Joyce Strong, Office of Policy and Planning (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: In FR Doc. 03–21669, appearing on page 50992 in the **Federal Register** of August 25, 2003, the following correction is made:

1. On page 50992, in the second column, under **IV. Comments**, in the sixth line, ''two'' is corrected to read ''three''.

Dated: September 25, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–25044 Filed 10–3–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

33 CFR Part 334

Department of the Air Force, Wisconsin Air National Guard Danger Zone Under Restricted Air Space R–6903, Lake Michigan, Sheboygan County, WI

AGENCY: United States Army Corps of Engineers, Department of Defense.

ACTION: Proposed rule and request for comments.

SUMMARY: The Corps of Engineers is proposing an amendment to its regulations to designate an existing military exercise area as a Danger Zone. The military exercise area is located off the Wisconsin shoreline in Lake Michigan from Manitowoc to Port Washington, as shown on National Oceanographic and Atmospheric Administration (NOAA) Chart 14901 (1999). The Danger Zone will only be activated by the Wisconsin Air National Guard (WiANG) during military exercises. The Air Guard will advise fishermen and mariners in the vicinity when a military exercise is scheduled and thus ensure their safety by alerting them of temporary, potentially hazardous conditions which may exist as a result of the military exercises. There will be no change in the use of the existing military exercise area which is currently shown on aeronautical charts as restricted air space. The area, however, needs to also be marked on navigation charts as a Danger Zone to conform with the restricted air space designation to better insure security and safety for the public.

DATES: Written comments must be submitted on or before November 5, 2003.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761–4618, or Mr. Howard J. Ecklund, Corps of Engineers, St. Paul District, Regulatory Branch, at (262) 547–4171.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps proposes to amend the restricted area regulations in 33 CFR part 334 by adding § 334.145 as a Danger Zone in Lake Michigan offshore from Manitowoc and Sheboygan Counties in Wisconsin, as shown on NOAA Chart 14901 (1999). This is a revision of a similar proposal published in the **Federal Register** on March 11, 2002. This revision is being published because the earlier proposal contained incomplete information and did not adequately explain the reason for the regulation change. As a result, various interested parties expressed concerns regarding the change and its impact on boats using the area. The area to be designated as a Danger Zone already exists as restricted air space R–6903 which is shown on current aeronautical charts. This amendment of the regulation will allow WiANG to request that the U. S. Coast Guard issue a Notice to Mariners when exercises are planned and thus better inform fishermen and mariners of military activities in this area. WiANG intends to continue to schedule this area for use in a similar manner as it has been used during the past 20 years. Historical activity includes, but is not limited to, inert air-to-air and air-to-surface delivery, defensive countermeasures training, and sonar buoy drops.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the

Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

These proposed rules have been reviewed under the Regulatory Flexibility Act (Public Law 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small businesses and small governments). The Corps expects that the economic impact of the identification of this area as a Danger Zone would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and, accordingly, certifies that this proposal if adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

A preliminary draft environmental assessment has been prepared for this action. Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps expects that this regulation, if adopted, will not have a significant impact on the quality of the human environment and therefore preparation of an environmental impact statement will not be required. The environmental assessment will be finalized after the public notice period is closed and all comments have been received and considered. It may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT** above.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, it is not a Federal private sector mandate and it is not subject to the requirements of either Section 202 or Section 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334, as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for 33 CFR 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.845 would be added to read as follows:

§ 334.845 Wisconsin Air National Guard Danger Zone, Volk Field Military Exercise Area, Lake Michigan offshore Manitowoc and Sheboygan Counties.

(a) *The area.* The waters within an area beginning at a point at latitude 43°19′00″ N., longitude 87°41′00″ W.; to latitude 44°05′30″ N, longitude 87°29′45″ W.; to latitude 44°02′00″ N., longitude 87°02′30″ W.; to latitude 43°15′30″ N., longitude 87°14′00″ W.; thence to the point of beginning, as shown on NOAA Chart 14901 (1999) and existing aeronautical charts.

(b) *The regulation.* During specific, infrequent periods when military exercises will be conducted, as promulgated in the local notice to mariners published by the United States Coast Guard (USCG), all vessels entering the Danger Zone are advised to proceed across the area by the most direct route and without unnecessary delay. No vessel or craft of any size shall lie-to or anchor in the Danger Zone, other than a vessel operated by or for the USCG, or any other authorized agency.

(c) *Normal use.* At all other times, nothing in this section shall prohibit any lawful uses of this area.

(d) *Enforcement.* The regulation in this section shall be enforced by the Commanding Officer, VOLK Field, WI, and/or persons or agencies as he/she may designate.

Dated: September 3, 2003.

Michael B. White,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 03–25204 Filed 10–3–03; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI76

Technical Correction; Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for Five Endangered Tennessee and Cumberland River Basin Mussels

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period, announcement of public hearing, availability of draft economic analysis, possible modification of Unit 8 (Rock Creek); correction.

SUMMARY: We, the Fish and Wildlife Service, announce the availability of the draft economic analysis of this proposed critical habitat designation, and that we will hold a public hearing regarding the proposal on October 29, 2003, at Southwest Virginia Community College in Tazewell County, Virginia. This document makes a correction to the critical habitat legal description and gives notice of a possible 6.4-river-kilometer (rkm) (4-river-mile (rmi)) upstream extension of Unit 8 (Rock Creek). We are reopening the comment period for the proposal to designate critical habitat for these species to accommodate the public hearing and to allow all interested parties to comment on the proposed rule, including the new information presented for consideration regarding Unit 8 and the associated draft economic analysis. Comments previously submitted need not be resubmitted, because they will be fully considered in the final determination of the proposal.

DATES: *Public hearing:* The public hearing will be held from 7 to 10 p.m. Eastern Standard Time (EST) on October 29, 2003, at Southwest Virginia Community College on U.S. Highway 19, in Tazewell County, Virginia. The hearing will consist of an informational meeting in the lobby from 5:30 to 6:30 p.m. EST followed by the formal hearing, held in the main auditorium. Maps of the critical habitat units and information on the species will be available for public review one hour prior to the hearing (between 5:30 and 6:30 p.m.).

Comment submission: The comment period is hereby reopened until December 5, 2003. We must receive comments from all interested parties by the closing date. Any comments that we receive after the closing date will not be considered in the final decision on this proposal.

ADDRESSES: The public hearing will be held at Southwest Virginia Community College on U.S. Highway 19, in Tazewell County, Virginia. Copies of the draft economic analysis are available on the Internet at *http://cookeville.fws.gov/*; also, you may request copies by writing to the Field Supervisor, U.S. Fish and Wildlife Service, 446 Neal Street, Cookeville, TN 38506, or by calling Rob Tawes, Tennessee Field Office, telephone 931/528–6481, extension 213.

Written comments and materials may be submitted to us at the hearing or by any one of the following methods:

1. You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, 446 Neal Street, Cookeville, TN 38501.

2. You may hand-deliver written comments and information to our Tennessee Field Office, at the above address, or fax your comments to (931) 528–7075.

3. You may send comments by electronic mail (e-mail) to *robert_tawes@fws.gov.* For directions on how to submit electronic filing of comments, *see* the ''Public Comments Solicited'' section.

Comments and materials received, as well as supporting documentation used in preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Rob Tawes, at the above address (telephone (931) 528–6481, extension 213; facsimile (931) 528–7075).

SUPPLEMENTARY INFORMATION:

Background

We listed the Cumberland elktoe (*Alasmidonta atropurpurea*), oyster mussel (*Epioblasma capsaeformis*), Cumberlandian combshell (*Epioblasma brevidens*), purple bean (*Villosa perpurpurea*), and rough rabbitsfoot (*Quadrula cylindrica strigillata*) as endangered on January 10, 1997 (62 FR 1647).

We published a proposed critical habitat designation for these five mussels in the June 3, 2003, **Federal Register** (68 FR 33234). The proposed designation includes portions of Bear Creek (Mississippi, Alabama), the Duck River (Tennessee), Obed River (Tennessee), Powell River (Tennessee, Virginia), Clinch River and its tributaries (Copper Creek and Indian Creek) (Tennessee, Virginia), Nolichucky River (Tennessee), and Beech Creek (Tennessee) in the Tennessee River System, and portions of Rock Creek (Kentucky), the Big South Fork and its tributaries (Bone Camp Creek, White Oak Creek, North White Oak Creek, New River, Crooked Creek, Clear Fork, and North Prong Clear Fork) (Kentucky, Tennessee), Buck Creek (Kentucky), Marsh Creek (Kentucky), Sinking Creek (Kentucky), and Laurel Fork (Kentucky) in the Cumberland River System. This proposal encompasses a total of approximately 892 rkm (544 rmi) of river and stream channels. The proposed designation and associated materials can be viewed at *http://cookeville.fws.gov/.*

Section 4(b)(2) of the Act requires that we designate critical habitat on the basis of the best scientific data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided that such exclusion will not result in the extinction of the species. We have prepared a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment (*see* **ADDRESSES** section).

Public Hearing

Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 *et seq.*) requires that a public hearing be held if it is requested within 45 days of the publication of the proposed rule. The Board of Supervisors of Tazewell County, Virginia, requested a public hearing within the allotted time period. Public hearings are designed to gather relevant information that the public may have that we should consider in the proposed designation of critical habitat or the draft economic analysis.

We will hold a public hearing in Tazewell County, Virginia, on October 29, 2003, from 7 to 10 p.m. The hearing location will be Southwest Virginia Community College on U.S. Highway 19, located in Tazewell, Virginia. All comments presented at the public hearing will be recorded by a court reporter. Maps of the critical habitat units and information on the species will be available for public review prior to the public hearing (between 5:30 and 6:30 p.m.).

Correction to Proposed Critical Habitat Designation (68 FR 33234)

PART 17—[CORRECTED]

In proposed rule FR Doc. 03–33234 published on June 3, 2003 (68 FR 33234), make the following corrections.

1. Amend the description of Unit 8 on page 33244, changing ''Dolan'' to ''Dolen'' in column 3.

§ 17.11 [Corrected]

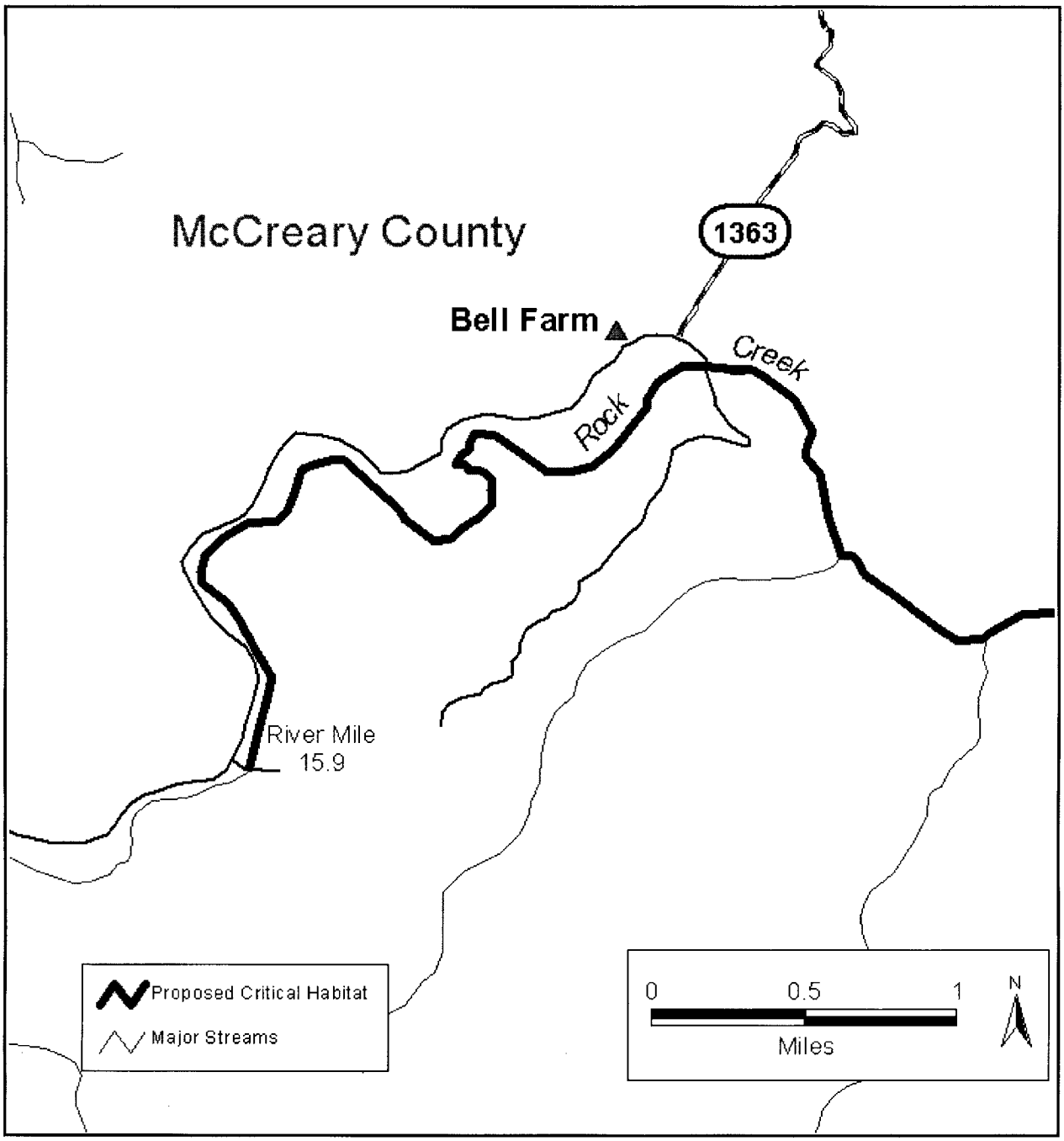
2. Amend the description of Unit 8 on page 33268, changing ''Sinking Creek'' to ''Dolen Branch'' starting in column 2.

Consideration of Additional Stream Mileage in Rock Creek

Since the publication of this proposed critical habitat rule, we have been informed by the U.S. Forest Service that we did not include a reach of Rock Creek (see ''Proposed Critical Habitat Designation'' section, Unit 8) upstream of Dolen Branch, in which there is a 1998 record of a live Cumberland elktoe. This specimen was collected approximately 5 rkm (3 rmi) upstream of Dolen Branch, southwest of Bell Farm. We will conduct an analysis on this reach prior to making a final determination on this proposed rule. If we determine this reach to be essential, then we intend to include it in the final designation. Inclusion of this reach would add approximately 6.4 rkm (4 rmi) to the upstream terminus of Unit 8 (Rock Creek). The new upstream terminus would be a driveway crossing of Rock Creek at rkm 25.6 (rmi 15.9) (approximately 2.6 kilometers (1.6 miles) southwest of Bell Farm). The map reflecting this extended area follows:

BILLING CODE 4310–55–P

Unit 8a- Rock Creek: Upstream extension of approximately 4 miles to river mile 15.9. Critical Habitat for Cumberland elktoe



This map is provided for illustrative purposes of critical habitat only.

BILLING CODE 4310–55–C

Public Comments Solicited

We solicit comments on the draft economic analysis referred to in this document, as well as on any other aspect of the proposed critical habitat designation for the five Tennessee and Cumberland River Basin mussels. In order to accommodate the public hearing and public review of the draft economic analysis, we are now closing the comment period for both the proposed rule and the draft economic analysis on December 5, 2003. All previous comments and information submitted during the comment period need not be resubmitted. Refer to the **ADDRESSES** section for information on how to submit written comments and information. Our final determination on the proposed critical habitat will take into consideration comments and any additional information received.

Please submit electronic comments in an ASCII file format and avoid the use of special characters and encryption. Please also include ''Attn: RIN 1018–AI76'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please contact us directly by calling our Tennessee Field Office (*see* **ADDRESSES** section).

Our practice is to make all comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

We particularly seek comments concerning:

(1) Are there other types of activities, such as habitat conservation plans, related to this proposed designation of critical habitat whose costs are not reflected in the draft economic analysis? If so, please provide as much information as possible to enable us to identify those activities and address those costs.

Author

The primary author of this document is Rob Tawes (*see* **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 29, 2003.

Julie MacDonald,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 03–25184 Filed 10–3–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF49

Endangered and Threatened Wildlife and Plants; 12-Month Petition Finding and Proposed Rule To List the Tibetan Antelope as Endangered Throughout Its Range

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the 12-month finding that a petition to list the Tibetan antelope (*Pantholops hodgsonii*) as endangered throughout its range pursuant to the Endangered Species Act of 1973, as amended (Act, or ESA), is warranted. The best available information indicates that the total population of Tibetan antelope has declined drastically over the past three decades. This decline has resulted primarily from overutilization for commercial purposes and the inadequacy of existing regulatory mechanisms. Habitat impacts, especially those caused by domestic livestock grazing, appear to be a contributory factor in the decline, and could have potentially greater impacts in the near future. Accordingly, we herein propose to list the Tibetan antelope as endangered, pursuant to the Act. This proposed rule, if made final, would extend the Act's protection to this species. The Service seeks data and comments from the public on this proposal.

DATES: Comments and information may be submitted until January 5, 2004. Public hearing requests must be received by November 20, 2003.

ADDRESSES: Submit comments, information, and questions to the Chief, Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 750, Arlington, VA 22203 USA; or by fax, 703–358–2276; or by e-mail, *Scientificauthority@fws.gov*. Comments and supporting information will be available for public inspection, by appointment, from 8 a.m. to 4 p.m. at the above address.

To request copies of the regulations regarding listed wildlife or inquire about prohibitions or permits, write to: Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, VA 22203 USA. Alternatively, you may contact us by telephone, 703–358–2104 or toll free at 1–800–358–2104; or by fax, 703–358–2276; or by e-mail, *Managementauthority@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Eleanora Babij at the above address; or by telephone, 703–358–1708; or by fax, 703–358–2276; or by e-mail, *Scientificauthority@fws.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the U.S. Fish and Wildlife Service (Service) to make a finding on whether a petition to list, delist, or reclassify a species has presented substantial information indicating that the requested action may be warranted. To the maximum extent practicable, the finding shall be made within 90 days following receipt of the petition (this finding is referred to as the ''90-day finding'') and published promptly in the **Federal Register**. If the 90-day finding is positive (*i.e.*, the petition has presented substantial information indicating that the requested action may be warranted), Section 4(b)(3)(A) of the Act requires the Service to commence a status review of the species if one has not already been initiated under the Service's internal candidate assessment process. In addition, Section 4(b)(3)(B) of the Act also requires the Service to make a finding within 12 months following receipt of the petition on whether the requested action is warranted, not warranted, or warranted but precluded by higher priority listing actions (this finding is referred to as the ''12-month finding''). The 12-month finding is also to be published promptly in the **Federal Register**.

Natural History

The Tibetan antelope (*Pantholops hodgsonii* sensu Wilson and Reeder 1993) is a medium-sized bovid endemic to the Tibetan Plateau in China (Tibet Autonomous Region, Xinjiang/Uygur

Autonomous Region, and Qinghai Province) and small portions of India (Ladakh) and western Nepal (although there is no evidence that they still occur in Nepal). The Tibetan antelope is also known by its Tibetan name ''chiru.'' These two common names will be used interchangeably in this document.

Adult males are characterized by long, slender, antelope-like black horns. Although the Tibetan antelope has been placed in the subfamily Antilopinae, recent morphological and molecular research indicates that it is most closely allied to the goats and other members of the subfamily Caprinae (Gentry 1992, Gatesy *et al.* 1992, both cited in Ginsberg *et al.*1999). The species is uniquely adapted to the high elevation and cold, dry climate of the Tibetan Plateau (Schaller 1998). The sexes segregate almost completely during the spring and early summer (May and June), when adult females and their female young migrate north to certain calving grounds and return south by late July or early August, covering distances as far as 300 kilometers (km) each way (Schaller 1998). Seasonal migrations constitute a critical aspect of the chiru's ecology and help define the ecosystem as a whole.

Previous Federal Action

On October 6, 1999, the Service received a petition from the Wildlife Conservation Society (Joshua R. Ginsberg, Ph.D., Director, Asia Program, and George B. Schaller, Ph.D., Director of Science) and the Tibetan Plateau Project of Earth Island Institute (Mr. Justin Lowe, Director) requesting that the Tibetan antelope (*Pantholops hodgsonii*) be listed as endangered throughout its entire range. The petition was actually dated October 7, 1999, but was received via e-mail the previous day.

On April 14, 2000, the Service made a positive 90-day finding on the Wildlife Conservation Society/Tibetan Plateau Project petition (*i.e.*, the Service found that the petition presented substantial information indicating that the requested action may be warranted). That finding was published in the **Federal Register** on April 25, 2000 (65 FR 24171), thereby initiating a public comment period and status review for the species. The public comment period remained open until June 26, 2000. We received 272 comments during the public comment period, including 1 from a range country government (People's Republic of China), 4 from non-governmental conservation organizations, 41 (letters) from individuals, 86 (postcards) from individuals, and 1 letter-petition signed by 140 individuals. All comments fully supported an endangered listing for the Tibetan antelope, although only five comments provided any new information on the status of or threats to the species. Particularly important among these was the letter from Mr. Zhen Rende, Director General of the CITES Management Authority of China, in which he expressed strong support for an endangered listing for the Tibetan antelope under the ESA.

In our 90-day finding, we stated that we had used all relevant literature and information available at that time (April 2000) on current status of and threats to the Tibetan antelope. Since then, a limited amount of relevant new information has become available as a result of the status review and public comment period. That information has been incorporated, as appropriate, in this 12-month finding.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR part 424) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species on the basis of one or more of the five factors described in section 4(a)(1). These factors and their application to the Tibetan antelope are as follows:

A. Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Tibetan antelope are endemic to the high Tibetan Plateau. Most of their range lies above 4,000 meters (m) in elevation, but they occur at elevations as low as 3,250 m in parts of Xinjiang (Schaller 1998). They prefer flat to rolling topography and alpine steppe or similar semiarid plant associations (Schaller 1998). They occasionally occur in alpine desert steppe habitats, at least on a seasonal basis, but are not known to have occurred in Qinghai's Qaidam Basin (Schaller 1998). They do not occur in alpine meadow areas receiving greater than 400 millimeters (mm) annual precipitation (Schaller 1998).

Although the current east-west distribution of chiru appears much as it was described a century ago by Bower (1894, cited in Schaller 1998), that distribution is now fragmented where previously it was continuous. Schaller (1998) determined that chiru no longer occur, or occur in low numbers, in several areas where early explorers noted them to be abundant. The current range is divided into two areas: A northern one of about 490,000 square kilometers (km2) and a central one of about 115,000 km2. Distribution between the two areas was continuous until recent decades, and there may still be rare contact near the western end. However, current chiru populations in the central Chang Tang of the Tibet Autonomous Region are highly fragmented and occur in small, scattered herds. The range has also contracted in eastern Qinghai Province (Schaller 1998).

Changes in Chinese government policy have led to increasing human development and activity on the Tibetan Plateau, including transportation development (roads and railways), resource extraction activities (minerals, oil, and gas), permanent settlement of traditionally nomadic or semi-nomadic pastoralists, and rangeland use for domestic livestock grazing (Ginsberg *et al.* 1999). These activities have already adversely modified or destroyed Tibetan antelope habitat in some areas and threaten to modify or destroy habitat over a large area in the near future.

Nomadic and semi-nomadic pastoralists have grazed a mix of domestic livestock (primarily sheep, goats, yaks, and some horses) on the Tibetan Plateau for millennia in relative harmony with the environment (Miller 2000, 2002). These livestock can directly and indirectly compete with Tibetan antelope for available vegetation resources, both within and outside established protected areas (Schaller 1998, Ginsberg *et al.* 1999). In recent decades, as a result of government policy changes, excessive livestock grazing has degraded or destroyed chiru habitat in some areas, and could eventually lead to the destruction of some portion of the species' range through physical displacement and/or overgrazing, which may contribute to desertification (Ginsberg *et al.* 1999, Miller 2001). Recent changes in Chinese Government policy have resulted in an attempt to permanently settle many Tibetan pastoralists, with a resultant proliferation of rangeland fencing on portions of the Plateau (Miller 2000, Los Angeles Times 2002). Livestock frequently graze year-round in antelope habitat, and increasingly, nomads are fencing for winter-spring grazing and fodder production, thereby excluding chiru from the fenced grassland resources. Tibetan antelope need open range to survive (Miller and Schaller 1997). Enclosure and conversion of grasslands disrupt antelope habitat, posing a particular threat in the spring, when weakened chiru are attempting to rebuild their energy reserves, and in the

fall, as antelope are preparing for the harsh winter.

The Tibetan Plateau has extensive gold deposits. Gold mining can have significant impacts on chiru habitat and lead to increased poaching. Mining degrades or destroys chiru habitat through environmental contamination and disturbance, and through pollution of surface waters [U.S. Embassy, China (USEC) 1996]. Illegal mining activity also opens another avenue for profiting from poaching (USEC 1996). Bleisch (1999) noted that illegal gold mining camps in the Arjin Shan Reserve in Xinjiang have served as bases for poachers and have provided them with essential logistical support and access. Without this support, poachers would have a difficult time operating in these remote regions. As a result, ''poaching has already had a profound impact on the chiru population of the reserve. Several areas where calving females formerly congregated are now empty of chiru during the calving season'' (Bleisch 1999). In 2002, Rick Ridgeway and Galen Rowell spent 2 weeks on foot locating an unknown calving ground in the western Chang Tang only to discover that its location was less than 2 days' overland drive from a new gold mine that had sprung up in the previous few months (Ridgeway 2003). They wrote:

> That same dirt road [a 60-mile dirt road built by miners in the previous 3 months] gives us an easy way home, as we cart toward our waiting vehicle. But it could also give poachers easy access to the calving grounds. From the mine we estimate a four-wheel-drive vehicle could make it cross-country in 2 days.... With the chiru's calving grounds suddenly vulnerable, we feel a new urgency to report our findings.

Governments may periodically enforce mining bans in sensitive areas, and have done so in Tibet, but in general it is difficult to control illegal miners over extensive areas of remote lands with poor road access. Tibet has reserves of many other valuable minerals, among them uranium, copper, and cesium, and mining of these minerals may also impact chiru habitat and lead to poaching.

Oil exploration and some production have commenced within the chiru's range, and pose threats of destroying habitat; polluting the environment with toxic production chemicals, effluents, and emissions; increasing disturbance levels; and increasing the incidence of poaching by drawing additional settlers into the region (Ginsberg *et al.* 1999). In 2001, Chinese researchers announced the discovery of a potentially huge oil and gas deposit, extending over 100 km in length, in the Qiangtang Basin of the Tibet Autonomous Region (Global Policy Forum 2001). The deposit could potentially produce hundreds of millions of tons of oil.

Construction of the Qinghai-Tibet Railway, currently in progress, threatens to destroy important Tibetan antelope habitat, and, perhaps more importantly, significantly disrupt chiru migration corridors in southwestern Qinghai Province. One news service report mentioned that construction on the railway, the first to link the Tibet Autonomous Region with the rest of China, was temporarily suspended in June 2002 because up to 1,000 migrating chiru were unable to cross the construction area (People's Daily 2002, Xinhuanet 2002a). All activity was stopped and construction workers removed from the area until these animals had passed the construction site. Although the news service report mentioned that ''a passage specially for animals will be set aside when the railway is built, so as to ensure the free migration for wildlife in the locality,'' it is not certain how successful such a passage would be in ensuring freedom of movement for thousands of migrating chiru.

Three contiguous protected areas have been established to protect Tibetan antelope populations and habitat in western China: Chang Tang Nature Reserve (approximately 334,000 km^2 in the Tibet Autonomous Region), Kekexili (aka Kokoxili or Hoh Xil) National Reserve (approximately 45,000 km^2 in Qinghai Province), and Arjin Shan Reserve (45,000 km^2 in Xinjiang Province). A fourth protected area, Xianza Reserve (40,000 km^2 in the Tibet Autonomous Region), also includes some chiru habitat. These reserves are only partially effective in protecting the chiru and its habitat due to a combination of inadequate management, limited enforcement capacity, an influx of settlers, and domestic livestock grazing [International Fund for Animal Welfare/Wildlife Trust of India (IFAW/WTI) 2001]. Miller (1997) has noted that, while many of the protected areas in the Tibetan Plateau region encompass high-elevation rangelands, protected areas at lower grassland elevations are scarce. It has been difficult for reserve staffs to keep poachers and illegal gold miners out, a fact that prompted the Qinghai Provincial Government in late 1999 to close the Kekexili Reserve to all activities that were not expressly authorized in advance by the State Forestry Administration (SFA) (China Daily 1999).

The Chang Tang Reserve staff lacks the funding, experience, personnel, and equipment to adequately prevent chiru poaching and other threats to the species (SFA 1998). Formerly nomadic pastoralists are establishing settlements within the Chang Tang Reserve, and immigrants from other parts of the Plateau are moving into protected areas. Increased human presence, whether temporary nomadic aggregations or permanent human settlements, can adversely affect Tibetan antelope habitat and be a detrimental disturbance factor.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

There are no accurate estimates of Tibetan antelope numbers from the past, although the few early western explorers who ventured onto the Tibetan Plateau noted the presence of large herds in many areas (Schaller 1998). For example, Rawling (1905, cited in Schaller 1998) noted: ''Almost from my feet away to the north and east, as far as the eye could reach, were thousands upon thousands of doe antelope with their young * * *. Everyone in camp turned out to see this beautiful sight, and tried, with varying results, to estimate the number of animals in view. This was found very difficult * * * as we could see in the extreme distance a continuous stream of fresh herds steadily approaching; there could not have been less than 15,000 or 20,000 visible at one time.'' Bonvalot (1892), Wellby (1898), Deasy (1901), and Hedin (1903, 1922) made similar observations (all references cited in Schaller 1998). Schaller (1999) has suggested that upwards of 1 million Tibetan antelope roamed the Tibetan Plateau as recently as 40 to 50 years ago. Historical population estimates of 500,000 to 1,000,000 appear to be reasonable based on the limited information available.

Although data on the current population dynamics of chiru are fragmentary and preliminary (Schaller 1998), it is clear that the total population has declined drastically in the past 30 years and is continuing to decline at an alarming rate. Schaller (1998) estimated that the total population in the mid-1990s may have been as low as 65,000–75,000 individuals. More recent estimates from China quote a population figure of 70,000, although the scientific basis for the estimate is not given (Xinhuanet 2002b). If one assumes that the historical population of chiru was 500,000 individuals (an apparently conservative estimate), then the most recent estimate of 70,000 represents a population decline of greater than 85 percent.

The principal cause of the Tibetan antelope population decline has been poaching on a massive scale for the species' fur (wool), known in trade as shahtoosh (''king of wool''), which is one of the finest animal fibers known (Ginsberg *et al.* 1999). Shahtoosh is processed into high-fashion scarves and shawls in the Indian State of Jammu and Kashmir; these items are greatly valued by certain people of wealth and fashion around the world. The international demand for chiru fiber and shahtoosh products is the most serious threat to the continued existence of the Tibetan antelope. Although overall mortality rates are not known, poaching mortality was estimated to be as high as 20,000 individuals per year (SFA 1998). Poaching appears to have declined in some areas in recent years (Xinhuanet 2002a), most likely because there are not enough animals to warrant an organized poaching effort. But Chinese officials acknowledge that ''poaching is still far from being eradicated in China.'' (Xinhuanet 2002c). Annual recruitment of young has been estimated at around 12 percent (Schaller 1998). If one assumes that the total population of chiru is 70,000 individuals and that the population is currently declining at a rate of 1,000–3,500 individuals per year (admittedly a rough estimate, given available data), then the species could go extinct within the next 20 to 70 years. The species' role as the dominant native grazing herbivore of the Tibetan Plateau ecosystem has already been significantly diminished, and its influence on ecosystem structure and function would likely be substantially reduced or eliminated well before the species actually goes extinct.

Although the shahtoosh trade has existed for centuries, killing of Tibetan antelope on a widespread, commercial basis probably began only in the 1970s or 1980s, resulting from an increase in international consumer demand and increased availability of vehicles on the Tibetan Plateau. Schaller and Gu (1994) noted that, with the increasing availability of vehicles beginning three decades ago, ''truck drivers, officials, military personnel and other outsiders also began to shoot wildlife * * *.'' Most chiru poaching takes place in the Arjin Shan, Chang Tang, and Kekexili Nature Reserves by a variety of hunters, including local herders, residents, officials, military personnel, gold miners, and truck drivers (Schaller 1993, Schaller and Gu 1994). Organized, large-scale poaching rings have developed in some areas. Poachers always kill Tibetan antelope to collect their fiber. No cases of capture-and-release wool collection are known, nor is naturally shed fiber collected from shrubs and grass tufts, as is often claimed (primarily by people within the shahtoosh industry). Poachers shear the hides, and collect and clean the under-fur of the antelope, or sell the hides to dealers who prepare the shahtoosh (Wright and Kumar 1997).

Schaller speculated that, during the 1980s and 1990s, tens of thousands of chiru were killed for their wool (Ginsberg *et al.* 1999). One chiru carcass yields about 125–150 grams (gm) of fiber. In the winter of 1992, an estimated 2,000 kilograms (kg) of wool reached India, and consignments of 600 kg were seized (and released) in India during 1993 and 1994 (Bagla 1995, cited in Ginsberg *et al.* 1999). This amount alone represents 17,000 chiru. In October 1998, 14 poachers in the Tibet Autonomous Region were convicted of collectively killing 500 chiru and purchasing 212 hides, and were sentenced to 3 to 13 years imprisonment (Xinhua 1998, cited in Ginsberg *et al.* 1999). The largest enforcement action to date within China, involving several jurisdictions and dubbed the ''Hoh Xil Number One Action'' by Chinese authorities, resulted in the arrest of 66 poachers and the confiscation of 1,658 chiru hides in April and May 1999 (Liu 1999, cited in Ginsberg *et al.* 1999). The IFAW/WTI (2001) report lists 77 known seizures of chiru hides, raw shahtoosh, and finished shahtoosh scarves. Recent documented seizures have been of 39 kg of raw fiber in March 2001 along the Tibet-Nepal border (IFAW/WTI 2001) and 80 shahtoosh shawls in New Delhi in March 2002 [Wildlife Protection Society of India (WPSI) News 2002]. Most recently, a consignment of 211 kg of raw shahtoosh was seized by wildlife officials in Delhi in early April 2003 (A. Kumar, WTI, *pers. comm.* with K. Johnson, Division of Scientific Authority, April 6, 2003). This quantity of raw wool represents the killing of almost 1,800 chiru.

Shahtoosh is smuggled out of China by truck or animal caravan, through Nepal or India, and into the State of Jammu and Kashmir in India. This is in violation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) as well as domestic laws of the countries involved. The shahtoosh industry in the Srinagar region of Jammu and Kashmir is controlled by a wealthy, influential group of 12 to 20 families (Wright and Kumar 1997). There are about 100 to 120 family-run manufacturing operations that employ upwards of 20,000 people who prepare, weave, and finish the raw shahtoosh into scarves and shawls (IFAW/WTI 2001). The scarves are sold throughout India and smuggled abroad in violation of Indian law, CITES, and domestic legislation in many of the importing countries (Wright and Kumar 1997). Shahtoosh products have been made in Jammu and Kashmir for centuries, but the current high levels of poaching are a result of consumer demand in the West, including the United States.

Chiru are also killed for their horns (used in traditional medicinal practices), hides, and meat (Ginsberg *et al.* 1999), although these uses are secondary to the use of fiber.

C. Disease or Predation

Schaller (1998) documented Tibetan antelope mortality caused by disease and predators such as the wolf (*Canis lupus*), snow leopard (*Uncia uncia*), lynx (*Lynx lynx*), brown bear (*Ursus arctos*), and domestic dog (*Canis familiaris*). He suggested that wolf predation may at one time have been a substantial mortality factor for chiru, particularly on the calving grounds. At the present time, neither disease nor predation is considered to threaten or endanger the species in any portion of its range. However, one or both of these factors may become more significant as populations decline and become increasingly fragmented because of other mortality factors.

D. Inadequacy of Existing Regulatory Mechanisms

The Tibetan antelope was listed in Appendix II of CITES in 1975; it was transferred to Appendix I in 1979. All three countries that comprise the species' natural geographic range—China, Nepal, and India—are CITES Parties. The only reservation ever held on the species was taken by Switzerland in 1979 and withdrawn in October 1998. The Tibetan antelope is protected at a national level by China, Nepal, and India.

In China, the chiru is a Class 1 protected species under the Law of the People's Republic of China on the Protection of Wildlife (1989), which prohibits all killing except by special permit from the central government. Although China has expended considerable effort and resources in an attempt to control poaching, it has been unable to do so (SFA 1998) because of the magnitude of the poaching, the extensive geographic areas involved, and the high value of shahtoosh, which gives poachers great incentive to continue their illegal activities. On several occasions, China has appealed to other governments and organizations to eliminate the demand for and

production of shahtoosh products, most recently at the 1999 International Workshop on Conservation and Control of Trade in Tibetan Antelope held in Xining, China, in October 1999 and in a Resolution adopted at the 11th Meeting of the Conference of the Parties to CITES in Kenya in April 2000 (Resolution Conf. 11.8). China reiterated its commitment to Tibetan antelope conservation at the 12th Meeting of the Conference of the Parties to CITES in Santiago, Chile, in November 2002 (Resolution Conf. 11.8 Rev. COP12 and Decision 12.40).

In Nepal, the chiru is listed as an endangered species under Schedule I of Nepal's National Parks and Wildlife Conservation Act (1973) (Wright and Kumar 1997). Smugglers use Nepal as a transit route from China to India (Government of Nepal 1999), and recent investigations by WWF Nepal Program and TRAFFIC India have documented the routes used. Although Nepal has made some effort to stop the illegal trade, including the confiscation of several shahtoosh shipments, it has been unable to eliminate or control the trade. This has, in part, resulted from the lack of CITES-implementing legislation at a national level (Government of Nepal 1999). In its national report to the International Workshop on Conservation and Control of Trade in Tibetan Antelope in October 1999, the Government of Nepal indicated that it had recently prepared CITES-implementing legislation, which was awaiting approval by the Government (Government of Nepal 1999). That legislation apparently had not yet been enacted as of the 46th Meeting of the CITES Standing Committee (SC) in March 2002 (SC46 Doc. 11.1).

In India, the chiru is listed on Schedule I of the Wildlife Protection Act (1972), which prohibits hunting and trade in any part of the species (Wright and Kumar 1997). The northern Indian State of Jammu and Kashmir has a separate wildlife act, The Jammu and Kashmir Wild Life Protection Act (1978) (J&K Act), which is independent of national law. Chiru are listed on Schedule II of the J&K Act. Trade in Schedule II species, including shahtoosh, is permitted under certain conditions. The J&K Act specifies that state permission is required to possess Schedule II wildlife products, that unlicensed dealers are prohibited from selling these products, and that licensed dealers are required to report to the government any import of Schedule II animal products (Ginsberg *et al.* 1999). Despite the fact that no shahtoosh dealers have ever been licensed (Government of India 1999), the production and sale of shahtoosh shawls and other products have continued in Jammu and Kashmir. On May 1, 2000, in response to public interest litigation filed by the Wildlife Protection Society of India (WPSI), the High Court of Jammu and Kashmir ruled that the shahtoosh trade was in violation of the J&K Act, CITES, and India's Export-Import Policy (IFAW/WTI 2001). The Government of Jammu and Kashmir set about to bring its law into compliance with national legislation and CITES, but that has not yet been completed, and the shahtoosh trade has continued. In May 2001, WPSI and WTI filed a contempt of court petition against the Jammu and Kashmir Government.

Sale of shahtoosh shawls occurs elsewhere in India as well, although prohibited by national law. And, despite the fact that CITES and India's Customs Law prohibit the commercial import and export of shahtoosh and shahtoosh products, raw shahtoosh fiber still enters India and finished products still leave. Indian authorities have made a number of seizures of raw fiber and finished products over the years (Wright and Kumar 1997, Government of India 1999), but, because of the conflict with Jammu and Kashmir, have been unable to end the production of shahtoosh products.

In the United States, the Appendix-I listing for the Tibetan antelope has not been adequate to control the import and sale of shahtoosh products. Although several investigations have revealed a market for shahtoosh products in the United States, the first successful prosecution was in 2001. On May 29, 2001, a Los Angeles-based clothier agreed to pay a $175,000 civil settlement for importing and selling shahtoosh shawls in violation of the ESA and the Lacey Act (Press Release from the U.S. Attorney's Office, District of New Jersey, dated May 29, 2001).

CITES provisions of the Endangered Species Act prohibit engaging in trade contrary to CITES and the possession of any specimen traded contrary to CITES. Thus, once a shahtoosh shawl is successfully smuggled into the United States, enforcement officers must prove the unlawful import in order to seize that shawl. Listing the Tibetan antelope under the Act would prohibit the sale or offering for sale of shahtoosh products in interstate or foreign commerce. This would give U. S. prosecutors additional means of fighting shahtoosh smuggling and the illegal market within the United States.

E. Other Natural or Manmade Factors

Tibetan antelope are known to have died from exposure and malnutrition associated with severe winter weather (Schaller 1998). A blizzard in Qinghai Province killed a disproportionate number of young and yearlings, and resulted in reproductive failure in the following year.

Summary of Findings

The Service has reviewed the information presented in the original petition, the literature cited in that petition, all public comments received, and other available literature and information. On the basis of the best scientific and commercial information available, the Service's 12-month finding is that the petitioned action is warranted. The best available information indicates that the total population of Tibetan antelope has declined drastically over the past three decades. This decline has resulted primarily from overutilization for commercial purposes and the inadequacy of existing regulatory mechanisms. Habitat impacts, especially those caused by domestic livestock grazing, appear to be a contributory factor in the decline, and could have potentially greater impacts in the near future. Accordingly, we herein propose to list the Tibetan antelope as endangered throughout its range, pursuant to the Endangered Species Act of 1973, as amended. Public comments on this proposed rule will be solicited, as will peer review (*see* subsequent sections of this **Federal Register** document).

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and encourages and results in conservation actions by Federal and State governments, private agencies and groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate the impact of their actions within the United States or on the high seas on any species that is proposed or listed as endangered or threatened, and on critical habitat of an endangered or threatened species, if any is designated. Because the Tibetan antelope is not native to the United States, we are not proposing to designate critical habitat

for the species, in accordance with 50 CFR 424.12(h). With respect to the Tibetan antelope, no Federal activities, other than the issuance of CITES import and export permits, are currently required. Listing of the Tibetan antelope as endangered under the Act would require the issuance of ESA import and export permits by the Service's Division of Management Authority (DMA), and consequently a consultation with the Service's Division of Scientific Authority (DSA) under Section 7 of the Act prior to the issuance of any permit.

The Act and its implementing regulations set forth a series of prohibitions and exceptions that generally apply to all endangered wildlife. The prohibitions, codified at 50 CFR 17.21, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), within U.S. territory or on the high seas, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce, any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees or agents of the Service, and State conservation agencies. The interstate commerce prohibitions will be especially useful to the Service's efforts to curtail any illegal shahtoosh trade within the United States.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific research purposes, for enhancement of the propagation or survival of the species, and/or for incidental take in the course of otherwise lawful activities. Because the Tibetan antelope is listed in Appendix I of CITES, a CITES permit is already required for import to or export from the United States. Under this rulemaking, an ESA permit would also be required for import or export of Tibetan antelopes to the United States. Prior to issuance of a permit, DMA would need to consult with DSA under Section 7 of the Act, as well as make its own determination that the application satisfies the permit-issuance criteria (*i.e.*, research or enhancement of propagation or survival).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be based on the most accurate and up-to-date information possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning biological, commercial trade, or other relevant data concerning any threat to this species. Final action on this proposed rule will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final action that differs from this proposal.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Commenters may request that we withhold their home addresses, and we will honor these requests to the extent allowable by law. In some circumstances, we may also withhold a commenter's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public comment in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of the publication of this proposal in the **Federal Register**. Such requests must be made in writing and be addressed to: Chief, Division of Scientific Authority, 4401 North Fairfax Drive, Room 750, Arlington, Virginia 22203.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek expert opinions of at least three appropriate independent specialists regarding this proposed rule. The purpose of such review is to ensure that listing decisions are based on scientifically sound data, assumptions, and analysis. We will send copies of this proposed rule immediately following publication in the **Federal Register** to these peer reviewers.

National Environmental Policy Act

We have determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended.

Paperwork Reduction Act of 1995

This rule contains no new information collection requirements under the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

References Cited

Bagla, P. 1995. Sustainable tigers? BBC Wildlife 15(5): 55.

Bleisch, W. 1999. Pers. Comm. to the Tibetan Plateau Project via e-mail.

Bonvalot, G. 1892. Across Tibet. Cassell, New York.

Bower, H. 1894. Diary of a journey across Tibet. Macmillan, New York.

China Daily. 1999. Qinghai closes nature reserve. December 30, 1999.

Deasy, H. 1901. In Tibet and Chinese Turkestan. Longmans Green, New York.

Gatesy, J., D. Yelon, R. DeSalle, and E. Vrba. 1992. Phylogeny of the Bovidae (Artiodactyla, Mammalia), based on mitochondrial ribosomal DNA sequence. Mol. Biol. Evol. 9: 433–446.

Gentry, A. 1992. The subfamilies and tribes of the family Bovidae. Mammal Review 22: 1–32.

Ginsberg, J. R., G. B. Schaller, and J. Lowe. 1999. Petition to list the Tibetan antelope (*Pantholops hodgsonii*) as an endangered species pursuant to the U.S. Endangered Species Act of 1973. Wildlife Conservation Society and Tibetan Plateau Project.

Global Policy Forum. 2001. Potentially massive oil and gas find in Tibet. September 5, 2001. (*http://www.globalpolicy.org/security/natres/oil/China/2001/0905disc.htm*)

Government of India. 1999. Chiru and shahtoosh. Paper presented by S.C. Sharma at 1999 International Workshop on Conservation and Control of Trade in Tibetan Antelope, Xining, China. October 1999.

Government of Nepal. 1999. Some facts, problems and working strategies of shahtoosh trade in Nepal. Paper presented by T. Maskey at 1999 International Workshop on Conservation and Control of Trade in Tibetan Antelope, Xining, China. October 1999.

Hedin, S. 1903. Central Asia and Tibet. 2 vols. Hurst and Blackett, London.

Hedin, S. [1922]. 1991. Southern Tibet. Vols. 3 and 4. Reprinted by B. R. Publ. Corp., Delhi.

IFAW/WTI (International Fund for Animal Welfare and Wildlife Trust of India). 2001. Wrap up the trade: An international campaign to save the endangered Tibetan antelope. 79 pp.
Liu, J. 1999. China resolves to end chiru poaching. China Daily, June 30, 1999.
Los Angeles Times. 2002. Progress hems in nomadic herders of Tibet. August 10, 2002.
Miller, D. J. 1997. A photo essay of Himalayan and Tibetan pastoralism. In: Rangelands and pastoral development in the Hindu Kush-Himalayas. International Centre for Integrated Mountain Development, Kathmandu.
Miller, D. J. 2000. Tough times for Tibetan nomads in Western China: Snowstorms, settling down, fences, and the demise of traditional nomadic pastoralism. Nomadic Peoples 4(1): 83–109.
Miller, D. J. 2001. Poverty among Tibetan nomads in western China: Profiles of poverty and strategies for poverty reduction. Paper prepared for Tibet Development Symposium, May 4–6, 2001, Brandeis University.
Miller, D. J. 2002. The importance of China's nomads. Rangelands 24(1): 22–24.
Miller, D. J., and G. B. Schaller. 1997. Conservation threats to the Chang Tang wildlife reserve, Tibet. Ambio 26(3).
People's Daily. 2002. Railway construction makes way for rare antelope. August 7, 2002.
Rawling, C. 1905. The great plateau. Edward Arnold, London.
Ridgeway, R. 2003. 275 miles on foot through the remote Chang Tang. National Geographic Magazine 203: 104–125.
Schaller, G. B. 1993. In a high and sacred realm. National Geographic Magazine 184.
Schaller, G. B. 1998. Wildlife of the Tibetan steppe. The University of Chicago Press, Chicago. 373 pp.
Schaller, G. B. 1999. Natural history of Tibetan antelope. Paper presented by G.B. Schaller at 1999 International Workshop on Conservation and Control of Trade in Tibetan Antelope, Xining, China. October 1999.
Schaller, G. B. and B. Gu. 1994. Comparative ecology of ungulates in the Aru Basin of northwest Tibet. National Geographic Research and Exploration 10: 266–293.
SFA (State Forestry Administration). 1998. Conservation status of the Tibet antelope. China State Forestry Administration. December 1998. 4 pp.
USEC (United States Embassy China). 1996. Gold mining in China: Taming the wild west. USEC Web site (*http://www.usembassy-china.org.cn/english/sandt/goldw.htm*).
Wilson, D. E., and D. M. Reeder. 1993. Mammal species of the world: A taxonomic and geographic reference. 2nd ed. Smithsonian Institution Press, Washington, DC 1206 pp.
WPSI News (Wildlife Protection Society of India). 2002. 80 shahtoosh shawls seized in Delhi. March 18, 2002.
Wright, B. and A. Kumar. 1997. Fashioned for extinction: An expose of the shahtoosh trade. Wildlife Protection Society of India, New Delhi. 48 pp.
Xinhua. 1998. Tibet punishes poachers. October 28, 1998.
Xinhuanet. 2002a. Railway suspended for Tibetan antelope migration. June 26, 2002.
Xinhuanet. 2002b. China curbs poaching of Tibetan antelopes. October 29, 2002.
Xinhuanet. 2002c. Extinction of Tibetan antelopes ''very possible'' if poaching persists: expert. August 19, 2002.
Zhen, R. 2000. For future of [the] Tibetan antelope: Proceedings of the 1999 International Workshop on Conservation and Control of Trade in Tibetan Antelope held in Xining, China in October, 1999. 147 pp.

Author

The primary author of this proposed rule is Dr. Kurt A. Johnson, Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 750, Arlington, Virginia 22203.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we hereby propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17— [AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.11(h) is amended by adding the following, in alphabetical order under MAMMALS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*		*
Antelope, Tibetan (Chiru).	*Pantholops hodgsonii*.	China, India, Nepal	Entire	E		NA	NA
*	*	*	*	*	*		*

Dated: August 21, 2003.

Marshall P. Jones,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 03–25207 Filed 10–3–03; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 68, No. 193

Monday, October 6, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–078–1]

Viruses, Serums, Toxins, and Analogous Products; Standard Requirements for Bovine Virus Diarrhea and Bovine Rhinotracheitis Vaccines

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of regulations for the interstate movement of plants and plant products from the District of Columbia.

DATES: We will consider all comments that we receive on or before December 5, 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. 03–078–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–078–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–078–1'' on the subject line.

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

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

FOR FURTHER INFORMATION CONTACT: For information regarding the regulations for the interstate movement of plants and plant products from the District of Columbia, contact Mr. Jonathan Jones, Staff Officer, Pest Detection Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737; (301) 734–5038. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: District of Columbia Plant Health Certificate.

OMB Number: 0579–0166.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Plant Protection Act (7 U.S.C. 7701–7772), the Animal and Plant Health Inspection Service (APHIS) is responsible for facilitating the interstate movement of agricultural products and commodities in ways that will reduce the risk of disseminating plant pests and noxious weeds.

The regulations in 7 CFR part 302, ''District of Columbia; Movement of Plants and Plant Products,'' set out procedures for the inspection and certification of plants and plant products moving interstate from the District of Columbia. The regulations provide that, whenever inspection and documentation of plants or plant products are required by Federal or State laws or regulations prior to the interstate movement of those plants or plant products, APHIS will provide those services. APHIS, rather than the District of Columbia, provides those services because the District of Columbia, unlike most States, has no official plant protection service. The form APHIS uses to certify the plant pest status of plants or plant products to be moved interstate from the District of Columbia is the District of Columbia Plant Health Certificate.

We are asking the Office of Management and Budget (OMB) to approve our use of this form for an additional 3 years in connection with our program to prevent the interstate spread of plant pests, diseases, and noxious weeds in the United States.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(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 our 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.2 hours per response.

Respondents: Shippers, growers of plants and plant materials.

Estimated annual number of respondents: 4.

Estimated annual number of responses per respondent: 50.

Estimated annual number of responses: 200.

Estimated total annual burden on respondents: 40 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–25253 Filed 10–3–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–079–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of regulations for the importation of fruits and vegetables.

DATES: We will consider all comments that we receive on or before December 5, 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. 03–079–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 03–079–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 03–079–1'' on the subject line.

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

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

FOR FURTHER INFORMATION CONTACT: For information regarding regulations for the importation of fruits and vegetables, contact Dr. Paul Gadh, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737; (301) 734–5210. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Importation of Fruits and Vegetables.

OMB Number: 0579–0158.

Type of Request: Extension of approval of an information collection.

Abstract: The United States Department of Agriculture is responsible for preventing plant pests from entering the United States, preventing the spread of pests not widely distributed within the United States, and eradicating plant pests when feasible. Under the Plant Protection Act (7 U.S.C. 7701–7772), the Animal and Plant Health Inspection Service, among other things, is responsible for carrying out this mission.

The regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56 through 319.56–8) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and spread of plant pests that are new to or not widely distributed within the United States.

Before entering the United States, certain fruits and vegetables from various foreign countries are subject to inspection and disinfection at their port of first arrival to ensure that no plant pests are inadvertently brought into the United States. These precautions, along with other requirements, ensure that these articles can be imported into the United States with minimal risk of introducing exotic plant pests such as fruit flies.

Allowing these fruits and vegetables to be imported necessitates the use of certain information collection activities including the completion of import permits, phytosanitary inspection certificates, and fruit fly monitoring records.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years in connection with our efforts to prevent an introduction of fruit flies or other plant pests into the United States.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(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 our 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.2807 hours per response.

Respondents: U.S. importers of fruits and vegetables; plant health officials of exporting countries.

Estimated annual number of respondents: 150.

Estimated annual number of responses per respondent: 76.

Estimated annual number of responses: 11,400.

Estimated total annual burden on respondents: 3,200 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–25254 Filed 10–3–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–084–1]

Big Cat Symposia; Animal Care

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of informational meetings.

SUMMARY: This is a notice to animal exhibitors, dealers, transporters, researchers, animal protection groups, industry groups, and other interested persons that we are holding a series of educational symposia to present current information on the care and maintenance of exotic big cats. This notice provides the agenda for the symposia and information on the location and dates of the next two symposia.

DATES: The next symposium will be held in Columbus, OH, on Wednesday, November 19, 2003. The following symposium will be held in Sarasota, FL, on Wednesday, January 7, 2004. Each symposium will be held from 8 a.m. to 5 p.m. Preregistration is requested for both symposia. Parties wishing to attend may preregister by e-mailing *ACE@aphis.usda.gov* or by calling the Animal Care headquarters office at (301) 734–7833. The preregistration deadline for the Columbus meeting is October 15, 2003; for the Sarasota meeting, the deadline is December 15, 2003.

On-site registration will take place from 7:30 a.m. to 8:30 a.m. on the day of each symposium.

ADDRESSES: The symposia will be held at the following locations:

1. *Columbus, OH:* Greater Columbus Convention Center, 400 North High Street, Columbus, OH 43215, (800) 626–0241.

2. *Sarasota, FL:* Holiday Inn Airport and Marina, 7150 North Tamiami Trail, Sarasota, FL 34243, (888) 818–2781.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda of the symposia, contact Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, 4700 River Road Unit 84, Riverdale, MD 20737–1234; (301) 734–7833. Dr. Kohn may be contacted by e-mail at *ACE@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) is announcing a series of educational symposia on the care and maintenance of exotic big cats. The symposia will give Animal Care an opportunity to disseminate information on various topics that are key to the successful management and handling of exotic big cats. The symposia will be held in various geographical locations to facilitate attendance by regulated parties that maintain these animals.

The first symposium was held on Wednesday, March 26, 2003, at the Ramada Plaza Hotel, Fort Worth, TX, and the second symposium was at Sam's Town Hotel, Las Vegas, NV, on April 30, 2003. The next two symposia will be held on November 19, 2003, at the Greater Columbus Convention Center, Columbus, OH, and on January 7, 2004, at the Holiday Inn Airport and Marina, Sarasota, FL. We plan to hold similar symposia at some time during 2004 in another location in the Midwest and in the Washington, DC, metropolitan area.

The symposia have been developed to provide current information and ideas on a variety of topics. Each symposium will follow the same agenda, with possible minor modifications. The symposia will start with general sessions, followed by breakout sessions allowing more interaction between speakers and attendees. The agenda for these symposia is:

7:30 a.m.–8:30 a.m.—Registration.
8 a.m.–11:30 a.m.—General Session.
Welcome.
Nutrition.
Veterinary Care and Tranquilization.
Transportation.
New Training Methods.
11:30 a.m.–1 p.m.—Lunch Break (on own).
1 p.m.–2:30 p.m.—Concurrent Breakout Session #1.
Explaining APHIS Regulations.
Nutrition/Zootrition.
Heat Budgets and Shade (avoiding overheating and overcooling).
2:45 p.m.–4:15 p.m.—Concurrent Breakout Session #2.
Training.
Veterinary Care Issues.
Fixed Exhibit Enclosure Design.
4:15 p.m.–5 p.m.—Questions and Answers; Closing.

Notices of these symposia are being sent to current Animal Welfare Act licensees with exotic big cats. This notice is also available on the Internet at *http://www.aphis.usda.gov/ac,* the Animal Care Web site. Copies of a brochure containing the information in this announcement can also be requested by calling the Animal Care headquarters office at (301) 734–7833 or by e-mailing a request to *ACE@aphis.usda.gov.*

Please note that these symposia are being held to provide and disseminate information on the care and maintenance of big exotic cats under the Animal Welfare Act. There will be no opportunity at these symposia to submit formal comments on proposed rules or other regulatory initiatives.

Preregistration

Preregistration is requested by calling the Animal Care headquarters office at (301) 734–7833 or by e-mailing Animal Care at *ACE@aphis.usda.gov* and providing your name, number of attendees, phone number, and e-mail address or other contact address. This information is needed so we may inform registrants in a timely manner if any changes are made to the schedules of the symposia. Please preregister for the Columbus symposium by October 15, 2003, and for the Sarasota symposium by December 15, 2003.

Travel and Lodging Information

All attendees are responsible for their own travel and lodging. No rooms have been reserved for attendees at the symposium hotels or any other hotels.

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–25256 Filed 10–3–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–083–1]

Fiscal Year 2004 Reimbursable Overtime Charges and Veterinary Services User Fees

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to reimbursable overtime charged for Sunday, holiday, or other overtime work performed in connection with the inspection, laboratory testing, certification, or quarantine of certain articles and to user fees for import- and export-related services provided for animals, animal products, birds, germ plasm, organisms, and vectors. The purpose of this notice is to remind the public of the reimbursable overtime charges and user fees for fiscal year 2004 (October 1, 2003, through September 30, 2004).

FOR FURTHER INFORMATION CONTACT: For information concerning Plant Protection and Quarantine program operations, contact Mr. Michael Caporaletti, Senior Program Analyst, Quarantine Policy

Analysis and Support, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1231; (301) 734–5781.

For information concerning Veterinary Services program operations, contact Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

For information concerning reimbursable overtime rate and user fee development, contact Mrs. Kris Caraher, User Fees Section Head, Financial Services Branch, FSSB, FMD, MRP–BS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (301) 734–5901.

SUPPLEMENTARY INFORMATION:

[**Note:** In March 2003, the agricultural import and entry inspection activities that had been performed by employees of the Animal and Plant Health Inspection Service (APHIS) were transferred to the Department of Homeland Security (DHS). The regulations cited in this notice have not yet been updated to reflect this change, so in the interests of consistency with those regulations, this notice continues to refer to ''APHIS employees'' and services provided or work performed by APHIS employees. Readers should be aware, however, that DHS personnel are currently performing certain of the agricultural import and entry inspection activities discussed in this notice for which overtime charges or user fees are applicable.]

Reimbursable Overtime Charges

The regulations in 7 CFR chapter III and 9 CFR chapter I, subchapters D and G, require inspection, laboratory testing, certification, or quarantine of certain animals, poultry, animal byproducts, germ plasm, organisms, vectors, plants, plant products, or other regulated commodities or articles intended for importation into, or exportation from, the United States. With some exceptions, when these services must be provided by an APHIS employee on a Sunday or on a holiday, or at any other time outside the APHIS employee's regular duty hours, the Government charges an hourly overtime fee for the services in accordance with 7 CFR part 354 and 9 CFR part 97.

In a final rule published in the **Federal Register** on July 25, 2002 (67 FR 48519–48525, Docket No. 00–087–2), and effective August 11, 2002, we established, for fiscal years 2002 through 2006 and beyond, reimbursable overtime rates for Sunday, holiday, or other overtime work performed by APHIS employees for any person, firm, or corporation having ownership, custody, or control of animals, poultry, animal byproducts, germ plasm, organisms, vectors, plants, plant products, or other regulated commodities or articles subject to inspection, laboratory testing, certification, or quarantine. In this document we are providing notice to the public of the reimbursable overtime fees for fiscal year 2004 (October 1, 2003, through September 30, 2004).

Under the regulations in 7 CFR 354.1(a) and 9 CFR 97.1(a), any person, firm, or corporation having ownership, custody, or control of plants, plant products, animals, animal byproducts, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine who requires the services of an APHIS employee on a Sunday or holiday, or at any other time outside the regular tour of duty of that employee, shall sufficiently in advance of the period of Sunday, holiday, or overtime service request the APHIS inspector in charge to furnish the service during the overtime or Sunday or holiday period, and shall, for fiscal year 2004, pay the Government at the rate listed in the following table:

OVERTIME FOR INSPECTION, LABORATORY TESTING, CERTIFICATION, OR QUARANTINE OF PLANTS, PLANT PRODUCTS, ANIMALS, ANIMAL PRODUCTS OR OTHER REGULATED COMMODITIES

Outside the employee's normal tour of duty	Overtime rates (per hour) Oct. 1, 2003–Sept. 30, 2004
Monday through Saturday and holidays	$48.00
Sundays	63.00

As specified in 7 CFR 354.1(a)(1)(iii) and 9 CFR 97.1(a)(3), the overtime rates to be charged in fiscal year 2004 to owners or operators of aircraft at airports of entry or other places of inspection as a consequence of the operation of the aircraft, for work performed outside of the regularly established hours of service will be as follows:

OVERTIME FOR COMMERCIAL AIRLINE INSPECTION SERVICES [1]

Outside the employee's normal tour of duty	Overtime rates (per hour) Oct. 1, 2003–Sept. 30, 2004
Monday through Saturday and holidays	$39.00
Sundays	51.00

[1] These charges exclude administrative overhead costs.

A minimum charge of 2 hours shall be made for any Sunday or holiday or unscheduled overtime duty performed by an employee on a day when no work was scheduled for him or her, or which is performed by an employee on his or her regular workday beginning either at least 1 hour before his or her scheduled tour of duty or which is not in direct continuation of the employee's regular tour of duty. In addition, each such period of Sunday or holiday or unscheduled overtime work to which the 2-hour minimum charge provision applies may include a commuted traveltime period (see 7 CFR 354.1(a)(2) and 9 CFR 97.1(b)).

User Fees for Import- and Export-Related Veterinary Services

APHIS charges user fees for import- and export-related veterinary services. The regulations in 9 CFR part 130 list user fees for import- and export-related services provided by APHIS for animals, animal products, birds, germ plasm, organisms, and vectors.

These user fees are authorized by § 2509(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (21 U.S.C. 136a). APHIS is authorized to establish and collect fees that will cover the cost of providing import- and export-related services for animals, animal products, birds, germ plasm, organisms, and vectors.

On August 28, 2000, we published in the **Federal Register** (65 FR 51997–52010, Docket No. 97–058–2) a final rule that amended the regulations in 9 CFR part 130 by adjusting our user fees for import- and export-related services that we provide for animals, animal products, birds, germ plasm, organisms, and vectors and by setting user fees for these services for fiscal years 2001 through 2004 and beyond. (In that final rule, we did not specify an end date for user fees that become effective on October 1, 2003 [the beginning of fiscal year 2004] because we will continue to charge the fiscal year 2004 user fees until new user fees are in effect.) Additionally, on August 1, 2001, we published in the **Federal Register** (66 FR 39628–39632, Docket No. 99–060–2) another final rule that amended the regulations by updating some of the user fees in 9 CFR part 130. When we proposed to establish the user fees for fiscal years 2001 through 2004 and beyond, we stated that, prior to the beginning of each fiscal year, we would publish a notice to remind the public of the user fees for that fiscal year. This document provides notice to the public of the user fees for fiscal year 2004 (October 1, 2003, through September 30, 2004) and beyond. The specific services and user fees are described below.

We provide standard and nonstandard housing, care, feed, and handling for

individual animals and certain birds [1] quarantined in APHIS-owned or -operated animal quarantine facilities, including APHIS Animal Import Centers. As specified in § 130.2(a), the daily user fee for each animal or bird quarantined in APHIS-owned or -operated animal quarantine facilities receiving standard housing, care, feed, and handling for fiscal year 2004 and beyond will be as follows:

Animal or bird	User fee Beginning Oct. 1, 2003
Birds (excluding ratites and pet birds imported in accordance with 9 CFR part 93):	
0–250 grams	$1.75
251–1,000 grams	5.75
Over 1,000 grams	13.00
Domestic or zoo animals (except equines, birds, and poultry):	
Bison, bulls, camels, cattle, or zoo animals	102.00
All others, including, but not limited to, alpacas, llamas, goats, sheep, and swine	27.00
Equines (including zoo equines, but excluding miniature horses):.	
1st through 3rd day (fee per day)	270.00
4th through 7th day (fee per day)	195.00
8th and subsequent days (fee per day)	166.00
Miniature horses	61.00
Poultry (including zoo poultry):	
Doves, pigeons, quail	3.50
Chickens, ducks, grouse, guinea fowl, partridge, pea fowl, pheasants	6.25
Large poultry and large waterfowl, including, but not limited to game cocks, geese, swans, and turkeys	15.00
Ratites:	
Chicks (less than 3 months old)	9.25
Juveniles (3 months through 10 months old)	14.00
Adults (11 months old and older)	27.00

Certain conditions or traits, such as aggression, may necessitate special requirements for certain birds or poultry. Birds and poultry receiving nonstandard housing, care, feed, or handling to meet special requirements may receive those services while quarantined in an APHIS-owned or -operated quarantine facility at the request of an importer or as required by an APHIS representative. As specified in § 130.2(b), the daily user fee for each bird or poultry receiving nonstandard housing, care, or handling while quarantined in an APHIS-owned or -operated animal quarantine facility for fiscal year 2004 and beyond is $5.75 for birds weighing 250 grams or less, and doves, pigeons, and quail; $13 for birds weighing 251 to 1,000 grams and poultry such as chickens, ducks, grouse, guinea fowl, partridge, pea fowl, and pheasants; and $25 for birds over 1,000 grams and large poultry and large waterfowl, including, but not limited to game cocks, geese, swans, and turkeys. As specified in § 130.2(c), importers of animals or birds that require a diet other than standard feed must either provide feed or pay APHIS for feed on an actual cost basis, including the cost of delivery to the APHIS-owned or -operated animal import center or quarantine facility.

We accept requests from importers to exclusively occupy a space at an APHIS animal import center. As specified in § 130.3(a)(1), the monthly user fee for exclusive use of space at the APHIS animal import center in Newburgh, NY, for fiscal year 2004 and beyond is $59,254 to occupy a space 5,396 square feet in size, $97,764 for a space 8,903 square feet in size, and $9,938 for a space 905 square feet in size. The fees listed in § 130.3(a)(1) cover all costs of quarantine [2] except feed. The importer either provides the feed or pays for it on an actual cost basis, including the cost of delivery.

We process applications for permits to import and transport certain animals, animal products, organisms, vectors, and germ plasm.[3] As specified in § 130.4, the user fees for processing import permit applications for certain animals, animal products, organisms, vectors, and germ plasm during fiscal year 2004 and beyond will be as follows:

Service	Unit	User fee Beginning Oct. 1, 2003
Import compliance assistance:		
Simple (2 hours or less)	Per release	$70.00
Complicated (more than 2 hours)	Per release	180.00
Processing an application for a permit to import live animals, animal products or byproducts, organisms, vectors, or germ plasm (embryos or semen) or to transport organisms or vectors [1]		
Initial permit	Per pplication	94.00
Amended permit	Per amended application	47.00
Renewed permit [2]	Per application	61.00

[1] Those animals and birds subject to quarantine are specified in 9 CFR, chapter I, subchapter D of the regulations.

[2] Paragraphs (a)(2) and (c) of § 130.3 specify that additional user fees will be charged to importers for occupancy of space for more than 30 days or nonstandard handling or care of animals or birds.

[3] Those animal products, organisms, vectors, and germ plasm that require permits for importation into the United States are specified in 9 CFR, chapter I, subchapter D of the regulations.

Service	Unit	User fee
		Beginning Oct. 1, 2003
Processing an application for a permit to import fetal bovine serum when facility inspection is required.	Per application	322.00

[1] Using Veterinary Services Form 16–3 ''Application for Permit to Import or Transport Controlled Material or Organisms or Vectors,'' or Form 17–129, ''Application for Import or In Transit Permit (Animals, Animal Semen, Animal Embryos, Birds, Poultry, or Hatching Eggs).''
[2] Permits to import germ plasm and live animals are not renewable.

We inspect live animals presented for importation or entry into the United States through a land border port along the United States-Mexico border. As specified in § 130.6(a), the user fees for inspection of live animals at land border ports along the United States-Mexico border for fiscal year 2004 and beyond will be as listed in the following table:

Type of live animal	Per head user fee
	Beginning Oct. 1, 2003
Any ruminants (including breeder ruminants) not covered below	$9.00
Feeder	2.50
Horses, other than slaughter	44.00
In-bond or in-transit	5.75
Slaughter	3.75

We also inspect live animals presented for importation into or entry into the United States through a land border port along the United States-Canada border. As specified in § 130.7(a), user fees for import or entry services for live animals at land border ports along the United States-Canada border for fiscal year 2004 and beyond will be as follows:

Type of live animal	Unit	User fee
		Beginning Oct. 1, 2003
Animals being imported into the United States:		
Breeding animals (grade animals, except horses):		
Sheep and goats	Per head	$0.50
Swine	Per head	0.75
All others	Per head	3.25
Feeder animals:		
Cattle (not including calves)	Per head	1.50
Sheep and calves	Per head	0.50
Swine	Per head	0.25
Horses (including registered horses), other than slaughter and in-transit	Per head	29.00
Poultry (including eggs), imported for any purpose	Per load	50.00
Registered animals (except horses)	Per head	6.00
Slaughter animals (except poultry)	Per load	25.00
Animals transiting [1] the United States:		
Cattle	Per head	1.50
Sheep and goats	Per head	0.25
Swine	Per head	0.25
Horses and all other animals	Per head	6.75

[1] The user fee in this section will be charged for in-transit authorizations at the port where the authorization services are performed. For additional services provided by APHIS, at any port, the hourly user fee rate in § 130.30 will apply.

We provide a variety of other services related to the importation into or exportation from the United States of animals, animal products, birds, germ plasm, organisms, and vectors. As specified in § 130.8(a), user fees for those import-or export-related services during fiscal year 2004 and beyond are as follows:

Service	Unit	User fee
		Beginning Oct. 1, 2003
Germ plasm being exported: [1]		
Embryo:		
Up to 5 donor pairs	Per certificate	$83.00

Service	Unit	User fee
		Beginning Oct. 1, 2003
Each additional group of donor pairs, up to 5 donor pairs per group, on the same certificate.	Per group of donor pairs	37.00
Semen	Per certificate	51.00
Release from export agricultural hold:		
Simple (2 hours or less)	Per release	70.00
Complicated (more than 2 hours)	Per release	180.00

[1] This user fee includes a single inspection and resealing of the container at the APHIS employee's regular tour of duty station or at a limited port. For each subsequent inspection and resealing required, the hourly user fee in § 130.30 will apply.

We inspect lots of pet birds [4] of U.S. origin returning to the United States. As specified in § 130.10(a), user fees for the inspection of pet birds of U.S. origin returning to the United States, except pet birds of U.S. origin returning from Canada, during fiscal year 2004 and beyond are $108 per lot of birds which have been out of the United States for 60 days or less, and $257 per lot of pet birds which have been out of the United States for more than 60 days.

We also provide housing, care, feed, and handling for pet birds quarantined in APHIS-owned or -supervised quarantine facilities. The daily user fee to quarantine pet birds applies per isolette and varies based on the number of pet birds determined by an APHIS representative to be appropriate per isolette. All the birds quarantined in one isolette are covered by one fee, which is assessed daily for the duration of the quarantine. As specified in § 130.10(b), the daily user fee for each pet bird quarantined in an APHIS-owned or supervised quarantine facility for fiscal year 2004 and beyond is $9.25 for one pet bird quarantined in one isolette, $11 for two pet birds quarantined in one isolette, $13 for three pet birds quarantined in one isolette, $15 for four pet birds quarantined in one isolette, and $18 for five pet birds quarantined in one isolette.

We inspect and approve various import and export facilities and establishments.[5] As specified in § 130.11, the user fees for inspecting and approving import and export facilities and establishments during fiscal year 2004 and beyond will be as listed in the following table:

Service	Unit	User fee
		Beginning Oct. 1, 2003
Embryo collection center inspection and approval (all inspections required during the year for facility approval).	Per year	$380.00
Inspection for approval of biosecurity level three laboratories (all inspections related to approving the laboratory for handling one defined set of organisms or vectors).	Per inspection.	977.00
Inspection for approval of pet food manufacturing, rendering, blending, or digest facilities:		
Initial approval	For all inspections required during the year.	404.75
Renewal	For all inspections required during the year.	289.00
Inspection for approval of pet food spraying and drying facilities:		
Initial approval	For all inspections required during the year.	275.00
Renewal	For all inspections required during the year.	162.00
Inspection for approval of slaughter establishment:		
Initial approval (all inspections)	Per year	373.00
Renewal (all inspections)	Per year	323.00
Inspection of approved establishments, warehouses, and facilities under 9 CFR parts 94 through 96:		
Approval (compliance agreement) (all inspections for first year of 3-year approval)	Per year	398.00
Renewed approval (all inspections for second and third years of 3-year approval)	Per year	230.00

We endorse export health certificates for animals, birds, or animal products.[6] As specified in § 130.20(a), the user fees for each export health certificate endorsed for animals, birds, or animal products that do not require the verification of tests or vaccinations, regardless of the number of animals, birds, or animal products covered by the certificate, will be $32 for animal and nonanimal products; $30 for hatching eggs; $30 for poultry, including slaughter poultry; $33 for ruminants, except slaughter ruminants moving to Canada or Mexico; [7] $35 for slaughter animals (except poultry but including ruminants) moving to Canada or Mexico; and $24 for other endorsements or certifications during fiscal year 2004 and beyond.

[4] Provisions for the importation of pet birds into the United States are specified in 9 CFR, chapter I, subchapter D of the regulations.

[5] Requirements for the inspection and approval of various quarantine facilities are specified in 9 CFR, chapter I, subchapter D of the regulations.

[6] Those animals, birds, or animal products that require export health certificates are specified in 9 CFR, chapter I, subchapter D of the regulations.

[7] This particular fee is new, and was established in a final rule that was published in the **Federal Register** on August 29, 2003 (68 FR 51878–51887, Docket No. 02–040–2) and becomes effective on October 1, 2003.

We also endorse export health certificates for animals, birds, or animal products that require verification of tests or vaccinations. The user fees for these certificates apply to each export health certificate endorsed for animals and birds, depending on the number of animals or birds covered by the certificate and the number of tests or vaccinations required. As specified in § 130.20(b), the user fees for each export health certificate endorsed for animals and birds for fiscal year 2004 and beyond is as follows:

Number of tests or vaccinations and number of animals or birds on the certificate	User fee Beginning Oct. 1, 2003
1–2 tests or vaccinations:	
Nonslaughter horses to Canada:	
First animal	$38.00
Each additional animal	4.25
Other animals or birds:	
First animal	76.00
Each additional animal	4.25
3–6 tests or vaccinations:	
First animal	94.00
Each additional animal	7.25
7 or more tests or vaccinations:	
First animal	109.00
Each additional animal	8.50

We provide certain import-or export-related veterinary services at hourly rates [8] that may be performed during and outside of regularly established hours of service. As specified in § 130.30(a), the user fees in fiscal year 2004 for import- or export-related hourly veterinary services performed during regularly established hours of service, except those services covered by flat rate user fees, will be $84 per hour or $21 per quarter hour for each APHIS employee; the per service minimum fee is $25. When the import- or export-related veterinary services listed in § 130.30(a)(1) through (a)(13) are performed on a Sunday, holiday, or at any time outside of an APHIS employee's normal tour of duty, a premium rate user fee is charged. As specified in § 130.30(b), the user fees in fiscal year 2004 for hourly veterinary services provided at any time outside an employee's normal tour of duty Monday through Saturday and on holidays will be $100 per hour or $25 per quarter hour for each APHIS employee, and the user fees for hourly veterinary services provided on a Sunday will be $112 per hour or $28 per quarter hour for each APHIS employee.

Users who request import- or export-related services that are covered by flat rate user fees on a Sunday, holiday, or any time outside of an APHIS employee's normal tour of duty, and who are subject to the overtime rates set forth in 7 CFR 354.1 or 9 CFR 97.1, are charged the hourly overtime rates set out in § 130.50(b)(3)(i) in addition to the flat rate user fees. For fiscal year 2004, the overtime rates charged to users who request flat rate user fee services are as follows:

OVERTIME FOR FLAT RATE USER FEES [1] [2]

	Outside of the employee's normal tour of duty	Overtime rates (per hour) Oct. 1, 2003–Sept. 30, 2004
Rate for inspection, testing, certification or quarantine of animals, animal products or other commodities (*See* 7 CFR 354.3 or 9 CFR 97.1(a) for details.).	Monday–Saturday and holidays	$48.00
	Sundays	63.00
Rate for commercial airline inspection services (*See* 9 CFR 97.1(a)(3) for details.)	Monday–Saturday and holidays	39.00
	Sundays	51.00

[1] Minimum charge of 2 hours, unless performed on the employee's regular workday and performed in direct continuation of the regular workday or begun within an hour of the regular workday.

[2] When the 2-hour minimum applies, you may need to pay commuted travel time. (*See* 9 CFR 97.1(b) for specific information about commuted travel time.)

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

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–25255 Filed 10–3–03; 8:45 am]

BILLING CODE 3410–34–P

[8] Section 130.30 (a)(1) through (a)(13) lists import- or export-related veterinary services that are calculated at hourly rates for each APHIS employee required to perform the service.

DEPARTMENT OF AGRICULTURE

Forest Service

Sheep Creek Fire Salvage, Beaverhead-Deerlodge National Forest, Beaverhead County, MT

AGENCY: Forest Service, USDA.

ACTION: Amended notice of intent to prepare an environmental impact statement.

SUMMARY: This amended notice of intent to prepare an environmental impact statement is a correction of the original notice of intent published on July 11, 2003 (Volume 68, Number 133, page

41295–41296). This amendment includes text which was not included in the original notice of intent. The USDA, Forest Service, will prepare an environmental impact statement (EIS) to disclose the environmental effects of the salvage harvest of timber killed as a result of fire in the Canyon Creek, Boulder Creek, Cascade Creek, Sage Creek, and Runaway Creek drainages (herein referred to as the Sheep Creek project). The project area is located 15 miles west of Wisdom, Montana, north of State Highway 43, just west of the Placer Creek Road. The project area is outside of inventoried roadless areas.

DATES: Comments concerning the scope of the analysis must be postmarked by November 20, 2003. The draft environmental impact statement is expected February, 2004 and the final environmental impact statement is expected June of 2004.

ADDRESSES: Written comments concerning this notice or a request to be placed on the project mailing list should be addressed to Chris Tootell, TEAMS, 200 East Broadway, suite 251, Missoula, Montana, 59807. Comments may also be sent via e-mail to *r1_b-d_comments@fs.fed.us.* (Please note that there is a 'one' after the letter r, not an 'L.') The subject line in the e-mail message should contain the title ''Sheep Creek Fire Salvage Project.'' If you choose to comment by e-mail, please include your name and regular mailing address with the comment. Comments may also be sent via facsimile to (406) 689–3245, C/O Dennis Havig, Wisdom Ranger District.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Wisdom Ranger District,Wisdom, MT. Visitors are encouraged to call ahead to (406) 689–3243 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Chris Tootell, Environmental Resource Coordinator, TEAMS Enterprise unit, USDA Forest Service (406) 329–3459. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The proposed project area is located within sections 4,5,6,7,8,9 & 18, T.2S., R.17W., and sections 1, 12 and 13, T.2S., R.18W.

Purpose and Need for Action

The purpose and need for the proposed action is to move toward the desired conditions as described in the Beaverhead National Forest Land and Resource Management Plan (LRMP). The proposed action is located on lands classified as ''available and suitable for timber production'' (LRMP, p. III–48 and III–63). Congress has recognized the importance of sustainable commodity use in laws including the Multiple-Use Sustained Yield Act, the National Forest Managment Act, and the 1872 Mining Act. There is a need to emphasize long-term production of commodities for local and regional economies, communities, and people in an environmentally sound manner (LRMP, Record of Decision, p.19). Most of the trees killed as a result of the fire are expected to fall to the ground and contribute to heavy fuel build-up over the next two decades. There is a need to break up the continuity of fuel accumulation to prevent the dead trees from becoming part of a future, long-term fuels problem. Specifically, the purpose and need is to:

- Recover and utilize timber from the trees killed as a result of the Sheep Creek Fire providing a supply of wood products to the forest products industry and ultimately to the public, and
- Break up fuel continuity and decrease fuel loads in order to decrease risks that future fires will pose to human health and safety, improvements and resources.

Proposed Action

To address these needs the proposed action has the following components:

- Approximately 600 to 1,000 acres would be salvage harvested within the Sheep Creek Fire perimeter. Trees that are dead as a result of the fire would be salvaged by conventional ground-based and cable logging methods. An estimated 3 to 6 million board feet of merchantable timber would be recovered by the harvesting operations. As much as practicable, slash associated with harvest operations would be piled and burned on the landings.
- Where concentrations of fuels exist within proposed treatment areas, techanical or other methods of fuel treatment will occur where practicable.
- Approximately 2.5 miles of temporary road would be constructed to access proposed harvest units; the temporary roads would be reclaimed when this project is completed.

The salvage timber harvest and fuel treatments following harvest would reduce fuel loading in accordance with Beaverhead National Forest Land and Resource Management Plan (LRMP p. II–29, II–35), and Beaverhead-Deerlodge Fire Management Plan.

Operational design elements would be included to ensure compliance and consistency with direction found in the LRMP, and state and federal law, regulation and direction.

Implementation of these activities would occur as soon as possible following completion of the environmental analysis. It is proposed that the environmental analysis be completed by spring of 2004 with a signed decision document issued by 6/18/2004.

Responsible Official

Thomas K. Reilly, Beaverhead-Deerlodge National Forest Supervisor, 420 Barrett Street, Dillon, MT 59725–3572.

Nature of Decision To Be Made

The decisions to be made include the location and scheduling of the proposed salvage harvest activities, harvest methods and associated slash treatment and silvicultural treatments; the estimated timber volume to make available from the project area; the estimated amount of temporary road construction needed; and mitigation mesures and monitoring requirements.

Scoping Process

Public participation is important to this analysis. Part of the goal of public involvement is to identify additional issues and to refine the general, tentaive issues. The Beaverhead-Deerlodge National Forest has developed a listing of individuals and organizations that have expressed an interest in being informed of and providing input to vegetation management and fuel redcution projects. This list of individuals and organizations include private citizens, businesses, various organizations, Native American groups, and federal, state and county agencies. All of these contacts will be sent the intial scoping document.

Preliminary Issues

The following list of preliminary issues was developed for the project area by the Forest Service Interdisciplinary Team (ID Team). This list was developed after review of issues from previous post fire management projects, including previous public involvement, and specific internal agency scoping. General categories have been used to focus key topics. This list will be amended and/or expanded after review of the Sheep Creek Fire Salvage project public comments. During the analysis, alternatives to the proposed action will be developed responding to the final list of issues. In response to the issues, the alternatives developed may

include different levels of activity and may include different prescriptions.

- Timber sale value.
- Potential reduction of big game ''security cover'' within harvest units may result in a need for a nonsignificant site specific Forest plan amendment for elk effective cover standards.
- Loss of future potential Lynx denning habitat by removal of heavy fuels.
- Potential for introduction and spread of noxious weeds from logging and log hauling.
- Potential soil disturbance.
- Residual fuel loads exceeding desired thresholds within treatment units.
- Potential for introduction of sediment to streams impacting fish species.
- Loss of habitat for snag dependent and cavity nesting species.

Comment Requested

This amended notice of intent initiates the scoping process which guides the development of the draft environmental impact statement, including the identification of the range of alternatives to be considered. While public participation is strictly optional at this stage, the Forest Service believes that it is important to give reviewers notice of several court rulings related to public participation in the subsequent environmental review process. First, reviewers of draft statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).

Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day draft environmental impact statement comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments also may address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. In addressing these points, reviewers may wish to refer to the Council on Environmental Quality regulations which implement the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3.

Dated: September 23, 2003.

Thomas K. Reilly,

Forest Supervisor.

[FR Doc. 03–25235 Filed 10–3–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Yakutat Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Yakutat Resource Advisory Committee will meet in Yakutat, Alaska. The purpose of the meeting is continue business of the Yakutat Resource Advisory Committee. The committee was formed to carry out the requirements of the Secure Rural Schools and Self-Determination Act of 2000. The agenda for this meeting is to review submitted project proposals and consider recommending projects for funding. Project proposals are due by October 1, 2003 to be considered at this meeting.

DATES: The meeting will be held October 24, 2003 from 6–9 p.m. and will continue on October 25, 2003 from 9–12 a.m., if necessary.

ADDRESSES: The meeting will be held at the Kwaan Conference Room, 712 Ocean Cape Drive, Yakutat, Alaska. Send written comments to Tricia O'Connor, c/o Forest Service, USDA, P.O. Box 327, Yakutat, AK 99689, (907) 784–3359 or electronically to *poconnor@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Tricia O'Connor, District Ranger and Designated Federal Official, Yakutat Ranger District, (907) 784–3359.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Council discussion is limited to Forest Service staff and Council members. However, persons who wish to bring resource projects or other Resource Advisory Committee matters to the attention of the Council may file written statements with the Council staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by October 17, 2003 will have the opportunity to address the Council at those sessions.

Dated: September 26, 2003.

Patricia M. O'Connor,

District Ranger, Yakutat Ranger District, Tongass National Forest.

[FR Doc. 03–25212 Filed 10–3–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Tennessee Field Office Technical Guide (FOTG)

AGENCY: Natural Resources Conservation Service (NRCS) in Tennessee, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in the Tennessee NRCS Field Office Technical Guide, Section IV, for review and comment.

SUMMARY: It has been determined by the NRCS State Conservationist for Tennessee that changes must be made in the NRCS Field Office Technical Guide, specifically in practice standard Residue Management, Seasonal (Code 344) to account for improved technology. This practice standard can be used in systems that treat highly erodible cropland.

DATES: Comments will be received for a 30-day period commencing with the date of this publication.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to James W. Ford, State Conservationist, Natural Resources Conservation Service (NRCS), 675 U.S. Courthouse, 801 Broadway, Nashville, Tennessee, 37203, telephone number (615) 277–2531. Copies of the practice standard will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS state technical guides used to perform highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Tennessee will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Tennessee regarding

disposition of those comments and a final determination of change will be made to the subject practice standard.

Dated: September 24, 2003.

James W. Ford,

State Conservationist.

[FR Doc. 03–25258 Filed 10–3–03; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Advance Monthly Retail Trade and Food Services Survey.

Form Number(s): SM–44(00)A, SM–44(00)AS, AM–44(00)AE, and SM–72(00)A.

Agency Approval Number: 0607–0104.

Type of Request: Extension of a currently approved collection.

Burden: 4,500 hours.

Number of Respondents: 4,500.

Avg Hours Per Response: 5 minutes.

Needs and Uses: The Advance Monthly Retail Sales and Food Services Survey (MARTS) was developed in response to requests by government, business, and other users to provide an early indication of current retail trade activity at the United States level. Policymakers such as the Federal Reserve board need to have the most timely estimates in order to anticipate economic trends and act accordingly. The U. S. Census Bureau tabulates the collected data to provide, with measured reliability, statistics on United States retail sales. MARTS also provides monthly sales estimates of food service establishments and drinking places. These sales estimates are used by the Council of Economic Advisers, Bureau of Economic Analysis (BEA), Federal Reserve Board, and other government agencies as well as business users in formulating economic decisions. Sales estimates from this survey provide the earliest possible look at consumer spending and are necessary for the calculation of the personal consumption portion of the Gross Domestic Product (GDP). These estimates have a high priority because of their timeliness. Without the Advance Monthly Retail Sales and Food Services Survey, the Census Bureau's earliest measure of retail sales is the ''preliminary'' estimate from the full monthly sample released about 40 days after the reference period.

Affected Public: Business or other for-profit.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dhynek@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer either by fax (202–395–7245) or e-mail (*susan_schechter@omb.eop.gov*).

Dated: September 30, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–25196 Filed 10–3–03; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Designation of a Fair

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1955, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 5, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution, NW., Washington, DC 20230 or via the Internet at *dHynek@doc.gov.*

FOR FURTHER INFORMATION, CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Linda Harbaugh, Department of Commerce, ITA, Office of Travel and Tourism Industries, Room 7025, 14th and Constitution Avenue, NW., Washington, DC 20230; Phone: (202) 482–2404; Fax: (202) 482–4279.

SUPPLEMENTARY INFORMATION:

I. Abstract

The International Trade Administration, Service Industries, Tourism & Finance, Office of Travel & Tourism Industries, offers trade fair guidance and assistance to trade fair organizers, trade fair operators, and other travel and trade oriented groups. These fairs open doors to promising trade markets around the world. These trade fairs provide an opportunity for showcasing quality exhibitors and products from around the world. The ''Application for Designation of a Fair'' is a questionnaire that is prepared and signed by an organizer to begin the certification process. It asks the fair organizer to provide details as to the date, place, and sponsor of the fair, as well as license, permit, and corporate backers, and countries participating. To apply for the U.S. Department of Commerce certification, the fair organizer must have all of the components of the application in order. Then, with the approval, the organizer is able to bring their products into the U.S. in accordance with Customs laws. Articles which may be brought in, include, but are not limited to, actual exhibit items, pamphlets, brochures, and explanatory material in reasonable quantities relating to the foreign exhibits at a trade fair, and material for use in constructing, installing, or maintaining foreign exhibits at a trade fair.

II. Method of Collection

The request is mailed, faxed, or e-mailed from to Department of Commerce, Office of Travel and Tourism Industries, to the Trade Fair Chairperson.

III. Data

OMB Number: 0625–0228.

Form Number: ITA–4135P.

Type of Review: Regular submission.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 220.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 110.

Estimated Total Annual Cost: $2200.

IV. Requested for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance

of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways too enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 30, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–25197 Filed 10–3–03; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351–832, A-122–840, A-560–815, A-201–830, A-841–805, A-274–804, A-823–812, C-351–833, and C-122–841]

Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Preliminary Results of Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Changed Circumstances Review of the Antidumping Duty and Countervailing Duty Orders, and Intent To Revoke Orders, in Part.

EFFECTIVE DATE: October 6, 2003.

SUMMARY: On August 21, 2003, the Department of Commerce (the Department) published a notice of initiation of a changed circumstances review with the intent to revoke, in part, the antidumping duty orders and countervailing duty orders on carbon and certain alloy steel wire rod, as described below. *See Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Initiation of Changed Circumstances Antidumping Duty Administrative Review and Countervailing Duty Administrative Reviews, and Intent To Revoke Orders in Part*, 68 Fed. Reg. 50,513 (August 21, 2003) (*Initiation Notice*).

In our *Initiation Notice* we invited interested parties to comment. We did not receive comment concerning the technical description of the merchandise subject to this changed circumstances review. However, on August 22, 2003, petitioners[1] filed a letter stating the *Initiation Notice* contains an error in language with respect to the effective date of liquidation of entries because the *Initiation Notice* does not match the intent of petitioners' July 24, 2003 request for changed circumstances review. The Department has amended the effective date accordingly. Absent any other comments, we preliminarily conclude that producers accounting for substantially all of the production of the domestic like product to which these orders pertain lack interest in the relief provided by the order. Unless the Department receives opposition from domestic producers who's production totals more than 15 percent of the domestic like product, the Department will partially revoke the orders on carbon and certain alloy steel wire rod in its final results of this review. Therefore, we preliminarily revoke these orders, in part, with respect to products entered, or withdrawn from warehouse, for consumption on or after July 24, 2003 of carbon and certain alloy steel wire rod described below, because domestic parties have expressed no interest in the continuation of the orders on that merchandise.

FOR FURTHER INFORMATION CONTACT: Brian J. Sheba or Robert M. James, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0145 or (202) 482–0649.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty orders on steel wire rod from Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine on October 29, 2002. *See Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod From Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine*, 67 Fed. Reg. 65,945, *and Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Carbon and Alloy Steel Wire Rod From Canada*, 67 Fed. Reg. 65,944. The Department published the countervailing duty orders on steel wire rod from Brazil and Canada on October 22, 2002. *See Notice of Countervailing Duty Orders: Carbon and Certain Alloy Steel Wire Rod From Brazil and Canada*, 67 Fed. Reg. 64,871. On July 24, 2003, petitioners requested that the Department change the technical description of certain grade 1080 tire cord quality wire rod and grade 1080 tire bead quality wire rod (hereafter, tire cord wire rod). This request arises, petitioners aver, because the original definition of the excluded tire cord wire rod was drawn too narrowly and, thus, captures within the scope certain products petitioners no longer wish to have subject to the orders.

On August 21, 2003, the Department published a notice of initiation of a changed circumstances review of the antidumping duty and countervailing duty orders on carbon and certain alloy steel wire rod products. *See Initiation Notice*. In the *Initiation Notice*, we indicated interested parties could submit comments for consideration in the Department's preliminary results not later than 14 days after publication of the initiation of the review, and submit responses to those comments no later than 5 days following the submission of comments. On August 22, 2003, petitioners filed comments that stated the *Initiation Notice* contains an error in language with respect to the effective date of liquidation of entries because the *Initiation Notice* does not match the intent of petitioners.

The *Initiation Notice* stated:

If, as a result of this review, we revoke the order, in part, we intend to instruct the Bureau of Customs and Border Protection (Customs) to liquidate without regard to antidumping duties, as applicable, and to refund any estimated antidumping duties collected for all unliquidated entries of the tire cord wire rod products meeting the specifications indicated above, as of July 24, 2003, the date this changed circumstances review request was filed by Petitioners, in accordance with 19 CFR 351.222(g)(4).

Initiation Notice, 68 Fed. Reg. 50,513, at 50,515. Petitioners claim this language could be read to mean that all unliquidated entries existing as of July 24, 2003 will be subject to the terms of the changed scope. The phrase ''as of July 24, 2003'' could also be read to mean that entries made prior to July 24, 2003 that were subject to the original scope would now be excluded by the new scope exclusion language. Petitioners state such a result is contrary

[1] Petitioners are Georgetown Steel Co. (Formerly, GS Industries), North Star Steel Texas, Gerdau Ameristeel (formerly, Co-Steel Raritan), and Keystone Consolidated Industries.

to the plain language of petitioners' request and not the intent of the Department's *Initiation Notice*. Petitioners did not otherwise comment on the scope of the orders. No other interested party commented on the *Initiation Notice*.

Scope of the Orders

The merchandise covered by these orders is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (i.e., products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

The designation of the products as ''tire cord quality'' or ''tire bead quality'' indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Scope of Changed Circumstances Review

The products subject to this changed circumstances antidumping duty and countervailing duty administrative review are certain grade 1080 tire cord steel wire rod and grade 1080 tire bead steel wire rod. Point (iii) of the existing definition of these products reads: ''having no inclusions greater than 20 microns.'' Petitioners suggest amending this to read ''having no *non-deformable* inclusions greater than 20 microns *and no deformable inclusions greater than 35 microns*.'' Letter from petitioners dated July 24, 2003, at 5 (emphases in original).

Petitioners would then insert an explanatory paragraph after the existing definition of tire cord wire rod reading:

For purposes of the grade 1080 tire cord quality wire rod and the grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis - that is, the direction of rolling - of the rod) over thickness (measured on the same inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod.

Letter from petitioners dated August 6, 2003, at 6; original emphasis deleted.

Preliminary Results of Review and Intent to Revoke in Part the Antidumping Duty and Countervailing Duty Orders

Pursuant to sections 751(d)(1) of the Tariff Act, the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Tariff Act (i.e., a changed circumstances review). Section 751(b)(1) of the Tariff Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(1) of the Tariff Act gives the Department the authority to revoke an order if producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the continuation of the order. Section 351.222(g) of the Department's regulations provides that the Department will conduct a changed circumstances administrative review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it

concludes that (i) producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part, or (ii) if other changed circumstances sufficient to warrant revocation exist. Since the Department did not receive any comments during the comment period opposing the exclusion of certain grade 1080 tire cord quality wire rod and grade 1080 tire bead quality wire rod, as defined in the ''Scope of Changed Circumstances Review'' above, from the antidumping duty and countervailing duty orders, we preliminarily conclude that producers accounting for substantially all of the production of the domestic like product to which these orders pertain lack interest in the relief provided by the order. Unless the Department receives opposition from domestic producers who's production totals more than 15 percent of the domestic like product, the Department will partially revoke the orders on carbon and certain alloy steel wire rod in its final results of review. Therefore, the Department is preliminarily revoking the orders on carbon and certain alloy steel wire rod from Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine, in part, for all entries after the date of the petitioners' request with regard to the products which meet the specifications above.

The Department has considered interested parties' comments concerning the effective date of liquidation of entries. As a result, we intend to instruct Customs to liquidate all entries of subject products entered for consumption on or after July 24, 2003, the effective date of the revocation, in part, of these orders, in accordance with 19 CFR 351.222(g)(4).

Interested parties wishing to comment on these preliminary results may submit briefs to the Department no later than 16 days after the publication of this notice in the **Federal Register**. Parties will have five days subsequent to this due date to submit rebuttal comments, limited to the issues raised in those comments. Parties who submit comments or rebuttal comments in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument (no longer than five pages, including footnotes). Any requests for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**.

All written comments must be submitted in accordance with 19 CFR 351.303, with the exception that only three (3) copies for each case need be served on the Department. Any comments must also be served on all interested parties on the Department's service list. The Department will issue its final results of review as soon as practicable following the above comment period, but not later than 270 days after the date on which the changed circumstances review is initiated, in accordance with 19 CFR 351.216(e), and will publish these results in the **Federal Register**. While the changed circumstances review is underway, the current requirement for a cash deposit of estimated antidumping or countervailing duties on all subject merchandise, including the merchandise that is the subject of this changed circumstances review, will continue unless and until these orders are revoked, in part, pursuant to the final results of this changed circumstances review or an administrative review.

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Tariff Act and 19 CFR 351.216 and 351.222 of the Department's regulations.

Dated: September 29, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–25281 Filed 10–3–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–847]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Hard Red Spring Wheat From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amended Final Determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: October 6, 2003.

FOR FURTHER INFORMATION CONTACT: Julie Santoboni or Cole Kyle, 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) 482–1503, respectively.

Scope of the Investigation

For purposes of this investigation, the products covered are all varieties of hard red spring (''HRS'') wheat from Canada. This includes, but is not limited to, varieties commonly referred to as Canada Western Red Spring, Canada Western Extra Strong, and Canada Prairie Spring Red. The merchandise subject to this investigation is currently classifiable under the following Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 1001.90.10.00, 1001.90.20.05, 1001.90.20.11, 1001.90.20.12, 1001.90.20.13, 1001.90.20.14, 1001.90.20.16, 1001.90.20.19, 1001.90.20.21, 1001.90.20.22, 1001.90.20.23, 1001.90.20.24, 1001.90.20.26, 1001.90.20.29, 1001.90.20.35, and 1001.90.20.96. This investigation does not cover imports of wheat that enter under the subheadings 1001.90.10.00 and 1001.90.20.96 that are not classifiable as hard red spring wheat. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Amended Final Determination

On August 28, 2003, the Department of Commerce (''the Department'') determined that HRS wheat from Canada is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735(a) of the Tariff Act of 1930, as amended (''the Act''). *See Notice of Final Determinations of Sales at Less Than Fair Value: Certain Durum and Hard Red Spring Wheat from Canada*, 68 FR 52741 (September 5, 2003). On September 8, 2003, we received ministerial error allegations, timely filed pursuant to 19 CFR. 351.224(c)(2), from the Canadian Wheat Board (''the CWB'') regarding the Department's final margin calculations. The CWB requests that we correct the errors and publish a notice of amended final determination in the **Federal Register**, pursuant to 19 CFR. 351.224(e). The CWB's submission alleges the following with regard to the Department's cost of production (''COP'') calculations.

Farmer 8—The CWB alleges that the Department inadvertently double-counted seed cleaning costs.

Farmer 17—The CWB alleges that the Department inadvertently double-counted certain labor costs.

Farmer 19—The CWB alleges that the Department inadvertently used an incorrect production quantity for the calculation of the crop insurance offset.

Farmer 20—The CWB alleges that the Department inadvertently allocated water rights costs to owned and rented land, rather than just owned land. The CWB also alleges that the Department

inadvertently mis-allocated fixed and variable overhead costs.

Farmer 23—The CWB alleges that the Department inadvertently understated actual labor costs allocated to livestock, thereby overstating the general and administrative (''G&A'') and interest expenses allocated to HRS. The CWB also alleges that the Department inadvertently excluded variable overhead costs related to non-farming activities, thereby overstating the G&A and interest expenses allocated to HRS.

The North Dakota Wheat Commission (''the petitioner'') submitted comments on the CWB's ministerial error allegations on September 10, 2003. The petitioner did not comment on the CWB's ministerial error allegations for Farmer 8 and the allocation of labor costs to livestock for Farmer 23. In response to the CWB's other allegations, the petitioner argues that they were not ministerial.

In accordance with section 735(e) of the Act, we have determined that certain ministerial errors were made in the calculation of the CWB's COP and constructed value (''CV'') in our final margin calculations. For a detailed discussion of the above-cited ministerial error allegations and the Department's analysis, *see* Memorandum to Jeffrey A. May, ''Allegation of Ministerial Errors; Final Determination in the Antidumping Duty Investigation of Certain Hard Red Spring Wheat from Canada'' dated September 26, 2003, which is on file in room B–099 of the main Commerce building.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of HRS Wheat from Canada to correct the ministerial errors found in the calculation of the COP and CV. The final weighted-average dumping margins are:

Exporter/manufacturer	Original weighted-average margin percentage	Amended weighted-average margin percentage
Canadian Wheat Board	8.87	8.86
All Others	8.87	8.86

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, we are directing the U.S. Bureau of Customs and Border Protection (''BCBP'') to continue to suspend liquidation of all imports of subject merchandise from Canada that are entered, or withdrawn from warehouse, for consumption on or after May 8, 2003, the date of publication of the *Notice of Preliminary Determinations of Sales at Less Than Fair Value: Certain Durum and Hard Red Spring Wheat from Canada*, 68 FR 24707 (May 8, 2003) in the **Federal Register**. The BCBP shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart above. These suspension-of-liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission of our amended final determination.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 29, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–25279 Filed 10–3–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201–832 and A-489–812]

Notice of Initiation of Antidumping Investigations: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of Antidumping Investigations.

EFFECTIVE DATE: October 6, 2003.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor (Mexico) at 202–482–5831; Mark Manning (Turkey) at 202–482–5253 or Ronald Trentham at 202–482–6320, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Initiation of Investigations

The Petition

On September 9, 2003, the Department of Commerce (the Department) received a petition filed in proper form by California Steel and Tube; Hannibal Industries, Inc.; Leavitt Tube Company, LLC; Maruichi American Corporation; Northwest Pipe Company; Searing Industries, Inc.; Vest Inc.; and Western Tube and Conduit Corporation (collectively, the petitioners). *See* Letter from Schagrin Associates to Secretary Evans of the Department and Secretary Abbott of the U.S. International Trade Commission (ITC), ''Petition for the Imposition of Antidumping Duties: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey'' (September 9, 2003) (Petition). The petitioners are domestic producers of light-walled rectangular (LWR) pipe and tube products. In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of LWR pipe and tube from Mexico and Turkey are being, or are likely to be, sold in the United States at less-than-fair value (LTFV) within the meaning of section 731 of the Act, and that such imports are materially injuring, or are threatening to materially injure an industry in the United States.

The Department issued a questionnaire to the petitioners on September 12, 2003, to clarify certain aspects of the Petition. The petitioners responded with the requested supplemental information on September 22, 2003. On September 23, 2003, two Mexican producers, and two U.S. importers of Mexican LWR pipe and tube (collectively, the Mexican industry), filed a submission in which they argued that the petitioners have not adequately established that they represent over 50 percent of the U.S. domestic industry. The Department issued a second questionnaire to the petitioners on September 24, 2003. The petitioners, on September 26, 2003, responded to the Department's second questionnaire and, in addition, provided rebuttal comments concerning the Mexican industry's allegations. On September 26 and 29, 2003, the Mexican industry responded to the petitioners' September 22, 2003 rebuttal comments and reiterated the arguments made in its September 23, 2003 submission, respectively.

After reviewing the contents of the Petition and the two amendments provided by the petitioners, the Department finds that the petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act, and they have demonstrated sufficient industry support with respect to the investigations they are presently seeking. *See*, ''Determination of Industry Support for the Petitions,'' below.

Period of Investigation

The period of investigation (POI) for these cases will be July 1, 2002, through June 30, 2003. See 19 CFR 351.204(b)(1).

Scope of Investigations

The merchandise covered by these investigations are LWR pipe and tube from Mexico and Turkey, which are welded carbon-quality pipe and tube of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch. These LWR pipe and tube have rectangular cross sections ranging from 0.375 x 0.625 inches to 2 x 6 inches, or square cross sections ranging from 0.375 to 4 inches, regardless of specification. LWR pipe and tube are currently classifiable under item number 7306.60.5000 of the Harmonized Tariff System of the United States (HTSUS). The HTSUS item number is provided for convenience and customs purposes only. The written product description of the scope is dispositive.

The term ''carbon-quality'' applies to products in which (i) iron predominates, by weight, over each of the other contained elements, (ii) the carbon content is 2 percent or less, by weight, and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of cooper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickle, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium (also called columbium), or 0.15 percent of vanadium, or 0.15 percent of zirconium.

As discussed in the preamble to the Department's regulations, we are setting aside a period for parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. This period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (1) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (2) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The ITC, which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 642–44 (Ct. Int'l Trade 1988) (''the ITC does not look behind ITA's determination, but accepts ITA's determination as to which merchandise is in the class of merchandise sold at LTFV'').

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product defined in the Petition does not differ from the scope of the investigations defined in the *Scope of Investigations* section above. The Department has no basis on the record to find this definition of the domestic like product to be inaccurate. The Department, therefore, has adopted this domestic like product definition. *See Import Administration Antidumping Investigation Checklist* (September 29, 2003) at 2 (*Initiation Checklist*) (the public version on file in the Central Records Unit of the Department, Room B-099, Main Commerce Building).

The Department has further determined that, pursuant to section 732(c)(4)(A) of the Act, the Petition contains adequate evidence of industry support, and, therefore, polling is unnecessary. Information contained in the Petition demonstrates that the domestic producers or workers who support the Petition account for over 50 percent of total production of the domestic like product. Therefore, the domestic producers or workers who support the Petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) of the Act are met. *See Initiation Checklist*, at 3–4 and Attachment I. As mentioned above, the Department received opposition to the Petition from the Mexican industry. We note that the Mexican companies opposed to the petition are not domestic producers of LWR pipe and tube. Although we reviewed and analyzed the arguments made by the Mexican industry, we continue to find that the domestic producers or workers who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the Petition. *See Initiation Checklist*, at 3 and Attachment I. Thus, the requirements of section 732(c)(4)(A)(ii) of the Act are also met.

Accordingly, the Department determines that the Petition was filed on

behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *Id.* at 3–4.

Export Price and Normal Value

The following are descriptions of the allegations of sales at LTFV upon which the Department based its decision to initiate these investigations. The sources of data for the deductions and adjustments relating to U.S. and foreign market prices and cost of production (COP) and constructed value (CV) have been accorded treatment as business proprietary information. The petitioners' sources and methodology are discussed in greater detail in the business proprietary version of the Petition and in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we may re-examine this information and revise the margin calculations, if appropriate.

Mexico

Export Price

The petitioners calculated export price (EP) through two different methods, using price quotes and the average unit value (AUV) for LWR pipe and tube imported from Mexico based upon IM-145 import data for the anticipated POI provided by the Bureau of Customs and Border Patrol (BCBP). First, the petitioners identified two sizes of LWR pipe and tube commonly sold in the U.S. market. The petitioners submitted four price quotes, two for each size of LWR pipe and tube, obtained from U.S. distributors of Mexican products, identical in size to the home market products, acquired from Mexican producers. The petitioners calculated net U.S. prices by deducting foreign inland freight, U.S. import duties, and U.S. inland freight. The petitioners stated that packing charges are included in both the home market and the United States. However, because home market packing is not significantly different from packing for export to the U.S. market, the petitioners did not make any adjustments for packing when calculating the margins. *See Initiation Checklist* at 6–7.

Second, the petitioners calculated EP using the AUV for LWR pipe and tube imported from Mexico. The petitioners did not deduct international freight because the AUV provides the free alongside ship (FAS) value at the foreign port. The petitioners deducted foreign inland freight from the AUV to calculate EP. *Id.*

Normal Value

To calculate normal value (NV), the petitioners provided two price quotes, one for each size of LWR pipe and tube, obtained through foreign market research regarding products manufactured by a major Mexican producer named in the Petition and offered for sale to unaffiliated Mexican purchasers. The petitioners calculated net Mexican prices by deducting inland freight because the price quote was for delivery to a specific location in Mexico. *See Initiation Checklist* at 7–8; *see also* Mexico Export Price section *infra* for discussion of packing charges.

Based on comparisons of EP (method derived from price quotes) to NV, calculated in accordance with section 773(a) of the Act, the estimated dumping margins for LWR pipe and tube from Mexico range from 48.42 percent to 83.86 percent.

Turkey

Export Price

The petitioners calculated EP for Turkey using two different methods. First, as with Mexico, the petitioners identified two sizes of LWR pipe and tube commonly sold in the U.S. market. The petitioners submitted four price quotes, two for each size of LWR pipe and tube, obtained from U.S. distributors of Turkish products, identical in size to the home market products, acquired from producers in Turkey. The petitioners calculated net U.S. prices by deducting international freight and U.S. import duties. The petitioners stated that packing charges are included in both the home market and the United States. However, because home market packing is not significantly different from packing for export to the U.S. market, the petitioners did not make any adjustments for packing when calculating the margins. *See Initiation Checklist* at 8–9.

The petitioners also calculated EP using the AUV for LWR pipe and tube imported from Turkey, based upon IM-145 import data for the anticipated POI provided by BCBP. The petitioners did not deduct international freight because the AUV provides the FAS value at the foreign port. *Id.*

Normal Value

To calculate NV, the petitioners obtained through foreign market research two price quotes, one for each size of LWR pipe and tube, from resellers in Turkey regarding products manufactured by a major Turkish producer named in the Petition. The petitioners calculated net Turkish prices by deducting the average discount offered by the Turkish resellers. *See Initiation Checklist* at 9–11; *see also* Export Price section *infra* for discussion of packing charges.

Although the petitioners provided margins based on a price-to-price and price-to-AUV comparisons, the petitioners also provided information demonstrating reasonable grounds to believe or suspect that sales of LWR pipe and tube in the home market were made at prices below the fully absorbed COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. *See* Initiation of Cost Investigation section *infra* for further discussion.

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM); selling, general, and administrative expenses (SG&A); financial expenses; and packing expenses. The petitioners calculated COM based on their own production experience, adjusted for known differences between costs incurred to produce LWR pipe and tube in the United States and in Turkey using publicly available data. We corrected an error in converting CV from dollars per metric ton (MT) to dollars per hundred feet for one of the products. To calculate SG&A and financial expenses, the petitioners relied upon amounts reported in the 2002 financial statements of Borusan Holding A.S., which is the parent company of Mannesman Boru, a principal producer of the subject merchandise in Turkey. Packing costs were omitted from the COP calculations. Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country-wide cost investigation.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioners also calculated a NV for sales in Turkey based on CV. The petitioners calculated CV using the same COM, SG&A, and financial expense figures used to compute the Turkish home market costs. Consistent with 773(e)(2) of the Act, the petitioners included in CV an amount for profit. For profit, the petitioners relied upon amount reported in the Turkish LWR pipe & tube producer's 2002 financial statements which was zero because the producer experienced a loss.

Based on comparisons of EP (method derived from price quotes) to CV, calculated in accordance with section 773(a) of the Act, the estimated dumping margins for LWR pipe and tube from Turkey range from 27.04 percent to 34.89 percent. We note that these margins are conservative since the petitioners did not include packing in the CV calculation.

Initiation of Cost Investigation

As noted above, pursuant to section 773(b) of the Act, the petitioners provided information demonstrating reasonable grounds to believe or suspect that sales in the home market of Turkey were made at prices below the fully absorbed COP and, accordingly, requested that the Department conduct a country-wide sales-below-COP investigation in connection with the requested antidumping investigation for this country. The Statement of Administrative Action (SAA), submitted to the U.S. Congress in connection with the interpretation and application of the URAA, states that an allegation of sales below COP need not be specific to individual exporters or producers. SAA, H.R. Doc. No. 103–316 at 833 (1994). The SAA states that ''Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation.'' *Id.*

Further, the SAA provides that ''new section 773(b)(2)(A) retains the current requirement that Commerce have 'reasonable grounds to believe or suspect' that below cost sales have occurred before initiating such an investigation. 'Reasonable grounds' ... exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices.'' *Id.* Based upon the comparison of the adjusted prices from the petition for the representative foreign like products to their COPs, we find the existence of ''reasonable grounds to believe or suspect'' that sales of these foreign like products in Turkey were made below their respective COPs within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating the requested country-wide cost investigation.

Fair Value Comparisons

Based on the data provided by the petitioners, the Department finds that there is reason to believe that imports of LWR pipe and tube from Mexico and Turkey are being, or are likely to be, sold at LTFV.

Allegations and Evidence of Material Injury and Causation

With respect to Mexico and Turkey, the petitioners allege the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV.

The petitioners contend that the industry's injured condition is evident in examining market share, production, shipments, capacity utilization, lost sales, profit and employment. *See* Petition at 21–25 and Exhibits 14–29. The petitioners assert that their share of the market has declined from 2000 to 2002. *See* Petition at 21–22 and Exhibits 18–19. Finally, the petitioners note that one LWR pipe and tube manufacturer went out of business altogether in 2002, thereby taking significant domestic LWR pipe and tube production out of the market. *See* Petition at 23. For a full discussion of the allegations and evidence of material injury, *see Initiation Checklist* at Attachment II.

Initiation of Antidumping Investigations

Based on our examination of the Petition covering LWR pipe and tube from Mexico and Turkey, the Department finds it meets the requirements of section 732 of the Act. Therefore, we are initiating antidumping investigations to determine whether imports of LWR pipe and tube from Mexico and Turkey are being, or are likely to be, sold in the United States at LTFV. Unless this deadline is extended pursuant to section 733(b)(1)(A) of the Act, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the Petition has been provided to representatives of the governments of Mexico and Turkey. We will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided in section 19 CFR 351.203(c)(2).

ITC Notification

The ITC will preliminarily determine no later than October 24, 2003, whether there is reasonable indication that imports of LWR pipe and tube from Mexico and Turkey are causing, or threatening, material injury to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: September 29, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–25282 Filed 10–3–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Silicon Metal From Brazil: Final Results of Antidumping Duty Administrative Review and Revocation of Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Final Results of Antidumping Duty Administrative Review and Revocation of Order in Part.

SUMMARY: On July 28, 2003, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on silicon metal from Brazil. The period of review (POR) is July 1, 2001, through June 30, 2002. This review covers imports of silicon metal from one producer/exporter, Companhia Brasileira Carbureto de Calcio (CBCC). We provided interested parties an opportunity to comment on the preliminary results of this review, but received no comments.

The final results do not differ from the preliminary results of this review, where we found that sales of the subject merchandise have not been made below normal value (NV), and where we revoked the order, in part, with respect to CBCC, because we found that CBCC has met all of the requirements for revocation, as set forth in 19 C.F.R. 351.222(b). We will instruct the United States Bureau of Customs and Border Protection (BCBP) not to assess antidumping duties on the subject merchandise exported by CBCC.

EFFECTIVE DATE: October 6, 2003./P≤

FOR FURTHER INFORMATION CONTACT: Maisha Cryor at (202) 482–5831 or Ronald Trentham at (202) 482–6320,

AD/CVD Enforcement, Office IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Background

After the publication of the preliminary results of this administrative review,[1] the Department invited interested parties to comment on its preliminary findings. No comments were received.

Scope of the Order

The merchandise covered by this administrative review is silicon metal from Brazil containing at least 96.00 percent but less than 99.99 percent silicon by weight. Also covered by this administrative review is silicon metal from Brazil containing between 89.00 and 96.00 percent silicon by weight but which contains more aluminum than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States (HTSUS) as a chemical product, but is commonly referred to as a metal. Semiconductor grade silicon (silicon metal containing by weight not less than 99.99 percent silicon and provided for in subheading 2804.61.00 of the HTSUS) is not subject to the order. Although the HTSUS item numbers are provided for convenience and for customs purposes, the written description remains dispositive.

Period of Review

The POR is July 1, 2001, through June 30, 2002.

Fair Value Comparisons

To determine whether sales of silicon metal from Brazil to the United States were made at less than NV, we compared the constructed export price to NV. Our calculations followed the methodologies described in the *Preliminary Results*.

Revocation

The Department ''may revoke, in whole or in part'' an antidumping duty order upon completion of a review under section 751 of the Tariff Act of 1930, as amended (the Act). While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation as described in 19 C.F.R. 351.222. This regulation requires, *inter alia*, that a company requesting revocation must submit the following: (1) a certification that the company has sold the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in commercial quantities in each of the three years forming the basis of the revocation request; and (3) an agreement to reinstatement in the order or suspended investigation, as long as any exporter or producer is subject to the order (or suspended investigation), if the Secretary concludes that the exporter or producer, subsequent to the revocation, sold the subject merchandise at less than NV. *See* 19 C.F.R. 351.222(e)(1). Upon receipt of such a request, the Department will consider the following in determining whether to revoke the order in part: (1) whether the producer or exporter requesting revocation has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether the continued application of the antidumping duty order is otherwise necessary to offset dumping; and (3) whether the producer or exporter requesting revocation in part has agreed in writing to the immediate reinstatement of the order, as long as any exporter or producer is subject to the order, if the Department concludes that the exporter or producer, subsequent to revocation, sold the subject merchandise at less than NV. *See* 19 C.F.R. 351.222(b)(2); *see also Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review and Revocation of Order in Part*, 67 FR 77225, 77226 (December 17, 2002).

I. CBCC: Determination to Revoke Order in Part

In the preliminary results, we determined that CBCC has met the requirements for revocation. *See Preliminary Results*, 68 FR at 44286–87 (July 28, 2003). We received no comments from either the petitioners or CBCC on this revocation determination. Therefore, we continue to find that CBCC has met the requirements for revocation. Specifically, we find that (1) CBCC has demonstrated three consecutive years of sales at not less than NV; (2) CBCC's aggregate sales to the United States were made in commercial quantities during each of those three years (*see Preliminary Results*, 68 FR at 44287 (July 28, 2003)), and (3) the continued application of the antidumping order is not necessary to offset dumping. Therefore, for the final results, we find that CBCC qualifies for revocation of the order on silicon metal from Brazil, under 19 C.F.R. 351.222(b)(2).

Final Results of Review

As a result of this review, we determine that the following percentage weighted-average margin exists for the period July 1, 2001, through June 30, 2002:

Manufacturer/exporter	Weighted-average Margin Percentage
CBCC	0.00

Effective Date of Revocation

This revocation applies to all entries of subject merchandise that are produced and exported by CBCC, entered, or withdrawn from warehouse, for consumption on or after July 1, 2002. The Department will order the suspension of liquidation ended for all such entries and will instruct the BCBP to release any cash deposits or bonds. The Department will further instruct the BCBP to refund with interest any cash deposits on entries made on or after July 1, 2002.

Assessment Rates

The Department will determine, and the BCBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 C.F.R. 351.212(b)(1), we have calculated an importer-specific assessment rate for merchandise subject to this review. The Department will

[1] *See Silicon Metal From Brazil: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review and Notice of Intent To Revoke Order in Part*, 68 FR 44285 (July 28, 2003) (*Preliminary Results*).

issue appropriate assessment instructions directly to the BCBP within 15 days of publication of these final results of review. We will direct the BCBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the importer's entries during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of silicon metal from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) cash deposits for CBCC will no longer be required; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 91.06 percent, the ''all others'' rate made effective by the LTFV investigation. The required cash deposits shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 C.F.R. 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 C.F.R. 351.305. 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 violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 26, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–25280 Filed 10–3–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Indirect Cost Rates for the Damage Assessment and Restoration Program for Fiscal Year 2002

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The National Oceanic Administration's (NOAA) Damage Assessment and Restoration Program (DARP) is announcing new indirect cost rates on the recovery of indirect costs for its component organizations involved in natural resource damage assessment and restoration activities for fiscal year (FY) 2002. The indirect cost rates for this fiscal year and dates of implementation are provided in this notice. More information on these rates and the DARP policy can be found at the DARP Web site at: *www.darp.noaa.gov.*

FOR FURTHER INFORMATION: For further information, contact Brian Julius at 301–713–3038, ext. 199, by fax at 301–713–4387, or e-mail at *Brian.Julius@noaa.gov.*

SUPPLEMENTARY INFORMATION: The mission of the DARP is to restore natural resource injuries caused by releases of hazardous substances or oil under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601 *et seq.*), the Oil Pollution Act of 1990 (OPA) (33 U.S.C. 2701 *et seq.*), and support restoration of physical injuries to National Marine Sanctuary resources under the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1431 *et seq.*). The DARP consists of three component organizations: the Damage Assessment Center (DAC) within the National Ocean Service; the Restoration Center within the National Marine Fisheries Service; and the Office of the General Counsel for Natural Resources (GCNR). The DARP conducts Natural Resource Damage Assessments (NRDAs) as a basis for recovering damages from responsible parties, and uses the funds recovered to restore injured natural resources.

Consistent with Federal accounting requirements, the DARP is required to account for and report the full costs of its programs and activities. Further, the DARP is authorized by law to recover reasonable costs of damage assessment and restoration activities under CERCLA, OPA, and the NMSA.Within the constraints of these legal provisions and their regulatory applications, the DARP has the discretion to develop indirect cost rates for its component organizations and formulate policies on the recovery of indirect cost rates subject to its requirements.

The DARP's Indirect Cost Effort

In December 1998, the DARP hired the public accounting firm Rubino & McGeehin, Chartered (R&M), to: Evaluate the cost accounting system and allocation practices; recommend the appropriate indirect cost allocation methodology; and determine the indirect cost rates for the three organizations that comprise the DARP. A **Federal Register** notice on R&M's effort, their assessment of the DARP's cost accounting system and practice, and their determination regarding the most appropriate indirect cost methodology and rates for FYs 1993 through 1999 was published on December 7, 2000 (65 FR 76611). The notice and report by R&M can also be found on the DARP Web site at: *www.darp.noaa.gov.*

R&M continued its assessment of DARP's indirect cost rate system and structure for FYs 2000 and 2001. A second federal notice specifying the DARP indirect rates for FYs 2000 and 2001 was published on December 2, 2002 (67 FR 71537).

In October 2002, DARP hired the accounting firm of Cotton and Company LLP (Cotton) to review and certify DARP costs incurred on cases for purposes of cost recovery and to develop indirect rates for FY 2002 and subsequent years. As in the prior years, Cotton concluded that the cost accounting system and allocation practices of the DARP component organizations are consistent with Federal accounting requirements. Consistent with R&M's previous analyses, Cotton also determined that the most appropriate indirect allocation method continues to be the Direct Labor Cost Base for all three DARP component organizations. The Direct Labor Cost Base is computed by allocating total

indirect cost over the sum of direct labor dollars plus the application of NOAA's leave surcharge and benefits rates to direct labor. Direct labor costs for contractors from the Oak Ridge Institute for Science and Education (ORISE) also were included in the direct labor base because Cotton determined that these costs have the same relationship to the indirect cost pool as NOAA direct labor costs. ORISE provides on-site support to DARP in the areas of injury assessment, natural resource economics, restoration planning and implementation, and policy analysis. Cotton's reports on the FY 2002 DARP indirect rates can also be found on the DARP Web site at: *www.darp.noaa.gov.*

The DARP's Indirect Cost Rates and Policies

The DARP will apply the indirect cost rates for FY 2002 as recommended by Cotton for each of the DARP component organizations as provided in the following table:

DARP component organization	FY 2002 indirect rate (in percent)
Damage Assessment Center (DAC)	254.17
Restoration Center (RC)	218.36
General Counsel for Natural Resources (GCNR)	251.75

These rates are based on the Direct Labor Cost Base allocation methodology.

The FY 2002 rates will be applied to all damage assessment and restoration case costs incurred between October 1, 2002, and September 30, 2003. DARP will use the FY 2002 indirect cost rates for future fiscal years until subsequent year-specific rates can be developed.

For cases that have settled and for cost claims paid prior to the effective date of the fiscal year in question, the DARP will not re-open any resolved matters for the purpose of applying the revised rates in this policy for these fiscal years. For cases not settled and cost claims not paid prior to the effective date of the fiscal year in question, costs will be recalculated using the revised rates in this policy for these fiscal years. Where a responsible party has agreed to pay costs using previous year's indirect rates, but has not yet made the payment because the settlement documents are not finalized, the costs will not be recalculated.

The DARP indirect cost rate policies and procedures published in the **Federal Register** on December 7, 2000 (65 FR 76611), and on December 2, 2002 (67 FR 71537), remain in effect except as updated by this notice.

Dated: September 29, 2003.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service.

[FR Doc. 03–25237 Filed 10–3–03; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091603C]

Marine Mammals; File Nos. 774–1714–00 and 782–1719–00

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications.

SUMMARY: Notice is hereby given that the following Agencies have applied in due form for a permit to take various pinniped, cetacean and sea turtles during stock assessment activities for purposes of scientific research:

774–1714 - Southwest Fisheries Science Center, National Marine Fisheries Service, 8604 La Jolla Shores Dr., La Jolla, CA 92037 (Principal Investigator: Stephen B. Reilly, Ph. D.); and

782–1719 - National Marine Mammal Laboratory, National Marine Fisheries Service, 7600 Sand Point Way, NE, BIN C15700, Seattle, WA 98115 (Principal Investigator: Sue Moore, Ph.D.).

DATES: Written or telefaxed comments must be received on or before November 5, 2003.

ADDRESSES: The applications and related documents are available for review upon written request or by appointment in the following office(s) (**SEE SUPPLEMENTARY INFORMATION**)

FOR FURTHER INFORMATION CONTACT: Ruth Johnson, Carrie Hubard or Patrick Opay, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Southwest Fisheries Science Center (File No. 774–1714) requests a permit to take marine mammals and sea turtles during stock assessment research activities. The application consists of three projects: Project I (Pinniped Studies) is to conduct population assessments for northern elephant seals (*Mirounga angustirostris*), California sea lions (*Zalophus californianus*), Steller sea lions (*Eumetopias jubatus*) and harbor seals (*Phoca vitulina richardsi*) via aerial and ground/vessel surveys and photogrammetry to determine abundance, distribution patterns, length frequencies, breeding densities. Scat and spew will be collected from California sea lions to determine the diet of this species. This research is part of an ongoing program to assess the status of pinniped species and identify fishery-marine mammal conflicts. Each of the pinniped species requested interacts with fisheries off California. Project II (Cetacean Studies) is to determine the abundance, distribution, movement patterns, and stock structure of cetaceans in U.S. territorial and international waters. These studies are conducted through vessel surveys, aerial surveys, helicopter and small plane photogrammetry, photo-identification (from vessels and small boats), biological sample collection, and tagging and tracking of individual animals. Cetacean abundance data will be used to set limits (PBRs) of allowable human-caused mortality under the MMPA and to monitor trends in abundance through time. Genetic and other analyses of biological samples collected will be used to determine stock structure for the appropriate management of these species. Tagging and tracking activities will help address outstanding needs for data on movements and dive time correction factors for abundance estimation procedures. Project II activities also include the salvage and import/export of cetacean parts, specimens and biological samples. Project III (Sea Turtle Studies) is to determine the abundance, distribution, movement patterns, stock structure and diet of marine turtles in U.S. territorial and international waters. Project III studies will occur opportunistically to research activities conducted under Project II. Sea Turtle data opportunistically collected during cetacean surveys will be useful in determining movements and distribution of turtle species in the ETP, especially for olive ridley turtles. The research activities proposed in this application will provide information on movements and distribution from tag re-sights, genetic analyses of tissue biopsy and blood samples, and continued analyses of sea turtle distribution from sightings data. NMFS recovery plans for

these species stress the need for a clarification of stock identity issues and determination of habitat needs and primary foraging areas. Project III also entails the salvage, import and export of marine turtle parts, specimens and biological samples.

In addition to import/export/re-export authorization for biological samples collected during the research activities, the Applicant requests authorization to import/export/re-export parts, salvaged specimens and biological samples or salvaged parts and specimens collected by other researchers under their own authorization.

782–1719 – National Marine Mammal Laboratory submitted a complete application on May 21, 2003 to take various cetacean species during stock assessment research activities. The application was published in the **Federal Register** on June 4, 2003 (68 FR 33477). The applicant has submitted a supplemental request to that application to take endangered marine mammals in the Antarctic.

Written comments or requests for a public hearing on these applications should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Documents for both applications may be reviewed in the following locations:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Assistant Regional Administrator for Protected Resources, Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426;

Assistant Regional Administrator for Protected Resources, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7235; fax (907)586–7012;

Assistant Regional Administrator for Protected Resources, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4020; fax (562)980–4027; and

Assistant Administrator, Pacific Islands Regional Office, NMFS, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700; phone (808)973–2935; fax (808)973–2941.

Dated: September 30, 2003.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–25271 Filed 10–3–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the forthcoming meeting of the AFC2ISRC Advisory Group. The purpose of the meeting is to brief the Commander of the AFC2ISR Center. This meeting will be closed to the public.

DATE: October 15, 2003.

ADDRESSES: AFC2ISRC, Langley AFB, VA.

FOR FURTHER INFORMATION CONTACT: Maj. Chris Berg, Air Force Scientific Advisory Board Secretariat, 1180 Air Force Pentagon, Rm 5D982, Washington DC 20330–1180, (703) 697–4811.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 03–25213 Filed 10–3–03; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Extension of Scoping Period for the Draft Environmental Impact Statement/Environmental Impact Report for a Proposed Marine Terminal Development at Pier S in the Port of Long Beach, Los Angeles County, CA

AGENCY: U.S. Army Corps of Engineers, Los Angeles District, DoD.

ACTION: Notice of intent—extension of scoping period.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is considering the development of Pier S Marine Terminal Project (Proposed Action). The development of Pier S would result in a 160-acre marine container terminal, and would include four elements: dredging, wharf construction, and container cranes; container yard; terminal buildings and truck gates; and an intermodal rail yard.

The primary Federal concern is the dredging and discharging of materials within waters of the U.S. and potential impacts on the human environment. Under Section 404 of the Clean Water Act, the Corps is authorized to approve discharges of dredged or fill material into waters of the U.S. Under section 10 of the Rivers and Harbors Act, the Corps may authorize activities that could affect navigable waters. The Corps is preparing an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA) prior to deciding whether or not to authorize the Proposed Action. The Corps may ultimately make a determination to permit or deny the Proposed Action, or permit or deny alternatives to the Proposed Action.

Pursuant to the California Environmental Quality Act (CEQA), the Port will serve as Lead Agency for the preparation of an Environmental Impact Report (EIR) for its consideration of development approvals within its jurisdiction. The Corps and the Port have agreed to jointly prepare a Draft EIS/EIR in order to optimize efficiency and avoid duplication. The Draft EIS/EIR is intended to be sufficient in scope to address federal, state, and local requirements and environmental issues concerning the proposed activities and permit approvals.

Scoping Process and Availability of the Draft: The Corps previously published its NOI in the **Federal Register** on September 12th, 2003. For further information, please consult the original NOI publication.

The Corps and the Port will jointly conduct a scoping meeting for the proposed project. English and Spanish translation services will be provided at the meeting. The public scoping meeting will be held to receive public comment and assess public concerns regarding the appropriate scope of the Draft EIS/EIR. Participation in the public meeting by federal, state and local agencies and other interested organizations and persons are encouraged. Parties interested in being added to the Corps' electronic mail

notification list for the Pier S marine terminal project or other projects in the Port of Long Beach can register at: *http://www.spl.usace.army.mil/regulatory/register.html.* This list will be used in the future to notify the public about scheduled hearings and availability of future public notices.

The Corps of Engineers will also be consulting with the U.S. Fish and Wildlife Service under the Endangered Species Act and Fish and Wildlife Coordination Act, and with the National Marine Fisheries Service under the Magnuson-Stevens Act. Additionally, the EIS/EIR will assess the consistency of the proposed Action with the Coastal Zone Management Act and potential water quality impacts pursuant to Section 401 of the Clean Water Act.

The public scoping meeting for the Draft EIS/EIR will be held on September 25th, 2003, at 6 p.m, at the Port of Long Beach administration building. The Corps and the Port will separately transmit local notices of the meeting prior to the event. Written comments will now be received until October 17th, 2003. The Draft EIS/EIR is expected to be published and circulated sometime between Winter 2003 and Spring 2004, and a new public notice and public hearing will be held after its publication.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Draft EIS/EIR can be answered by Mr. Joshua Burnam, Corps Project Manager, at 213–452–3294. Comments regarding the scope of the Draft EIS/EIR shall be addressed to: U.S. Army Corps of Engineers, Los Angeles District, Regulatory Branch, ATTN: File Number 1999–16479–JLB, P.O. Box 532711, Los Angeles, California 90053–2325. Copies should also be sent to Stacey Crouch, Port of Long Beach, P.O. Box 570, Long Beach, CA 90801–0570.

Richard G. Thompson,

Colonel, U.S. Army, District Engineer.

[FR Doc. 03–25203 Filed 10–3–03; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.170A]

Office of Postsecondary Education; Notice Extending Application Transmittal Deadline Date for Jacob K. Javits Fellowship Program

SUMMARY: On August 1, 2003, a notice was published in the **Federal Register** (68 FR 45229) inviting applications for new awards for fiscal year (FY) 2004 for the Jacob K. Javits Fellowship Program. The notice listed a deadline date of October 3, 2003, for the transmittal of applications.

The Secretary extends the deadline date for the transmittal of applications for this competition from applicants in certain nationally declared disaster areas. The Secretary takes this action to allow more time for the preparation and submission of applications by potential applicants in certain States that have been affected by Hurricane Isabel. The extension of this deadline date is intended to help the potential applicants compete fairly with other applicants under this competition.

Eligibility: The extended deadline date in this notice applies to you if you are a potential applicant from an area on the following chart. The President has declared each of these locations a disaster area as a result of recent severe weather conditions. These areas are as follows:

State: Delaware, District of Columbia, Maryland, North Carolina, Virginia, West Virginia.

DATES: The new deadline date for the transmittal of applications is October 14, 2003.

ADDRESSES: The address and telephone number for obtaining applications for, or information about this program are in the application notice for the program.

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, audiotape, or computer diskette) on request to the contact person listed in the application notice.

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 the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Program Authority: 20 U.S.C. 1134–1134d.

Dated: October 1, 2003.

Wilbert Bryant,

Acting Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 03–25303 Filed 10–1–03; 3:55 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity, (National Advisory Committee); Meeting

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education.

What Is the Purpose of This Notice?

The purpose of this notice is to announce the public meeting of the National Advisory Committee and invite third-party oral presentations before the Committee. This notice also presents the proposed agenda and informs the public of its opportunity to attend this meeting. The notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

When and Where Will the Meeting Take Place?

We will hold the public meeting on December 8, 2003 from 12:30 p.m. until approximately 5:30 p.m., and on December 9, 2003 from 8:30 a.m. until approximately 12:30 p.m. in the Ballroom at the Hilton Garden Inn, 815 14th Street, NW., Washington, DC 20005. You may call the hotel on (202) 783–7800 to inquire about rooms.

What Assistance Will Be Provided to Individuals With Disabilities?

The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.*, interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Who Is the Contact Person for the Meeting?

Please contact Ms. Bonnie LeBold, the Executive Director of the National Advisory Committee on Institutional Quality and Integrity, if you have questions about the meeting. You may contact her at the U.S. Department of Education, room 7007, MS 7592, 1990 K St., NW., Washington, DC 20006,

telephone: (202) 219–7009, fax: (202) 219–7008, e-mail: *Bonnie.LeBold@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339.

What Is the Authority for the National Advisory Committee?

The National Advisory Committee on Institutional Quality and Integrity is established under Section 114 of the Higher Education Act (HEA) as amended, 20 U.S.C. 1011c.

What Are the Functions of the National Advisory Committee?

The Committee advises the Secretary of Education about:

- The establishment and enforcement of the criteria for recognition of accrediting agencies or associations under subpart 2 of part H of Title IV, HEA.
- The recognition of specific accrediting agencies or associations.
- The preparation and publication of the list of nationally recognized accrediting agencies and associations.
- The eligibility and certification process for institutions of higher education under Title IV, HEA.
- The development of standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies in order to establish the interim eligibility of those institutions to participate in Federally funded programs.
- The relationship between: (1) Accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions.
- Any other advisory functions relating to accreditation and institutional eligibility that the Secretary may prescribe.

What Items Will Be on the Agenda for Discussion at the Meeting?

Agenda topics will include the review of agencies that have submitted petitions for renewal of recognition, submitted progress reports, or submitted interim reports. In addition, the National Advisory Committee will discuss the current status of proposals pertaining to the reauthorization of the Higher Education Act, as amended.

Please note that the agency listed below, which was originally scheduled for review during the National Advisory Committee's December 2003 meeting, will be postponed for review until the June 2004 meeting.

- Accrediting Bureau of Health Education Schools

Any third-party written comments regarding this agency that were received by September 18, 2003, in accordance with the **Federal Register** notice published on August 4, 2003, will become part of the official record. Those comments will be considered by the National Advisory Committee when it reviews the agency's petition for renewal of recognition at the June 2004 meeting. Another opportunity to provide written comments on the agency prior to that meeting will be announced in a **Federal Register** notice requesting written comments.

What Agencies Will the Advisory Committee Review at the Meeting?

The Advisory Committee will review the following agencies during its December 8–9, 2003 meeting.

Nationally Recognized Accrediting Agencies

Interim Reports

(An interim report is a follow-up report on an accrediting agency's compliance with specific criteria for recognition that was requested by the Secretary when the Secretary granted renewed recognition to the agency.)

1. Accrediting Commission on Education for Health Services Administration.
2. American Board of Funeral Service Education.
3. Association of Advanced Rabbinical and Talmudic Schools.
4. National Council for Accreditation of Teacher Education.

Progress Reports

1. Southern Association of Colleges and Schools, Commission on Colleges (This is a report on the agency's implementation of its new standards).
2. Western Association of Schools and Colleges, Accrediting Commission for Schools (This is a report on the agency's action plan for coming into compliance with criteria for recognition).

State Agencies Recognized for the Approval of Public Postsecondary Vocational Education

Petition for Renewal of Recognition

1. Missouri State Board of Education (Current scope of recognition: The approval of public, postsecondary vocational education in the State of Missouri).

At its June 2003 meeting, the Advisory Committee had recommended that review of this agency's petition for continued recognition be deferred until the Committee's December 2003 meeting, and the Secretary had concurred with that recommendation.

Interim Report

1. New York Board of Regents (Public Postsecondary Vocational Education Unit).

State Agency Recognized for the Approval of Nurse Education

Interim Report

1. North Dakota Board of Nursing.

Who Can Make Third-Party Oral Presentations at This Meeting?

We invite you to make a third-party oral presentation before the National Advisory Committee concerning the recognition of any agency published in this notice.

How Do I Request To Make an Oral Presentation?

You must submit a written request to make an oral presentation concerning an agency listed in this notice to the contact person *so that the request is received via mail, fax, or e-mail no later than November 18, 2003.* Your request (*no more than 6 pages maximum*) must include:

1. The names, addresses, phone numbers, and fax numbers of all persons seeking an appearance,
2. The organization they represent, and
3. A brief summary of the principal points to be made during the oral presentation.

If you wish, you may attach documents illustrating the main points of your oral testimony. Please keep in mind, however, that *any attachments are included in the 6-page limit.* Please do not send materials directly to Committee members. Only materials submitted by the deadline to the contact person listed in this notice and in accordance with these instructions become part of the official record and are considered by the Committee in its deliberations. Documents received after the November 18, 2003 deadline will not be distributed to the Advisory Committee for their consideration. Individuals making oral presentations may not distribute written materials at the meeting.

If I Cannot Attend the Meeting, Can I Submit Written Comments Regarding an Accrediting Agency in Lieu of Making an Oral Presentation?

This notice requests third-party oral testimony, not written comment. A request for written comments on agencies that are being reviewed during

this meeting was published in the **Federal Register** on August 4, 2003. The Advisory Committee will receive and consider only written comments submitted by the deadline specified in that **Federal Register** notice.

How Do I Request To Present Comments Regarding General Issues Rather Than Specific Accrediting Agencies?

At the conclusion of the meeting, the Committee, at its discretion, may invite attendees to address the Committee briefly on issues pertaining to the functions of the Committee, which are listed earlier in this notice. If you are interested in making such comments, you should inform Ms. LeBold before or during the meeting.

How May I Obtain Access to the Records of the Meeting?

We will record the meeting and make a transcript available for public inspection at the U.S. Department of Education, 1990 K St., NW., Washington, DC 20006 between the hours of 9 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. It is preferred that an appointment be made in advance of such inspection.

How May I Obtain Electronic Access to This Document?

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Authority: 5 U.S.C. appendix 2.

Dated: October 1, 2003.

Wilbert Bryant,

Acting Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 03–25289 Filed 10–3–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice DE–FG01–04ER04–04; Plasma Physics Junior Faculty Development Program

AGENCY: U.S. Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Fusion Energy Sciences (OFES) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving grant applications for support under its Plasma Physics Junior Faculty Development Program. Applications should be from tenure-track faculty investigators who are currently involved in experimental or theoretical plasma physics research and should be submitted through a U.S. academic institution. The purpose of this program is to support the development of the individual research programs of exceptionally talented scientists and engineers early in their careers.

DATES: To permit timely consideration for awards in Fiscal Year 2004, formal applications in response to this notice must be received on or before December 9, 2003.

ADDRESSES: We require formal applications in response to this solicitation to be submitted electronically through DOE's Industry Interactive Procurement System (IIPS) at: *http://e-center.doe.gov*. IIPS provides for the posting of solicitations and receipt of applications in a paperless environment via the Internet. In order to submit applications through IIPS, your business official will need to register at the IIPS Web site. It is suggested that this registration be completed several days prior to the date on which you plan to submit the formal application. The Office of Science will include attachments as part of this notice that provide the appropriate forms in PDF fillable format that are to be submitted through IIPS. *IIPS offers the option of submitting multiple files—please limit submissions to only one file within the volume if possible, with a maximum of no more than four files.* Color images should be submitted in IIPS as a separate file in PDF format and identified as such. These images should be kept to a minimum due to the limitations of reproducing them. They should be numbered and referred to in the body of the technical scientific application as Color image 1, Color image 2, etc. Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at: *helpdesk@pr.doe.gov*, or you may call the help desk at: (800) 683–0751. Further information on the use of IIPS by the Office of Science is available at: *http://www.sc.doe.gov/production/grants/grants.html*.

FOR FURTHER INFORMATION CONTACT: Dr. Darlene Markevich, U.S. Department of Energy, Office of Fusion Energy Sciences, Research Division, SC–55/Germantown Building, 1000 Independence Avenue, SW., Washington, DC 20585–1290. Telephone: (301) 903–4920. E-mail: *Darlene.markevich@science.doe.gov.*

SUPPLEMENTARY INFORMATION: The Plasma Physics Junior Faculty Development Program was started in Fiscal Year 1997. A principal goal of this program is to identify exceptionally talented plasma faculty members early in their careers and assist and facilitate the development of their research programs. Eligibility for awards under this notice is, therefore, restricted to tenure-track regular academic faculty investigators who are conducting experimental or theoretical plasma physics research. Those Junior Faculty members presently holding career development awards will not be considered under this announcement.

Applications from Junior Faculty involved in any areas of plasma physics research, not only magnetic fusion, are welcomed and encouraged. Emphasis is to be placed on basic plasma science research. For applications to be considered for funding, certification of the status of the applicant as a tenure-track regular academic faculty member by the head of the applicant's academic department or other university/college certifying official will be required before the grant is awarded. Awards made under this program will help to maintain the vitality of university plasma physics research and assure continued excellence in the teaching of plasma physics and related disciplines.

It is anticipated that annual funding levels up to $150,000 per award may be made available for grants under this notice during Fiscal Year 2004, contingent upon the availability of appropriated funds. Funding for equipment above this level will be considered on a case-by-case basis. The number of awards during Fiscal Year 2004 will depend on the number of meritorious applications and the availability of appropriated funds. Multiple-year funding of grant awards is expected, with funding provided on an annual basis subject to availability of funds. The usual duration of these grants is three years and they will not be renewed under the Plasma Physics Junior Faculty Development Program after the project period is completed. It

is anticipated that at the end of the grant period, grantees will submit new grant applications to continue their research to the Department of Energy or other Federal funding agencies. For the Office of Science, these applications should follow the usual application process.

Applications will be subjected to scientific merit review and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR part 605:

1. Scientific and/or technical merit of the project;
2. Appropriateness of the proposed method or approach;
3. Competency of applicant's personnel and adequacy of proposed resources; and
4. Reasonableness and appropriateness of the proposed budget.

An additional review criterion will address educational aspects of the proposed work including the involvement of graduate and undergraduate students. These aspects should be discussed in the application.

General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures are contained in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR part 605, which is available on the World Wide Web at: *http://www.sc.doe.gov/production/grants/grants.html.* DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made.

The Catalog of Federal Domestic Assistance Number for this program is 81.049 and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC, on September 26, 2003.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 03–25269 Filed 10–3–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC03–121–000, FERC Form 121]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

September 29, 2003.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specifics of the information collection described below.

DATES: Comments on the collection of information are due by December 1, 2003.

ADDRESSES: Copies of the proposed collection of information can be obtained from Michael Miller, Office of the Executive Director, ED–30, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing.

For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC03–121–000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202)502–8415, by fax at (202)273–0873, and by e-mail at *michael.miller@ferc.gov*. Copies of FERC Form 121 are available from Mr. Miller.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC Form 121 ''Application for Determination of the Maximum Lawful Price Under the Natural Gas Policy Act'' (OMB Control No. 1902–0038) is used by the Commission to implement the statutory provisions of Section 503 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3413. In Order No. 616, (July 14, 2000) the Commission reinstated provisions for making well category determinations under Section 503 of the Natural Gas Policy Act for certain categories of high cost gas.

When the determinations are made, natural gas producers can claim tax credits as provided for under section 29 of the Internal Revenue Code (Section 29 tax credit). Section 29 as amended by the Revenue Reconciliation Act of 1990, allows taxpayers to claim a tax credit for certain qualified fuels which (1) are produced from wells drilled after December 31, 1979, and before January 1, 1993, and (2) sold before January 1, 2003. The qualified fuels include high cost gas as defined in NGPA section 107(c)(2)–(4) (gas produced from geopressured brine, coals seams and Devonian shale), as well as some gas the Commission defined as tight formation gas pursuant to NGPA section 107(c)(5). In 1999, the *United States Court of Appeals for the Tenth Circuit in True Oil Co.* v. *Commissioner of Internal Revenue (True Oil)* (170 F.3d 1294) (10th Cir. 1999), held that, in order to obtain the tax credit, there must be a formal determination under the procedures provided for by section 503 of the Natural Gas Policy Act. Section 503 of the NGPA, set forth procedures used for determining whether gas qualified as section 107(c) ''high-cost natural gas.'' Under that section the agency having regulatory jurisdiction with respect to the production of natural gas in question (a jurisdictional agency) makes the initial determination, and submits it to the Commission. The Commission can affirm, reverse, remand, make a preliminary finding either on, or simply takes no action regarding the agency's determination. If the Commission takes no action within 45 days after receipt of the agency's determination, the determination is final. Judicial review is available under Section 503 only if the Commission remands or reverses the determination. In Order No. 616, the Commission limited its actions to reviewing determinations by jurisdictional agencies for qualifying recompletions in already designated tight formations. Well determinations for recompletions in coal seams and Devonian shale are also accepted. The Commission estimated that there are probably at least 4,131 recompletions that were performed during the years 2000–2003 for which a determination may be sought under the Commission's regulations. FERC Form 121 (Form) is used by a natural gas producer as an application for a determination. Form 121 identifies the producer filing the application, the type of determination

the producer is seeking (determination is for occluded natural gas produced from coal seams, Devonian shale or tight formation gas) and information identifying the well and the completion location of the well. An application is initially submitted to the jurisdictional agency and then sent forward to the Commission for review. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 270.

ACTION: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total Annual burden hours (1)×(2)×(3)
4,131	1	.25	*1,033

*Rounded off

Estimated cost burden to respondents: 1,033 hours/2,080 hours per year × $117,041 per year = $58,127. The cost per respondent is equal to $14.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including:

(1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.*, permitting electronic submission of responses.

Magalie R. Salas,

Secretary.

[FR Doc. 03–25223 Filed 10–3–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC03–537–000, FERC–537]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

September 29, 2003.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specifics of the information collection described below.

DATES: Comments on the collection of information are due by December 1, 2003.

ADDRESSES: Copies of the proposed collection of information can be obtained from Michael Miller, Office of the Executive Director, ED–30, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing.

For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE. Washington, DC 20426 and refer to Docket No. IC03–537–000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–537 ''Gas Pipeline Certificates: Construction, Acquisition, and Abandonment'' (OMB Control No. 1902–0060) is used by the Commission to implement the statutory provisions of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432, and the Natural Gas Act (NGA) (15 U.S.C. 717–717w). Under the NGA, natural gas pipeline companies must obtain Commission authorization to undertake the construction or extension of any facilities, or to acquire or operate any such facilities or extensions in accordance with Section 7(c) of the NGA. A natural gas company must also obtain Commission approval under section 7(b) of the NGA prior to

abandoning any jurisdictional facility or service. Under the NGPA interstate and intrastate pipelines must also obtain authorization for certain transportation arrangements.

The information collected is necessary to certificate interstate pipelines engaged in the transportation and sale of natural gas, and the construction, acquisition, and operation of facilities to be used in those activities, to authorize the abandonment of facilities and services and to authorize certain NGPA transactions. If a certificate is granted, the natural gas company can construct, acquire, or operate facilities plus engage in interstate transportation or sale of natural gas. Conversely, approval of an abandonment application permits the pipeline to cease service and/or discontinue the operation of such facilities. Authorization under NGPA section 311(a) allows the interstate or intrastate pipeline applicants to render certain transportation services.

The data required to be submitted consists of identification of the company and responsible officials, factors considered in the location of the facilities and the impact on the area for environmental considerations. Also to be submitted are flow diagrams showing design capacity of engineering design verification and safety determination, and gas reserves data for appraisal of the feasibility of the project. Market data presenting the economic basis for the proposed action are included when appropriate as cost of the proposed facilities, plans for refinancing, and estimated revenues and expenses related to the proposed facility for financial and accounting evaluation. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR parts 157.5-.11; 157.13-.20; 157.22; 157.53; 157.201-.209; 157.211; 157.214-.218; 284.8; 284.11; 284.126; 284.221; 284.223-.224; 284.227.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
76	10.2	271.2	* 210,234

* Rounded off.

Estimated cost burden to respondents: 210,234 hours/2,080 hours per year × $117,041 per year = $11,829,807. The cost per respondent is equal to $155,655.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.*, permitting electronic submission of responses.

Magalie R. Salas,

Secretary.

[FR Doc. 03–25224 Filed 10–3–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC03–568–000, FERC–568]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

September 29, 2003.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3506(c) (2) (a) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c) (2) (A), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specifics of the information collection described below.

DATES: Comments on the collection of information are due by December 1, 2003.

ADDRESSES: Copies of the proposed collection of information can be obtained from Michael Miller, Office of the Executive Director, ED–30, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing.

For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary,

Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC03–568–000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676 or for TTY, contact (202)502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–568 ''Well Category Determinations'' (OMB Control No. 1902–0112) is used by the Commission to implement the statutory provisions of section 503 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3413. In Order No. 616, (July 14, 2000) (65 FR 45859) the Commission reinstated provisions for making well category determinations under section 503 of the Natural Gas Policy Act for certain categories of high cost gas.

When a determination is made, a natural gas producer can claim tax credits as provided for under Section 29 of the Internal Revenue Code (Section 29 tax credits). Section 29 as amended by the Revenue Reconciliation Act of 1990, allows taxpayers to claim a tax credit for certain qualified fuels which (1) are produced from wells drilled after December 31, 1979, and before January 1, 1993, and (2) sold before January 1, 2003. The qualified fuels include high cost gas as defined n NGPA section 107(c)(2)–(4) (gas produced from geopressured brine, coal seams and Devonian shale), as well as some gas the Commission defined as tight formation gas pursuant to NGPA section 107(c)(5). In 1999, the United States Court of Appeals for the *Tenth Circuit in True Oil Co.* v. *Commissioner of Internal Revenue (True Oil)* (170 F.3d 1294)(10th Cir. 1999), held that, in order to obtain the tax credit, there must be a formal determination under the procedures provided for by section 503 of the Natural Gas Policy Act. Section 503 of the NGPA, set forth procedures used for determining whether gas qualified as section 107(c) ''high-cost natural gas.'' Under that section the agency having regulatory jurisdiction with respect to the production of natural gas in question (jurisdictional agency) makes the initial determination, and submits it to the Commission. The Commission can affirm, reverse, remand, make a preliminary finding either on, or simply takes no action regarding the agency's determination. If the Commission takes no action within 45 days after receipt of the agency's determination, the determination is final. Judicial review is available under Section 503 only if the Commission remands or reverses the determination. In Order No. 616, the Commission limited its actions to reviewing determinations by jurisdictional agencies for qualifying recompletions in already designated tight formations. Well determinations for recompletions in coal seams and Devonian shale are also accepted. The Commission estimated there are probably at least 4,131 recompletions that were performed during the years 2000–2003 for which a determination may be sought under the Commission's regulations. A natural gas producer files an application (FERC Form 121) for a determination. In addition to the application, the applicant will also submit supporting documentation that includes the following: A completion report which illustrates the type of natural gas production treatment (*i.e.* perforation, acidization, fracturing etc.); logs defining the coal seams; or superimposed indications of the shale base line using gamma rays; or a map that identifies the geographic location of the well and the geographic location of post January 1, 1993 recompletions' completion location in the designated tight formation; and/or a location plat identifying the geographic location of the well and a list of tracts of land that comprise designated tight formations and an affidavit. FERC–568 covers the reporting requirements for this supporting documentation. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 270.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
4,131	1	6.01	24,786

Estimated cost burden to respondents: 24,786 hours / 2,080 hours per year × $117,041 per year = $ 1,394,701. The cost per respondent is equal to $ 338.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information

is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.*, permitting electronic submission of responses.

Magalie R. Salas,

Secretary.

[FR Doc. 03–25225 Filed 10–3–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC03–577–000 FERC–577]

Commission Collection Activities, Proposed Collection; Comment Request; Extension

September 29, 2003.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments on the collection of information are due by December 1, 2003.

ADDRESSES: Copies of the proposed collection of information can be obtained from Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street NE., Washington, DC 20426. Comments on the proposed collection of information may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 and should refer to Docket No. IC03–577–000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact 202–502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873 and by E-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–577, ''Gas Pipeline Certificates: Environmental Impact Statement'' (OMB No. 1902–0128) is a filing requirement of the environmental assessment of pipeline and Liquefied Natural Gas (LNG) facility construction projects. The filing collects information from all Natural Gas Act (NGA) jurisdictional pipeline companies as well as companies whose Natural Gas Policy Act (NGPA) are reviewed by the Commission.

The information collected under FERC–577 is used by the Commission to implement the statutory provisions of section 102 (2) (C) of the National Environmental Policy Act of 1969 (NEPA) (Pub. L. 91–190) (42 U.S.C. 4332). NEPA requires that all Federal agencies must include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of human environment, a detailed statement on: the environmental impact on the proposed actions; any adverse environmental effects which cannot be avoided should the proposal be implemented; alternatives to the proposed action; the relationship between local short-term uses of man's environment and the maintenance and enhancement of long term productivity; and any irreversible and irretrievable commitment of resources which would be involved in the proposed action should it be implemented. The Commission uses the pipeline's data to evaluate the environmental aspects of construction proposals and may be used in the Commission staff's independent preparation of Environmental Assessments or Environmental Impact Statements. The staff examines and projects potential effects on soils, geology, water resources, land use, recreation, aesthetics, air and noise quality, vegetation, wildlife, cultural resources and pipeline and liquefied natural gas safety. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR parts 2; 157; 284; 375 and 380.

Action: The Commission is requesting a three-year extension of the current expiration date with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents (1)	Annual responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
76	16.57	185.2	*233,226

*Detail may not calculate to totals because of rounding.

Estimated Burden: 233,226 total burden hours, 76 respondents, 1,259 responses annually, and 185.2 hours per response (average).

Estimated cost burden to respondents is $13,123,5620; (*i.e.*, 233,226 hours divided by 2,080 hours per full time employee per year multiplied by $117,041 per year equals $13,123,560)(rounded off). The cost per respondent is equal to $172,678.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain,

or disclose or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.*, permitting electronic submission of responses.

Magalie R. Salas,

Secretary.

[FR Doc. 03–25226 Filed 10–3–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC03–76–000]

Dominion Cover Point LNG LP; Notice of Filing

September 29, 2003.

Take notice that on September 23, 2003, Dominion Cover Point LNG LP (Dominion) filed an amendment in Order 613 to update the accounting and financial reporting requirements for asset retirement obligations under its Uniform System of Accounts for natural gas pipelines as well as public utilities and licensees and oil pipelines.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 14, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–25219 Filed 10–3–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. 2230–033]

City & Borough of Sitka, Alaska; Notice of Scoping Meeting, Site Visit, and Solicitation of Scoping Comments

October 1, 2003.

The Federal Energy Regulatory Commission's (Commission) regulations allow applicants to prepare their own Environmental Assessment (EA) for hydropower projects for filing with the Commission along with the license application as part of an alternative licensing procedure (ALP). On September 10, 2003, the Commission noticed the request of City & Borough of Sitka, Alaska (Sitka) to use the ALP and set a deadline for comments of October 10, 2003. Sitka wishes to hold a scoping meeting on Wednesday, October 22, 2003. Because the Commission will need ample time to fully consider comments received from interested stakeholders on Sitka's request to use the ALP, the Commission is not likely to make a decision on Sitka's request to use the ALP prior to the scoping meeting. However, the ALP allows greater flexibility than the traditional licensing process, and the Commission believes that it is in the public interest to solicit scoping comments in this notice. The Commission has not pre-judged Sitka's request to use the ALP.

Public Meeting and Site Visit

Sitka distributed a Scoping Document 1 (SD1) for the Blue Lake Hydroelectric Project on September 17, 2003, to the mailing list for this proceeding. In addition, Sitka will hold a scoping meeting for the project. The purpose of the meeting is to review the information presented in the SD1 and to initiate the identification of areas of interest that should be addressed in the licensing and any related Applicant-Prepared Environmental Assessment (APEA) processes. The meeting will be held as follows:

Blue Lake Scoping Meeting

Date: Wednesday, October 22, 2003.

Place: Harrigan Centennial Hall, 330 Harbor Drive, Sitka, Alaska.

Time: 7 p.m.

This meeting is posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Sitka will also conduct a site visit to the project on Thursday, October 23, 2003. Those wishing to attend the site

visit should meet at the Blue Lake Powerhouse at 9 a.m. Please RSVP Dean Orbison, Engineering Manager, at (907) 747–6633, at least 3 days prior to the site visit if you plan on attending.

The deadline for filing comments is November 21, 2003. All documents (an original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site: *http://www.ferc.gov* under the ''e-Filing'' link.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of that document on that resource agency.

Based on feedback received on the SD1 and the project site visit, Sitka will prepare a Scoping Document 2 (SD2). SD2 will include a revised list of issues based on the meeting and written comments.

All interested individuals, organizations, and agencies are invited and encouraged to attend the meetings and site visit and to assist in the identification of environmental issues that should be included in SD2.

We are asking federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the Commission's EA. Agencies who would like to request cooperating agency status should file such a request (original and eight copies) with the Secretary at the aforementioned address. Please put the docket number, P–2230–033, on the first page of your filing.

For further information regarding the scoping meeting and project site visit or to be added to the mailing list for the project, please contact Mr. Dean Orbison of Sitka or Nicholas Jayjack of the Commission's staff at (202) 502–6073.

A copy of the SD1 is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the project number (P–2230) in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs* filing/esubscription.asp to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Magalie R. Salas,

Secretary.

[FR Doc. 03–25450 Filed 10–3–03; 8:45 a.m.]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES03–57–000]

Texas-New Mexico Power Company; Notice of Application

September 26, 2003.

Take notice that on September 23, 2003, Texas-New Mexico Power Company (TNMP) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to enter into guarantees of up to $50 million of indebtedness of its affiliate, First Choice Power, Inc.

TNMP also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 10, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–25221 Filed 10–3–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12334–000]

Universal Electric Power Corporation; Notice Granting Intervention

September 29, 2003.

On February 12, 2003, the Commission issued a Notice of Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests; for the Demopolis L&D Hydroelectric Project No. 12334, located on the Tombigbee River in Marengo County, Alabama. The notice established April 12, 2003, as the deadline for filing motions to intervene.

On April 25, 2003, the Fort James Operating Company filed an untimely motion to intervene and comments. Granting the motion to intervene will not unduly delay or disrupt the proceeding, or prejudice other parties to it. Therefore, pursuant to Rule 214,[1] the motion to intervene filed by Fort James Operating Company is granted, subject to the Commission's rules and regulations.

Magalie R. Salas,

Secretary.

[FR Doc. 03–25227 Filed 10–3–03; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.214 (2003).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES03–58–000]

Valley Electric Association, Inc.; Notice of Application

September 26, 2003.

Take notice that on September 23, 2003, Valley Electric Association, Inc. (Valley) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to borrow up to $30 million under a Loan Agreement with the National Rural Utilities Cooperative Finance Corporation.

Valley also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 10, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–25222 Filed 10–3–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC03–96–000, et al.]

Fresno Power Investors, L.P., et al.; Electric Rate and Corporate Filings

September 29, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Fresno Power Investors, L.P., Harold E. Dittmer and Hanover Power (Gates), LLC

[Docket No. EC03–96–000]

Take notice that on September 24, 2003, Fresno Power Investors, L.P., Harold E. Dittmer and Hanover Power (Gates), LLC (HPG) in compliance with Commission Order dated July 7, 2003 authorizing a change in control over certain jurisdictional facilities resulting from a change in the upstream ownership interest of HPG. HPG states that it transferred it 92.5 percent ownership interest in Wellhead Power Gates, LLC to Fresno Power Investors, L.P. and Harold E. Dittmer. HPG states that the authorized transfer occurred on September 16, 2003.

Comment Date: October 15, 2003.

2. Colorado Green Holdings, LLC

[Docket No. EG03–108–000]

On September 25, 2003, Colorado Green Holdings, LLC (Colorado Green), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Colorado Green, a Delaware limited liability company, states that it will be engaged directly and exclusively in the business of owning all or part of one or more eligible facilities, and selling electric energy at wholesale. Colorado Green states that it is developing an approximately 162 megawatt wind power generation facility to be located in Prowers County, Colorado. Colorado Green states that it has served a copy of the filing on the Securities and Exchange Commission and the Public Utilities Commission of the State of Colorado, the California Public Utilities Commission, the Oregon Public Utility Commission, the Washington Utilities and Transportation Commission, the Utah Public Service Commission, the Idaho Public Utilities Commission, and the Wyoming Public Service Commission.

Comment Date: October 20, 2003.

3. Exxon Mobil Corporation; Entergy Services, Inc.

Docket No. EL03–230–000]

Take notice that on September 16, 2003, Exxon Mobil Corporation (ExxonMobil) filed a Complaint against Entergy Services, Inc. (ESI) and Entergy Gulf States, Inc. (Entergy). ExxonMobile states that on September 28, 2001, ExxonMobil and Entergy entered into an Interconnection and Operation and Generator Imbalance Agreement (2001 Agreement) to accommodate ExxonMobil's then current plan to place a single 165MW GTG unit into cogeneration service. The Complaint alleges that the original transmission facilities described in the 2001 Agreement were improperly classified as direct assignment facilities and should be re-classified to reflect their actual, current function.

ExxonMobil states that copies of this filing have been served upon ESI and Entergy.

Comment Date: October 14, 2003.

4. Eurus ToyoWest II LLC

[Docket No. EL03–233–000]

Take notice that on September 25, 2003, Eurus ToyoWest II LLC, a Delaware limited liability company (Eurus), filed a Petition for Declaratory Order finding that, under the circumstances described in the Petition, Eurus will not be considered a public utility under the Federal Power Act should it consummate the transfer of a portion of the Sagebrush Transmission Line, as more fully described in the petition.

Comment Date: October 24, 2003.

5. Nine Mile Point Nuclear Station, LLC v. Niagara Mohawk Power Corporation

[Docket No. EL03–234–000]

Take notice that on September 26, 2003, Nine Mile Point Nuclear Station, LLC, (Nine Mile) filed a Complaint against Niagara Mohawk Power Company (Niagara Mohawk). The Complaint asserts that Niagara Mohawk, in violation of the terms of the NYISO tariff and Commission precedent, will impose unlawful charges upon Nine Mile associated with Nine Mile's self-supply of station power.

Comment Date: October 20, 2003.

6. The Cincinnati Gas & Electric Company

[Docket Nos. ER96–2504–007 and ER01–1335–002]

Take notice that on September 22, 2003, The Cincinnati Gas & Electric Company (CG&E) submitted a filing informing the Commission of a non-material change in the characteristics

that the Commission relied upon in granting CG&E market-based rate authorization under section 205 of the Federal Power Act.

Comment Date: October 14, 2003.

7. Powerex Corp.

[Docket No. ER01–48–002]

Take notice that on September 24, 2003, Powerex Corp. (Powerex) tendered for filing its triennial market power analysis in support of its market-based rate authority in compliance with the Commission's September 24, 1997 and September 12, 2000, Orders accepting Powerex's market-based rate schedule.

Comment Date: October 15, 2003.

8. Southern Company Services, Inc.

[Docket No. ER02–851–010]

Take notice that on September 24, 2003, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively, Southern Companies), made a compliance filing as directed by the order of the Commission issued on March 27, 2002, 98 FERC ¶ 61,328.

Comment Date: October 15, 2003.

9. Unitil Power Corp., Unitil Resources, Inc., Fitchburg Gas and Electric Light Company

[Docket Nos. ER02–999–002, ER97–2462–012 and ER97–2463–002]

Take notice that on September 25, 2003, Unitil Power Corp., Unitil Resources, Inc., and Fitchburg Gas and Electric Light Company (Unitil Companies) tendered for filing an updated generation market power analysis pursuant to Ordering Paragraph (J) Unitil Power Corp. *et al.*, 80 FERC ¶ 61,358 (1997).

The Unitil Companies indicate that a copy of the filing was served on the Massachusetts Department of Telecommunications and Energy and the New Hampshire Public Utilities Commission.

Comment Date: October 16, 2003.

10. Ameren Services Company, FirstEnergy Corp., Northern Indiana Public Service Company, National Grid USA, Midwest Independent Transmission System Operator, Inc.

[Docket No.ER02–2233–011]

Take notice that on September 25, 2003, the GridAmerica Participants and the Midwest Independent Transmission System Operator, Inc. (jointly, the Applicants) submitted a compliance filing pursuant to the Commission's September 15, 2003 Order, 104 FERC ¶ 61,292.

The Applicants state that in addition to serving the filing in accordance with the Commission's Regulations, the Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. Applicants further states that the filing has been electronically posted on the Midwest ISO's Web site at *http://www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter.

Comment Date: October 16, 2003.

11. New York Independent System Operator, Inc.

[Docket No. ER03–18–003]

Take notice that on September 24, 2003, the New York Independent System Operator, Inc. (NYISO) tendered for filing a compliance filing in accordance with the Commission=s August 25, 2003, Order Accepting Compliance Filing in part in Docket Nos. ER03–18–001 and 002.

NYISO states that copies of this filing have been served on all parties listed on the official service list maintained by the Secretary of the Commission in these proceedings. The NYISO has also served a copy of this filing to all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, the New York State Public Service Commission, and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: October 15, 2003.

12. Entergy Services, Inc.

[Docket No. ER03–861–001]

Take notice that on September 25, 2003, Entergy Services, Inc. (Entergy Services), acting as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing certain corrections to the 2003 annual rate redetermination for Entergy Services' Open Access Transmission Tariff (the Update).

Entergy Services states that copies of the Update have been served upon its transmission customers and its state and local regulatory commissions.

Comment Date: October 16, 2003.

13. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–1081–001]

Take notice that on September 25, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, 18 CFR35.13, submitted for filing a revised unexecuted Interconnection and Operating Agreement among Otter Tail Power Company, FPL Energy North Dakota Wind II, LLC, and the Midwest ISO.

Midwest ISO states that a copy of this filing was served on all parties to the proceeding.

Comment Date: October 16, 2003.

14. Michigan Electric Transmission Company

[Docket No. ER03–1341–000]

Take notice that on September 12, 2003, Michigan Electric Transmission Company, LLC (METC) pursuant to the Commission's Orders issued February 13, 2002 and March 29, 2002 in Docket Nos. EC02–23–000, *et al.* submitted a proposal to establish the elements for an overall rate of return to apply to certain deferral mechanisms previously approved by the Commission.

METC states that copies of this filing have been served upon all transmission customers within the METC pricing zone with the Midwest Independent Transmission System Operator, Inc and on the Michigan Public Service Commission.

Comment Date: October 14, 2003.

15. PJM Interconnection, L.L.C.

[Docket Nos. ER03–1390–000]

Take notice that on September 22, 2003, PJM Interconnection, L.L.C. (PJM) filed revisions to the PJM Open Access Transmission Tariff and PJM Operating Agreement to set a limit on the number of bids or offers submitted by any single market participant in the energy market or in the periodic auctions of financial transmission rights (FTRs), which would be imposed only when necessary (and with appropriate notice) to prevent system problems. PJM states that this bid/offer limit replaces the excess bidding charge that was accepted, subject to suspension and refund, in Docket No. ER03–694–000, and the FTR bid limit that was approved in Docket No. ER03–1013–000, effective July 15, 2003.

PJM it requests an effective date of November 17, 2003 for the Tariff and Operating Agreement changes. PJM states that copies of this filing have been served on all PJM members and utility

regulatory commissions in the PJM Region and on all parties listed on the official service list compiled by the Secretary in this proceeding.

Comment Date: October 14, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–25257 Filed 10–3–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG03–106–000, et al.]

Plymouth Energy LLC, et al.; Electric Rate and Corporate Filings

September 26, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Plymouth Energy LLC

[EG03–106–000]

Take notice that on September 23, 2003, Plymouth Energy LLC submitted for filing an application for a determination that it is an Exempt Wholesale Generator and that the facility to be constructed by Plymouth Energy will be an eligible facility.

Comment Date: October 17, 2003.

2. Waymart Wind Farm L.P.

[Docket No. EG03–107–000]

Take notice that on September 23, 2003, Waymart Wind Farm L.P. (Waymart), filed with the Commission an application for a determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Waymart states that it is a Delaware corporation and is the owner and operator of a wind-powered electric generating facility with a nameplate capacity of 64.5 MW to be located in Wayne and Lackawanna Counties, Pennsylvania. Waymart states that the facility will sell energy, capacity, and ancillary services into the wholesale generation market.

Comment Date: October 17, 2003.

3. Calpine Energy Services, L.P.

[Docket No. ER00–3562–001]

Take notice that on September 22, 2003, Calpine Energy Services, L.P. submitted for filing its triennial market power analysis in compliance with the Commission Order issued in Docket No. ER00–3562–000 on September 21, 2000.

Comment Date: October 14, 2003.

4. Michigan Electric Transmission Company

[Docket No. ER02–562–002]

Take notice that on September 23, 2003, Michigan Electric Transmission Company (Michigan Electric) submitted for filing a Second Sub Original Sheet No. 140A of the FERC Electric Tariff, Original Volume No.1, in compliance with the September 10, 2003 Order issued in this proceeding. Michigan Electric states that the filed sheet is to be effective as of December 13, 2001. Michigan Electric also states that copies of the filing were served upon those on the official service list in this proceeding.

Comment Date: October 14, 2003.

5. ISO New England Inc.

[Docket No. ER02–2330–018]

Take notice that on September 22, 2003, ISO New England Inc. submitted a compliance filing providing a status report on the implementation of Standard Market Design in New England.

Comment Date: October 14, 2003.

6. Carolina Power & Light Company

[Docket Nos. ER03–1156–000 and ER03–1156–001]

Take notice that on September 22, 2003, Carolina Power and Light Company, d/b/a Progress Energy Carolinas, Inc. (CPL), filed a request to defer action in Docket No. ER03–1156–000 and ER03–1156–001 to allow time to fully integrate Rate Schedule No. 121, which is the Power Coordination Agreement between CPL and North Carolina Eastern Municipal Power Agency.

Comment Date: October 14, 2003.

7. Entegra North America, L.P.

[Docket No. ER03–1170–001]

Take notice that on September 22, 2003, Entegra North America, L.P. (Entegra) submitted for filing amended designations pertaining to rate filings made by Entegra on August 4, 2003, in Docket No. ER03–1170–000.

Comment Date: October 14, 2003.

8. Vineland Energy LLC

[Docket No. ER03–1283–001]

Take notice that on September 22, 2003, Vineland Energy LLC (Vineland) submitted an amendment to its Petition for Order Accepting Market-Based Rate Schedule for Filing and Granting of Waivers and Blanket Approvals and Request for Expedited Action to reflect a change in the direct ownership of Vineland from Vineland Cogeneration Limited Partnership (VCLP) to Merlot Energy LLC, a newly-formed entity with the same upstream ownership as VCLP.

Comment Date: October 14, 2003.

9. Black Hills Power, Inc., Basin Electric Power Cooperative Powder River Energy Corporation

[Docket No ER03–1354–001]

Take notice that on September 23, 2003, Black Hills Power Inc., Basin Electric Power Cooperative, and Powder River Energy Corporation filed a corrected page of their Open Access Transmission Tariff originally filed September 16, 2003.

Comment Date: October 14, 2003.

10. Pacific Gas and Electric Company

[Docket No. ER03–1361–000]

Take notice that on September 22, 2003, Pacific Gas and Electric Company (PG&E) tendered for filing a Wholesale Distribution Tariff (WDT) Service Agreement (Service Agreement) and an Interconnection Agreement (IA) between PG&E and Westside Power Authority (WPA) and a Construction Agreement between PG&E and Turlock Irrigation District (TID).

PG& E states that the Service Agreement is submitted pursuant to the PG&E WDT and permits PG&E to recover the ongoing costs for service required over PG&E's distribution facilities. The IA provides the terms and conditions for the continued interconnection of the Electric Systems of WPA and PG&E. PG&E further states that the Construction Agreement sets forth the terms and conditions for PG&E to modify existing transmission facilities to interconnect the WPA's service area.

PG&E has requested certain waivers for a proposed effective date of the asset sale closing date. Copies of this filing have been served upon Westside Power Authority, Turlock Irrigation District, the California Independent System Operator Corporation and the California Public Utilities Commission.

Comment Date: October 14, 2003.

11. Pacific Gas and Electric Company

[Docket No. ER03–1362–000]

Take notice that on September 22, 2003, Pacific Gas and Electric Company (PG&E) tendered for filing Generator Special Facilities Agreements (GSFAs) and Generator Interconnection Agreements (GIAs) between PG&E and the following parties: CalPeak Power—Panoche, LLC (CalPeak Panoch), CalPeak Power—Midway, LLC (CalPeak Midwa) and Sunrise Power Company, LLC (Sunrise II) (collectively, Parties), and a Notice of Termination of the CalPeak Midway GSFA.

PG&E states that the GSFAs permit PG&E to recover the ongoing costs associated with owning, operating and maintaining the Special Facilities for each Party. PG&E further state that the GIAs provide terms and conditions for billing, operation, maintenance, and metering. As detailed in the GSFAs, PG&E proposes to charge each of the Parties a monthly Cost of Ownership Charge equal to the rates for transmission-level, customer-financed facilities in PG&E notes that its currently effective Electric Rule 2, as filed with the California Public Utilities Commission (CPUC). PG&E's currently effective rate of 0.31% for transmission-level, customer-financed Special Facilities is contained in the CPUC's Advice Letter 1960–G/1587–E, effective August 5, 1996, a copy of which is included as Attachment 7 of this filing. PG&E has requested certain waivers.

PG&E states that copies of this filing have been served upon CalPeak Panoche, CalPeak Midway, Sunrise II, La Paloma Power Company, LLC, the California Independent System Operator Corporation, and the CPUC.

Comment Date: October 14, 2003.

12. Midwest Independent Transmission System Operator, Inc.

Docket No. ER03–1363–000]

Take notice that on September 22, 2003, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to section 205 of the Federal Power Act and Section 35.12 of the Commission's regulations, the submitted for filing a Load Interconnection and Operating Agreement among Indianapolis Power & Light Company and Hoosier Energy Rural Electric Cooperative, Inc.

Midwest ISO states that a copy of this filing was served on Indianapolis Power & Light Company and Hoosier Energy Rural Electric Cooperative, Inc.

Comment Date: October 14, 2003.

13. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–1364–000]

Take notice that on September 22, 2003, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to section 205 of the Federal Power Act and Section 35.12 of the Commission's regulations, submitted for filing an Interconnection and Operating Agreement among Kentucky Utilities Company and Smithland Hydroelectric Partners, Ltd.

Midwest ISO states that a copy of this filing was served on Kentucky Utilities Company and Smithland Hydroelectric Partners, Ltd.

Comment Date: October 14, 2003.

14. Southern California Edison Company

[Docket No. ER03–1365–000]

Take notice that on September 22, 2003, Southern California Edison Company (SCE) tendered for filing a Letter Agreement between SCE and the City of Corona, California (Corona). SCE states that the purpose of the Letter Agreement is to provide an interim arrangement pursuant to which SCE will commence the engineering, design, procurement and preparation of specifications for the interconnection facilities and system upgrades necessary to provide Distribution Service from the California Independent System Operator Controlled Grid to a proposed new SCE-Corona 12 kV interconnection in the city of Corona. SCE further states that Corona is planning to construct distribution facilities from the proposed new SCE-Corona 12 kV interconnection to serve its Wholesale Distribution Loads in a new development known as Dos Lagos.

SCE states that copies of this filing were served upon the Public Utilities Commission of the State of California and Corona.

Comment Date: October 14, 2003.

15. Xcel Energy Services Inc.

[Docket No. ER03–1366–000]

Take notice that on September 23, 2003, Xcel Energy Services Inc., on behalf of Northern States Power Company (NSP), submitted for filing with the Commission a Generation Interconnection Agreement between NSP and Fey Wind Farm, LLC, a 1.9 MW wind generator.

NSP requests the agreement be accepted for filing effective September 4, 2003, and requests waiver of the Commission's notice requirements in order for the Agreements to be accepted for filing on the date requested.

Comment Date: October 14, 2003.

16. Xcel Energy Services Inc.; Northern States Power Company

[Docket No. ER03–1367–000]

Take notice that on September 23, 2003, Xcel Energy Services Inc. (XES), on behalf of Northern States Power Company (NSP), submitted for filing with the Commission a Generation Interconnection Agreement between NSP and Windcurrent Farms, LLC, a 1.9 MW wind generator.

NSP requests the agreement to be accepted for filing effective September 1, 2003, and requests waiver of the Commission's notice requirements in order for the Agreements to be accepted for filing on the date requested.

Comment Date: October 14, 2003.

17. Cleco Power LLC, Cleco Marketing & Trading LLC, Perryville Energy, Partners, L.L.C., Cleco Evangeline LLC, Acadia Power Partners, LLC

[Docket Nos. ER03–1368–000, ER03–1369–00, ER03–1370–0000, ER03–1371–000, and ER03–1372–000]

Take notice that on September 23, 2003, Cleco Power LLC and its jurisdictional affiliates, Cleco Marketing & Trading LLC, Perryville Energy Partners, L.L.C., Cleco Evangeline LLC, and Acadia Power Partners, LLC (collectively referred to as the Cleco Companies) filed with the Commission First Revised Sheet Nos. 3–4, superseding Original Sheet Nos. 3–4 and Original Sheet No. 5 to FERC Electric Tariff, Original Volume No. 1 in compliance with FERC's Order Approving Stipulation and Consent Agreement and Requiring Payment of Civil Penalty issued July 25, 2003 in Docket No. IN03–1–000, 104 FERC ¶ 61,125. Cleco Companies state that these sheets contain the Statement of Policy and Code of Conduct with

Respect to the Relationship with the Cleco Companies.

Comment Date: October 14, 2003.

18. Orange and Rockland Utilities, Inc.

[Docket No. ER03–1373–000]

Take notice that on September 23, 2003, Orange and Rockland Utilities, Inc. (Orange and Rockland) requested that the Commission discontinue a service agreement under which Orange and Rockland provides for the transmission of hydropower and associated energy from New York Power Authority (Authority) to Public Service Electric and Gas Company, for transmission to members of the Public Power Association of New Jersey (Association). Orange and Rockland states that the Authority's power sales agreement with the Association, terminates on October 21, 2003. The Authority requested that Orange and Rockland waive the requirements for 90 days notice to terminate the Agreement so that service may terminate on October 31, 2002. The Authority states that Orange and Rockland is amendable to this request.

Orange and Rockland states that a copy of this filing has been served by mail to the Authority and the Association.

Comment Date: October 14, 2003.

19. Plymouth Energy LLC

[Docket No. ER03–1374–000]

Take notice that on September 23, 2003, Plymouth Energy LLC submitted for filing an initial rate schedule for sales of electricity at market-based rates. Plymouth Energy requested certain blanket approvals and the waiver of certain Commission regulations.

Comment Date: October 14, 2003.

20. Golden Spread Electric Cooperative, Inc.

[Docket No. ER03–1376–000]

Take notice that on September 23, 2003, Golden Spread Electric Cooperative, Inc. (Golden Spread) tendered for filing with the Commission a Third Informational Filing to Golden Spread Rate Schedule No. 35. The Third Informational Filing updates the formulary fixed costs associated with replacement energy sales by Golden Spread to Southwestern Public Service Company (Southwestern). Golden Spread states that a copy of this filing has been served upon Southwestern.

Comment Date: October 14, 2003.

21. American Electric Power Service Corporation

[Docket No. ER03–1377–000]

Take notice that on September 23, 2003, American Electric Power Service Corporation (AEPSC), as agent Central Power and Light Company (now known as AEP Texas Central Company), tendered for filing pursuant to Section 35.15 of the Commission's regulations, a Notice of Cancellation of Service Agreements between Central Power and Light Company and various entities under CPL FERC Electric Tariff, Second Revised Volume No. 8. AEPSC states that the Power Sales Tariff was accepted for filing by the Commission, effective July 9, 1996 in Docket ER96–2342–001. AEPSC requests an effective date of September 1, 2003 for the cancellation.

AEPSC states that it has served copies of the filing upon the parties listed in Exhibit 1 and the affected state regulatory commissions.

Comment Date: October 14, 2003.

22. Florida Power CorporationDocket

[No. ER03–1380–000]

Take notice that on September 23, 2003, Florida Power Corporation, doing business as Progress Energy Florida, Inc. (Florida Power), tendered for filing its Rate Schedule FERC No. 186, the Operating Agreement between Tampa Electric Company (Tampa Electric) and Florida Power dated August 14, 2003, and revised sheets to its First Revised Rate Schedule FERC No. 80, the Contract for Interchange Service between Florida Power and Tampa Electric dated July 21, 1977. Florida Power states that the filing is being made to implement the transfer of certain transmission facilities approved in Docket No. EC03–93–000. Florida Power requests an effective date for its filing of August 14, 2003.

Florida Power states that copies of this filing were served on Tampa Electric and the Florida Public Service Commission.

Comment Date: October 14, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–25220 Filed 10–3–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM02–16–000]

Integrated Licensing Process Outreach; Notice of Public Outreach Meetings on the Intergrated Licensing Process

September 30, 2003.

Commission staff from the Office of Energy Projects will hold three public Outreach Meetings on the new Integrated Licensing Process at the locations and times listed below. The purpose of the Outreach program is to familiarize federal, state, and other government agencies, Indian tribes, nongovernmental organizations, licensees, and other interested parties with the new Integrated Licensing Process set forth by Order Number 2002, issued on July 23, 2003.

Location, Date and Time

Doubletree Seattle Airport, 187450 Pacific Highway South Seattle, WA 98188, 206–246–8600.
October 27, 2003
8:30 a.m. to 12:30 p.m.

Red Lion Hotel, 1401 Arden Way, Sacramento, CA 95815, 916–922–8041,
October 29, 2003
8:30 to 12:30 p.m.

Crown Plaza Hotel, State & Lodge Albany, NY 12207, 518–462–6611
November 5, 2003
8:30 to 12:30 p.m.

All interested parties are invited to attend. If you plan to attend, please notify Ken Hogan, fax: 202–219–0205; telephone: 202–502–8434 or David Turner (202) 502–6091. This meeting is posted on the Commission's calendar

located at http://www.ferc.gov/EventCalendar/EventsList.aspx along with other related information.

Magalie R. Salas,
Secretary.
[FR Doc. 03–25451 Filed 10–3–03; 8:45 a.m.]
BILLING CODE 6717–01

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

September 29, 2003.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or prohibited off-the-record communication relevant to the merit's of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of prohibited and exempt communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	Date filed	Presenter or requestor
Prohibited		
1. ER03–1118–000	9–15–03	Henry J. Knapp, PE
Exempt		
1. Project No. 2042–000	9–04–03	Hon. George R. Nethercutt, Jr.

Magalie R. Salas,
Secretary.
[FR Doc. 03–25228 Filed 10–3–03; 8:45 am]
BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7568–5]

Final Administrative Determination Document on the Question of Whether Ferric Ferrocyanide Is One of the ''Cyanides'' Within the Meaning of the List of Toxic Pollutants Under the Clean Water Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of document availability.

SUMMARY: By order dated October 19, 1995, the United States District Court for the District of Massachusetts stayed the proceedings in *Commonwealth of Massachusetts* v. *Blackstone Valley Electric Co.* (No. 94–2286) and referred the question of whether ferric ferrocyanide qualifies as one of the ''cyanides'' within the meaning of the list of toxic pollutants under the Clean Water Act to the U.S. Environmental Protection Agency (EPA). This District Court order followed a U.S. Court of Appeals decision in which the First Circuit determined that it was appropriate to refer this question to EPA for an ''administrative determination.'' Today's notice announces the availability of EPA's final administrative determination that ferric ferrocyanide (FFC) is one of the ''cyanides'' within the meaning of the Toxic Pollutant List Under the Clean Water Act.

DATES: This final administrative determination is available on October 6, 2003.

ADDRESSES: The administrative record is available for inspection and copying at the Water Docket, located at the EPA Docket Center (EPA/DC) in the basement of the EPA West Building, Room B–102, 1301 Constitution Ave., NW., Washington, DC. The Final Administrative Determination and key supporting materials are also electronically available via EPA Dockets (Edocket) at *http://www.epa.gov/edocket/.*

FOR FURTHER INFORMATION CONTACT: For further information, contact Marion Kelly, USEPA, Office of Water, Engineering and Analysis Division (4303T), 1301 Constitution Avenue, NW., Washington, DC; or call (202) 566–1045; or e-mail *kelly.marion@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

A. *Docket.* EPA has established an official public docket for this action under Docket ID No. OW–2002–0036. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B–102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone

number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

B. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listing at *http://www.epa.gov/fedrgstr/.*

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

II. EPA's Determination Regarding Ferric Ferrocyanide

EPA has prepared a final administrative determination describing the Agency's interpretation of the term ''cyanides'' (found in 40 CFR 401.15, 40 CFR 302.4, and Table 302.4 at 40 CFR 302.4) as that interpretation applies to ferric ferrocyanide. 40 CFR 401.15 contains the list of toxic pollutants, 40 CFR 302.4 provides the designation of hazardous substances, and Table 302.4 at 40 CFR 302.4 contains the list of hazardous substances and reportable quantities. This final administrative determination responds to a referral from the United States District Court for the District of Massachusetts. By order dated October 19, 1995, the United States District Court for the District of Massachusetts stayed the proceedings in *Commonwealth of Massachusetts* v. *Blackstone Valley Electric Co.* (No. 94–2286) and referred the question of whether ferric ferrocyanide qualifies as one of the ''cyanides'' within the meaning of 40 CFR 401.15, 40 CFR 302.4, and Table 302.4 to EPA. This District Court order followed a U.S. Court of Appeals decision in which the First Circuit determined that it was appropriate to refer this question to EPA for an ''administrative determination.'' *Commonwealth of Massachusetts* v. *Blackstone Valley Electric Co.*, 67 F.3d 981 (1st Cir. 1995).

This determination is not a legislative rule; notice and comment is not required. However, in reaching this determination, EPA provided an opportunity for public comment through a **Federal Register** notice announcing the availability of the Agency's preliminary determination (January 25, 2001, 66 FR 7759). EPA originally requested public comments on the preliminary determination by March 12, 2001 and then extended the comment period twice at the request of the litigants in the Blackstone case. After the close of the comment period for the preliminary determination, EPA found additional (and potentially relevant) historical documents and scientific articles, and reopened the comment period for comment on these new materials on November 4, 2002 (November 4, 2002, 67 FR 67183; corrected November 12, 2002, 67 FR 68725). The comment period for the additional materials ended January 3, 2003. In April 2003, EPA conducted a peer review of the preliminary determination in accordance with EPA's Peer Review policies, which are described in EPA's *Science Policy Council Handbook—Peer Review, 2nd Edition* (EPA 100–B–00–001, December 2001; the ''Peer-review Handbook'').

EPA considered all comments and materials received, including those submitted by the peer reviewers, the litigants in the *Blackstone* case, Massachusetts, and other stakeholders. EPA has placed all comments, responses to comments, and all information used by the Agency in support of this administrative determination in the public docket. EPA also prepared, and included in the public docket, a final administrative determination document (EPA–821–R–03–014) that summarizes the Agency's analysis and rationale. EPA has determined that ferric ferrocyanide is one of the ''cyanides'' within the meaning of 40 CFR 401.15, 40 CFR 302.4, and Table 302.4.

Dated: September 24, 2003.

G. Tracy Mehan III,

Assistant Administrator for Water.

[FR Doc. 03–25272 Filed 10–3–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[RCRA–2003–0024; FRL–7558–5]

Announcement of Availability of the Results-Based Approaches and Tailored Oversight Guidance for Facilities Subject to Corrective Action Under Subtitle C of the Resource Conservation and Recovery Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the availability of the final ''Results-Based Approaches and Tailored Oversight Guidance for Facilities Subject to Corrective Action Under Subtitle C of the Resource Conservation and Recovery Act'' (Guidance). This guidance is designed to provide the EPA Regions, the States, Tribes, the regulated community, members of the public, and other stakeholders with a better understanding of EPA's general results-based strategy for RCRA Corrective Action. This document provides guidance on how EPA generally intends to exercise its discretion in implementing its statutory authorities and regulations. EPA wrote this guidance because we believe greater use of results-based approaches will help us achieve our short-term goals established by the Government Performance and Results Act (GPRA).

DATES: This guidance was issued September 26, 2003.

ADDRESSES: The Agency is posting this document on the Corrective Action Web site: *http://www.epa.gov/correctiveaction.* If you would like to receive a hard copy, please call the RCRA Call Center at 800–424–0346 or TDD 800–553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703–412–9810 or TDD 703–412–3323.

FOR FURTHER INFORMATION CONTACT: For more detailed information on specific aspects of the guidance document, contact Karen Tomimatsu, Office of Solid Waste, Mail Code 5303W, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (703–605–0698), (*tomimatsu.karen@epa.gov*), or Peter Neves, Office of Enforcement and Compliance Assurance, Mail Code 2273A, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564–6072, (*neves.peter@epa.gov*).

SUPPLEMENTARY INFORMATION: The guidance document will be issued as a memorandum from EPA headquarters to the Regional offices. It will be available on the Internet at: *http://www.epa.gov/correctiveaction.*

EPA has established an official public docket for this action under Docket ID No. RCRA–2003–0024. The official public docket is the collection of materials that is available for public viewing at the OSWER 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 OSWER Docket is (202) 566–0270.

You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

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

Dated: August 18, 2003.

Robert Springer,

Director, Office of Solid Waste.

Dated: September 12, 2003.

Susan E. Bromm,

Director, Office of Site Remediation Enforcement.

[FR Doc. 03–25273 Filed 10–3–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7568–6]

Notice of Tentative Approval and Solicitation of Request for a Public Hearing for Public Water System Supervision Program Revisions for the State of West Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval and solicitation of requests for a public hearing.

SUMMARY: Notice is hereby given in accordance with the provision of section 1413 of the Safe Drinking Water Act as amended, and the National Primary Drinking Water Regulations Implementation that the State of West Virginia is revising its approved Public Water System Supervision Program. West Virginia has amended its Public Notification Rule (set of requirements for public water systems to follow regarding the form, manner, frequency, and content of a public notice) and its Lead and Copper Rule (LCR) to streamline requirements and reduce monitoring and reporting requirements. EPA has determined that these revisions are no less stringent than the corresponding Federal regulations. Therefore, EPA has decided to tentatively approve these program revisions. All interested parties are invited to submit written comments on this determination and may request a public hearing.

DATES: Comments or a request for a public hearing must be submitted by November 5, 2003. This determination shall become effective on November 5, 2003, if no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, and if no comments are received which cause EPA to modify its tentative approval.

ADDRESSES: Comments or a request for a public hearing must be submitted to the U.S. Environmental Protection Agency Region III, 1650 Arch Street, Philadelphia, PA 19103–2029. All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

- Drinking Water Branch, Water Protection Division, U.S. Environmental Protection Agency Region III, 1650 Arch Street, Philadelphia, PA 19103–2029.
- West Virginia Department of Health and Human Resources, Environmental Engineering Division, 815 Quarrier Street, Suite 418, Charleston, WV 25301.

FOR FURTHER INFORMATION CONTACT: Donna Weiss, Drinking Water Branch (3WP22) at the Philadelphia address given above; telephone (215) 814–2198 or fax (215) 814–2318.

SUPPLEMENTARY INFORMATION: All interested parties are invited to submit written comments on this determination and may request a public hearing. All comments will be considered, and, if necessary, EPA will issue a response. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by November 5, 2003, a public hearing will be held. A request for public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such a hearing; and (3) the signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Dated: September 22, 2003.

James W. Newson,

Acting Regional Administrator, Region III.

[FR Doc. 03–25274 Filed 10–3–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Amendment of FASAB Charter

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October, 1999, notice is hereby given that under the authority and in furtherance of the objectives of 31 U.S.C. 3511(d), the Secretary of the Treasury, the Director of OMB, and the Comptroller General (the Sponsors) have altered the composition of the Board by adding a member from the Congressional Budget Office.

For Further Information Contact: Wendy Comes, Executive Director, 441 G St., NW., Suite 6814, Mail Stop 6K17V, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. 31 U.S.C. 3511(d), Pub. L. 92–463.

Dated: October 1, 2003.

Wendy M. Comes,

Executive Director.

[FR Doc. 03–25276 Filed 10–3–03; 8:45 am]

BILLING CODE 1610–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Submitted to OMB for Review and Approval

September 24, 2003.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the

Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 5, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Leslie.Smith@fcc.gov* or Kim A. Johnson, Office of Management and Budget (OMB), Room 10236 NEOB, Washington, DC 20503, (202) 395–3562 or via internet at *Kim_A._Johnson@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0483.

Title: Section 73.687, Transmission System Requirements.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 6.

Estimated time per response: 1.0 hours.

Frequency of Response: On occasion reporting requirement.

Total annual burden: 6 hours.

Total annual costs: $0.

Needs and Uses: 47 CFR 73.687(e)(3) requires TV broadcast stations operating on Channels 14 and 69 to take special precautions to avoid interference to adjacent spectrum land mobile operations. This requirement applies to all new Channel 14 and 69 TV broadcast stations and those authorized to change channel, increase effective radiated power (ERP), change directional antenna characteristics such that ERP increases in any azimuth direction or change location, involving an existing or proposed channel 14 or 69 assignment. Section 73.687(e)(4) requires these stations to submit evidence to the FCC that no interference is being caused before they will be permitted to transmit programming on the new facilities. FCC uses the data to ensure proper precautions have been taken to protect land mobile stations from interference. It will also both increase and improve service to the public by broadcasters and land mobile services operating in certain parts of the spectrum.

OMB Approval Number: 3060–0397.

Title: Special Temporary Authority—Section 15.7(a).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; and Not-for-profit institutions.

Number of Respondents: 2.

Estimated Time per Response: 6 hours.

Frequency of Response: One time filing requirement.

Total Annual Burden: 12 hours.

Total Estimated Cost: None.

Needs and Uses: In exceptional situations, the FCC will issue a special temporary authorization to operate a radio frequency device not conforming to the subject rules. An applicant must show that the proposed operation is in the public interest but cannot be feasibly conducted under the applicable rules.

OMB Approval Number: 3060–0758.

Title: Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations, ET Docket No. 96–256.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; and Not-for-profit institutions.

Number of Respondents: 428.

Estimated Time per Response: 0.1 to 2.5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 681 hours.

Total Estimated Cost: None.

Needs and Uses: Under 47 CFR part 5 of the FCC's Rules governing the Experimental Radio Service: (1) Pursuant to Section 5.75, if a blanket license is granted, licensees are required to notify the Commission of the specific details of each individual experiment, including location, number of base and mobile units, power, emission designator, and any other pertinent technical information not specified by the blanket license; (2) pursuant to Section 5.85(d), when applicants are using public safety frequencies to perform experiments of a public safety nature, the license may be conditioned to require coordination between the experimental licensee and appropriate frequency coordinator and/or all public safety licensees in its area of operation; (3) pursuant to Section 5.85(e), the Commission may, at its discretion, condition any experimental license or special temporary authority (STA) on the requirement that before commencing operation, the new licensee coordinate its proposed facility with other licensees that may receive interference as a result of the new licensee's operations; and (4) pursuant to Section 5.93(b), unless otherwise stated in the instrument of authorization, a license granted for the purpose of limited market studies requires the licensee to inform anyone participating in the experiment that the service or device is granted under an experimental authorization and is strictly temporary. In all cases, it is the responsibility of the licensee to coordinate with other users.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–25200 Filed 10–3–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

September 24, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents,

including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before November 5, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments regarding this Paperwork Reduction Act submission to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at (202) 418–0214 or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0819.

Title: Lifeline Assistance (Lifeline) Connection Assistance (Link-Up) Reporting Worksheet and Instructions (47 CFR 54.400–54.417).

Form No: FCC Form 497.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,500 respondents; 18,000 responses.

Estimated Time Per Response: 3.5 hours × 12 submissions.

Frequency of Response: On occasion, quarterly and monthly reporting requirements.

Total Annual Burden: 63,000 hours.

Total Annual Cost: N/A.

Needs and Uses: Eligible telecommunications carriers are permitted to receive universal service support reimbursement for offering certain services to qualifying low-income customers. The telecommunications carriers must file FCC Form 497 to solicit reimbursement. Applicants are encouraged to submit the filings to the administrator quarterly. For those that file quarterly, they are required to file three separate forms for each quarter—one for each month within the quarter. Collection of this data is necessary for the administrator to accurately provide settlements for the low-income programs according to Commission rules.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–25201 Filed 10–3–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

September 24, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before December 5, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at (202) 418–0214 or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0893.

Title: Universal Licensing Service (ULS) Pre-Auction Database Corrections.

Form No.: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business and other for-profit, individual or household, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 4,442 respondents, 21,000 responses.

Estimated Time Per Response: .50 hours (30 minutes).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 10,500 hours.

Total Annual Cost: N/A.

Needs and Use: This collection is necessary to ensure that the ULS database is as accurate as possible. It involves the correction of licensing data errors detected through integrity reports obtained by searching the ULS database. This data must be corrected to prepare for specific auctions of certain radio services that have been placed in the ULS but have not yet been auctioned. This data aids in spectrum management and provides for an efficient graphical user interface for each potential auction participant.

OMB Control No.: 3060–0270.

Title: Section 90.443, Content of Station Records.

Form No.: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business and other for-profit entities, individual or household, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 57,410.

Estimated Time Per Response: .083 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 4,765 hours.

Total Annual Cost: N/A.

Needs and Use: The rule specifies the records required to be maintained by station licensees. These records indicate maintenance performed on the licensee's equipment, and instances of tower light checks and failures, if any, and corrective action taken. The maintenance records could be used by the licensee or Commission filed personnel to note any recurring equipment problems or conditions that may lead to degraded equipment performance and/or interference generation. The records regarding tower lighting are required to ensure that the licensee is aware of tower light condition and proper operation, in order to prevent and/or correct any hazards to air navigation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–25202 Filed 10–3–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Technological Advisory Council; Notice of Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, this notice advises interested persons of the first of the Technological Advisory Council (''Council'') under its new charter.

DATES: October 20, 2003 beginning at 10 a.m. and concluding at 3 p.m.

ADDRESSES: Federal Communications Commission, 445 12th St. SW., Room TW–C305 Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jeffery Goldthorp, (202) 418–1096.

SUPPLEMENTARY INFORMATION: Continuously accelerating technological changes in telecommunications design, manufacturing, and deployment require that the Commission be promptly informed of those changes to fulfill its statutory mandate effectively. The Council was established by the Federal Communications Commission to provide a means by which a diverse array of recognized technical experts from different areas such as manufacturing, academia, communications services providers, the research community, etc., can provide advice to the FCC on innovation in the communications industry. At this third meeting under the Council's new charter, the Council will focus on Voice services over IP. Members of the public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many persons as possible. Admittance, however, will be limited to the seating available. Unless so requested by the Council's Chair, there will be no public oral participation, but the public may submit written comments to Jeffery Goldthorp, the Federal Communications Commission's Designated Federal Officer for the Technological Advisory Council, before the meeting. Mr. Goldthorp's e-mail address is *Jeffery.Goldthorp@fcc.gov*. Mail delivery address is: Federal Communications Commission, 445 12th Street, SW., Room 7–A325, Washington, DC 20554.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–25241 Filed 10–3–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Populations.

Time and Date: 8:30 a.m. to 5 p.m., November 13, 2003, 8:30 a.m. to 5 p.m., November 14, 2003.

Place: The Palace Hotel, 2 New Montgomery Street, San Francisco, CA 94105, Phone: (415) 512–1111.

Status: Open.

Purpose: The Subcommittee on Populations, NCVHS, is holding a hearing to discuss issues relating to statistics for the determination of health disparities in racial and ethnic populations. The focus will be on issues related to the collection and use of data on race and ethnicity for Asian American, Native Hawaiian, and Pacific Islander populations. Invited panelists will address methodologic issues (*e.g.,* misclassification, small area analysis, confidentiality concerns) in the collection of data on race and ethnicity, use of mixed race data, language issues, measurement of ethnic identity, and perspectives on variables beyond race and ethnicity needed to determined health disparities in racial and ethnic groups.

For Further Information Contact: Additional information about this meeting as well as summaries of past meetings and a roster of committee members may be obtained from Audrey L. Burwell, Office of Minority Health, 1101 Wooton Parkway, 6th Floor, Room 600, Rockville, Maryland 20852, telephone: (301) 443–9923, e-mail *alburwell@osophs.dhhs.gov;* or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, Room 2413, 3311 Toledo Road, Hyattsville, Maryland 20782, telephone: (301) 458–4245. Information also is available on the NCVHS home page of the HHS web site: *http://www.ncvhs.hhs.gov/* where an agenda and more details about participation in the meeting or Subcommittee deliberations will be posed when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: September 23, 2003.

James Scanlon,

Acting Deputy Assistant Secretary for Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 03–25284 Filed 10–3–03; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Budget, Technology and Finance; Statement of Organization, Functions, and Delegations of Authority

Part A, Office of the Secretary, Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) is being amended as follows: Chapter AM, Office of Budget, Technology and Finance, Office of Information Resources Management (AMM), as last amended at 68 FR 11555–11562), dated March 11, 2003. This reorganization will retitle the Office of OS IT Development and Services (AMM3), Office of Information and Resources Management (OIRM) to the Information Technology Services Center (ITSC), to reflect its expanding responsibilities in providing information technology services within the Department. The changes are as follows: Under Chapter AM, Office of Budget, Technology and Finance, Section AM.20 Functions, make the following corrections:

A. Under Paragraph C, Section AMM.10 Organization, delete in its entirety and replace with the following:

Section AMM.10 Organization. The Office of Information Resources Management (OIRM) is supervised by the Deputy Assistant Secretary for Budget, Technology and Finance. The CIO serves as the primary IT leader for the Department. OIRM consists of the following:

- Immediate Office (AMM1)
- Office of IT Policy Development & Implementation (AMM2)
- Information Technology Services Center (AMM3)
- Office of HHS Enterprise Operations (AMM4)
- Office of Information Security Development and Implementation (AMM5)

B. Under Section AMM..20 Functions, delete Paragraph 3, ''Office of OS IT Development and Services'' in its entirety, and replace with the following:

3. *Information Technology Services Center* (AMM3)—The Information Technology Service Center (ITSC) is responsible for providing Network Services, Help Desk, Call center, Desktop Support, Web Architecture, server Architectures, OPDIV IT Security, Secretary's Command Center and Continuity of Operations Planning (COOP) support, and Outreach/Customer Relationship Management

(CRM). It is directed by the Director of IT Services. It is also a primary resource for advising the HHS CIO on technology implementation, and for piloting HHS CIO special programs. ITS is responsible for the following:

a. Operating, maintaining, and enhancing the ITSC computer network and services, including services for participating HHS organizations.

b. Implementing and monitoring network policies and procedures, and developing plans and budgets for network support services.

c. Ensuring reliable, high-performance network services.

d. Implementing and operating electronic tools to enhance Secretarial communications with all HHS personnel.

e. Coordinating with OPDIVs and STAFFDIVs to develop ITSC, IT capital planning and budgeting processes, providing direct planning support to assure that IRM plans support agency business planning and mission accomplishment, as it applies to the infrastructure.

f. Implementing policies and guidance on information resources management within ITSC for acquisition and use of information technology, support of technical R model, and coordination of implementation procedures.

g. Maintaining and operating the inventory of automated data processing equipment for the ITSC participating agencies.

h. Operating and maintaining an information technology support service (Help Desk and Call Center) for participating HHS components.

i. Managing contracts for equipment and support services related to the provision of IT services in ITSC participating agencies.

j. Representing the Department through participation on interagency and Departmental work groups and task forces, as appropriate.

k. Responsible for ITSC compliance with and implementation of all applicable HHS policies and Federal Laws regarding IT Security.

l. Reviewing and facilitating acquisitions for activities related to ITSC.

Dated: July 28, 2003.

Ed Sontag,

Assistant Secretary for Administration and Management.

[FR Doc. 03–25283 Filed 10–3–03; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

NIOSH/NCI Joint Study Meeting

The National Institute for Occupational Safety and Health (NIOSH), and the National Institutes of Health, National Cancer Institute (NCI), announce the following meeting:

Name: Stakeholder informational meeting on the joint NIOSH/NCI study entitled, ''A Cohort Mortality Study with a Nested Case-Control Study of Lung Cancer and Diesel Exhaust among Non-metal Miners.''

Time and Date: 9 a.m.–12 noon, Wednesday, November 5, 2003.

Place: Room 705A, Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open to the public, limited only by space available. The meeting room accommodates up to 50 people.

Purpose: To provide an overview of progress of the study, and to exchange information among government, stakeholders, and other interested parties.

Matters To Be Discussed: The agenda will include a short summary of the background of the NIOSH/NCI study, and reviews of progress on the different components of the study. Viewpoints and suggestions from industry, labor, academia, other government agencies, and the public are invited. Written comments will also be considered.

Contact Person for More Information: Michael Attfield, Ph.D., NIOSH Project Director, Division of Respiratory Disease Studies, M/S 234, 1095 Willowdale Road, Morgantown, West Virginia 26505–2888, telephone 304/285–5737, e-mail *MDA1@CDC.GOV.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the CDC and ATSDR.

Dated: September 30, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–25233 Filed 10–3–03; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0229]

Guidance for Industry on Continuous Marketing Applications: Pilot 2—Scientific Feedback and Interactions During Development of Fast Track Products Under the Prescription Drug User Fee Act of 1992

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Continuous Marketing Applications: Pilot 2—Scientific Feedback and Interactions During Development of Fast Track Products Under PDUFA.'' This is one in a series of guidance documents that FDA agreed to draft and implement in conjunction with the June 2002 reauthorization of the Prescription Drug User Fee Act of 1992 (PDUFA). This guidance discusses how the agency will implement a pilot program for frequent scientific feedback and interactions between FDA and applicants during the investigational phase of development for certain Fast Track drug and biological products. Applicants are being asked to apply to participate in the Pilot 2 program.

DATES: Submit written or electronic comments on agency guidances at any time. FDA will begin accepting applications for participation in Pilot 2 on October 6, 2003.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; or to the Office of Communications, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self addressed adhesive label to assist either office in processing your requests. 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.* See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

John Jenkins, CDER (HFD–020), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–3937, or

Robert A. Yetter, CBER (HFM–25), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Description of the Guidance

FDA is announcing the availability of a guidance for industry entitled ''Continuous Marketing Applications: Pilot 2—Scientific Feedback and Interactions During Development of Fast Track Products Under PDUFA.'' In conjunction with the June 2002 reauthorization of PDUFA, FDA agreed to meet specific performance goals (PDUFA Goals). The PDUFA Goals include two pilot programs to explore the continuous marketing application (CMA) concept. The CMA concept builds on the current practice of interaction between FDA and applicants during drug development and application review and proposes opportunities for improvement.

In the **Federal Register** of June 17, 2003 (68 FR 35901), FDA announced the availability of a draft version of this guidance. FDA received a number of comments when it issued the draft version of this guidance. We have considered the comments on the draft guidance carefully and have made some changes to address those comments. Among other things, we have revised the guidance to clarify the eligibility requirements and selection process for Pilot 2 and provide for public availability of additional information during the program.

Under the CMA Pilot 2 program, certain drug and biologic products that have been designated as Fast Track (i.e., products intended to treat a serious and/or life-threatening disease for which there is an unmet medical need) are eligible to be considered for participation in Pilot 2. Pilot 2 is an exploratory program and FDA will evaluate its impact on the investigational phase of drug development. Under the pilot program, a maximum of one Fast Track product per review division in CDER and CBER will be selected to participate. This guidance provides information regarding the selection of applications for Pilot 2, the formation of agreements between FDA and applicants on the investigational new drug application communication process, and other procedural aspects of Pilot 2. See **DATES** for when FDA will begin accepting applications for participation in Pilot 2.

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 (the PRA) (44 U.S.C. 3501–3520). The collection(s) of information in this guidance was approved under OMB control number 0910–0518, and will expire on March, 31, 2004. In the notice announcing the availability of the draft version of this guidance (68 FR 35901), FDA published a notice of the proposed collection of information related to the draft guidance. The **Federal Register** notice also requested comments on the burden estimated for the guidance. In the **Federal Register** of September 9, 2003 (68 FR 53174), the agency announced that it was submitting the collection of information to OMB for review and clearance under the PRA. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The time required to complete this information collection is estimated to average 80 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection.

This level 1 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 requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the guidance at any time. Two copies of mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. 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.

III. Electronic Access

Persons with access to the Internet can obtain the guidance at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/cber/guidelines.htm*.

Dated: September 29, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–25305 Filed 10–1–03; 4:09 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0228]

Guidance for Industry on Continuous Marketing Applications: Pilot 1—Reviewable Units for Fast Track Products Under the Prescription Drug User Fee Act of 1992

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Continuous Marketing Applications: Pilot 1—Reviewable Units for Fast Track Products Under PDUFA.'' This is one in a series of guidance documents that FDA agreed to draft and implement in conjunction with the June 2002 reauthorization of the Prescription Drug User Fee Act of 1992 (PDUFA). Pilot 1 will enable certain applicants to receive early feedback on portions of their applications. Pilot 1 will also evaluate the benefits and costs of providing early feedback to applicants.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communications, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist either office in processing your requests. 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*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: John Jenkins, CDER (HFD–020), Food

and Drug Administration, 1451 Rockville Pike, Rockville, MD 20852, 301–594–3937, or

Robert A. Yetter, CBER (HFM–25), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–827–0373.

SUPPLEMENTARY INFORMATION:

I. Description of the Guidance

FDA is announcing the availability of a guidance for industry entitled ''Continuous Marketing Applications: Pilot 1—Reviewable Units for Fast Track Products Under PDUFA.'' In conjunction with the June 2002 reauthorization of PDUFA, FDA agreed to meet specific performance goals (PDUFA Goals). The PDUFA Goals include two pilot programs to explore the continuous marketing application (CMA) concept. The CMA concept builds on the current practice of interaction between FDA and applicants during drug development and application review and proposes opportunities for improvement.

In the **Federal Register** of June 17, 2003 (68 FR 35903), FDA announced the availability of a draft version of this guidance. FDA received a number of comments on the draft guidance. We have considered the comments carefully and have made some changes to address those comments. Among other things, we have revised the guidance to further describe the selection of marketing applications for inclusion in Pilot 1, clarify the content and submission process for reviewable units, and provide for public availability of additional information during the program.

Under the CMA pilot program, Pilot 1, applicants submitting new drug applications or biological licensing applications for products that have been designated as Fast Track drug or biological products (i.e., products intended to treat a serious and/or life-threatening disease for which there is an unmet medical need) may be eligible to submit portions of their marketing applications (reviewable units) in advance of the complete marketing application. FDA has agreed to complete reviews of reviewable units within a specified time and to provide early feedback for those presubmissions in the form of discipline review letters.

This guidance provides information on how the agency will implement Pilot 1. As described in the guidance, Pilot 1 is an exploratory program that will allow FDA to evaluate the added value, costs, and impact of early review and feedback on parts of applications (reviewable units) in advance of submission of the complete application.

This level 1 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 the implementation of the Pilot 1 program for reviewable units of certain Fast Track drug and biological products. 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 requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the guidance at any time. Two copies of mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. 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.

III. Electronic Access

Persons with access to the Internet can obtain the guidance at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/cber/guidelines.htm*.

Dated: September 29, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–25306 Filed 10–1–03; 4:09 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

Proposed Project: HRSA AIDS Education and Training Centers Evaluation Activities—NEW

The AIDS Education and Training Centers (AETC) Program, under the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, supports a network of regional and cross-cutting national centers that conduct targeted, multi-disciplinary education and training programs for health care providers treating persons with HIV/AIDS. The AETCs' purpose is to increase the number of health care providers who are effectively educated and motivated to counsel, diagnose, treat, and medically manage individuals with HIV infection, and to help prevent high risk behaviors that lead to HIV transmission.

As part of a national evaluation effort of AETC activities, one questionnaire and several record-keeping forms have been developed to capture information on AETC activities. The first form is the Participant Information Form and asks trainees for information on the individual's profession, type of clinical practice, and patient population. Recordkeeping forms include (1) the Program Record which records information such as topic, training time, number of people reached, and format per training activity, (2) the Clinical Consultation Form which collects information on consults with a provider regarding a specific patient, (3) the Group Clinical Consultation Form which records information on the nature of the cases discussed and the session format during a site visit, and (4) the Agency Technical Assistance Form which collects information on activities to improve non-clinical aspects of care (*e.g.*, medical records, resource allocation). The information on the recordkeeping forms comprises a core data set that will be submitted to the HIV/AIDS Bureau (HAB) data contractor three times per year.

Each center will be required to report aggregate data from these forms on their activities to HRSA/HAB. This data collection will provide information on the number of training, consultation, and technical assistance activities by center, the number of health care providers receiving professional training or consultation, the time and effort expended on different types of training and consultation activities, the populations served by the AETC trainees, and the increase in capacity achieved through training and technical assistance activities. Collection of this information will allow HRSA/HAB to provide information on training activities, types of education and

training provided to Ryan White CARE Act grantees, resource allocation, and capacity expansion.

Trainees will be asked to complete the Participant Information Form for each activity they complete. The estimated annual response burden to attendees of training programs is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Participant Information	75,000	2	150,000	0.2	30,000

The estimated annual burden to AETCs is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Program Record	12	500	6,000	0.1	600
Clinical Consultation	12	300	3,600	0.1	360
Group Clinical Consultation	12	75	900	0.1	90
Technical Assistance	12	250	3,000	0.1	300
Aggregate Data Set	12	3	36	32	1,152
Total	12		13,536		2,502

The total burden hours being requested are 32,502.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: September 30, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–25250 Filed 10–3–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; National Cancer Institute Science Enrichment Program Surveys

Summary: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: NCI Science Enrichment Program (SEP) Surveys.

Type of Information Collection Request: New.

Need and Use of Information Collection: NCI SEP is a 5-week summer residential program on university campuses that serves under-represented minority and under-served students who have just completed ninth grade.

The program goals are to: (1) Encourage student participants to select careers in science, mathematics, and/or research, and (2) broaden and enrich students' science, research, and sociocultural backgrounds. The proposed data collection encompasses three surveys: (1) A follow-up survey of SEP and control group students who participated in a five-year longitudinal evaluation of the program conducted between 1998 and 2003; (2) a post-program survey of parents of SEP 2004 participants; and (3) a follow-up survey of SEP 1990–1997 alumni. The information from the proposed data collection will supplement previous evaluation results, which have been and will continue to be used to judge program process and outcomes.

Frequency of Response: One time.

Affected Public: Individuals or households.

Type of Respondents: High school and college students, young adults, and parents of high school students participating in the program.

Cost to Respondents: $4,070.

The annual reporting burden is as follows:

ESTIMATES OF HOUR BURDEN: BURDEN REQUESTED

Type of respondents	Average number of respondents/Yr.	Frequency of response	Average time per response	Average annual hour burden
SEP Participants	600	1	0.25	150
Control Group Students	300	1	0.25	75
Parents of SEP Participants	100	1	0.25	25
SEP 1990–1997 Alumni	627	1	0.25	157
Total	1,627			407

There are no Capitol Costs, Operating Costs, and/or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

For Further Information Contact: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Mr. Frank Jackson, Center to Reduce Cancer Health Disparities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Suite 602, Rockville, MD 20852, or call non-toll-free number (301) 496–8589, or E-mail your request, including your address to: *fj12i@nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of this publication.

Dated: September 29, 2003.

Reesa Nichols,

NCI Project Clearance Liaison.

[FR Doc. 03–25294 Filed 10–6–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request: National Institute of Diabetes and Digestive and Kidney Diseases Information Clearinghouses Customer Satisfaction Survey

SUMMARY: Under the provision of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 30, 2003, pages 23150–23151 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection

Title: NIDDK Information Clearhinghouses Customer Satisfaction Survey.

Type of Information Request: Extension. The OMB control number 0925–0480 expires July 31, 2003.

Need and Use of Information Collection: NIDDK is conducting a survey to evaluate the efficiency and effectiveness of services provided its three information clearinghouses: National Diabetes Information Clearinghouse, National Digestive Diseases Information Clearinghouse, National Kidney and Urologic Diseases Information Clearinghouse. The survey responds to Executive Order 12862, ''Setting Customer Service Standards,'' which requires agencies and departments to identify and ''survey their customers to determine the kind and quality of service they want and their level of satisfaction with existing service.''

Frequency of Response: On occasion.

Affected Public: Individuals or households; clinics or doctor's offices.

Type of Respondents: Physicians, nurses, patients, family.

The annual reporting burden is as follows:

Estimated Number of Respondents: 12,000.

Estimated Number of Responses per Respondent: 1.

Estimated Average Burden Hours Per Response: 0.1671.

Estimated Total Annual Burden Hours Requested: 2,000. The annualized cost to respondents is estimated at $39,000. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Type or respondents	Number of respondents	Frequency of response	Estimated average response time	Estimated annual burden hours.
Patients/Family	3,600	1.00	0.167	600
Phys. Asst.	7,200	1.00	0.167	1,200
Physicians	1,200	1.00	0.167	200
Totals	12,000			2,000

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimate public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or

to obtain a copy of the data collection plans and instruments, contact: Kathy Kranzfelder, Project Officer, NIDDK Information Clearinghouses, NIH, Building 31, Room 9A04, MSC2560, Bethesda, MD 20852, or call non-toll-free number (301) 435–8113 or E-mail your request, including your address, to: *kranzfeldk@hq.niddk.nih.gov.*

Comments Due Date: Comments regarding this information are best assured of having their full effect if received within 30 days following the date of this publication.

Dated: May 30, 2003.

Barbara Merchant,

Executive Officer, NIDDK.

[FR Doc. 03–25295 Filed 10–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of a meeting of the Sickle Cell Disease Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Sickle Cell Disease Advisory Committee.

Date: November 3, 2003.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: Discussion of program policies and issues.

Place: National Institutes of Health, 6701 Rockledge Drive, Conference Rooms 9112, 9116, Bethesda, MD 20892.

Contact Person: Charles M. Peterson, MD, Director, Blood Diseases Program, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, NIH, Two Rockledge Center, Room 10158, MSC 7950, 6701 Rockledge Drive, Bethesda, MD 20892, 301/435–0080.

Information is also available on the Institute's/Center's home page: *http://www.nhlbi.nih.gov/meetings/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 30, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–25291 Filed 10–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 55b(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: Environmental Health Sciences Review Committee.

Date: November 6–7, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Nat'l. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–24, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: September 30, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–25292 Filed 10–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 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 Environmental Health Sciences Special Emphasis Panel, Review of Program Project (PO1) Applications.

Date: October 21–22, 2003.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Contact Person: Leroy Worth, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, 919/541–0670, *worth@niehs.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation-Health Risks from Environmental Exposures, 93.142, NIEHS Hazardous Waste Worker Health and Safety Training, 93.143, NIEHS Superfund Hazardous Substances-Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Training, National Institutes of Health, HHS)

Dated: September 30, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–25293 Filed 10–3–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Radiological Emergency Preparedness: Reasonable Assurance Finding for the Indian Point Energy Center

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

ACTION: Notice.

SUMMARY: On July 25, 2003, FEMA made a finding of reasonable assurance that there is adequate offsite preparedness for the Indian Point Energy Center in Buchanan, New York.

FOR FURTHER INFORMATION CONTACT: Vanessa E. Quinn, Chief, Radiological Emergency Preparedness Section, Nuclear and Chemical Hazards Branch, FEMA, 500 C Street, SW., Washington, DC 20472; (202) 646–3664; *Vanessa.quinn@dhs.gov.*

SUPPLEMENTARY INFORMATION: On July 25, 2003, FEMA made a finding of reasonable assurance that appropriate measures to protect the health and safety of communities surrounding the Indian Point Energy Center can be taken and are capable of being implemented. A link to the full text of the document transmitting the finding to George Pataki, Governor of New York, is available at *http://www.fema.gov.*

Dated: September 29, 2003.

R. David Paulison,

Director of the Preparedness Division, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 03–25216 Filed 10–3–03; 8:45 am]

BILLING CODE 6718–06–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[UT–030–02–1610–DE–24–1A]

Establishment of Advisory Committee

AGENCY: Bureau of Land Management (BLM), Utah State Office, Interior.

ACTION: Notice of establishment of the Grand Staircase-Escalante National Monument Advisory Committee.

SUMMARY: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972, Pub. L. 92–463. Notice is hereby given that the Secretary of the Interior has established the Bureau of Land Management's Grand Staircase-Escalante National Monument Advisory Committee.

The Purpose of the Committee will be to advise Monument Managers on science and management issues and the achievement of objectives set forth in the Grand Staircase-Escalante National Monument Management Plan.

FOR FURTHER INFORMATION CONTACT: Steve Cohn, National Landscape Conservation System (171), Bureau of Land Management, 1620 L Street, NW., Room 301 LS, Washington, DC 20240, telephone (202) 785–6589.

Certification Statement

I hereby certify that the establishment of the Grand Staircase-Escalante National Monument Advisory Committee is necessary and in the public interest in connection with the Secretary of the Interior's responsibilities to manage the lands, resources, and facilities administered by the Bureau of Land Management.

Dated: September 26, 2003.

Gale A. Horton,

Secretary of the Interior.

[FR Doc. 03–25195 Filed 10–3–03; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Permit Application and Safe Harbor Agreement Between the Fish and Wildlife Service and the Malpai Borderlands Group

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of availability and 30-day public comment period.

SUMMARY: The Malpai Borderlands Group (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a)(1)(A) of the Endangered Species Act (Act). The Applicants have been assigned permit number TE–073684–0. The requested permit, which is for a period of 50 years, would authorize the take of the Threatened Chiricahua leopard frog (*Rana chiricahuensis*). The proposed take could occur as a result of conservation measures implemented on the approximately 1 million acres (404,700 hectares) identified in the application and associated documents in Cochise County, Arizona and Hidalgo County, New Mexico. Conservation measures consist of stock tank development and restoration, including modification of stock tanks to enhance their use by Chiricahua leopard frogs and renovation to remove bullfrogs and other non-native predators. Currently, within the Agreement area, Chiricahua leopard frogs are only known to occur in a few locations, including three populations on the Magoffin property. These three populations on the Magoffin property exist solely due to the extraordinary efforts of the landowners to establish and maintain them prior to listing of the species. Thus, they are excluded from the baseline for the purposes of this Safe Harbor Agreement (Agreement). The Applicants, in cooperation with the Service, have prepared the Agreement to provide a conservation benefit to the species and allow for the take of the species. Based upon guidance in the Service's June 17, 1999, Final Safe Harbor Policy, if an Agreement and associated permit are not expected to individually or cumulatively have a significant impact on the quality of the human environment or other natural resources, the Agreement/permit may be categorically excluded from undergoing National Environmental Policy Act review. The Malpai Agreement qualifies as a ''Low Effect'' Agreement, thus, this action is a categorical exclusion. The ''Low Effect'' determination for the Malpai Agreement is also available for public comment. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received by November 5, 2003.

ADDRESSES: Persons wishing to review the application, Agreement, and ''Low Effect'' determination may obtain copies by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103, or by contacting the Field Supervisor, Arizona Ecological Services Field Office, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona 85021–4951 (602) 242–0210. Documents relating to the application will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, Phoenix, Arizona.

Written data or comments concerning the application and Agreement should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona 85021–4951. Please refer to permit number TE–073684–0 (Malpai) when submitting comments.

FOR FURTHER INFORMATION CONTACT: Field Supervisor at the above U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, Phoenix, Arizona (602) 242–0210.

SUPPLEMENTARY INFORMATION:

Background

The Malpai Borderlands Group (Applicants) plan to implement conservation measures on approximately 1 million acres (404,700 hectares) in Cochise County, Arizona, and Hidalgo County, New Mexico. The conservation measures will improve and maintain livestock tanks and other artificial waters and use them to establish Chiricahua leopard frog populations. The Agreement as currently written is expected to provide a net conservation benefit to the Chiricahua leopard frog. The Agreement will provide protection to the Applicants against further regulation under the Endangered Species Act in the event that the Chiricahua leopard frog naturally or artificially establishes populations in the area as a result of implementation of the proposed conservation measures.

Section 9 of the Act prohibits the ''taking'' of threatened or endangered species. However, the Service, under limited circumstances, may issue permits to take threatened and endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22 and 50 CFR 17.32 for threatened species.

Bryan Arroyo,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 03–25236 Filed 10–3–03; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Recovery Plan for Coastal Plants of the Northern San Francisco Peninsula

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (''we'') announces the availability of the Recovery Plan for Coastal Plants of the Northern San Francisco Peninsula. This recovery plan includes the endangered San Francisco lessingia (*Lessingia germanorum*) and Raven's manzanita (*Arctostaphylos hookeri* ssp. *ravenii*). The portion of the plan dealing with Raven's manzanita is a revision of the 1984 Raven's Manzanita Recovery Plan. Additional species of concern that will benefit from recovery actions taken for these plants are also discussed in the recovery plan. This recovery plan includes recovery criteria and measures for the San Francisco lessingia and Raven's manzanita.

ADDRESSES: Hard copies of the final recovery plan will be available in 4 to 6 weeks by written request addressed to the Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, California 95825–1888. This final recovery plan is currently available on the World Wide Web at *http://endangered.fws.gov/recovery/index.html#plans.*

FOR FURTHER INFORMATION CONTACT: Larry Host or Kirsten Tarp, Fish and Wildlife Biologists, at the above Sacramento address (telephone 916–414–6600).

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals and plants is a primary goal of our endangered species program and the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*). Recovery means improvement of the status of listed species to the point at which listing is no longer appropriate under the criteria set out in section 4(a)(1) of the Act. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for downlisting or delisting listed species, and estimate time and cost for implementing the measures needed for recovery.

The Act requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Draft Recovery Plan for Coastal Plants of the Northern San Francisco Peninsula was available for comment from December 4, 2001, through September 9, 2002. We sent 1,574 copies of the draft plan to affected or interested parties. About 430 comment letters were received and reviewed by us, including 5 responses from peer reviewers.

Substantive technical comments resulted in several changes to the plan. Many of these came from the National Park Service and the Presidio Trust who have been working to recover the two focus species for several years. Their comments provided helpful information about the costs and time needs for several of the actions recommended in the plan. Substantive comments regarding implementation of the plan did not necessarily result in changes to the recovery plan, but will be used to assist the work of participating Federal and other entities during the course of implementing recovery actions.

San Francisco lessingia and Raven's manzanita are restricted to the San Francisco peninsula in San Francisco County and the northern part of San Mateo County, California. San Francisco lessingia, an annual herb in the aster family, is restricted to coastal sand deposits. Raven's manzanita, a rare evergreen creeping shrub in the heath family, was historically restricted to a few scattered serpentine outcrops. Habitat loss, adverse alteration of ecological processes, and invasion of non-native plant species threaten San Francisco lessingia. Raven's manzanita has also been threatened by habitat loss. The primary current threats to Raven's manzanita include invasion of non-native vegetation; fungal pathogens; and tussock moth caterpillars, the larvae of moths from the family Lymantriidae, that eat the plants' leaves.

The plan also makes reference to several other federally listed species which are ecologically associated with San Francisco lessingia and Raven's manzanita, but which are treated comprehensively in other recovery plans. These species are beach layia (*Layia carnosa*), Presidio clarkia (*Clarkia franciscana*), Marin dwarf-flax (*Hesperolinon congestum*), Myrtle's silverspot butterfly (*Speyere zerene myrtleae*), and bay checkerspot butterfly (*Euphydryas editha bayensis*). In addition, 16 plant species of concern and 17 plant species of local or regional conservation significance are considered in this recovery plan.

The recovery plan stresses re-establishing dynamic, persistent populations of San Francisco lessingia and Raven's manzanita within plant communities which have been restored to be as ''self-sustaining'' as possible within urban wildland reserves. Because the species has been reduced to small remnant areas of habitat, specific recovery actions for San Francisco lessingia focus on the restoration and management of larger, dynamic mosaics of coastal dune areas supporting shifting populations within the species' narrow historic range. Recovery of Raven's manzanita will include, but will not be limited to, the strategy of the 1984 Raven's Manzanita Recovery Plan, which emphasized the stabilization of the single remaining genetic individual. The plan also seeks to re-establish

multiple sexually reproducing populations of Raven's manzanita in association with its historically associated species of local serpentine outcrops.

The objectives of this recovery plan are to delist San Francisco lessingia and to downlist Raven's manzanita through implementation of a variety of recovery measures including: (1) Protection and restoration of a series of ecological reserves (often with mixed recreational and conservation park land uses); (2) promotion of population increases of San Francisco lessingia and Raven's manzanita within these sites, and reintroduction of them to restored sites; (3) management of protected sites, especially the extensive eradication or suppression of invasive dominant non-native vegetation; (4) research; and (5) public participation, outreach, and information.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 8, 2003.

Steve Thompson,

Manager, California/Nevada Operations Office, Region 1, Fish and Wildlife Service.

[FR Doc. 03–25238 Filed 10–3–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Office of the Special Trustee for American Indians

Working Group on Land Consolidation Program

AGENCIES: Bureau of Indian Affairs, Interior; Office of the Special Trustee for American Indians, Interior.

ACTION: Notice.

SUMMARY: On April 22, 2003, the Bureau of Indian Affairs (BIA) and the Office of the Special Trustee for American Indians (OST) in the Department of the Interior filed a **Federal Register** notice (68 FR 19845) calling for nominations of Tribal officials to participate in a working group to address the rapidly increasing fractionation of ownership of Indian land. This fractionation is due to the system of allotments established by the General Allotment Act of 1887. The President's fiscal year (FY) 2004 Budget incorporates a request for a significant increase for the Indian Land Consolidation program aimed at reducing the number of individual owners in parcels of Indian lands allotted to individuals. The Department has been actively working with tribal groups on the issue and will therefore not be convening a new working group.

DATES: Effective on the date of publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: ATTN: Terry Virden, Deputy Commissioner for Indian Affairs, Bureau of Indian Affairs, Room 4160, 1849 C Street, NW., Washington, DC 20240, or ATTN: Donna Erwin, Acting Special Trustee, Office of Special Trustee for American Indians, Room 5140, 1849 C Street, NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The allotment of Indian lands—dividing tribal lands into small parcels and allocating those parcels to individual Indians—became federal policy in 1887 with the enactment of the General Allotment Act. By the 1930s, however, it was widely accepted that the policy was a failure and, in 1934 it was ended with passage of the first Indian Reorganization Act. Interests in these alloted lands started to ''fractionate'' as interests divided among the heirs of the original allottees, expanding rapidly with every generation.

Today, there are approximately four million owner interests in the 10 million acres of individually-owned trust lands, and these four million interests could expand to 11 million interests by 2030. Moreover, there are an estimated 1.4 million fractional interests of 2 percent or less involving 58,000 tracks of individually-owed trust and restricted lands. There are not single pieces of property with ownership interests that are less than 0.000002 percent of the whole interest.

Addressing this issue is critical to improving the management of trust assets. The Department of the Interior, the Department in which the BIA and OST are located, is bound by its trust obligations to maintain ownership records, and in some cases to collect and distribute income for each Indian owner's interest, regardless of size. Reduction of fractional interests will increase the likelihood of more productive economic use of the land, reduce record keeping and large numbers of small dollar financial transactions, and decrease the number of interests subject to probate.

Starting in 2004, the BIA will oversee the National Indian Land Consolidation Program. The Department has established an internal working group that has actively met with tribal organizations, such as the Indian Land Working Group and the National Congress of American Indians, to discuss fractionation, the problems associated with fractionation, and possible solutions to problems. Since the Department is actively working with tribal organizations, the Department will not be convening another fractionation working group.

Dated: September 10, 2003.

Aurene M. Martin,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 03–25232 Filed 10–03–03; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Office of the Special Trustee for American Indians

Working Group on the ''As-Is'' ''To-Be'' Process and Trust Improvement Efforts

AGENCY: Bureau of Indian Affairs and Office of the Special Trustee for American Indians, Interior.

ACTION: Notice.

SUMMARY: On April 22, 2003, the Bureau of Indian Affairs (BIA) and the Office of the Special Trustee for American Indians (OST) in the Department of the Interior filed a **Federal Register** notice (68 FR 19846) calling for nominations of Tribal officials to participate in a working group to discuss the ''As-Is'' ''To-Be'' processes and provide input and comments on potential alternatives on how the trust process should be improved and administered. Because mechanisms are now in place for soliciting input from Tribes on the ''To-Be'' processes, the Department will not be convening a new working group.

DATES: Effective on the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: ATTN: Terry Virden, Deputy Commissioner for Indian Affairs, Bureau of Indian Affairs, Room 4160, 1849 C Street, NW., Washington, DC 20240; or ATTN: Donna Erwin, Acting Special Trustee, Office of the Special Trustee for American Indians, Room 5140, 1849 C Street, NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Electronic Data Systems Corporation, in its January 2002 Trust Reform Report, recommended that the Department develop an accurate, current state model to include business processes, internal controls, and associated information technology. The Department worked extensively on documenting the ''As-Is'' business processes currently employed in managing Indian trust assets. Through this ''As-Is'' business process,

the Department established a comprehensive understanding of current trust business operations, identified needs and opportunities for improvement, and was able to understand the variances among geographic regions, and their causes.

The development of the initial ''To-Be'' model takes into consideration those recommendations and lessons learned from the ''As-Is'' process. The Department is in the process of comparing these processes to the initial ''To Be'' model processes to determine how existing processes can be improved. Finally, the Department will integrate the final ''To-Be'' model processes with universal support and operational functions, and these reengineered business processes will be documented with appropriate polices, procedures, guidelines and handbooks.

The Department has identified a reengineering core team for the purpose of engaging appropriate Interior bureaus, agencies and offices, and Tribes in the reengineering effort at different levels. The Department recognizes that Tribal assistance is critical to the identification of trust business process alternatives and opportunities for improvement. The core team is divided into a technical group (Tier 1) and a review and validation group (Tier 2). Because the activities of these core teams will involve consultations with tribes and tribal organizations, the Department will not be convening a new working group.

Dated: September 10, 2003.

Aurene M. Martin,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

Ross O. Swimmer,

Special Trustee.

[FR Doc. 03–25231 Filed 10–3–03; 8:45 am]

BILLING CODE 4310–3–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Mohawk Mountain Resort and Casino, Sullivan County, NY

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs, with the cooperation of the St. Regis Band of Mohawk Indians, intends to gather the information necessary for preparing an Environmental Impact Statement (EIS) for the proposed Mohawk Mountain Resort and Casino, Town of Thompson, Sullivan County, New York. The purpose of the proposed action is to help meet the economic development needs of the tribe. This notice also announces a public scoping meeting to identify potential issues and content for inclusion in the EIS.

DATES: Written comments on the scope and implementation of this proposal must arrive by October 15, 2003. The public scoping meeting will be held on October 8, 2003, at 7 p.m.

The draft EIS is expected to be completed by November 1, 2003, and to be available for public review and comment for a period of 45 days from the date the Notice of Availability of the draft EIS is published in the **Federal Register**. The final EIS is expected to be completed by January 15, 2004, and to be available to the public for a period of 30 days from the date the Notice of Availability of the final EIS is published in the **Federal Register**. The Record of Decision on the proposed action will be issued on or about March 1, 2004.

ADDRESSES: You may mail, hand carry or telefax written comments to Mr. Franklin Keel, Regional Director, Eastern Regional Office, Bureau of Indian Affairs, 711 Stewarts Ferry Pike, Nashville, Tennessee 37214, Telefax (615) 467–1701.

The public scoping meeting will be held at the Sullivan County Government Center, Legislative Meeting Room, 2nd Floor, 100 North Street, Monticello, New York 12701.

FOR FURTHER INFORMATION CONTACT: Jim Kardatzke, (615) 467–1675.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs (BIA) proposes to take 66 acres of land into trust on behalf of the St. Regis Band of Mohawk Indians (Tribe), on which the Tribe, through a development agreement with Park Place Entertainment Corporation, proposes to build a resort and casino complex to be called the Mohawk Mountain Resort and Casino. The property is located along the east side of Anawana Lake Road (C.R. 103) in the Town of Thompson, Sullivan County, New York, approximately 3 miles north of the Village of Monticello. The project design contemplates a 750 room hotel and 450,000 square foot casino and support area, a 2,000 seat theater and several restaurants spread across the 66 acres to be taken into trust, with a 5,040 stall parking garage on an adjacent 141 acre parcel.

The Tribe prepared and submitted to the BIA an Environmental Assessment (EA) on the proposed action in December 2002. Upon consideration of the EA, and of project changes made after the EA was prepared, the BIA found that an EIS would be required for the proposed action. The EA will, however, serve as a part of the scoping process for the EIS. In addition, the project is undergoing review pursuant to the New York State Environmental Quality Review Act, which has included public hearings held by the Town of Thompson to receive public comments on the EA. The comments from these hearings will also serve as a part of the scoping process for the EIS.

Issues identified to date to be addressed in the EIS include, but are not limited to the following:

- Traffic—concerns that traffic jams may result from the project and that emergency services may be compromised.
- Noise—concerns that sounds from the resort and casino will travel offsite and adversely affect nearby residences, wildlife and/or livestock.
- Water Supply/Water Quality—concerns that the project will have an adequate water supply and will not adversely affect water quality in Anawana Lake or its tributaries.
- Wetlands—the minimization and/or avoidance of wetland impacts.

Wildlife—concerns regarding the project's impact on fish and wildlife and their habitats, including threatened and endangered species.

- Sewage Disposal—concerns regarding the handling of sewage effluent.
- Land Use/Community Character—concerns regarding how the project might affect the character of surrounding lands and communities.
- Socio-economics—concerns regarding how the project might affect local business and property values.
- Air Quality ''concerns regarding the additive air impacts of project-induced traffic.
- Cumulative Effects ''concerns regarding the cumulative environmental impacts of the project when considered together with other reasonably foreseeable development projects in the region.
- Alternatives to the preferred alternative.

The range of issues and alternatives addressed in the EIS may be further expanded based on comments received in response to this notice, or to the scoping meeting announced in this notice.

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the mailing address shown in the

ADDRESSES section, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish us to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality regulations (40 CFR parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: October 1, 2003.

Aurene M. Martin,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 03–25394 Filed 10–2–03; 2:05 pm]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Fund Availability (NOFA)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of extension of application deadlines.

SUMMARY: This notice extends the deadline for submitting applications originally published on June 25, 2003.

DATES: Applications must be received by November 5, 2003.

ADDRESSES: Mail applications to Ralph Gonzales, Bureau of Indian Affairs, Office of Tribal Services, Division of Tribal Government Services, Room 320-SIB, 1951 Constitution Avenue, NW., Washington, DC 20240; or submit by facsimile (fax) message to (202) 208–5113.

FOR FURTHER INFORMATION CONTACT: Ralph Gonzales, (202) 513–7629.

SUPPLEMENTARY INFORMATION: As published in the **Federal Register** of June 25, 2003, (68 FR 37857), the Bureau of Indian Affairs announced the availability of funds for tribal courts (including Courts of Indian Offenses) and qualified tribal applicants that assume responsibility to assist the Bureau of Indian Affairs with certain Supervised Individual Indian Money (IIM) Accounts, more specifically those referenced in subparts B and C of 25 CFR part 115 (2003 ed.). The deadline for submittal of application under this NOFA was July 25, 2003. We are extending this deadline to provide an opportunity for those tribal governments that want to apply for funds to compile the relevant information regarding Supervised IIM Accounts that are under the control and management of the Bureau of Indian Affairs. Requests were received from tribal governments stating that the initial publication time was simply too short. Therefore, the application deadline date is extended from July 25, 2003, to November 5, 2003.

Applications

Applications are due November 5, 2003 and must be postmarked by midnight on this date. Applications will be considered as meeting the deadline if they are received on or before the deadline date, or sent on or before the deadline date. Applicants may hand deliver applications to the address indicated in the **ADDRESSES** section by close-of-business (5 p.m. EST) on the deadline date. Applications will be accepted by facsimile until the close-of-business (5 p.m. EST) on the deadline date, provided the original application is postmarked by midnight the day after the due date. No applications can be transmitted by e-mail (electronic mail). Applicants are responsible for ensuring proper delivery of the application and are encouraged to contact Ralph Gonzales at (202) 513–7629 to confirm receipt.

The application packet information was included with the June 25, 2003, NOFA, and was also forwarded to the Tribal Government Services or Tribal Operations officers in the respective BIA Regional Offices. Interested applicants may contact Ralph Gonzales at the number provided above, or the Division of Tribal Government Services, (202) 513–7641, for information on application packets.

Dated: September 29, 2003.

Aurene M. Martin,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 03–25229 Filed 10–3–03; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–1020–PG; G 04–0002]

Teleconference Meeting Motice for the John Day/Snake Resource Advisory Council

AGENCY: Bureau of Land Management (BLM), Vale District, Interior.

ACTION: Teleconference meeting notice for the John Day/Snake Resource Advisory Council.

SUMMARY: The John Day/Snake Resource Advisory Council (JDSRAC) will conduct a public meeting by teleconference on Tuesday, October 21 from 6:30 p.m. to 7:30 p.m. Pacific Time inclusive. The meeting is open to the public, however, teleconference lines are limited. Please call or contact Peggy Diegan at the Vale District Office, 100 Oregon Street, Vale, OR 97918 (541) 473–3144 or e-mail *Peggy_Diegan@or.blm.gov* to obtain the dial-in number. During the teleconference, the JDSRAC will come to consensus on their Program of Work for the year, Sustaining Working Landscapes and Sagegrouse Strategy.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the meeting or who wishes to submit oral or written comments should contact Debbie Lyons at the above address (541) 473–6218 or email *Debra_Lyons@or.blm.gov.* Requests for oral comments must be in writing to Debbie Lyons by October 16, 2003. For teleconference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total.

Dated: September 30, 2003.

Sandra L. Guches,

Associate District Manager.

[FR Doc. 03–25234 Filed 10–3–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement on Vessel Quotas and Operating Requirements for Glacier Bay National Park and Preserve, Alaska

AGENCIES: National Park Service, Interior.

ACTION: Notice of availability of the Final Environmental Impact Statement on Vessel Quotas and Operating Requirements.

SUMMARY: The National Park Service (NPS) announces the availability of Final Environmental Impact Statement (EIS) on Vessel Quotas and Operating Requirements for Glacier Bay National Park and Preserve. The document describes and analyzes the environmental impacts of five action alternatives, including a preferred alternative, for managing four types of motorized vessels within Glacier Bay and Dundas Bay. A no action alternative also is evaluated.

DATES: A Record of Decision will be made no sooner than 30 days after the date the Environmental Protection Agency's Notice of Availability for this final EIS appears in the **Federal Register**.

ADDRESSES: Copies of the statement are available on request from: Nancy Swanton, EIS Project Manager, National Park Service, Alaska Support Office, 240 West 5th Avenue, Anchorage, Alaska 99501. Telephone: (907) 644–3696.

FOR FURTHER INFORMATION CONTACT: Nancy Swanton, EIS Project Manager, National Park Service, Alaska Support Office, 240 West 5th Avenue, Anchorage, Alaska 99501. Telephone: (907) 644–3696.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended), the NPS has prepared a final environmental impact statement (FEIS) that considers six alternatives to establish quotas and operating requirements for four types of motorized vessels—cruise ships and tour, charter, and private vessels—within Glacier Bay proper and/or Dundas Bay in Glacier Bay National Park and Preserve.

Glacier Bay National Park and Preserve is located in Southeast Alaska, approximately 65 miles (105 kilometers) west of Juneau. Accessible by boat and airplane, it is a popular destination due to its spectacular scenery, tidewater glaciers, wilderness, and wildlife. Vessel quotas and operating requirements have been in effect since 1979. The need for the actions considered in this FEIS stems from legislation enacted in 2001, wherein the U.S. Congress directed the Park Service to identify and analyze the possible effects of the 1996 increases in the number of vessel entries issued for Glacier Bay National Park and Preserve and set the maximum level of vessel entries, consistent with the purposes and values of the park. In this EIS, the Park Service is addressing the continuing demand for motorized vessel access into the park in a manner that assures continuing protection of park resources and values, while providing for a range of high-quality opportunities for visitors to the park.

The six alternatives evaluated in this EIS include five action alternatives and a no action alternative. Daily quotas, seasonal entries, seasonal-use days, quota season, and/or operating requirements differ among the alternatives. Alternatives 1, 2, and 3 would set vessel quotas and operating requirements for Glacier Bay proper. Alternatives 4, 5, and 6 would set quotas and operating requirements for Dundas Bay as well.

- *Alternative 1*, the no action alternative, would maintain the current vessel quotas, quota season (June 1 through August 31), and operating requirements (*see* 36 Code of Federal Regulations 13.65).

Note: the June 1—August 31 quota season applies to charter and private vessels for daily and seasonal quotas and to cruise ships and tour vessels for seasonal quotas. The daily quotas for cruise ships and tour vessels apply year-round.

- *Alternative 2* would set vessel quotas in accordance with those in place in 1995 and maintain the current quota season and operating requirements.
- *Alternative 3* would maintain the current vessel quotas and quota season, with one exception: it would include a provision to increase the seasonal quota for cruise ships to a maximum of two per day every day, based on the results of studies and monitoring. It would maintain the current operating requirements.
- *Alternative 4*, the environmentally preferred alternative, would maintain the current daily quota for cruise ships and decrease the daily vessel quotas for tour, charter, and private vessels in Glacier Bay. Seasonal entry quotas would not apply. This alternative would decrease the number of seasonal use days for cruise ships and tour and charter vessels and increase the number of seasonal use days for private vessels in Glacier Bay. The quota season would be May 1 through September 30 (note: the year-round daily vessel quota for cruise ships and tour vessels would be maintained). Vessel quotas would be initiated for charter vessels for Dundas Bay during a May 1 through September 30 quota season. Neither cruise ships nor tour vessels would be permitted in Dundas Bay. No quotas would be imposed for private vessels. Operating requirements would be modified.
- *Alternative 5* would maintain the current daily quotas and quota season for all four vessel types in Glacier Bay. Seasonal entry quotas would not apply. It would maintain the number of seasonal-use days for cruise ships, tour vessels, and charter vessels in Glacier Bay during the current June 1 through August 31 quota season, but decrease the number of seasonal-use days for cruise ships during May and September. It would increase the number of seasonal-use days for private vessels during the June through August quota season. Quotas would be initiated for tour and charter vessels in Dundas Bay, and the quota season would June 1 through August 31. Cruise ships would not be permitted in Dundas Bay and tour vessels would not be permitted in the upper bay (wilderness waters) on a year-round basis. No quotas would be imposed for private vessels in Dundas Bay. Operating requirements would be modified.
- *Alternative 6*, the NPS preferred alternative, would maintain the current daily vessel quotas for Glacier Bay. Seasonal entry quotas would not apply. This alternative would maintain the current seasonal use day quota for cruise ships during the current quota season (June–August), but provide for possible increases to a maximum of two ships per day each day, based on the results of studies and monitoring. It would establish a seasonal use day quota for cruise ships for May and September, with a provision to increase the number of seasonal use days to up to two per day each day, based on the results of studies and monitoring. It would maintain the current number of seasonal use days for tour and charter vessels and increase the number of seasonal use days for private vessels during the current quota season. Quotas would be initiated for tour and charter vessels in Dundas Bay, and the quota season would be June 1 through August 31. Cruise ships would not be permitted in Dundas Bay and tour vessels would not be permitted in the upper bay (wilderness waters) on a year-round basis. No quotas would be imposed for private vessels in Dundas Bay.

Operating requirements would be modified.

The responsible official for a Record of Decision on the proposed action is the NPS regional director in Alaska.

Dated: September 23, 2003.

Victor Knox,

Acting Regional Director, Alaska.

[FR Doc. 03–25208 Filed 10–3–03; 8:45 am]

BILLING CODE 4312–HX–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 6, 2003. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St., NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by October 21, 2003.

Patrick W. Andrus,

Acting Keeper of the National Register of Historic Places.

COLORADO

Boulder County

Shannon Farm, 1341 N. 95th St., Lafayette, 03001047

HAWAII

Hawaii County

Central Intermediate School, 1302 Queen Emma St., Honolulu, 03001049

Honolulu County

Kreye House, 2714 Aolani Place, Honolulu, 03001050

Kauai County

Kaua'i Belt Road—North Shore section, HI 560,

Princeville, 03001048

IOWA

Muscatine County

Pine Mills German Methodist Episcopal Church, 180th St. and Verde Ave., Muscatine, 03001051

MISSOURI

Atchison County

Thompson—Campbell Farmstead, 25579 MO U, Langdon, 03001056

Jackson County

Blackstone Hotel, 817 Cherry St., Kansas City, 03001057

Knight, William Baker and Mary, House, 3534 Walnut St., Kansas City, 03001054

Majestic Apartments, (Colonade Apartment Buildings of Kansas City, MO MPS) 701–707 Benton Blvd., Kansas City, 03001052

Triangle Battery and Service Company Building, 3001–03 Gillham Rd., Kansas City, 03001058

Vaccaro, Joe, Soda Water Manufacturing Company Building, 918–922 E. 5th St., Kansas City, 03001055

St. Louis County

Orrville Historic District, 526 amd 538 Eatherton Rd., Wildwood, 03001053

SOUTH CAROLINA

Saluda County

Spann Methodist Church and Cemetery, 150 Church St., Ward, 03001059

WEST VIRGINIA

Mason County

Smithland Farm, US 35 bet. Lower Nine Mile Rd. and Lower Five Mile Rd., Henderson, 03001061

Mercer County

Mercer Street Historic District, Mercer St. bet. North First St. and North St., Princeton, 03001060

A request for a MOVE has been made for the following resource:

MISSOURI

Callaway County

Pitcher Store, 8513 Pitcher Rd., Fulton vicinity, 01000235

[FR Doc. 03–25209 Filed 10–3–03; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 20, 2003.

Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by October 21, 2003.

Carol D. Shull,

Keeper of the National Register of Historic Places.

ARKANSAS

Garland County

Fordyce—Ricks House Historic District, 1501 Park Ave., Hot Springs, 03001098

GEORGIA

Fulton County

Piedmont Park Apartments, 266 11th St., Atlanta, 03001104

OHIO

Butler County

Spread Eagle Tavern—Conrey, James D., House, 9797 Cincinnati-Columbus Rd., Cincinnati, 03001100

Cuyahoga County

Corlett Building, 1923–35 Euclid Ave., Cleveland, 03001101

National Town and Country Club, 2401 Euclid Ave., Cleveland, 03001102

Greene County

C. N. & I. Department Power House, Central State University Campus, Wilberforce, 03001099

TEXAS

Travis County

Oakland Cemetery Annex, (East Austin MRA) 1601 Comal St., Austin, 03001103

WYOMING

Park County

Absaroka Mountain Lodge, (Dude Ranches along the Yellowstone Highway in the Shoshone National Forest) 1231 North Fork Hwy, Cody, 03001105

Elephant Head Lodge, (Dude Ranches along the Yellowstone Highway in the Shoshone National Forest) 1170 North Fork Hwy., Cody, 03001107

Goff Creek Lodge, (Dude Ranches along the Yellowstone Highway in the Shoshone National Forest) 995 E. Yellowstone Hwy., Cody, 03001108

Red Star Lodge and Sawmill, (Dude Ranches along the Yellowstone Highway in the Shoshone National Forest) 349 Yellowstone Hwy., Cody, 03001106

[FR Doc. 03–25210 Filed 10–3–03; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 13, 2003.

Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by October 21, 2003.

Carol D. Shull,

Keeper of the National Register of Historic Places.

CALIFORNIA

Plumas County

Drakesbad Guest Ranch, Head of Warner Creek Valley, Lassen Volcanic National Park, Chester, 03001062

Tulare County

Mineral King, Mineral King Rd, Sequoia National Park, Mineral King, 03001063

LOUISIANA

Rapides Parish

Pegram Plantation House, 881 Chickamaw Rd., Lecompte, 03001064

MISSOURI

Greene County

Woods—Evertz Stove Company Historic District, Area bounded by N. Jefferson Ave., E Phelps St., N. Robberson Ave. and E. Tampa St., Springfield, 03001071

Ozark County

Harlin, John Conkin and Clara Layton, House, 403 Harlin Dr., Gainesville, 03001065

St. Louis Independent City

Hotel Jefferson, 415 N. Tucker Blvd., St. Louis (Independent City), 03001066

NEVADA

Humboldt County

Martin Hotel, 94 W. Railroad St., Winnemucca, 03001067

OREGON

Multnomah County

New Imperial Hotel, 400 SW Broadway, Portland, 03001068

RHODE ISLAND

Providence County

Edgewood Historic District—Taft Estate Plat, Roughly bounded by Windsor Rd, Narragansett Bay, Circuit Dr. and Broad St. Cranston, 03001069

SOUTH DAKOTA

Brookings County

Singsaas Lutheran Church, 19716 487th Ave., Lake Hendricks Township, 03001070

Codington County

Beskow Barn, 15689 456th Ave., South Shore, 03001072

Puhlman Farm, 44350 176th St., Hazel, 03001075

Hughes County

Harrold School, (Schools in South Dakota MPS) 206 S. Nixon Ave., Harrold, 03001073

Kingsbury County

Lake Reston High School, (Schools in South Dakota MPS) 300 1st St., NE, Lake Preston, 03001074

TENNESSEE

Davidson County

Craig, Mrs. Edward B., House, (Forest Hills, Tennessee MPS) 1418 Chickering Rd., Forest Hills, 03001078

Dudley, Guildfor, Sr. and Anne Dallas, House, (Forest Hills, Tennessee MPS) 5401 Hillsboro Pike, Forest Hills, 03001080

Houston Jr., P.D., House, (Forest Hills, Tennessee MPS) 5617 Hillsboro Pike, Forest Hills, 03001081

Kennedy Jr., Thomas P., House, (Forest Hills, Tennessee MPS) 6231 Hillsboro Pike, Forest Hills, 03001079

Martin, Richard E., House, (Forest Hills, Tennessee MPS) 30 Castlewood Court, Forest Hills, 03001083

Neuhoff, Henry, House, (Forest Hills, Tennessee MPS) 1407 Chickering Rd., Forest Hills, 03001077

Pilcher, Dr. Cobb, House, (Forest Hills, Tennessee MPS) 5335 Stanford Dr., Forest Hills, 03001082

VIRGINIA

Albemarle County

Birdwood, 500 Birdwood Dr., Charlottesville, 03001094

Bon Homme County

Thompson House, (Federal Relief Construction in South Dakota MPS) 30985 421st. Ave., Springfield, 03001076

Charlottesville Independent City

Montebello, 1700 Stadium Rd., Charlottesville (Independent City), 03001085

Sunnyside, 2150 Barracks Rd., Charlottesville (Independent City), 03001086

Colonial Heights Independent City

Conjurer's Neck Archeological District, Address Restricted, Colonial Heights (Independent City), 03001090

Dinwiddie County

Petersburg Breakthrough Battlefield Historic District at Pamplin Historical Park, 6125 Boydton Plank Rd., 6619 Duncan Rd., Petersburg, 03001095

Fairfax County

Green Spring, 4601 Green Spring Rd., Alexandria, 03001089

Fluvanna County

Gum Creek, 1317 Stage Junction Rd., Columbia, 03001084

Giles County

Walker's Creek Presbyterian church, Walker's Creek Valley Rd., Pearisburg, 03001088

King George County

Nansattico Archeological Site, Address Restricted, Index, 03001091

Pulaski County

Spring Dale, Address Restricted, Dublin, 03001087

Roanoke County

McVitty Home, 601 W. Main St., Salem, 03001092

Rockbridge County

Lylburn Downing School, 300 Diamond St., Lexington, 03001093

Russell County

Quillen, Stephen B., House, 149 Church St., Lebanon, 03001096

Southampton County

Simmons—Sebrell—Camp House, Zebulon Simmons Tract, Courtland, 03001097

[FR Doc. 03–25211 Filed 10–3–03; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Shipbuilding Research Program

Notice is hereby given that, on September 12, 2003, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Technology Institute has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the membership of the Executive Council of the National Shipbuilding Research Program (''NSRP'') and in the nature and objectives of the program. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically,

VT Halter Marine, Inc., Gulfport, MS, a subsidiary of Vision Technologies, Inc., has been removed as a party from this venture. The general area of planned activity of the NSRP is to establish collaborative research efforts of limited duration to manage and focus national shipbuilding research and development funding on technologies that will reduce the cost of warships to the Navy, and establish U.S. international shipbuilding competitiveness. This includes the assessment of product design and material technologies, and provides a collaborative forum to improve business and acquisition processes.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Technology Institute intends to file additional written notification disclosing all changes in membership.

On March 13, 1998, Advanced Technology Institute filed its original notification for the National Shipbuilding Research Program pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 29, 1999 (64 FR 4708).

The last notification was filed with the Department on January 13, 2003. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 3, 2003 (68 FR 10033). A Correction Notice was published in the **Federal Register** on April 24, 2003 (68 FR 20174).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 03–25206 Filed 10–3–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 30, 2003.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or e-Mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316 / this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension of a currently approved collection.

Title: Ethylene Oxide (EtO).

OMB Number: 1218–0108.

Frequency: On occasion; Quarterly; Semi-annually; and Annually.

Affected Public: Business or other for-profit; Federal Government; and State, local, or tribal government.

Number of Respondents: 5,667.

Number of Annual Responses: 252,395.

Estimated Time Per Response: Varies from 5 minutes to 2 hours.

Total Burden Hours: 43,972.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $6,582,909.

Description: The information-collection requirements specified in the Ethylene Oxide (EtO) Standard (29 CFR 1910.1047) protect employees from the adverse health effects that may result from their exposure to EtO. The major information-collection requirements of the EtO Standard include notifying employees of their EtO exposures, implementing a written compliance program, providing examining physicians with specific information, ensuring that employees receive a copy of their medical-examination results, maintaining employees' exposure-monitoring and medical records for specific periods, and providing access to these records by OSHA, the National Institute for Occupational Safety and Health, the affected employees, and their authorized representatives.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension of a currently approved collection.

Title: 4,4′-Methylenedianiline Construction—29 CFR 1926.60.

OMB Number: 1218–0183.

Frequency: On occasion; Quarterly; Semi-annually; and Annually.

Affected Public: Business or other for-profit; Federal Government; and State, local, or tribal government.

Number of Respondents: 66.

Number of Annual Responses: 3,962.

Estimated Time Per Response: Varies from 1 minute to 2 hours.

Total Burden Hours: 1,609.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $80,437.

Description: The purpose of 29 CFR 1926.60 and its information collection requirements is to provide protection for employees from adverse health effects associated with occupational exposure to 4,4′-Methylenedianiline. Employers must monitor exposure, keep employee exposures within the permissible exposure limits, provide employees with medical examinations and training, and establish and maintain employee exposure-monitoring and medical records.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension of a currently approved collection.

Title: 4,4′-Methylenedianiline General Industry—29 CFR 1910.1050.

OMB Number: 1218–0184.

Frequency: On occasion; Quarterly; Semi-annually; and Annually.

Affected Public: Business or other for-profit; Federal Government; and State, local, or tribal government.

Number of Respondents: 15.

Number of Annual Responses: 581.

Estimated Time Per Response: Varies from 1 minute to 2 hours.

Total Burden Hours: 295.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $19,037.

Description: The purpose of 29 CFR 1910.1050 and its information collection requirements is to provide protection for employees from adverse health effects associated with occupational exposure to 4,4′-Methylenedianiline. Employers must monitor exposure, keep employee exposures within the permissible exposure limits, provide employees with medical examinations and training, and establish and maintain employee exposure-monitoring and medical records.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension of a currently approved collection.

Title: Electrical Protective Equipment (1910.137) and Electric Power Generation, Transmission, and Distribution (1910.269).

OMB Number: 1218–0190.

Frequency: On occasion; Semi-annually; and Annually.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, local, or tribal government.

Number of Respondents: 12,195.

Number of Annual Responses: 548,886.

Estimated Time Per Response: Varies from 1 minute to 15 minutes.

Total Burden Hours: 22,685.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: Under 29 CFR 1910.137(b)(2)(xii), employers must certify that the electrical protective equipment used by their employees passed the tests specified in paragraphs (b)(2)(viii), (b)(2)(ix), and (b)(2)(xi) of the standard. The certification must identify the equipment that passed the tests and the dates of the tests. This provision helps ensure that electrical protective equipment is reliable and safe for employee use and will provide adequate protection against electric shock. In addition, certification helps OSHA to determine if employers are in compliance with the equipment-testing requirements of the standard.

Section 1910.269(a)(2)(vii) requires employers to certify that each employee received the training specified in paragraph (a)(2) of the standard. Employers must provide certification after an employee demonstrates proficiency in the work practices involved. This certification requirement helps employers monitor the training their employees received and helps OSHA determine if employers provided the required training to their employees.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–25268 Filed 10–3–03; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Request Submitted for Public Comment; Employee Benefit Plan Claims Procedures Under ERISA

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employee Benefits Security Administration is soliciting comments on the proposed extension of the information collection request (ICR) incorporated in regulations pertaining to Employee Benefit Plan Claims Procedures under the Employee Retirement Income Security Act of 1974 (ERISA).

A copy of the (ICR) can be obtained by contacting the individual shown in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section on or before December 5, 2003.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693–8410, FAX (202) 693–4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

Section 503 of ERISA provides that, pursuant to regulations promulgated by the Secretary of Labor, each employee benefit plan shall provide notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied. This notice must set forth the specific reasons for the denial and must be written in a manner calculated to be understood by the claimant. Plans must also afford a reasonable opportunity for a participant or beneficiary whose claim has been denied to obtain a full and fair review of the denial by the appropriate named fiduciary.

The Department first issued regulations pertaining to claims procedures in 1977. These procedures were subsequently amended by a Notice of Final Rulemaking published on November 21, 2000 (65 FR 70246). The regulatory provisions pursuant to ERISA section 503 are codified at 29 CFR 2560.503–1. These regulations require the establishment of reasonable claims procedures, and describe the timing and content of notices and disclosures that will be deemed to constitute part of a reasonable claims procedure.

II. Review Focus

The Department of Labor (Department) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The Office of Management and Budget's (OMB) approval of this ICR is scheduled to expire on November 30, 2003. After considering comments received in response to this notice, the Department intends to submit the ICR to OMB for continuing approval. No change to the existing ICR is proposed or made at this time.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Employee Benefit Plan Claims Procedures under ERISA.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0053.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 6,700,000.

Responses: 118,000,000.

Estimated Total Burden Hours: 333,000.

Estimated Total Burden Cost (Operating and Maintenance): $90,000,000.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: September 30, 2003.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 03–25267 Filed 10–3–03; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection: Comment Requested

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: As part of its efforts to reduce paperwork and respondent burden the Department of Labor conducts a pre-clearance consultation program to provide the general public and other interested parties with an opportunity to comment on proposed and or/continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95); 44 U.S.C. 3056(c)(2)(A)]. This program helps ensure that requested information is provided in the desired format, the reporting burden (time and financial resources) is minimized, collection instruments are understood and the impact of the collection requirements on respondents can be assessed. Currently, the Employment and Training Administration (ETA) is soliciting comments on the proposed extension of the existing reporting forms for the Senior Community Service Employment Program (SCSEP).

The ETA is currently preparing regulations that will implement the Older Americans Act Amendments of 2000. When final, these regulations will have a profound impact on the SCSEP and will dramatically alter the program reporting requirements while establishing performance measurement and sanction systems. The new system and the accompanying forms will not be ready for several months. Meanwhile, the Office of Management and Budget's (OMB) approval of the present reporting system will expire. In order to be in compliance with the Paperwork Reduction Act the ETA proposes to extend, without significant change, use of the existing report forms for 12 months.

DATES: Written comments must be received on or before December 5, 2003.

FOR FURTHER INFORMATION COTACT: Ria Moore Benedict, U.S. Department of Labor, Division of Older Worker Programs, Employment and Training Administration, Room S–5206, 200 Constitution Ave. NW., Washington, DC 20210. Telephone number (202) 693–3198 (This is not a toll free number); fax (202) 693–3817.

SUPPLEMENTARY INFORMATION:

I. Background

The SCSEP is authorized by Public Law 106–105, Title V of the Older Americans Act (OAA) Amendments of 2000, ''Community Service Employment for Older Americans.'' The information collected for the SCSEP is used to administer this program of approximately $445 million which serves nearly 100,000 people each year. The Department uses three reports to administer this program. These reports are; a quarterly report of program performance data, the Quarterly Progress Report (ETA 5140), a quarterly report of financial information, The Financial Status Report (SF 269), and an Equitable Distribution Report (ETA 8705) showing the distribution of program positions by county within each State. In addition a notice, in the form of a poster, is included in the package as a required at OAA section 502(b)(1)(P) (allowable political activities).

II. Desired Focus of Comments

The Department of Labor is particularly interested in comments that:

- Evaluate whether the proposed collection is necessary for the collection of appropriate information on SCSEP activities;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the collected information; and
- Minimize the collection burden for those who do the reporting, including the use of appropriate electronic, mechanical or other technology.

III. Current Actions

This collection of program and financial information continues to be needed to assure that the requirements of Title V of the Older Americans Act are met. The extension of these forms will allow coverage while the new reporting system and performance measures are developed.

Type of Review: Extension (Without Significant Change).

Agency: Employment and Training Administration.

Title: The Senior Community Service Employment Program Reporting Package.

OMB No.: 1205–0040.

Form No.: ETA 8705, ETA 5140, SF 269, 424 and 424A.

Record Keeping: Agencies maintain records for 3 years after the grant period end.

Affected Public: Non-profit organizations state and local governments.

Total Respondents: 69.

Frequency: Annually or Quarterly as needed.

HOUR BURDEN FOR STANDARD FORMS AND SCSEP SPECIFIC FORMS

Form	Total respondents	Frequency	Total responses	Average time per hours	Burden hrs.
Quarterly Progress Report ETA 5140	69	Quarterly	276	8	2,208
Equitable Distribution report ETA–8705	55	Annually	55	12	660
Poster (allowable political activities)	69	N/A	69	.5	35

HOUR BURDEN FOR STANDARD FORMS AND SCSEP SPECIFIC FORMS—Continued

Form	Total respondents	Frequency	Total responses	Average time per hours	Burden hrs.
Total ETA Forms Activity	69	Varies	400	(1)	2,903
Financial Status Report (SF–269)	69	Quarterly and Final	345	8	2,760
SF 424, 424 A,B	69	Annually	69	40	2,760
SF Forms	69	Quarterly and Final	414		5,520
Total ETA & SF Reports	69	Varies	814		8,423

[1] Varies.

Comments submitted in response to this request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 1, 2003.

David Dye,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 03–25287 Filed 10–3–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Ergonomics, Call for Abstracts

AGENCY: Occupational Safety and health Administration (OSHA), Labor

ACTION: Notice

SUMMARY: The National Advisory Committee on Ergonomics (NACE) is part of the Secretary's comprehensive approach to ergonomics designed to quickly and effectively address musculoskeletal disorders (MSDs) in the workplace. The committee has recommended that a symposium be convened to address current and project research needs and efforts relating to ergonomics, entitled *Musculoskeletal and Neurovascular Disorders—The State of Research Regarding Workplace Etiology and Prevention.* NACE will use proceedings from the symposium to make recommendations to advance OSHA's agenda of reducing the incidence of Musculoskeletal Disorders (MSDs) in the workplace. This notice announces a call for abstracts.

DATES: Abstract submissions are due November 5, 2003. The symposium will be held on January 27, 2004, in conjunction with the NACE's fourth meeting.

ADDRESSES: The symposium will be held in Washington, DC. Submit abstracts, comments, or statements in response to this notice to Mary Ann Garrahan, Director, Office of Technical Programs and Coordination Activities, OSHA, U.S. Department of Labor, Room N–3655, 200 Constitution Avenue, NW., Washington, DC 20210. Phone: (202) 693–2144; Fax (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; Phone: (202) 693–1999.

SUPPLEMENTARY INFORMATION: NACE was chartered for a two-year term on November 27, 2002, to provide advice and recommendations on ergonomic guidelines, research, and outreach and assistance. As part of the charter, NACE will provide OSHA with current and projected research needs and efforts relating to ergonomics. In order to provide information on known research gaps, NACE has asked that a symposium be convened to enable its members to hear from experts in the field or ergonomics. Published researchers are invited to submit abstracts on known research gaps relating to critical issues of and barriers to moving forward in the prevention of Musculoskeletal Disorders (MSDs), highlighting research issues that will help move the science into the applied world

Abstracts should focus on the state of the data-driven, scientific research concerning the relationship between the workplace and MSDs such as definitions and diagnoses, cause and work-relatedness, exposure-response relationships, intervention studies, and study design (including research methodology). Researches are expected to report on approved peer reviewed research proposals or work that has been published in peer reviewed journals. Abstracts should be no more than 600 words, and should include a page of references with a copy of the first page or each article that is cited, if applicable. Abstracts should clearly state the topic of the paper, research objective, relevant findings, and conclusion. An abstract template is available at *http://www.osha.gov/SLTC/ergonomics/nat_advis_comm.html.* Researchers should also submit a curriculum vitae. Please submit a hard copy and disk of all abstract submission by November 5, 2003 to Mary Ann Garrahan, Director, Office of Technical Programs and Coordination Activities, OSHA, U.S. Department of Labor, Room N–3655, 200 Constitution Avenue, NW., Washington, DC 20210. Phone: (202) 693–2144; Fax (202) 693–1644.

The symposium will take place in conjunction with NACE's January meeting in Washington, DC. The format of the symposium will be a one-day panel discussion expecting to consist of up to four 90-minute sessions. Between six and twelve speakers will be invited to give a short presentation each. Speakers will comprise into discussion panels. A question and answer period will follow, allowing for discussion among the panel members and NACE members.

For additional information on NACE and its objective, visit *http://www.osha.gov/SLTC/ergonomics/nat_advis_comm.html.*

Authority: This notice was prepared under the direction of John L. Henshaw, Assistant Secretary for Occupational Safety and Health. It is issued under the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), GSA's FACA Regulations (41 CFR part 102–3), and DLMS 3 Chapter 1600.

Dated: Signed at Washington, DC this 1st day of October, 2003.

John L Henshaw,

Assistant Secretary.

[FR Doc. 03–25266 Filed 10–3–03; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–125]

NASA Advisory Committee; Notice of Establishment Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. Secs. 1 et seq.

AGENCY: National Aeronautics and Space Administration (NASA).

The Administrator of the National Aeronautics and Space Administration has determined that the establishment of an Education Advisory Committee is necessary and in the public interest in connection with the performance of duties imposed upon NASA by law. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Education Advisory Committee.

Purpose and Objective: The Committee will advise NASA Administrator on matters related to the Agency's educational program. The Committee will draw on the expertise of its members and other sources to provide its advice and recommendations to the Agency. The Committee will hold meetings and make site visits as necessary to accomplish their responsibilities. The Committee will function solely as an advisory body and will comply fully with the provisions of the Federal Advisory Committee Act.

Balanced Membership Plans: The Committee will consist of non-NASA employees. In addition, there may be associate members selected for Committee Subcommittees or Panels. The Committee may also request appointment of consultants to support specific tasks. Members of the Committee, Subcommittees and Panels will be chosen from among industry, academia, and government with recognized knowledge and expertise in fields relevant to education. Total membership will reflect a balanced view.

Duration: Continuing.

Responsible NASA Official: Dr. Adena Williams Loston, Associate Administrator of the Office of Education, National Aeronautics and Space Administration, 300 E Street, SW., Washington, DC 20546, telephone 202/358–0103.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–25270 Filed 10–3–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting Notice

TIME AND DATE: 9:30 a.m., Tuesday, October 7, 2003.

PLACE: NTSB Board Room, 429 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTER TO BE CONSIDERED:

7561 Railroad Accident Report—Collision of Burlington Northern Santa Fe Freight Train with Metrolink Passenger Train at Placentia, California, April 23, 2002.

News Media Contact: Telephone: (202) 314–6000. Individuals requesting specific accommodations should contact Ms. Carolyn Dargan at (202) 314–6305 by Friday, October 3, 2003.

FOR FURTHER INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: October 2, 2003.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 03–25411 Filed 10–2–03; 2:46 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corporation, Crystal River Unit 3 Nuclear Generating Plant; Exemption

1.0 Background

Florida Power Corporation (the licensee) is the holder of Facility Operating License No. DPR–72, which authorizes operation of the Crystal River Unit 3 Nuclear Generating Plant (CR–3). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of one pressurized-water reactor located in Citrus County, Florida.

2.0 Request/Action

Section 50.44 of Title 10 of the Code of Federal Regulations (10 CFR 50.44), ''Standards for combustible gas control system in light-water-cooled power reactors,'' requires, among other items, that ''[e]ach boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within cylindrical zircaloy or ZIRLO cladding must, as provided in paragraphs (b) through (d) of [that] section, include means for control of hydrogen gas that may be generated, following a postulated loss-of-coolant accident (LOCA) by: (1) [m]etal-water reaction involving the fuel cladding and the reactor coolant, (2) [r]adiolytic decomposition of the reactor coolant, and (3) [c]orrosion of metals.''

Section 50.46 of 10 CFR Part 50, ''Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors,'' requires, among other items, that ''[e]ach boiling or pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical zircaloy or ZIRLO cladding must be provided with an emergency core cooling system (ECCS) that must be designed so that its calculated cooling performance following postulated [LOCAs] conforms to the criteria set forth in paragraph (b) of [that] section. ECCS cooling performance must be calculated in accordance with an acceptable evaluation model and must be calculated for a number of postulated [LOCAs] of different sizes, locations, and other properties sufficient to provide assurance that the most severe postulated LOCAs are calculated.''

Appendix K to 10 CFR Part 50, ''ECCS Evaluation Models,'' requires, among other items, that the rate of energy release, hydrogen generation, and cladding oxidation from the metal/water reaction shall be calculated using the Baker-Just equation.

Finally, 10 CFR 50.44, 10 CFR 50.46, and 10 CFR part 50, appendix K make no provisions for use of fuel rods clad in a material other than zircaloy or ZIRLO. The licensee has requested the use of Framatome Cogema Fuels (FCF) ''M5'' advanced alloy for fuel rod cladding for the CR–3 operating Cycle 14. The M5 alloy is a proprietary zirconium-based alloy comprised of primarily zirconium (~99 percent) and niobium (~1 percent). The elimination of tin has resulted in superior corrosion resistance and reduced irradiation-induced growth relative to both standard zircaloy (1.7% tin) and low-tin zircaloy (1.2% tin). The addition of niobium increases ductility, which is desirable to avoid brittle failures. Since the chemical composition of the M5 alloy differs from the specifications for zircaloy or ZIRLO, a plant-specific exemption is required to allow the use of the M5 alloy as a cladding material at CR–3.

Section 50.12 of 10 CFR Part 50, ''Specific exemptions,'' states, among other items, that the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are authorized by law, will not present an

undue risk to the public health and safety, and are consistent with the common defense and security. The Commission will not consider granting an exemption unless special circumstances are present. In accordance with 10 CFR 50.12(a)(2)(ii), special circumstances are present whenever application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

3.0 Discussion

The underlying purpose of 10 CFR 50.46 is to ensure that facilities have adequate acceptance criteria for ECCS. On February 4, 2000, the NRC staff approved Topical Report BAW–10227P, ''Evaluation of Advanced Cladding and Structural Material (M5) in PWR Reactor Fuel,'' in which Framatome Cogema Fuels (FCF) demonstrated that the effectiveness of the ECCS will not be affected by a change from zircaloy fuel rod cladding to M5 fuel rod cladding. The analysis described in the topical report also demonstrates that the ECCS acceptance criteria applied to reactors fueled with zircaloy clad fuel are also applicable to reactors fueled with M5 fuel rod cladding.

The underlying purposes of 10 CFR 50.44 and 10 CFR part 50, appendix K, paragraph I.A.5, are to ensure that cladding oxidation and hydrogen generation are appropriately limited during a LOCA and conservatively accounted for in the ECCS evaluation model. Specifically, Appendix K requires that the Baker-Just equation be used in the ECCS evaluation model to determine the rate of energy release, cladding oxidation, and hydrogen generation. In their topical report BAW–10227P, FCF demonstrated that the Baker-Just model is conservative in all post-LOCA scenarios with respect to the use of the M5 advanced alloy as a fuel rod cladding material, and that the amount of hydrogen generated in an M5-clad core during a LOCA will remain within the CR–3 design basis.

The NRC staff has reviewed the licensee's advanced cladding and structural material, M5, for pressurized-water reactor fuel mechanical designs as described in BAW–10227P. In a safety evaluation dated February 4, 2000, for topical report BAW–10227P, the NRC staff concluded that, to the extent and limitations specified in the staff's evaluation, the M5 properties and mechanical design methodology are acceptable for referencing in fuel reload licensing applications. Therefore, since the underlying purposes of 10 CFR 50.44, 10 CFR 50.46, and 10 CFR part 50, appendix K, paragraph I.A.5 are achieved through the use of the M5 advanced alloy as a fuel rod cladding material, the special circumstances required by 10 CFR 50.12(a)(2)(ii) for the granting of exemptions to 10 CFR 50.44 and 10 CFR part 50, appendix K, paragraph I.A.5 exist.

4.0 Conclusion

The Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR 50.44, 10 CFR 50.46, and 10 CFR part 50, appendix K.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (68 FR 55662).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 26th day of September 2003.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–25243 Filed 10–3–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–348 and 50–364]

Southern Nuclear Operating Company, Joseph M. Farley Nuclear Plant; Notice of Receipt and Availability of Application for Renewal of Facility Operating License Nos. NPF–2 and NPF–8 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (NRC) has received an application from Southern Nuclear Operating Company (SNC), on September 15, 2003, filed pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, and 10 CFR part 54 for renewal of Operating License Nos. NPF–2 and NPF–8, which authorize the applicant to operate Joseph M. Farley Nuclear Plant, Units 1 and 2. Farley Nuclear Plant consists of two Westinghouse pressurized water reactor units located about 16.5 miles east of the City of Dothan, in Houston County, Alabama. The operating licenses for Farley Nuclear Plant, Units 1 and 2, expire on June 25, 2017, and March 31, 2021, respectively. The acceptability of the tendered application for docketing and other matters, including an opportunity to request a hearing, will be the subject of subsequent **Federal Register** notices.

Copies of the application are available for public inspection at the Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically from the Publicly Available Records (PARs) component of the NRC's Agencywide Documents Access and Management System (ADAMS) under Accession Number ML032721356.

The ADAMS Public Electronic Reading Room is accessible from the NRC Web site at *http://www.nrc.gov/NRC/ADAMS/index.html.* In addition, the application is available on the NRC Web page at *http://www.nrc.gov/NRC/REACTOR/LR/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or via e-mail to *pdr@nrc.gov.*

The license renewal application for the Farley Nuclear Plant is also available at the Houston Love Memorial Library, 212 West Burdesha Street, Dothan, Alabama.

Dated at Rockville, Maryland, the 30th day of September, 2003.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License Renewal and Environmental Impacts, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 03–25242 Filed 10–3–03; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

October 15, 2003 Board of Directors Meeting

Time and Date: 4 p.m., Wednesday, October 15, 2003 (Closed to Public).

Place: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC

Status: Closed portion will commence at 4 p.m. (approx.).

Matters to be Considered: (Closed to the Public).

1. Discussion of OPIC Product.
2. Insurance Project in Croatia.

FOR FURTHER INFORMATION CONTACT: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: October 2, 2003.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 03–25361 Filed 10–2–03; 11:56 am]

BILLING CODE 3210–01–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

October 14, 2003 Public Hearing

Time and Date: 11 a.m., Tuesday, October 14, 2003.

Place: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

Status: Hearing open to the public at 11 a.m.

Purpose: Hearing in conjunction with each meeting of OPIC's Board of Directors, to afford an opportunity for any person to present views regarding the activities of the Corporation.

Procedures:

Individuals wishing to address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m. Friday, October 10, 2003. The notice must include the individual's name, organization, address, and telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request to participate an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m., October 10, 2003. Such statements must be typewritten, double-spaced, and may not exceed twenty-five (25) pages.

Upon receipt of the required notice, OPIC will prepare an agenda for the hearing identifying speakers, setting forth the subject on which each participant will speak, and the time allotted for each presentation. The agenda will be available at the hearing.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

For Further Information Contact: Information on the hearing may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 218–0136, or via e-mail at *cdown@opic.gov.*

Dated: October 2, 2003.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 03–25362 Filed 10–2–03; 11:56 am]

BILLING CODE 3210–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48556, File No. SR–CBOE–2001–04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto by the Chicago Board Options Exchange, Inc., and Order Granting Partial Accelerated Approval on a Pilot Basis of the Proposed Rule Change, as Amended, To Adopt a New Rule Regarding Nullification and Adjustment of Transactions

September 29, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 14, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On August 15, 2003, the CBOE submitted Amendment No. 1 to the proposed rule change.[3] On September 12, 2003, the CBOE submitted Amendment No. 2 to the proposed rule change.[4] On September 26, 2003, the CBOE submitted Amendment No. 3 to the proposed rule change.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons. The Commission also grants accelerated approval of paragraphs (a)(3), (b), (c), (d), and (e) of proposed CBOE Rule 6.25, on a pilot basis until December 1, 2003.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to adopt an obvious error trading rule. Proposed new language is *italicized;* **Federal Register** proposed deletions are in [brackets].

* * * * *

Rule 6.25 Nullification and Adjustment of Electronic Transactions

This Rule governs the nullification and adjustment of options trades executed electronically and has no application to options trades executed in open outcry.

(a) Trades Subject to Review

A member or person associated with a member may have a trade adjusted or nullified if, in addition to satisfying the procedural requirements of paragraph (b) below, one of the following conditions is satisfied:

(1) Obvious Price Error: An obvious pricing error will be deemed to have occurred when the execution price of a transaction is above or below the fair market value of the option by at least a prescribed amount. For series trading with normal bid-ask differentials as established in Rule 8.7(b)(iv), the prescribed amount shall be: (a) the greater of $0.10 or 10% for options trading under $2.50; (b) 10% for options trading at or above $2.50 and under $5; or (c) $0.50 for options trading at $5 or higher. For series trading with bid-ask differentials that are greater than the widths established in Rule 8.7(b)(iv), the prescribed error amount shall be: (a) the greater of $0.20 or 20% for options trading under $2.50; (b) 20% for options trading at or above $2.50 and under $5; or (c) $1.00 for options trading at $5 or higher.

(i) Definition of Fair Market Value: For purposes of this rule only, the fair market value of an option is the midpoint of the national best bid and national best offer for the series (across all exchanges trading the option). In multiply listed issues, if there are no quotes for comparison purposes, fair market value shall be determined by Trading Officials. For singly-listed issues, fair market value shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s). For transactions occurring as part of the Rapid Opening System (''ROS trades''),

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Steve Youhn, Senior Attorney, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated August 14, 2003 (''Amendment No. 1''). Amendment No. 1 replaced the original proposed rule change in its entirety.

[4] *See* Letter from Steve Youhn, Senior Attorney, CBOE, to Nancy Sanow, Assistant Director, Division, Commission, dated September 11, 2003 (''Amendment No. 2''). In Amendment No. 2, the CBOE replaced proposed paragraph 6.25(a)(5), relating to erroneous quotes in the underlying security, with language substantially identical to that contained in CBOE Rule 43.5(b)(4).

[5] *See* Letter from Steve Youhn, Senior Attorney, CBOE, to Nancy Sanow, Assistant Director, Division, Commission, dated September 26, 2003 (''Amendment No. 3''). In Amendment No. 3, the CBOE requested that the Commission accelerate effectiveness of proposed CBOE Rule 6.25(a)(3) and proposed CBOE Rule 6.25(b), (c), (d), and (e). The CBOE also requested that these provisions operate as a pilot until December 1, 2003.

fair market value shall be the first quote after the transaction(s) in question that does not reflect the erroneous transaction(s).

(2) Obvious Quantity Error: An obvious error in the quantity term will be deemed to occur when the transaction size exceeds the responsible broker or dealer's average disseminated size over the previous four hours by a factor of five (5) times. The quantity to which a transaction shall be adjusted from an obvious quantity error shall be the responsible broker or dealer's average disseminated size over the previous four trading hours (which may include the previous trading day).

(3) Verifiable Disruptions or Malfunctions of Exchange Systems: Trades arising out of a ''verifiable disruption or malfunction'' in the use or operation of any Exchange automated quotation, dissemination, execution, or communication system may either be nullified or adjusted by Trading Officials.

(4) Erroneous Print in Underlying: A trade resulting from an erroneous print disseminated by the underlying market which is later cancelled or corrected by that underlying market may be adjusted or nullified. In order to be adjusted or nullified, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two-minute period before and after the erroneous print by an amount at least five times greater than the average quote width for such underlying security during the same period.

(5) Erroneous Quote in Underlying: A trade resulting from an erroneous quote in the underlying security may be adjusted or nullified. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market during the time period encompassing two minutes before and after the dissemination of such quote. For purposes of this Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question).

(6) Trades Below Intrinsic Value: An obvious pricing error will be deemed to occur when the transaction price of an equity option is more than $0.10 below the intrinsic value of the same option (an option that trades at its intrinsic value is sometimes said to trade at parity). Provided, however, that this paragraph (6) shall not apply to transactions occurring during the last two minutes of the trading day (which is typically 3:00:01 p.m. (CT) to 3:02 p.m. (CT)) on days with regular trading hours).

(i) Definition of Intrinsic Value: For purposes of this rule, the intrinsic value of an equity call option equals the value of the underlying stock (measured from the bid or offer as described below) minus the strike price, and the intrinsic value of an equity put option equals the strike price minus the value of the underlying stock (measured from the bid or offer as described below), provided that in no case is the intrinsic value of an option less than zero. In the case of purchasing call options and selling put options, intrinsic value is measured by reference to the bid in the underlying security, and in the case of purchasing put options and selling call options, intrinsic value is measured by reference to the offer in the underlying security.

(b) Procedures for Reviewing Transactions

(1) Notification: Any member or person associated with a member that believes it participated in a transaction that may be adjusted or nullified in accordance with paragraph (a) must notify any Trading Official promptly but not later than fifteen (15) minutes after the execution in question. For transactions occurring after 2:45 p.m. (CST), notification must be provided promptly but not later than fifteen (15) minutes after the close of trading of that security on CBOE. Absent unusual circumstances, Trading Officials shall not grant relief under this Rule unless notification is made within the prescribed time periods. In the absence of unusual circumstances, Trading Officials (either on their own motion or upon request of a member) must initiate action pursuant to paragraph (a)(3) above within sixty (60) minutes of the occurrence of the verifiable disruption or malfunction. When Trading Officials take action pursuant to paragraph (a)(3), the members involved in the transaction(s) shall receive verbal notification as soon as is practicable.

(2) Review and Determination: Once a party to a transaction has applied to a Trading Official for review, the transaction shall be reviewed and a determination rendered, unless both parties to the transaction agree to withdraw the application for review prior to the time a decision is rendered.

Absent unusual circumstances (e.g., a large number of disputed transactions arising out of the same incident), Trading Officials must render a determination within sixty (60) minutes of receiving notification pursuant to paragraph (b)(1) above. If the transaction(s) in question occurred after 2:30 p.m., Trading Officials shall have until 9:30 a.m. the following morning to render a determination. Trading Officials shall promptly provide verbal notification of a determination to the members involved in the disputed transaction and to the control room.

(c) Adjustments

Unless otherwise specified in Rule 6.25(a)(1)–(6), transactions will be adjusted provided the adjusted price does not violate the customer's limit price. Otherwise, the transaction will be nullified. With respect to 6.25(a)(1)–(5), the price to which a transaction shall be adjusted shall be the National Best Bid (Offer) immediately following the erroneous transaction with respect to a sell (buy) order entered on the Exchange. For ROS transactions, the price to which a transaction shall be adjusted shall be based on the first non-erroneous quote after the erroneous transaction on CBOE. With respect to 6.25(a)(6), the transaction shall be adjusted to a price that is $0.10 under parity.

(d) Review by the Appeals Committee

A member affected by a determination made under this rule may appeal such determination to the Appeals Committee, in accordance with Chapter XIX of the Exchange's rules. For purposes of this Rule, a member must be aggrieved as described in Rule 19.1. Notwithstanding any provision in Rule 19.2 to the contrary, a request for review must be made in writing (in a form and manner prescribed by the Exchange) no later than the close of trading on the next trade date after the member receives verbal notification of such determination by Trading Officials.

(e) Negotiated Trade Nullification

A trade may be nullified if the parties to the trade agree to the nullification. When all parties to a trade have agreed to a trade nullification one party must promptly disseminate cancellation information in OPRA format.

*Interpretations and Policies * * **

.01 Applicability: Trading Officials may also allow for the execution of ROS trades (and assign those trades to participating ROS market-makers) that were not executed on the opening but that should have been executed had ROS opened the series at the non-erroneous quote. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that

this may result in the adjustment of trades executed pursuant to ROS. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

.02 Trading Officials: The term ''Trading Officials'' means two Exchange members designated as Floor Officials and one member of the Exchange's trading floor liaison (TFL) staff.

* * * * *

Rule 6.2A Rapid Opening System

(a)(i)–(ii) No change

(iii) [In cases where ROS opens a particular class based on an erroneous opening print disseminated by the underlying market, which is later corrected by that underlying market, two Floor Officials may adjust the trades to reflect the accurate market. Floor Officials may also allow for the execution of trades (and assign those trades to participating ROS market-makers) that were not executed on the opening but that should have been executed had ROS opened the series at the accurate price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed pursuant to ROS. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.]

(b)–(d) No change

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt new CBOE Rule 6.25 to allow it to either adjust or nullify a transaction the terms of which are obviously in error. The proposed rule contains objective standards for determining when an electronic transaction constitutes an obvious error, under what circumstances a trade may be adjusted or nullified, the price to which such transaction would be adjusted, and the procedures for appealing an adverse decision.

a. *Trades Subject to Review: Proposed CBOE Rule 6.25(a).* Proposed CBOE Rule 6.25(a) specifies the transactions that may be adjusted or nullified. The price to which transactions are adjusted shall be as specified in proposed CBOE Rule 6.25(c).

i. *Obvious Price Error.* Trading Officials [6] may nullify or adjust transactions in which there is an obvious pricing error, which will be deemed to have occurred when the execution price of a transaction is higher or lower than the fair market value of the series by the following amount: (a) The greater of $0.10 or 10% for options trading under $2.50; (b) 10% for options trading at or above $2.50 and under $5; or (c) $0.50 for options trading at $5 or higher. For series trading with bid-ask differentials that are greater than the widths established in Rule 8.7(b)(iv), the prescribed error amount shall be double the requirements listed above.[7]

For purposes of the proposed Rule only, the fair market value of an option is the midpoint of the national best bid and national best offer for the series (across all exchanges trading the option). In multiply-listed issues, if there are no quotes for comparison purposes, fair market value shall be determined by Trading Officials. For singly-listed issues and transactions occurring as part of the Rapid or Hybrid Opening System [8] (''ROS or HOSS trades''), fair market value shall be the first quote after the transaction(s) in question that do not reflect the erroneous transaction(s).

ii. *Obvious Quantity Error.* An obvious error in the quantity term will be deemed to occur when the transaction size exceeds the responsible broker or dealer's average disseminated size over the previous four hours by a factor of five (5) times. The transaction size will be adjusted to the responsible broker or dealer's average disseminated size over the previous four hours (which may include a portion of the previous business day). For example, if the DPM for class XYZ has been disseminating a size of 100 in a particular class for the preceding four hours and then inadvertently disseminates a size of 1,000 contracts, which is subsequently executed against, the quantity term of that transaction may be adjusted to 100 contracts.

iii. *Verifiable Disruptions or Malfunctions of Exchange Systems.* Trading officials may nullify or adjust transactions resulting from a verifiable disruption or malfunction in the use or operation of any automated Exchange quotation, dissemination, execution, or communication system.

iv. *Erroneous Print in Underlying.* Trading Officials may adjust or nullify a trade resulting from an erroneous print disseminated by the underlying market that is later cancelled or corrected by that underlying market. In order to be adjusted or nullified, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two-minute period before and after the erroneous print by an amount at least five times greater than the average quote width for such underlying security during the same period.

v. *Erroneous Quote in Underlying.* Trading Officials may adjust or nullify a trade resulting from an erroneous quote in the underlying security. An erroneous quote occurs when the underlying security has a width of at least $1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market during the time period encompassing two minutes before and after the dissemination of such quote. For purposes of the proposed Rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question)

[6] The term ''Trading Officials'' means two Exchange members designated as Floor Officials and one member of the Exchange's trading floor liaison (TFL) staff.

[7] The amounts would be: (a) the greater of $0.20 or 20% for options trading under $2.50; (b) 20% for options trading at or above $2.50 and under $5; or (c) $1.00 for options trading at $5 or higher.

[8] The CBOE inadvertently omitted mention of HOSS from the rule text of proposed CBOE Rule 6.25(a)(1)(i). The CBOE has committed to submitting an amendment reflecting the changes relating to HOSS discussed herein, prior to permanent approval of the proposed rule change, as amended. Telephone conversation between Steve Youhn, Senior Attorney, CBOE and Susie Cho, Special Counsel, Division, Commission on September 26, 2003.

and dividing by the number of quotes during such time period (excluding the quote in question).[9]

vi. *Trades Below Intrinsic Value.* An obvious pricing error will be deemed to occur when the transaction price of an equity option is more than $0.10 below the intrinsic value of the same option (an option that trades at its intrinsic value is sometimes said to trade at ''parity'').[10] Proposed CBOE Rule 6.25(a)(6) shall not apply to transactions occurring during the last two minutes of the trading day (which is typically 3:00:01 p.m. (CT) to 3:02 p.m. (CT) on days with regular trading hours).

b. *Review Procedures: Proposed CBOE Rule 6.25(b).* Proposed CBOE Rule 6.25(b) delineates objective standards regarding the review of transactions believed to have been executed in error. Pursuant to this rule, a member that believes it participated in a transaction that may be adjusted or nullified must notify any Trading Official promptly but not later than fifteen (15) minutes after the execution in question. For transactions occurring after 2:45 p.m. (CST), notification must be provided promptly but not later than fifteen (15) minutes after the close of trading of that security on CBOE on the same trading day. Absent unusual circumstances, Trading Officials shall not grant relief under the proposed Rule unless notification is made within the prescribed time periods.[11]

Once a party to a transaction has applied to a Trading Official for review, the transaction shall be reviewed and a determination rendered, unless both parties to the transaction agree to withdraw the application for review prior to the time a decision is rendered. Absent unusual circumstances (*e.g.*, a large number of disputed transactions arising out of the same incident), Trading Officials must render a determination within sixty (60) minutes of receiving notification.[12] Trading Officials shall promptly provide verbal notification of a determination to the members involved in the disputed transaction and to the control room.

c. *Price Adjustments: Proposed CBOE Rule 6.25(c).* Unless otherwise specified in proposed CBOE Rule 6.25(a)(1)–(6), transactions will be adjusted provided the adjusted price does not violate the customer's limit price. Otherwise, the transaction will be nullified. With respect to proposed CBOE Rule 6.25(a)(1)–(5), the price to which a transaction shall be adjusted shall be the National Best Bid (Offer) immediately following the erroneous transaction with respect to a sell (buy) order entered on the Exchange. For ROS transactions, the price to which a transaction shall be adjusted shall be based on the first non-erroneous quote after the erroneous transaction on CBOE. With respect to proposed CBOE Rule 6.25(a)(6), the transaction shall be adjusted to a price that is $0.10 under parity.

d. *Appeal of Floor Officials' Decision: Proposed CBOE Rule 6.25(d).* Proposed CBOE Rule 6.25(d) provides objective standards regarding the appeal of an adverse decision. A member affected by a determination made under this rule may appeal to the Appeals Committee, in accordance with Chapter XIX of the Exchange's rules.[13] Notwithstanding any provision in CBOE Rule 19.2 to the contrary, a request for review must be made in writing (in a form and manner prescribed by the Exchange) no later than the close of trading on the next trade date after the member receives verbal notification of such determination by Trading Officials.

e. *Negotiated Trade Nullification: Proposed CBOE Rule 6.25(e).* Proposed CBOE Rule 6.25(e)clarifies that a trade may be nullified if the parties to the trade agree to the nullification. When all parties to a trade have agreed to a trade nullification one party must promptly disseminate cancellation information in OPRA format.

f. *Applicability.* The Exchange represents that proposed CBOE Rule 6.25 will operate floorwide in both equity and index option products. The Exchange proposes to amend CBOE Rule 6.2A, *Rapid Opening System,* to indicate that ROS transactions that are executed at clearly erroneous prices will now be adjusted in accordance with proposed CBOE Rule 6.25. New Interpretation .01 to proposed CBOE Rule 6.25 consists of language previously contained in CBOE Rule 6.2A(a)(iii). Accordingly, the CBOE believes that the relocation of this rule language from CBOE Rule 6.2A to proposed CBOE Rule 6.25 raises no new or novel issues.

With the adoption of proposed CBOE Rule 6.25, the Exchange will withdraw the effectiveness of Regulatory Circular RG00–169.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[14] in general, and furthers the objectives of Section 6(b)(5)[15] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The CBOE believes that the proposed rule change, as amended, will provide objective standards to use in correcting executions made as a result of an obvious error and procedures by which Trading Officials' decisions may be appealed.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not solicit or receive written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

[9] Telephone conversation between Steve Youhn, Senior Attorney, CBOE and Susie Cho, Special Counsel, Division, Commission on September 16, 2003.

[10] For purposes of the proposed rule, the intrinsic value of an equity call option equals the value of the underlying stock (measured from the bid or offer as described below) minus the strike price, and the intrinsic value of an equity put option equals the strike price minus the value of the underlying stock (measured from the bid or offer as described below), provided that in no case is the intrinsic value of an option less than zero. In the case of purchasing call options and selling put options, intrinsic value is measured by reference to the bid in the underlying security, and in the case of purchasing put options and selling call options, intrinsic value is measured by reference to the offer in the underlying security.

[11] In the absence of unusual circumstances, Trading Officials (either on their own motion or upon request of a member) must initiate action pursuant to paragraph (a)(3) above within sixty (60) minutes of the occurrence of the verifiable disruption or malfunction. When Trading Officials take action pursuant to paragraph (a)(3), the members involved in the transaction(s) shall receive verbal notification as soon as is practicable.

[12] If the transaction(s) in question occurred after 2:30 p.m., Trading Officials shall have until 9:30 a.m. the following morning to render a determination.

[13] For purposes of this Rule, a member must be aggrieved as described in CBOE Rule 19.1.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2001–04 and should be submitted by October 27, 2003.

V. Commission's Findings and Order Granting Accelerated Approval of Amendment No. 3 on a Pilot Basis

After careful review, the Commission finds that proposed paragraphs (a)(3), (b), (c), (d), and (e) of proposed CBOE Rule 6.25 are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[16] In particular, the Commission finds that these proposed rules are consistent with the requirements of Section 6(b)(5)[17] of the Act, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principals of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

The Commission considers that in most circumstances trades that are executed between parties should be honored. On rare occasions where there has been a documented Exchange system disruption or malfunction, the execution of a trade under such circumstances indicates that an ''obvious error'' may exist, suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, the determination of whether such an ''obvious error'' has occurred should be based on specific and objective criteria and subject to specific and objective procedures. The Commission believes that the CBOE's proposed rule relating to an obvious error resulting from a verifiable Exchange system disruptions and malfunctions establishes such specific and objective criteria for determining when a trade may involve an ''obvious error'' and thus may be adjusted or nullified. The CBOE has specified that trading officials may adjust or bust transactions resulting from a verifiable disruption or malfunction in the use or operation of any automated Exchange quotation, dissemination, execution, or communication system. The Commission also believes that the proposal establishes specific and objective procedures governing the adjustment or nullification of such trades.

The Commission finds good cause, pursuant to Section 6(b)(5)[18] and Section 19(b)[19] of the Act, to accelerate approval of paragraphs (a)(3), (b), (c), (d), and (e) of the proposed CBOE Rule 6.25 on a pilot basis, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that the provisions of the proposal regarding verifiable disruptions or malfunctions of Exchange systems; procedures for reviewing transactions; adjustments of obvious error trades; review by the appeals committee; and negotiated trade nullification, are substantially similar to proposed rule changes submitted by the International Securities Exchange, Inc. and Pacific Exchange, Inc., as well as the rules for CBOEdirect, all of which the Commission has approved.[20] Furthermore, pursuant to Amendment No. 3 to the proposed rule change, these provisions of the proposed rule change are in effect on a pilot basis until December 3, 2003. The Commission finds, therefore, that granting partial accelerated approval of the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**, is appropriate and consistent with Section 6(b)(5)[21] of the Act.

VI. Conclusion

For the reasons discussed above, the Commission finds that paragraphs (a)(3), (b), (c), (d), and (e) of CBOE Rule 6.25, as set forth in the proposed rule change, as amended, are consistent with the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[22] that paragraphs (a)(3), (b), (c), (d), and (e) of CBOE Rule 6.25, as set forth in the proposed rule change, as amended, be and hereby are approved on an accelerated basis, on a pilot basis until December 1, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–25263 Filed 10–3–03; 8:45 am]

BILLING CODE 8010–01–P

[16] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78s(b).

[20] *See* Securities Exchange Act Release No. 48538 (September 25, 2003) (SR–PCX–2002–01); Securities Exchange Act Release No. 48097 (June 26, 2003), 68 FR 39604 (July 2, 2003) (SR–ISE–2003–10); and Securities Exchange Act Release No. 47628 (April 3, 2003), 68 FR 17697 (April 10, 2003) (SR–CBOE–00–55).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48568; File No. SR–ISE–2003–23]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange, Inc., Relating to Payment-for-Order-Flow Fees

September 30, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 24, 2003, the International Securities Exchange, Inc. (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which the Exchange has prepared. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to lower the cap on each payment-for-order-flow fund from $550,000 to $450,000. The text of the proposed rule change is available at the Exchange and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it had received. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of those statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange operates a payment for order flow program as approved by the Commission.[3] This program is currently funded through a $.55 fee paid by ISE market makers for each customer contract they execute. The Exchange also has established a ceiling of $550,000 in each of the ten payment-for-order-flow funds it maintains.[4] The Exchanges states that it seeks to ensure that the ten payment-for-order-flow funds are sufficiently high, but no higher than necessary. The Exchange states that it continues to collect more money for the funds than its Primary Market Makers have paid out. Therefore, the Exchange proposes to reduce the ceiling on each payment-for-order-flow fund from $550,000 to $450,000, because it believes that it can adequately maintain this program with the reduced ceiling.[5]

2. Statutory Basis

The basis for this proposed rule change is the requirement of section 6(b)(4) under the Act[6] that an exchange have an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(2) thereunder[8] because it changes an ISE fee. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–ISE–2003–23 and should be submitted by October 27, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–25261 Filed 10–3–03; 8:45 am]

BILLING CODE 8010–01–P

[3] *See* Securities Exchange Act Release No. 43833 (January 10, 2001), 66 FR 7822 (January 25, 2001) (approving File No. SR–ISE–00–10).

[4] *See* Securities Exchange Act Release Nos. 45128 (December 4, 2001), 66 FR 64325 (December 12, 2001) (File No. SR–ISE–2001–31), 45772 (April 17, 2002), 67 FR 20563 (April 25, 2002) (File No. SR–ISE–2002–09), 45857 (May 1, 2002), 67 FR 30988 (May 8, 2002) (File No. SR—ISE–2002–12), and 46976 (December 9, 2002), 67 FR 77116 (December 16, 2002) (File No. SR–ISE–2002–26). Under ISE Rule 802(b), the Exchange has divided the options it trades into ten groups, with one Primary Market Maker assigned to each group. The Exchange maintains a payment-for-order-flow fund for each group, consisting of the fees collected from market makers trading options in that group. The Primary Market Maker for the group is responsible for arranging and making all payments to Electronic Access Members for order flow sent to the Exchange in options in that group.

[5] The Commission notes that the payment for order flow fee would be suspended for a group of options when the fund balance for the group reaches $450,000, but would be reinstated when any such fund balance falls below $450,000. *See* Securities Exchange Act Release No. 45857 (May 1, 2002), 67 FR 30988 (May 8, 2002) (File No. SR–ISE–2002–12).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48569; File No. SR–PCX–2003–52]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Exchange's Designated Examining Authority Fee Exemption

September 30, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 24, 2003, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend the regulatory fee portion of its Schedule of Fees and Charges (''Fees'')

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

in order to revise its Designated Examination Authority (''DEA'') Fee exemption. The text of the proposed rule change is available at the PCX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend the regulatory fee portion of its Fees in order to revise the DEA Fee exemption. The Exchange currently charges a DEA fee in order to recover costs associated with regulation relative to those DEA member firms that do not conduct a certain portion of their trading activity on the PCX. The Exchange requires all traders to pay an initial registration fee of $75 per trader and an annual fee thereafter of $250 per trader. In addition, a $2,000 per month examination fee applies to firms for whom the PCX is the DEA. For firms that conduct a substantial portion of their business on the Exchange floor, however, these costs are deemed to be offset by contract revenue. Thus, the Exchange allows an exemption to those member organizations that can demonstrate that at least 25% of their income was derived from on-floor activities.

The Exchange seeks to make a minor amendment to the existing DEA Fee exemption. The revised DEA Fee exemption will allow an exemption for any PCX Registered Floor Broker or Marker Maker [3] that effects at least 25% of all securities transactions, as measured in contract or share volume, on the PCX Floor or any other PCX Options trading facility, including PCX Plus. The Exchange believes that this amendment more accurately reflects the application of the exemption and references the Exchange's new trading platform, PCX Plus. The Exchange states that the underlying purpose of the exemption, recovery of costs [4] associated with providing regulatory services to off-floor trading firms that do not conduct their trading activity on the Exchange, remains unchanged.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[5] in general, and Section 6(b)(4) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [7] and subparagraph (f)(2) of Rule 19b–4 thereunder,[8] because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to file number SR–PCX–2003–52 and should be submitted by October 27, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–25259 Filed 10–3–03; 8:45 am]

BILLING CODE 8010–01–P

[3] Pursuant to PCX Rule 6.1(c)(2), the term ''Market Maker'' includes Lead Market Maker, Remote Market Maker, Floor Market Maker and Supplemental Market Maker.

[4] These include costs related to advising firms on financial reporting requirements and compliance with PCX and Commission rules. There are also extensive travel costs and more complex regulation related to such firms.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48565; File No. SR–PCX–2003–20]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change and Amendments No. 1 and 2 and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 Relating to the Limitation of Liability of the Options Clearing Corporation to Exchange Members

September 30, 2003.

I. Introduction

On April 28, 2003, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt PCX Rule 13.5. On August 4, 2003, the Exchange filed Amendment No. 1 to the proposed rule change.[3] On August 7, 2003, the PCX

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Tania J. Cho, Staff Attorney, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation

submitted Amendment No. 2 to the proposed rule change.[4] The proposed rule change, as amended, was published for comment in the **Federal Register** on August 19, 2003.[5] On September 16, 2003 the PCX submitted Amendment No. 3 to the proposed rule change.[6]

The Commission received no comments on the proposed rule change, as amended. This order approves the proposed rule change, as amended, and issues notice of, and grants accelerated approval to, Amendment No. 3.

II. Description of the Proposed Rule Change

Pursuant to the Linkage Project and Facilities Management Agreement (''Agreement''),[7] the Linkage Participants, including the Exchange, are required to file a proposed rule change with the Commission to provide the Options Clearing Corporation (''OCC'') with limited liability with respect to the members'' use of the Options Intermarket Linkage (''Linkage''). The PCX represents that it filed this proposed rule change to fulfill its obligation under the Agreement. The PCX proposes to adopt PCX Rule 13.5(b) to limit the liability for the OCC with respect to PCX members' use of the Linkage.

The Exchange also proposes to adopt PCX Rule 13.5(a) to provide that the Linkage, as used to send orders and other information to or from the Exchange, is a facility or service afforded by the Exchange for purposes of PCX Rule 13.2.[8] The proposed rule change provides that the OCC would have no liability to PCX members, with respect to the use, non-use, or inability to use the Linkage.

Lastly, the PCX proposed to carve out an exception for the Linkage system in existing PCX Rule 13.2(b). The Exchange represents that this rule, which addresses the Exchange's liability for the negligent acts of its employees or failure of its systems or facilities whenever custody of an unexecuted customer order is transmitted by a member through the Exchange's automated facilities, is not intended to apply to the Linkage system, and that, therefore, the carve-out is appropriate.

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[9] and, in particular, the requirements of section 6(b) of the Act[10] and the rules and regulations thereunder. The Commission finds that the rule change, as amended, is consistent with section 6(b)(5) of the Act,[11] which requires, among other things, that the rules of the Exchange be designed to foster cooperation and coordination with persons engaged in regulation, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that this proposed rule change, as amended, should foster cooperation and promote a relationship between the PCX and the OCC that is conducive to the effective operation of the Linkage. Further, the Commission believes that the PCX's proposals to characterize the Linkage as a facility or service of the Exchange and to except the Linkage system from PCX Rule 13.2(b) are reasonable.

The Commission finds good cause, pursuant to section 19(b)(2) of the Act, for approving Amendment No. 3 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. In Amendment No. 3, the PCX changed the phrase ''members or persons associated therewith,'' which was contained in the portion of the proposed rule text pertaining to the OCC's liability to such persons, to ''members or associated persons.'' The Commission believes that this change will ensure that customers of a member or others who do business with a member, but are not under the control of, or employed by, the member, are not inadvertently affected by the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 3, including whether Amendment No. 3 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 also will be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2003–20 and should be submitted by October 27, 2003.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change, as amended (File No. SR–PCX–2003–20) is approved, and Amendment No. 3 is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–25260 Filed 10–3–03; 8:45 am]

BILLING CODE 8010–01–P

(''Division''), Commission, dated August 1, 2003 (''Amendment No. 1''). In Amendment No. 1, the Exchange submitted a new Form 19b–4, which replaced the original filing in its entirety.

[4] *See* letter from Tania J. Cho, Staff Attorney, Regulatory Policy, PCX, to Deborah L. Flynn, Assistant Director, Division, Commission, dated August 7, 2003 (''Amendment No. 2''). In Amendment No. 2, the Exchange removed a disclaimer provision contained in the proposed rule text, PCX Rule 13.5(c).

[5] Securities Exchange Act Release No. 48322 (August 12, 2003), 68 FR 49831.

[6] *See* letter from Tania J. Cho, Staff Attorney, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division, Commission, dated September 2, 2003 (''Amendment No. 3''). In Amendment No. 3, the Exchange proposed to change the term ''persons associated'' to ''associated persons'' in proposed PCX Rule 13.5(a) and (b).

[7] Linkage Project and Facilities Management Agreement (January 30, 2003).

[8] PCX Rule 13.2, among other things, describes the extent of the Exchange's liability to members for use of the facilities and services provided by the Exchange.

[9] In approving this proposed rule change, as amended, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *Id.*

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48563; File No. SR–Phlx–2003–30]

Self-Regulatory Organizations; Notice of Filing and Order Accelerating Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Implementing a Pilot Program Relating to the Book Sweep Function of the Exchange's Automated Options Market System

September 29, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 23, 2003, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by Phlx. On August 19, 2003, the Exchange filed Amendment No. 1 to the proposed rule change.[3] On September 12, 2003, the Exchange filed Amendment No. 2 to the proposed rule change.[4] On September 17, 2003, the Exchange filed Amendment No. 3 to the proposed rule change.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new Rule 1080(c)(iii) concerning a new feature of the Exchange's Automated Options Market (''AUTOM'') System,[6] designed to automatically execute limit orders on the book when the Exchange's electronic options pricing system, Auto-Quote, or a specialist's quote sent to the Exchange via specialized quote feed (''SQF''), locks or crosses a limit order on the book. This feature is called ''Book Sweep.'' Below is the text of the proposed rule change. Proposed new language is *italicized*.

* * * * *

Rule 1080. (a)–(b) No change.

(c)(i)–(ii) No change.

(iii) Book Sweep. Book Sweep is a feature of AUTOM which, when engaged, does the following: when the bid or offer generated by the Exchange's Auto-Quote system (or by a proprietary quoting system provided for in Commentary .02 of this Rule called ''Specialized Quote Feed'' or ''SQF'') matches or crosses the Exchange's best bid or offer in a particular series as established by an order on the limit order book, orders on the limit order book in that series will be automatically executed and allocated among crowd participants signed onto the Wheel. If Book Sweep is not engaged at the time the Auto-Quote or SQF bid or offer matches or crosses the Exchange's best bid or offer represented by a limit order on the book, the specialist may manually initiate the Book Sweep feature. Book Sweep shall be engaged when AUTO–X is engaged, and shall be disengaged when AUTO–X is disengaged in accordance with Rule 1080(c)(iv) and Rule 1080(e). Eligible orders on the limit order book will be automatically executed up to the size associated with the quote that matches or crosses such limit orders.

(iv)–(v) No change.

(d)–(j) No change.

Commentary

No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 may be examined at the places specified in Item IV below. 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 further automate options order handling by adopting a new rule reflecting a system enhancement to the Exchange's AUTOM system, called Book Sweep, that would allow certain orders resting on the limit order book[7] to be automatically executed in the situation where the bid or offer generated by the Exchange's Auto-Quote[8] system (or by a proprietary quoting system called ''Specialized Quote Feed'' or ''SQF'')[9] locks (*i.e.*, 2 bid, 2 offer) or crosses (*i.e.*, 2.10 bid, 2 offer) the Exchange's best bid or offer in a particular series as established by an order on the limit order book. Orders executed by the Book Sweep feature would be allocated among crowd participants participating on the Wheel.[10]

The Book Sweep feature should provide for more timely and efficient execution of marketable limit orders on the book. Currently, when the Auto-Quote or SQF bid or offer locks or crosses a booked order, the specialist handles the execution manually after being alerted by the system that one or more limit orders on the book are marketable and due an execution. This situation can occur for several series in the same option, requiring multiple executions of booked limit orders in each such series to be carried out by the specialist, which can be a time-consuming and burdensome process.

Book Sweep Size. Book Sweep would function by automatically executing a

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated August 18, 2003 (''Amendment No. 1''). Amendment No. 1 replaced the original Form 19b–4 in its entirety.

[4] *See* letter from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated September 11, 2003 (''Amendment No. 2''). In Amendment No. 2, Phlx amended the text of the proposed rule change to specify when the Book Sweep function would be engaged or disengaged.

[5] *See* letter from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated September 16, 2003 (''Amendment No. 3''). In Amendment No. 3, Phlx proposed to implement the Book Sweep function on a six-month pilot basis.

[6] 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.

[7] The electronic ''limit order book'' is the Exchange's automated specialist limit order book, which automatically routes all unexecuted AUTOM orders to the book and displays orders real-time in order of price-time priority. Orders not delivered through AUTOM may also be entered onto the limit order book. *See* Exchange Rule 1080, Commentary .02.

[8] Auto-Quote is the Exchange's electronic options pricing system, which enables specialists to automatically monitor and instantly update quotations. *See* Exchange Rule 1080, Commentary .01(a).

[9] *See* Exchange Rule 1080, Commentary .01(b)(i).

[10] The ''Wheel'' is a feature of AUTOM that allocates contra-party participation respecting automatically executed trades among the specialist and Registered Options Traders (''ROTs'') signed onto the Wheel for that listed option. See Exchange Rule 1080(g). *See also* Option Floor Procedure Advice (''OFPA'') F–24.

number of contracts not to exceed the size associated with the quotation that locks or crosses a limit order on the book. The purpose of this provision is to make automatic executions in the Book Sweep function consistent with the Exchange's rules relating to AUTO–X, the automatic execution feature of AUTOM. The Exchange no longer has an artificial ''AUTO–X guarantee'' applicable to an option. Instead, the Exchange currently provides automatic executions for eligible orders [11] delivered via AUTOM at the Exchange's disseminated price, up to the disseminated size, for both customer and broker-dealer orders.[12] Because the Exchange's disseminated size (and thus its guaranteed AUTO–X size) is fluid, in order to achieve consistency, the Exchange proposes that the number of contracts to be executed via Book Sweep be equal to the size associated with the quote that locks or crosses the limit order on the book.[13]

When a quote generated by Auto-Quote or SQF locks or crosses a limit order on the book, there are three possible scenarios that may occur. First, if such a quote is for a number of contracts that is equal to the size associated with the limit order on the book, the entire limit order would be executed. For example, if a limit order is resting on the book with a size of 200 contracts, and the size associated with the quote that locks or crosses such a limit order is 200 contracts, the entire limit order on the book would be executed, and Auto-Quote or SQF would refresh the quote (including the size associated with such a quote).

The second possible scenario is that the size associated with a quote that locks or crosses a limit order on the book could be for a greater number of contracts than the size associated with the booked limit order. In such a situation, the entire size of the limit order would be executed. For example, if a limit order is resting on the book with a size of 200 contracts, and size associated with the quote that locks or crosses such a limit order is 300 contracts, the entire limit order would be executed. Following the execution, Auto-Quote or SQF would refresh the quote (including the size associated with such a quote).

Finally, the third possible scenario is that the size associated with the quote that locks or crosses a limit order on the book would be for fewer contracts than the size associated with the booked limit order. In this situation, the limit order would be partially executed automatically at the size associated with the quote that locks or crosses the limit order,[14] and Auto-Quote or SQF would refresh the quotation. For example, if a limit order is resting on the book with a size of 200 contracts, and the size associated with the quote that locks or crosses such a limit order is 100 contracts, Book Sweep would generate an automatic execution for 100 contracts, leaving 100 contracts resting on the limit order book, and Auto-Quote or SQF would refresh the quote. If the refreshed quote locks or crosses the remaining contracts in the limit order resting on the book, Book Sweep would initiate an automatic execution for the size associated with the refreshed quote. If the refreshed bid or offer is for a price that is inferior to the remaining contracts in the limit order on the book, such that the limit order represents the Exchange's best bid or offer, the price and size of the limit order would be disseminated by the Exchange. If the refreshed bid or offer is for a price that is superior to the price of the remaining limit order, the Exchange would disseminate the refreshed bid or offer, and the remaining limit order would rest on the limit order book until it becomes due for execution or is cancelled.

Manual Book Sweep. Book Sweep would be engaged when AUTO–X is engaged, and would be disengaged when AUTO–X is disengaged.[15] However, the Exchange proposes to allow specialists to engage Book Sweep manually when orders are received when AUTO–X is disengaged, and Auto-Quote or SQF matches or crosses the Exchange's best bid or offer in a particular series as established by an order on the limit order book. The purpose of this provision is to enable the specialist to execute limit orders on the book that are due for execution more efficiently by manually initiating Book Sweep (rather than executing such orders individually), thus providing more efficient executions and ensuring that the specialist may maintain a fair and orderly market when such orders become due for execution.

The Exchange expects to deploy Book Sweep as supporting systems become available, on an issue-by-issue basis over a period to be determined.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [16] in general and furthers the objectives of Section 6(b)(5) [17] in particular, in that it is designed to perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest. The Exchange believes that Book Sweep should help provide

[11] For a list of circumstances in which orders otherwise eligible for AUTO–X are instead manually handled by the specialist, *see* Exchange Rule 1080(c)(iv). *See also* Securities Exchange Act Release No. 45927 (May 15, 2002), 67 FR 36289 (May 23, 2002) (SR–Phlx–2001–24).

[12] *See* Securities Exchange Act Release No. 47646 (April 8, 2003), 68 FR 17976 (April 14, 2003) (SR–Phlx–2003–18).

[13] The Exchange notes that the Chicago Board Options Exchange (''CBOE'') currently has rules and systems in place regarding its ''Trigger'' mechanism, which includes a functionality similar to that set forth in the instant proposal. *See* CBOE Rule 6.8(d)(v). *See also* Securities Exchange Act Release No. 44462 (June 21, 2001), 66 FR 34495 (June 28, 2001) (SR–CBOE–00–22) (Order approving the CBOE Autoquote Triggered EBook Execution). The Exchange notes that, by rule, the CBOE ''Trigger'' function will not automatically execute a number of contracts in excess of the RAES guaranteed size. While the instant proposal is based in part on the CBOE ''Trigger,'' it is distinguished from that function in that an order executed via Book Sweep would be executed for a number of contracts up to the size associated with the quote that locks or crosses a booked limit order.

[14] Under Exchange Rule 1082(b) all quotations made available by the Exchange and displayed by quotation vendors shall be firm for customer and broker-dealer orders at the disseminated price in an amount up to the disseminated size. *See also* Rule 11Ac1–1 under the Act, 17 CFR 240.11Ac1–1.

[15] Exchange Rule 1080(c)(iv) provides that an order otherwise eligible for AUTO–X will instead be manually handled by the specialist in the following situations:

(A) The Exchange's disseminated market is crossed (*i.e.,* 2⅛ bid, 2 offer), or crosses the disseminated market of another options exchange;

(B) One of the following order types: Stop, stop limit, market on closing, market on opening, or an all-or-none order where the full size of the order cannot be executed;

(C) The AUTOM System is not open for trading when the order is received (which is known as a pre-market order);

(D) The disseminated market is produced during an opening or other rotation;

(E) When the specialist posts a bid or offer that is better than the specialist's own bid or offer;

(F) If the NBBO Feature, described in Exchange Rule 1080(c)(i), is not engaged, and the Exchange's bid or offer is not the NBBO;

(G) When the price of a limit order is not in the appropriate minimum trading increment pursuant to Exchange Rule 1034;

(H) When the bid price is zero respecting sell orders; and

(I) When the number of contracts automatically executed within a 15 second period in an option (subject to a pilot program until November 30, 2003) exceeds the specified disengagement size, a 30 second period ensues during which subsequent orders are handled manually.

The Exchange notes that Rule 1080(c)(iv) was adopted to address the requirement in the *Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Sanctions,* Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3–10282 (the ''Order'') that the Exchange adopt new, or amend existing, rules concerning automatic quotation and execution systems which specify the circumstances, if any, under which automated execution systems be disengaged or operated in any manner other than the normal manner.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

faster executions for investors, while reducing the burden on the Exchange's specialists with respect to the manual execution of booked orders.

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. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of Phlx. All submissions should refer to File No. SR–Phlx–2003–30 and should be submitted by October 27, 2003.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 of the Act.[18] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act, which requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, as well as to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.[19] The Commission believes that the proposed rule change, as amended, should help to facilitate the more efficient execution of orders when Auto-Quote or SQF locks or crosses the Exchange's best bid or offer in a series, as established by an order on the limit order book. Moreover, the Exchange proposes to implement the Book Sweep function as a six-month pilot program, which will enable the Exchange and the Commission to evaluate its operation before the function is permanently approved.

The Commission further finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that the Exchange's proposed Book Sweep system is similar to functions that the Commission has previously approved for use on other exchanges,[20] and would be implemented on a pilot basis. Therefore, the Commission believes that it is appropriate to grant accelerated approval to the proposal.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–Phlx–2003–30) is hereby approved on an accelerated basis, as a pilot program scheduled to expire on March 31, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–25262 Filed 10–3–03; 8:45 am]

BILLING CODE 8010–01–P

[18] In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78f(b)(5).

[20] *See* Securities Exchange Act Release No. 44468 (June 21, 2001), 66 FR 34505 (June 28, 2001) (SR–PCX–00–03) (Order approving PCX ''Auto-Ex Book'' system), and Securities Exchange Act Release No. 44462 (June 21, 2001), 66 FR 34495 (June 28, 2001) (SR–CBOE–00–22) (Order approving CBOE Autoquote Triggered EBook Execution system).

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Building, Room 10235, 725 17th St., NW., Washington, DC 20503, Fax: 202–395–6974.

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1338 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

1. *Continuation of Full Benefit Standard for Persons Institutionalized—20 CFR 416.212—0960–0516.* SSA is required by law to establish procedures for collecting information on whether an Supplemental Security Income (SSI) recipient who becomes institutionalized (*e.g.* hospital, nursing home) may be eligible for continued benefits, based on the full federal benefit rate, if a physician certifies that the expected period of medical confinement will last no more than 90 days. The individual (or someone acting on his/her behalf) must demonstrate the need to pay some or all of the expenses of maintaining the home. The respondents are applicants for SSI benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 60,000.
Frequency of Response: 1.
Average Burden Per Response: 5 minutes.
Estimated Average Burden: 5,000 hours.

2. *Representative Payee Report of Benefits and Dedicated Account—20 CFR 416.546, 416.635, 416.640, and 416.665—0960–0576.* Form SSA–6233 is used to ensure that the representative payee is using the benefits received for the beneficiary's current maintenance and personal needs and that expenditures of funds from the dedicated account are in compliance with the law. The respondents are individuals and organizational representative payees who are required by law to establish a separate (''dedicated'') account in a financial institution for certain past-due SSI benefits.
Type of Request: Extension of an OMB-approved information collection.
Number of Respondents: 30,000.
Frequency of Response: 1.
Average Burden Per Response: 20 minutes.
Estimated Annual Burden: 10,000 hours.

3. Internet Change of Address—0960–NEW. The information requested by the Social Security Administration (SSA) via the Internet will be used to report a Title II beneficiary's change of address/telephone number and to verify the identity of the individual using knowledge-based authentication. Electronic screens solicit identity information that will be verified by comparing it with information in SSA's records. The screens must be completed and identity authenticated before the requestor can change their address. This Internet option to change the address/telephone number will eliminate the need for a phone call to a teleservice center or a visit to a field office. The respondents are beneficiaries who request a change of address or telephone number via the Internet.
Type of Request: New information collection.
Number of Respondents: 80,000.
Frequency of Response: 1.
Average Burden Per Response: 10 minutes.
Estimated Annual Burden: 13,333 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. *Statement for Determining Continuing Eligibility, Supplemental Security Income Payment—20 CFR, Subpart D, 416.204—0960–0145.* SSA uses form SSA–8202–BK to conduct low- and middle-error-profile (LEP–MEP) telephone or face-to-face redetermination (RZ) interviews with SSI recipients and representative payees. The information collected during the interview is used to determine whether SSI recipients have met and continue to meet all statutory and regulatory requirements for SSI eligibility and whether they have been, and are still receiving, the correct payment amount. Form SSA–8202–OCR–SM (Optical Character Recognition Self-Mailer) collects information similar to that collected on Form SSA–8202–BK. However, it is used exclusively in LEP RZ cases on a 6-year cycle.

Type of Request: Extension of an OMB-approved collection.

Forms	Respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
SSA–8202–F6	920,000	1	19	291,333
SSA–8202–OCR–SM	800,000	1	9	120,000

Total Burden Hours for this Request: 411,333 hours.

2. *Statement for Determining Continuing Eligibility, Supplemental Security Income Payment(s)—20 CFR Subpart B, 416.204–0960–0416.* SSA uses the information collected on form SSA–8203–BK for high-error-profile (HEP) redeterminations of disability to determine whether SSI recipients have met and continue to meet all statutory and regulatory requirements for SSI eligibility and whether they have been, and are still receiving, the correct payment amount. The information is normally completed in field offices by personal contact (face-to-face or telephone interview) using the automated Modernized SSI Claim System (MSSICS). The respondents are recipients of Title XVI benefits.
Type of Request: Extension of an OMB-approved information collection.
Number of Respondents: 1,000,000.
Frequency of Response: 1.
Average Burden Per Response: 19 minutes.
Estimated Annual Burden: 316,667 hours.

Dated: September 30, 2003.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 03–25244 Filed 10–3–03; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 4507]

30-Day Notice of Proposed Information Collection: Form DS–3072, Emergency Loan Application and Evacuation Documentation, OMB Control Number 1405–0150

AGENCY: Department of State.
ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995.

Type of Request: Extension of Currently Approved Collection.
Originating Office: Bureau of Consular Affairs (CA/OCS/PRI).
Title of Information Collection: Emergency Loan Application and Evacuation Documentation.
Frequency: On occasion.
Form Number: DS–3072.
Respondents: U.S. citizens abroad (and third country nationals, where eligible) who need evacuation, repatriation, or emergency medical and dietary assistance.
Estimated Number of Respondents: Approximately 500 respondents per year. The number of respondents may be much larger in emergency circumstances when lives are endangered by war, civil unrest, or natural disaster, but such circumstances are extraordinary and the number of respondents cannot be predicted.
Average Hours Per Response: 10 minutes.

Total Estimated Burden: 83.3 hours under usual circumstances.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Michael Meszaros, who may be reached on 202–312–9750. Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to the State Department Desk Officer, Officer of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: September 29, 2003.

Maura Harty,

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

[FR Doc. 03–25278 Filed 10–3–03; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 4508]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Jasper Johns: Numbers''

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, 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 ''Jasper Johns: Numbers,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Cleveland Museum of Art, Cleveland, OH, from on or about October 26, 2003, to on or about January 11, 2004, Los Angeles County Museum of Art, Los Angeles, CA, from on or about February 1, 2004, to on or about April 18, 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 Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: October 1, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–25277 Filed 10–3–03; 8:45 am]

BILLING CODE 4710–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee on Services (ISAC–13)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of a partially opened meeting.

SUMMARY: The Industry Sector Advisory Committee on Services (ISAC–13) will hold a meeting on October 14, 2003, from 1:30 p.m. to 4:30 p.m. The meeting will be closed to the public from 2:15 p.m. to 4:30 p.m. and opened to the public from 1:30 p.m. to 2:15 p.m.

DATES: The meeting is scheduled for October 14, 2003, unless otherwise notified.

ADDRESSES: The meeting will be held at the Ronald Reagan Bldg, USA Trade Center, Training Room A.

FOR FURTHER INFORMATION CONTACT: Jennifer Moll, DFO for ISAC–13 at (202) 482–1316, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 or Christina Sevilla, Director for Intergovernmental Affairs, on (202) 395–6120.

SUPPLEMENTARY INFORMATION: During the opened portion of the meeting the following agenda items will be discussed.

- The General Agreement on Trade in Services (GATS) Negotiations and the WTO Cancun Ministerial, and
- The Free Trade Area of the Americas (FTAA) Negotiations.

Christopher A. Padilla,

Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. 03–25288 Filed 10–3–03; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Syracuse, UT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed transportation improvement project on Syracuse Road (SR–108) from 1000 West to 2000 West in Syracuse City, Utah.

FOR FURTHER INFORMATION CONTACT: Gregory S. Punske, P.E., Environmental Program Manager, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, UT 84118, Telephone: (801) 963–0182; or Bruce Swenson, Project Manager, Utah Department of Transportation Region One Office, 169 North Wall Avenue, Ogden, UT 84412, Telephone: (801) 620–1683.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Utah Department of Transportation, will prepare an Environmental Impact Statement (EIS) on a proposal to address current and projected transportation demand on Syracuse Road (SR–108) from 1000 West to 2000 West within Syracuse City, Utah.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public information meetings and a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

An Interagency scoping meeting is scheduled for October 15, 2003 from 10

a.m. to 12 noon at the Utah Department of Transportation Region One Office located at: 169 North Wall Avenue, Ogden, UT 84412. Contact Mr. Bruce Swenson at (801) 620–1683 for additional information or directions to the meeting.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: September 30, 2003.

Gregory S. Punske,

Environmental Project Manager, Salt Lake City, Utah.

[FR Doc. 03–25239 Filed 10–3–03; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34398]

BG & CM Railroad—Acquisition and Operation Exemption—Line of Camas Prairie Railnet, Inc.

BG & CM Railroad (BG & CM), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Camas Prairie Railnet, Inc. (Camas Prairie) and operate approximately 66.8 miles of rail line between Spalding and Grangeville in Lewis, Nez Perce, and Idaho Counties, ID.[1] This line, extending from milepost 0.0 to milepost 66.8, was authorized for abandonment in *Camas Prairie Railnet, Inc.—Abandonment—in Lewis, Nez Perce and Idaho Counties, ID (Between Spalding and Grangeville*), STB Docket No. AB–564 (STB served Sept. 13, 2000).[2] BG & CM was subsequently authorized to negotiate for trail use of the line by a decision and certificate of interim trail use (CITU) served in the same docket on January 6, 2003. Trail use negotiations were successful and BG & CM has acquired all relevant, track, ties and other track materials, and sufficient real estate interests for railroad operations. BG & CM wishes to reactivate service from milepost 0.0 to milepost 52.0, but requests that the remainder of the line, from milepost 52.0 to milepost 66.8, remain rail banked pursuant to the CITU.[3]

The exemption became effective on September 23, 2003 (seven days after the notice was filed), but BG & CM intends to consummate the transaction and begin service only upon issuance of a Board decision exempting it from the regulatory requirements of 49 U.S.C., Subtitle IV. BG & CM certifies that its projected annual revenues do not exceed those that would qualify it as a Class III carrier.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34398 must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Charles H. Montange, 426 NW 162 St., Seattle, WA 98177.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: September 29, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–25099 Filed 10–3–03; 8:45 am]

BILLING CODE 4915–00–P

[1] This notice of exemption is the subject of a motion to dismiss filed simultaneously by BG & CM based on its position that Board authorization is not necessary. Further, the operations described in this notice are also the subject of a BG & CM petition for exemption from the requirements of 49 U.S.C. Subtitle IV filed in *BG & CM Railroad, Inc.—Petition for Exemption—in Lewis, Nez Perce, and Idaho Counties, ID,* STB Finance Docket No. 34399. Both will be decided in a subsequent Board decision.

[2] Camas Prairie has discontinued service over the line, but has not consummated the abandonment thereof.

[3] As to the segment between mileposts 52.0 and 66.8 that would remain rail banked, BG & CM seeks authorization from the Board to acquire Camas Prairie's right to reactivate rail service in the future.

Corrections

Federal Register

Vol. 68, No. 193

Monday, October 6, 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.

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–8

RIN 3090–AH33

Nondiscrimination on the Basis of Race, Color, National Origin, Handicap, or Age in Programs or Activities Receiving Federal Financial Assistance; Final Rule

Correction

In rule document 03–21140 beginning on page 51334 in the issue of Tuesday, August 26, 2003, make the following corrections:

§101–8.703 [Amended]

1. On page 51375, in the first column, in §101–8.703, in amendatory instruction 13, in the first line, ''Section 1101–8.703'' should read ''Section 101–8.703.''

2. On the same page, in the same section, in the table, under the heading ''Section'', in the sixth entry, ''101–703(l)'' should read ''101–8.703(l)''.

[FR Doc. C3–21140 Filed 10–3–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
October 6, 2003

Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Parts 412 and 413

Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2004 Rates; Correction of Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 412 and 413

[CMS–1470–CN]

RIN 0938–AL89

Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2004 Rates; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule published in the **Federal Register** on August 1, 2003 entitled ''Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2004 Rates.'' These corrections include—(1) An error in the assignment of procedures to diagnosis-related group (DRG) 525, Heart Assist System Implant; (2) a technical error in the new technology add-on payment amount for InFUSE™ Bone Graft/LT–CAGE™ Lumbar Tapered Fusion Device (InFUSE™); and (3) technical errors in the wage index values and geographic reclassifications. As a result of the wage index and geographic reclassification corrections, we have recalculated the budget neutrality factors applicable to the operating national average standardized amounts and the capital Federal rate, which resulted in changes to the standardized amounts themselves.

EFFECTIVE DATES: The corrections listed in this document are effective on October 1, 2003.

FOR FURTHER INFORMATION CONTACT: Margot Blige Holloway, (410) 786–4642.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 03–19363 of August 1, 2003 (68 FR 45346), there was a factual error and a number of technical errors that are identified and corrected in the Correction of Errors section (section II) of this document. There are also typographical errors that are identified and corrected in section II of this document.

We are correcting the assignment of procedures to DRG 525 in light of the much lower charges associated with code 37.62. We are also correcting a factual error in our response to a comment we received stating that the DRG assignment of International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM) procedure codes to DRG 525 is clinically and financially inappropriate. Our response stated that this point had not been raised prior to this year's proposed rule. However, our response was incorrect. In fact, a commenter did point out in response to our proposal to create DRG 525 for FY 2003 that ICD–9–CM procedure code 37.62 was clinically and financially dissimilar to other procedures in DRG 525, and recommended this procedure code not be included in DRG 525 but should remain in DRGs 104 and 105, Cardiac Valve and Other Major Cardiothoracic Procedures With and Without Cardiac Catheterization. (*See* the August 1, 2002 **Federal Register** (68 FR 49991) for the detailed discussion of the comment and our response.)

We will remove all cases with code 37.62 from DRG 525, and reassign them to DRGs 104 and 105, respectively. Procedure codes 37.63 (Replacement and repair of heart assist system), 37.65 (Implant of an external, pulsatile heart assist system), and 37.66 (Implant of an implantable, pulsatile heart assist system) will continue to be assigned to DRG 525. This change will increase the relative weight and the payments for cases assigned to DRG 525. We now believe this correction is necessary to ensure adequate access to procedures in this DRG. As a result of these corrections, we are also making corrections to the relative weights and the geometric and arithmetic mean length of stay listed in Table 5 of the final rule. Although this change will be effective for discharges occurring on or after October 1, 2003, it requires the issuance of revised GROUPER software. At this time, we do not anticipate revised GROUPER software will be available until at least January 1, 2004. Affected claims may be resubmitted for adjusted payments after that date.

One of the technical errors involved our discussion of the approval of InFUSE™ Bone Graft/LT–CAGE™ Lumbar Tapered Fusion Device (InFUSE™) as a new technology eligible add-on payment. In that discussion, we mistakenly indicated that a single level fusion required the use of two InFUSE products, with a total cost of $17,800. Based on further review of the costs associated with this technology, we have determined that only one InFUSE product is required for a single level fusion. Accordingly, we are correcting the maximum add-on payment for a case involving the InFUSE™ to be $4,450. In addition, we have recomputed the budget neutrality adjustment factor under section 1886(d)(4)(C)(iii) to reflect the lower estimate of the total add-on payments for this new technology.

The technical errors also included several errors in the calculation of the wage index. These errors were due to the mishandling or miscalculation of data by CMS and the fiscal intermediaries. Therefore, we are making corrections to some of the average hourly wages shown in Table 2 for individual hospitals and to the corresponding average hourly wages shown in Table 3A of the Metropolitan Statistical Areas (MSA) where those hospitals are located. At least one of the computational errors also has a spill-over effect on hospitals other than the hospitals that were the subjects of the error. This error involved a few hospitals whose wage indexes were calculated as if their cost reporting periods equaled 1 month (even though the hospitals had reported a full 12 months of data). As we explained in the August 1, 2003 final rule, we annualize short cost-reporting periods to reflect a 1-year period (68 FR 45399). Annualization is accomplished by dividing the data by the number of days in the cost report and then multiplying the results by 365, and such annualization resulted in a wage index for the subject hospitals inflated by a factor of approximately 12. Correcting the error results in a decrease to the national average hourly wage rate and a concurrent general increase in the wage indexes. Consequently, we are republishing Tables 4A through 4H, reflecting corrections to hospitals' wage indexes.

After the publication of the August 1, 2003 final rule, we were notified of a wage index data error for rural Georgia. These errors appear in the average hourly wages listed in Table 2 and in the Table 3B (Wage Index and Capital Geographic Adjustment Factor (GAF) for Rural Areas). The errors in the average hourly wage were a result of the use of an incorrect data file. In this notice, we are correcting the average hourly wage listed in Tables 2 and 3B. However, because we did not receive notification regarding the error in enough time to make corrections to the rural Georgia wage index effective for discharges on or after October 1, 2003, we are not correcting the corresponding wage index values (which are listed in Tables 4B and 4H) in this document. These corrections will be issued in a future program memorandum and made effective prospectively with discharges occurring on or after January 1, 2004.

Also, there were technical errors in the geographic reclassifications that will

result in corrections to the reclassification data displayed in Table 9 of the August 1, 2003 final rule. We note that wage index changes and geographic reclassifications are required to be budget neutral under sections 1886(d)(3)(E) and 1886(d)(8)(D) of the Social Security Act (the Act). Similarly, section 412.308(c)(4) of the regulations requires that the capital standard Federal rate be adjusted so that the annual DRG reclassification and the recalibration of DRG weights and changes in the geographic adjustment factor (GAF) are budget neutral. Therefore, in order to comply with the statutory and regulatory requirements for overall budget neutrality, we recalculated the budget neutrality factors applied to operating national average standardized amounts and the capital Federal rate. Because the wage indexes generally increased across all hospitals, the budget neutrality calculations caused the standardized amounts to decrease slightly. We have also corrected the relevant columns of Table I from the impact analysis in Appendix A to reflect these corrections to the wage index and standardized amounts. In addition, we are correcting a typographical error in the same table. We note that this correction is essentially nullified by the wage index corrections. However, we want to point out the value of the published figure should have been positive rather than negative (*see* correction to page 45662). Finally, we note that total payments to hospitals under IPPS are relatively unaffected by changes in prospective payments for capital-related costs. Since capital PPS payments constitute about 10 percent of hospital payments, a 1-percent change in the capital Federal rate yields only about 0.1 percent change in actual payments to hospitals. Thus, the impact of the −0.31 percent change in the FY 2004 capital Federal rate is negligible.

Lastly, we are republishing Table 10, Mean and .75 Standard Deviation by Diagnosis-Related Group in its entirety, due to the inadvertent publication of the incorrect version of Table 10 in the final rule.

II. Correction of Errors

In FR Doc. 03–19363 of August 1, 2003 (68 FR 45346), make the following corrections:

1. On page 45370,

a. First column, second and third full paragraphs, the paragraphs beginning with the phrases ''*Response:* In response to comments'' and ''While we recognize the significant'' are corrected to read ''*Response:* We agree it is appropriate to correct the assignment of procedures to DRG 525 in light of the lower charges associated with procedure code 37.62. Therefore, we are moving code 37.62 into DRGs 104 and 105, and leaving procedure codes 37.63, 37.65, and 37.66 in DRG 525.'';

b. First column last paragraph, lines 1 through 3, the sentence ''Furthermore, the volume and mix of cases in this DRG is likely to change over the next year'' is corrected by deleting the sentence; and

c. Second column, first full paragraph, last line, the phrase ''revising DRG 525.'' is corrected to read ''any further revisions to these DRG assignments.''.

2. On page 45371, first column, third full paragraph, line 3, the phrase ''increase the harge'' is corrected to read ''increase the charge''.

3. On page 45386, third column, first full paragraph, lines 5, the phrase ''such item'' is corrected to read ''such items''.

4. On page 45390,

a. Second column,

(1) First partial paragraph, last line, sentences are added to read ''We note that, InFUSE™ Bone Graft/LT–CAGE™ Lumbar Tapered Fusion Device with recombinant human bone morphogenetic protein (rhBMP) 2 is the only rhBMP technology that has applied and met the criteria for the new technology add-on payment. Therefore, the add-on payments will apply only to this technology'';

(2) Second full paragraph, lines 6 through 19, the sentences, ''The average cost of the InFUSE™ is reported to be $8,900, and a single level fusion requires two of the products. Therefore, the total cost for the InFUSE™ for a single-level fusion is expected to be $17,800. Under § 412.88(a)(2), new technology add-on payments are limited to the lesser of 50 percent of the average cost of the device or 50 percent of the costs in excess of the DRG payment for the case. As a result, the maximum add-on payment for a case involving the InFUSE™ is $8,900.'' are corrected to read ''The average cost of the InFUSE™ is reported to be $8,900 for a single level fusion. Under § 412.88(a)(2), new technology add-on payments are limited to the lesser of 50 percent of the average cost of the device or 50 percent of the costs in excess of the DRG payment for the case. As a result the maximum add-on payment for a case involving the InFUSE™ is $4,450.''; and

(3) Third full paragraph,

(a) Line 11, the figure ''$8,900'' is corrected to read ''$4,450''; and

(b) Line 14, the figure ''$4.4 million'' is corrected to read ''$2.2 million''.

b. Third column, first full paragraph, line 2, the phrase ''meet the cost'' is corrected to read ''meets the cost''.

5. On page 45399,

a. First column, fourth full paragraph, line 9, the figure ''$24.8076'' is corrected to read ''$24.7202''; and

b. Second column, first full paragraph, line 16, the figure ''$11.5905'' is corrected to read ''$11.6030''.

6. On page 45410, first column, second full paragraph, line 3, the phrase ''Of the three DRGs that'' is corrected to read ''Of these ten, three DRGs''.

7. On page 45413, table at the top of the page, line 19 (DRG 468), fifth column, the figure ''7.07'' is corrected to read ''-7.07''.

8. On page 45416, third column, third paragraph, lines 12 through 13, the parenthetical phrase ''(68 FR 37202 through 37204).'' is corrected to read ''(68 FR 27202 through 27204).''.

9. On page 45446, first column,

a. Lines 46 through 49, the phrase ''agreements that will allow hospitals to continue counting residents training in nonhospital sites for indirect and direct GME.'' is corrected by italicizing it to read *''agreements that will allow hospitals to continue counting residents training in nonhospital sites for indirect and direct GME.'';*

b. Lines 51 through 54, the sentence ''We do not believe that the agreements regarding these financial transactions will necessitate changes in the placement and training of residents.'' is corrected by italicizing it to read ''*We do not believe that the agreements regarding these financial transactions will necessitate changes in the placement and training of residents.*''; and

c. Lines 60 through 64, the sentence ''Currently the hospital is able to count the resident even though the costs for that resident may be lower during the time when the resident trains outside the hospital.'' is corrected by italicizing it to read ''*Currently the hospital is able to count the resident even though the costs for that resident may be lower during the time when the resident trains outside the hospital.*''.

10. On page 45453, second column, line 19, the phrase ''condone, cost'' is corrected to read ''condoned, cost''.

§ 413.86 [Corrected]

■ 11. On page 45472, first column, lines 3 and 4, the phrase ''T. Redesignating paragraphs (i) and (j) as paragraphs (j) and (k), respectively,'' is corrected to read ''Redesignating paragraphs (i), (j), and (k) as paragraphs (j), (k), and (l), respectively,''.

12. On page 45475, third column, fifth paragraph, line 9, the figure ''$14.4 million'' is corrected to read ''$12.2 million''.

13. On page 45476, first column,

a. First full paragraph, line 3, the figure ''1.005522'' is corrected to read ''1.002588''; and

b. Fourth full paragraph, line 16, the amount ''0.992026'' is corrected to read ''0.991636''.

14. On pages 45478 through 45479, the untitled table is corrected to read as follows:

	Large urban	Other areas
FY 2003 Base Rate (after removing reclassification budget neutrality and outlier offset).	Labor—$3,213.66 Nonlabor—$1,306.26	Labor—$3,162.78 Nonlabor—$1,285.58
FY 2004 Update Factor	1.034	1.034
FY 2004 DRG Recalibrations and Wage Index Budget Neutrality Factor	1.002588	1.002588
FY 2004 Reclassification Budget Neutrality Factor	0.991636	0.991636
Adjusted for Blend of FY 2003 DRG Recalibration and Wage Index Budget Neutrality Factors (factor of 0.993209 effective October 1, 2002; factor of 0.993012 effective April 1, 2003).	Labor—$3,331.20 Nonlabor—$1,354.03	Labor—$3,278.45 Nonlabor—$1,332.60
FY 2004 Outlier Factor	0.949460	0.949460
Rate for FY 2004 (after multiplying FY 2003 base rate by above factors)	Labor—$3,136.39 Nonlabor—$1,274.85	Labor—$3,086.73 Nonlabor—$1,254.67

15. On page 45479, third column, sixth full paragraph, line 16, the figure ''1.005522'' is corrected to be ''1.002588''.

16. On page 45481, first column,

a. First partial paragraph, line 12, the figure ''$415.47'' is corrected to read ''$414.18''; and

b. First full paragraph, line 5, the figure ''2.10'' is corrected to read ''1.78''.

17. On page 45482,

a. Second column, third paragraph,

(1) Line 11, the figure ''4.79'' is corrected to read ''4.77''; and

(2) Line 15, the figure ''0.9521'' is corrected to read ''0.9523''.

b. Third column, first paragraph,

(1) Line 4, the figures ''1.0055'' and ''0.9521'' are corrected to read ''1.0057'' and ''0.9523'', respectively; and

(2) Line 6, the figure ''0.55'' is corrected to read ''0.57''.

18. On page 45483,

a. Top of the page,

(1) Second column,

(a) Line 6, the figure ''1.0002'' is corrected to read ''1.0003''; and

(b) Line 9, the figure ''0.9965'' is corrected to read ''0.9966''.

(2) Third column, line 10, the figures ''0.9941'' and ''0.9973'' are corrected to read ''0.9908'' and ''0.9974'', respectively.

b. Center of the page, in the table entitled Budget Neutrality Adjustment for DRG Reclassifications and Recalibration and the Geographic Adjustment Factors, the last line of the table (Fiscal Year 2004) is corrected to read as follows:

Fiscal year	National				Puerto Rico			
	Incremental adjustment			Cumulative	Incremental adjustment			Cumulative
	Geographic adjustment factor	DRG reclassifications and recalibration	Combined		Geographic adjustment factor	DRG Reclassifications and recalibration	Combined	
2004	[8] 1.00175	1.00081	[8] 1.00256	0.99083	[8] 1.00028	[8] 1.00081	[8] 1.00109	0.99736

b. Lower third of the page,

(1) Second column, second paragraph, line 6, the figure ''1.0059'' is corrected to read ''1.0026'';

(2) Third column, first partial paragraph,

(a) Line 5, the figure ''1.0059'' is corrected to read ''1.0026'';

(b) Line 7, the figure ''0.9941'' is corrected to read ''0.9908'';

(c) Line 13, the figure ''1.0059'' is corrected to read ''1.0026''; and

(d) Line 14, the figure ''0.9941'' is corrected to read ''0.9908''.

19. On page 45485,

a. Top of the page,

(1) Second column, first partial paragraph,

(a) Line 4, the figure ''$415.47'' is corrected to read ''$414.18'';

(b) Line 13, the figure ''1.0059'' is corrected to read ''1.0026''; and

(c) Line 15, the figure ''0.9521'' is corrected to read ''0.9523''.

(2) Third column, first full paragraph,

(a) Line 11, the figure ''0.59'' is corrected to read ''0.26'';

(b) Line 13, the figure ''0.55'' is corrected to read ''0.57''; and

(c) Line 21, the figure ''2.10'' is corrected to read ''1.78''.

b. Upper half of the page, the table entitled Comparison of Factors and Adjustments: FY 2003 Capital Federal Rate and FY 2004 Capital Federal Rate, the table is corrected to read as follows:

	FY 2003	FY 2004	Change	Percent change
Update factor [1]	1.0110	1.0070	1.0070	0.70
GAF/DRG Adjustment Factor [1]	0.9957	1.0026	1.0026	0.26
Outlier Adjustment Factor [2]	0.9469	0.9523	1.0057	0.57
Exceptions Adjustment Factor [2]	0.9970	0.9995	1.0025	0.25
Capital Federal Rate	$406.93	$414.18	[3] 1.0178	[3] 1.78

[1] The update factor and the GAF/DRG budget neutrality factors are built permanently into the capital rates. Thus, for example, the incremental change from FY 2003 to FY 2004 resulting from the application of the 1.0026 GAF/DRG budget neutrality factor for FY 2004 is 1.0026.

[2] The outlier reduction factor and the exceptions adjustment factor are not built permanently into the capital rates; that is, these factors are not applied cumulatively in determining the capital rates. Thus, for example, the net change resulting from the application of the FY 2004 outlier adjustment factor is 0.9523/0.9469, or 1.0057.

[3] The percent change in factors and adjustments may not sum due to rounding.

c. Lower half of the page, the table entitled Comparison of Factors and Adjustments: FY 2004 Proposed Capital Federal Rate and FY 2004 Final Capital Federal Rate, the following entries are corrected to read as follows:

	Proposed FY 2004	Final FY 2004	Change	Percent change
GAF/DRG Adjustment Factor	1.0038	1.0026	0.9988	−0.12
Outlier Adjustment Factor	0.9455	0.9523	1.0072	0.72
Capital Federal Rate	$411.72	$414.18	1.0060	0.60

d. Bottom of the page, third column, first partial paragraph,

(1) Line 3, the figure ''1.0002'' is corrected to read ''1.0003''; and

(2) Line 5, the figure ''0.9973'' is corrected to read ''0.9974''.

20. On page 45486, first column, first full paragraph, last line, the figure ''$203.15'' is corrected to read ''$203.17''.

21. On page 45487, third column, line 45, the title, ''Table 6E.—vised Diagnosis Code Titles'' is corrected to read ''Table 6E.—Revised Diagnosis Code Titles''.

22. On page 45488,

a. In Table 1A—National Adjusted Operating Standardized Amounts, Labor/Nonlabor, the table is corrected to read as follows:

TABLE 1A.—NATIONAL ADJUSTED OPERATING STANDARDIZED AMOUNTS, LABOR/NONLABOR

Large urban areas		Other Areas	
Labor-related	Nonlabor-related	Labor-related	Nonlabor-related
$3,136.39	$1,274.85	$3,086.73	$1,254.67

b. In Table 1C—Adjusted Operating Standardized Amounts for Puerto Rico, Labor/Nonlabor, the table is corrected to read as follows:

TABLE 1C.—ADJUSTED OPERATING STANDARDIZED AMOUNTS FOR PUERTO RICO, LABOR/NONLABOR

	Large urban areas		Other areas	
	Labor	Nonlabor	Labor	Nonlabor
National	$3,110.02	$1,264.14	$3,110.02	$1,264.14
Puerto Rico	1,509.57	607.64	1,485.68	598.02

c. In Table 1D—Capital Standard Federal Payment Rate, the table is corrected to read as follows:

TABLE 1D.—CAPITAL STANDARD FEDERAL PAYMENT RATE

	Rate
National	$414.18
Puerto Rico	203.17

23. On page 45504, in Table 2—Hospital Average Hourly Wage for Federal Fiscal Years 2002 (1998 Wage Data), 2003 (1999 Wage Data), and 2004 (2000 Wage Data) Wage Indexes and 3-Year Average of Hospital Average Hourly Wages, line 29 (provider number 110063),

a. Fourth column, the figure ''25.0270'', is corrected to read ''19.4401''; and

b. Fifth column, the figure ''24.4605'' is corrected to read ''18.6913''.

24. On page 45514, in Table 2—Hospital Average Hourly Wage for Federal Fiscal Years 2002 (1998 Wage Data), 2003 (1999 Wage Data), and 2004 (2000 Wage Data) Wage Indexes and 3-Year Average of Hospital Average Hourly Wages, line 3 (provider number 170020), fifth column, the figure ''9.3514'', is corrected to read ''19.3514''.

25. On page 45521, in Table 2—Hospital Average Hourly Wage for Federal Fiscal Years 2002 (1998 Wage Data), 2003 (1999 Wage Data), and 2004 (2000 Wage Data) Wage Indexes and 3-Year Average of Hospital Average Hourly Wages, line 19 (provider number 220077),

a. Fourth column, the figure ''26.7020'' is corrected to read ''27.0946''; and

b. Fifth column, the figure ''26.6704'' is corrected to read ''26.8042''.

26. On page 45535, in Table 2—Hospital Average Hourly Wage for Federal Fiscal Years 2002 (1998 Wage Data), 2003 (1999 Wage Data), and 2004 (2000 Wage Data) Wage Indexes and 3-Year Average of Hospital Average Hourly Wages,

a. Line 42 (provider number 330107),

(1) Fourth column, the figure ''29.7378'' is corrected to read ''29.1958''; and

(2) Fifth column, the figure ''29.5391'' is corrected to read ''28.6349''.

b. Line 56 (provider number 330133),

(1) Fourth column, the figure ''35.9692'' is corrected to read ''35.3136''; and

(2) Fifth column, the figure should read, ''35.9945'' is corrected to read ''35.8603''.

c. Line 64 (provider number 330152),

(1) Fourth column, the figure ''32.9336'' is corrected to read ''32.3332''.; and

(2) Fifth column, the figure ''32.8160'' is corrected to read ''32.2000''.

27. On page 45541, in Table 2—Hospital Average Hourly Wage for Federal Fiscal Years 2002 (1998 Wage Data), 2003 (1999 Wage Data), and 2004 (2000 Wage Data) Wage Indexes and 3-Year Average of Hospital Average Hourly Wages, line 62 (provider number 360118),

a. Fourth column, the figure ''*'' is corrected to read ''23.0071''; and

b. Fifth column, the figure ''20.4951'' is corrected to read ''21.3647''.

28. On page 45549, in Table 2—Hospital Average Hourly Wage for Federal Fiscal Years 2002 (1998 Wage

Data), 2003 (1999 Wage Data), and 2004 (2000 Wage Data) Wage Indexes and 3-Year Average of Hospital Average Hourly Wages,

a. Line 19 (provider number 400019),

(1) Fourth column, the figure ''13.6516'' is corrected to read ''13.7007''; and

(2) Fifth column, the figure ''12.2168'' is corrected to read ''12.2324''.

b. Line 32 (provider number 400098),

(1) Fourth column, the figure ''13.5901'' is corrected to read ''13.8036''; and

(2) Fifth column, the figure ''11.0612'' is corrected to read ''11.1197''.

c. Line 38 (provider number 400109),

(1) Fourth column, the figure ''12.8886'' is corrected to read ''12.8921''; and

(2) Fifth column, the figure ''12.3304'' is corrected to read ''12.3316''.

d. Line 51 (provider number 400124),

(1) Fourth column, the figure ''14.1627'' is corrected to read ''14.3496''; and

(2) Fifth column, the figure ''13.0714'' is corrected to read ''13.1360''.

e. Line 52 (provider number 400125),

(1) Fourth column, the figure ''10.5811'' is corrected to read ''10.6642''; and

(2) Fifth column, the figure ''10.4664'' is corrected to read ''10.4990''.

29. On page 45567, in Table 3A—FY 2004 and 3-Year Average Hourly Wage for Urban Areas,

a. Second set of columns, second line from the bottom (Mansfield, OH),

(1) Second column, the figure ''20.3677'' is corrected to read ''22.6801''; and

(2) Third column, the figure ''20.0909'' is corrected to read ''20.9208''.

b. Third set of columns,

(1) Line 25 (Nassau-Suffolk, NY),

(a) Second column, the figure ''32.0836'' is corrected to read ''32.4665''; and

(b) Third column, the figure ''31.2325'' is corrected to read ''31.3135''.

(2) Line 33 (New York, NY),

(1) Second column, the figure ''34.5159'' is corrected to read ''34.6338''; and

(2) Third column, the figure ''33.4648'' is corrected to read ''33.4208''.

30. On page 45568, in Table 3A—FY 2004 and 3-Year Average Hourly Wage for Urban Areas,

a. First set of columns, line 37 (San Juan-Bayamon, PR),

(1) Second column, the figure ''12.1065'' is corrected to read ''12.1291''; and

(2) Third column, the figure ''11.2275'' is corrected to read ''11.2346''.

b. Second set of columns, line 3 (Springfield, MA),

(1) Second column, the figure ''25.8461'' is corrected to read ''26.0499''; and

(2) Third column, the figure ''25.1765'' is corrected to read ''25.2463''.

31. On page 45568, in Table 3B—FY 2004 and 3-Year* Average Hourly Wage for Rural Areas, line 10 (Georgia),

a. Third column, the figure ''21.2360'' is corrected to read ''20.6779''; and

b. Fourth column, the figure ''19.6529'' is corrected to read ''19.4073''.

32. On pages 45569 through 45576, in Table 4A—Wage Index and Capital Geographic Adjustment Factor (GAF) for Urban Areas, the table is corrected to read as follows:

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS

Urban area (constituent counties)	Wage index	GAF
0040 [2] Abilene, TX	0.7780	0.8421
Taylor, TX		
0060 Aguadilla, PR	0.4306	0.5616
Aguada, PR		
Aguadilla, PR		
Moca, PR		
0080 Akron, OH	0.9442	0.9614
Portage, OH		
Summit, OH		
0120 Albany, GA	1.0863	1.0583
Dougherty, GA		
Lee, GA		
0160 [2] Albany-Schenectady-Troy, NY	0.8526	0.8965
Albany, NY		
Montgomery, NY		
Rensselaer, NY		
Saratoga, NY		
Schenectady, NY		
Schoharie, NY		
0200 Albuquerque, NM	0.9300	0.9515
Bernalillo, NM		
Sandoval, NM		
Valencia, NM		
0220 Alexandria, LA	0.8037	0.8610
Rapides, LA		
0240 Allentown-Bethlehem-Easton, PA	0.9721	0.9808
Carbon, PA		
Lehigh, PA		
Northampton, PA		
0280 Altoona, PA	0.8827	0.9181
Blair, PA		
0320 Amarillo, TX	0.8986	0.9294
Potter, TX		
Randall, TX		
0380 Anchorage, AK	1.2351	1.1556
Anchorage, AK		
0440 Ann Arbor, MI	1.1074	1.0724
Lenawee, MI		
Livingston, MI		
Washtenaw, MI		
0450 Anniston, AL	0.8090	0.8649
Calhoun, AL		
0460 [2] Appleton-Oshkosh-Neenah, WI	0.9304	0.9518
Calumet, WI		
Outagamie, WI		
Winnebago, WI		
0470 Arecibo, PR	0.4155	0.5480
Arecibo, PR		
Camuy, PR		
Hatillo, PR		
0480 Asheville, NC	0.9720	0.9807
Buncombe, NC		
Madison, NC		
0500 Athens, GA	0.9818	0.9875
Clarke, GA		
Madison, GA		
Oconee, GA		
0520 [1] Atlanta, GA	1.0130	1.0089
Barrow, GA		
Bartow, GA		
Carroll, GA		
Cherokee, GA		
Clayton, GA		
Cobb, GA		
Coweta, GA		
DeKalb, GA		
Douglas, GA		
Fayette, GA		
Forsyth, GA		
Fulton, GA		
Gwinnett, GA		
Henry, GA		
Newton, GA		
Paulding, GA		
Pickens, GA		
Rockdale, GA		
Spalding, GA		
Walton, GA		
0560 Atlantic-Cape May, NJ	1.0795	1.0538
Atlantic, NJ		
Cape May, NJ		
0580 Auburn-Opelika, AL	0.8494	0.8942
Lee, AL		
0600 Augusta-Aiken, GA–SC	0.9625	0.9742
Columbia, GA		
McDuffie, GA		
Richmond, GA		
Aiken, SC		
Edgefield, SC		
0640 [1] Austin-San Marcos, TX	0.9609	0.9731
Bastrop, TX		
Caldwell, TX		
Hays, TX		
Travis, TX		
Williamson, TX		
0680 [2] Bakersfield, CA	0.9967	0.9977
Kern, CA		
0720 [1] Baltimore, MD	0.9919	0.9944
Anne Arundel, MD		
Baltimore, MD		
Baltimore City, MD		
Carroll, MD		
Harford, MD		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Howard, MD		
Queen Anne's, MD		
0733 Bangor, ME	0.9904	0.9934
Penobscot, ME		
0743 Barnstable-Yarmouth, MA	1.2956	1.1940
Barnstable, MA		
0760 Baton Rouge, LA	0.8406	0.8879
Ascension, LA		
East Baton Rouge, LA		
Livingston, LA		
West Baton Rouge, LA		
0840 Beaumont-Port Arthur, TX	0.8424	0.8892
Hardin, TX		
Jefferson, TX		
Orange, TX		
0860 Bellingham, WA	1.1757	1.1172
Whatcom, WA		
0870 Benton Harbor, MI	0.8935	0.9258
Berrien, MI		
0875 [1] Bergen-Passaic, NJ	1.1731	1.1155
Bergen, NJ		
Passaic, NJ		
0880 Billings, MT	0.8961	0.9276
Yellowstone, MT		
0920 Biloxi-Gulfport-Pascagoula, MS	0.9029	0.9324
Hancock, MS		
Harrison, MS		
Jackson, MS		
0960 [2] Binghamton, NY	0.8526	0.8965
Broome, NY		
Tioga, NY		
1000 Birmingham, AL	0.9212	0.9453
Blount, AL		
Jefferson, AL		
St. Clair, AL		
Shelby, AL		
1010 Bismarck, ND	0.8033	0.8607
Burleigh, ND		
Morton, ND		
1020 [2] Bloomington, IN	0.8824	0.9179
Monroe, IN		
1040 Bloomington-Normal, IL	0.8832	0.9185
McLean, IL		
1080 Boise City, ID	0.9232	0.9467
Ada, ID		
Canyon, ID		
1123 [1] Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH	1.1233	1.0829
Bristol, MA		
Essex, MA		
Middlesex, MA		
Norfolk, MA		
Plymouth, MA		
Suffolk, MA		
Worcester, MA		
Hillsborough, NH		
Merrimack, NH		
Rockingham, NH		
Strafford, NH		
1125 Boulder-Longmont, CO	1.0049	1.0034
Boulder, CO		
1145 Brazoria, TX	0.8137	0.8683
Brazoria, TX		
1150 Bremerton, WA	1.0580	1.0394
Kitsap, WA		
1240 Brownsville-Harlingen-San Benito, TX	1.0303	1.0207
Cameron, TX		
1260 Bryan-College Station, TX	0.9019	0.9317
Brazos, TX		
1280 [1] Buffalo-Niagara Falls, NY	0.9604	0.9727
Erie, NY		
Niagara, NY		
1303 Burlington, VT	0.9704	0.9796
Chittenden, VT		
Franklin, VT		
Grand Isle, VT		
1310 Caguas, PR	0.4201	0.5522
Caguas, PR		
Cayey, PR		
Cidra, PR		
Gurabo, PR		
San Lorenzo, PR		
1320 Canton-Massillon, OH	0.9071	0.9354
Carroll, OH		
Stark, OH		
1350 Casper, WY	0.9209	0.9451
Natrona, WY		
1360 Cedar Rapids, IA	0.8874	0.9215
Linn, IA		
1400 Champaign-Urbana, IL	0.9907	0.9936
Champaign, IL		
1440 Charleston-North Charleston, SC	0.9332	0.9538
Berkeley, SC		
Charleston, SC		
Dorchester, SC		
1480 Charleston, WV	0.8880	0.9219
Kanawha, WV		
Putnam, WV		
1520 [1] Charlotte-Gastonia-Rock Hill, NC–SC	0.9730	0.9814
Cabarrus, NC		
Gaston, NC		
Lincoln, NC		
Mecklenburg, NC		
Rowan, NC		
Stanly, NC		
Union, NC		
York, SC		
1540 Charlottesville, VA	1.0025	1.0017
Albemarle, VA		
Charlottesville City, VA		
Fluvanna, VA		
Greene, VA		
1560 Chattanooga, TN–GA	0.9086	0.9365
Catoosa, GA		
Dade, GA		
Walker, GA		
Hamilton, TN		
Marion, TN		
1580 [2] Cheyenne, WY	0.9110	0.9382
Laramie, WY		
1600 [1] Chicago, IL	1.0892	1.0603
Cook, IL		
DeKalb, IL		
DuPage, IL		
Grundy, IL		
Kane, IL		
Kendall, IL		
Lake, IL		
McHenry, IL		
Will, IL		
1620 Chico-Paradise, CA	1.0193	1.0132
Butte, CA		
1640 [1] Cincinnati, OH–KY–IN	0.9413	0.9594
Dearborn, IN		
Ohio, IN		
Boone, KY		
Campbell, KY		
Gallatin, KY		
Grant, KY		
Kenton, KY		
Pendleton, KY		
Brown, OH		
Clermont, OH		
Hamilton, OH		
Warren, OH		
1660 Clarksville-Hopkinsville, TN–KY	0.8354	0.8841
Christian, KY		
Montgomery, TN		
1680 [1] Cleveland-Lorain-Elyria, OH	0.9671	0.9774
Ashtabula, OH		
Cuyahoga, OH		
Geauga, OH		
Lake, OH		
Lorain, OH		
Medina, OH		
1720 Colorado Springs, CO	0.9833	0.9885
El Paso, CO		
1740 Columbia, MO	0.8695	0.9087
Boone, MO		
1760 Columbia, SC	0.8902	0.9234
Lexington, SC		
Richland, SC		
1800 Columbus, GA–AL	0.8694	0.9086
Russell, AL		
Chattahoochee, GA		
Harris, GA		
Muscogee, GA		
1840 [1] Columbus, OH	0.9648	0.9758
Delaware, OH		
Fairfield, OH		
Franklin, OH		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Licking, OH		
Madison, OH		
Pickaway, OH		
1880 Corpus Christi, TX	0.8521	0.8962
Nueces, TX		
San Patricio, TX		
1890 Corvallis, OR	1.1516	1.1015
Benton, OR		
1900 [2] Cumberland, MD–WV (MD Hospitals)	0.9125	0.9392
Allegany, MD		
Mineral, WV		
1900 Cumberland, MD–WV (WV Hospitals)	0.8200	0.8729
Allegany, MD		
Mineral, WV		
1920 [1] Dallas, TX	0.9974	0.9982
Collin, TX		
Dallas, TX		
Denton, TX		
Ellis, TX		
Henderson, TX		
Hunt, TX		
Kaufman, TX		
Rockwall, TX		
1950 Danville, VA	0.9035	0.9329
Danville City, VA		
Pittsylvania, VA		
1960 Davenport-Moline-Rock Island, IA–IL	0.8985	0.9293
Scott, IA		
Henry, IL		
Rock Island, IL		
2000 Dayton-Springfield, OH	0.9529	0.9675
Clark, OH		
Greene, OH		
Miami, OH		
Montgomery, OH		
2020 Daytona Beach, FL	0.9060	0.9346
Flagler, FL		
Volusia, FL		
2030 Decatur, AL	0.8828	0.9182
Lawrence, AL		
Morgan, AL		
2040 [2] Decatur, IL	0.8254	0.8769
Macon, IL		
2080 [1] Denver, CO	1.0837	1.0566
Adams, CO		
Arapahoe, CO		
Broomfield, CO		
Denver, CO		
Douglas, CO		
Jefferson, CO		
2120 Des Moines, IA	0.9106	0.9379
Dallas, IA		
Polk, IA		
Warren, IA		
2160 [1] Detroit, MI	1.0101	1.0069
Lapeer, MI		
Macomb, MI		
Monroe, MI		
Oakland, MI		
St. Clair, MI		
Wayne, MI		
2180 Dothan, AL	0.7765	0.8409
Dale, AL		
Houston, AL		
2190 Dover, DE	0.9805	0.9866
Kent, DE		
2200 Dubuque, IA	0.8886	0.9223
Dubuque, IA		
2240 Duluth-Superior, MN–WI	1.0171	1.0117
St. Louis, MN		
Douglas, WI		
2281 Dutchess County, NY	1.0934	1.0631
Dutchess, NY		
2290 [2] Eau Claire, WI	0.9304	0.9518
Chippewa, WI		
Eau Claire, WI		
2320 El Paso, TX	0.9196	0.9442
El Paso, TX		
2330 Elkhart-Goshen, IN	0.9783	0.9851
Elkhart, IN		
2335 [2] Elmira, NY	0.8526	0.8965
Chemung, NY		
2340 Enid, OK	0.8559	0.8989
Garfield, OK		
2360 Erie, PA	0.8601	0.9019
Erie, PA		
2400 Eugene-Springfield, OR	1.1456	1.0976
Lane, OR		
2440 [2] Evansville-Henderson, IN–KY (IN Hospitals)	0.8824	0.9179
Posey, IN		
Vanderburgh, IN		
Warrick, IN		
Henderson, KY		
2440 Evansville-Henderson, IN–KY (KY Hospitals)	0.8429	0.8896
Posey, IN		
Vanderburgh, IN		
Warrick, IN		
Henderson, KY		
2520 Fargo-Moorhead, ND–MN	0.9797	0.9861
Clay, MN		
Cass, ND		
2560 Fayetteville, NC	0.8986	0.9294
Cumberland, NC		
2580 Fayetteville-Springdale-Rogers, AR	0.8396	0.8872
Benton, AR		
Washington, AR		
2620 Flagstaff, AZ–UT	1.1333	1.0895
Coconino, AZ		
Kane, UT		
2640 Flint, MI	1.0858	1.0580
Genesee, MI		
2650 Florence, AL	0.7797	0.8433
Colbert, AL		
Lauderdale, AL		
2655 Florence, SC	0.8709	0.9097
Florence, SC		
2670 Fort Collins-Loveland, CO	1.0148	1.0101
Larimer, CO		
2680 [1] Ft. Lauderdale, FL	1.0479	1.0326
Broward, FL		
2700 Fort Myers-Cape Coral, FL	0.9816	0.9874
Lee, FL		
2710 Fort Pierce-Port St. Lucie, FL	1.0124	1.0085
Martin, FL		
St. Lucie, FL		
2720 Fort Smith, AR–OK	0.8424	0.8892
Crawford, AR		
Sebastian, AR		
Sequoyah, OK		
2750 Fort Walton Beach, FL	0.8966	0.9280
Okaloosa, FL		
2760 Fort Wayne, IN	0.9585	0.9714
Adams, IN		
Allen, IN		
De Kalb, IN		
Huntington, IN		
Wells, IN		
Whitley, IN		
2800 [1] Forth Worth-Arlington, TX	0.9359	0.9556
Hood, TX		
Johnson, TX		
Parker, TX		
Tarrant, TX		
2840 Fresno, CA	1.0142	1.0097
Fresno, CA		
Madera, CA		
2880 Gadsden, AL	0.8229	0.8750
Etowah, AL		
2900 Gainesville, FL	0.9693	0.9789
Alachua, FL		
2920 Galveston-Texas City, TX	0.9279	0.9500
Galveston, TX		
2960 Gary, IN	0.9410	0.9592
Lake, IN		
Porter, IN		
2975 [2] Glens Falls, NY	0.8526	0.8965
Warren, NY		
Washington, NY		
2980 Goldsboro, NC	0.8622	0.9035
Wayne, NC		
2985 Grand Forks, ND–MN (ND Hospitals)	0.8636	0.9045
Polk, MN		
Grand Forks, ND		
2985 [2] Grand Forks, ND–MN (MN Hospitals)	0.9345	0.9547
Polk, MN		
Grand Forks, ND		
2995 Grand Junction, CO	0.9921	0.9946
Mesa, CO		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
3000 [1] Grand Rapids-Muskegon-Holland, MI	0.9469	0.9633
Allegan, MI		
Kent, MI		
Muskegon, MI		
Ottawa, MI		
3040 Great Falls, MT	0.8918	0.9246
Cascade, MT		
3060 Greeley, CO	0.9453	0.9622
Weld, CO		
3080 Green Bay, WI	0.9518	0.9667
Brown, WI		
3120 [1] Greensboro-Winston-Salem-High Point, NC	0.9166	0.9421
Alamance, NC		
Davidson, NC		
Davie, NC		
Forsyth, NC		
Guilford, NC		
Randolph, NC		
Stokes, NC		
Yadkin, NC		
3150 Greenville, NC	0.9167	0.9422
Pitt, NC		
3160 Greenville-Spartanburg-Anderson, SC	0.9335	0.9540
Anderson, SC		
Cherokee, SC		
Greenville, SC		
Pickens, SC		
Spartanburg, SC		
3180 Hagerstown, MD	0.9172	0.9425
Washington, MD		
3200 Hamilton-Middletown, OH	0.9214	0.9455
Butler, OH		
3240 Harrisburg-Lebanon-Carlisle, PA	0.9164	0.9420
Cumberland, PA		
Dauphin, PA		
Lebanon, PA		
Perry, PA		
3283 [1,2] Hartford, CT	1.2183	1.1448
Hartford, CT		
Litchfield, CT		
Middlesex, CT		
Tolland, CT		
3285 [2] Hattiesburg, MS	0.7778	0.8419
Forrest, MS		
Lamar, MS		
3290 Hickory-Morganton-Lenoir, NC	0.9242	0.9475
Alexander, NC		
Burke, NC		
Caldwell, NC		
Catawba, NC		
3320 Honolulu, HI	1.1116	1.0751
Honolulu, HI		
3350 Houma, LA	0.7771	0.8414
Lafourche, LA		
Terrebonne, LA		
3360 [1] Houston, TX	0.9834	0.9886
Chambers, TX		
Fort Bend, TX		
Harris, TX		
Liberty, TX		
Montgomery, TX		
Waller, TX		
3400 Huntington-Ashland, WV–KY–OH	0.9595	0.9721
Boyd, KY		
Carter, KY		
Greenup, KY		
Lawrence, OH		
Cabell, WV		
Wayne, WV		
3440 Huntsville, AL	0.9245	0.9477
Limestone, AL		
Madison, AL		
3480 [1] Indianapolis, IN	0.9916	0.9942
Boone, IN		
Hamilton, IN		
Hancock, IN		
Hendricks, IN		
Johnson, IN		
Madison, IN		
Marion, IN		
Morgan, IN		
Shelby, IN		
3500 Iowa City, IA	0.9548	0.9688
Johnson, IA		
3520 Jackson, MI	0.8986	0.9294
Jackson, MI		
3560 Jackson, MS	0.8399	0.8874
Hinds, MS		
Madison, MS		
Rankin, MS		
3580 Jackson, TN	0.8984	0.9293
Madison, TN		
Chester, TN		
3600 [1] Jacksonville, FL	0.9563	0.9699
Clay, FL		
Duval, FL		
Nassau, FL		
St. Johns, FL		
3605 Jacksonville, NC	0.8544	0.8978
Onslow, NC		
3610 [2] Jamestown, NY	0.8526	0.8965
Chautauqua, NY		
3620 [2] Janesville-Beloit, WI	0.9304	0.9518
Rock, WI		
3640 Jersey City, NJ	1.1115	1.0751
Hudson, NJ		
3660 Johnson City-Kingsport-Bristol, TN–VA (TN Hospitals)	0.8256	0.8770
Carter, TN		
Hawkins, TN		
Sullivan, TN		
Unicoi, TN		
Washington, TN		
Bristol City, VA		
Scott, VA		
Washington, VA		
3660 [2] Johnson City-Kingsport-Bristol, TN–VA (VA Hospitals)	0.8498	0.8945
Carter, TN		
Hawkins, TN		
Sullivan, TN		
Unicoi, TN		
Washington, TN		
Bristol City, VA		
Scott, VA		
Washington, VA		
3680 [2] Johnstown, PA	0.8378	0.8859
Cambria, PA		
Somerset, PA		
3700 Jonesboro, AR	0.7809	0.8442
Craighead, AR		
3710 Joplin, MO	0.8681	0.9077
Jasper, MO		
Newton, MO		
3720 Kalamazoo-Battlecreek, MI	1.0500	1.0340
Calhoun, MI		
Kalamazoo, MI		
Van Buren, MI		
3740 Kankakee, IL	1.0419	1.0285
Kankakee, IL		
3760 [1] Kansas City, KS–MO	0.9715	0.9804
Johnson, KS		
Leavenworth, KS		
Miami, KS		
Wyandotte, KS		
Cass, MO		
Clay, MO		
Clinton, MO		
Jackson, MO		
Lafayette, MO		
Platte, MO		
Ray, MO		
3800 Kenosha, WI	0.9761	0.9836
Kenosha, WI		
3810 Killeen-Temple, TX	0.9159	0.9416
Bell, TX		
Coryell, TX		
3840 Knoxville, TN	0.8820	0.9176
Anderson, TN		
Blount, TN		
Knox, TN		
Loudon, TN		
Sevier, TN		
Union, TN		
3850 Kokomo, IN	0.9045	0.9336
Howard, IN		
Tipton, IN		
3870 [2] La Crosse, WI–MN	0.9304	0.9518
Houston, MN		
La Crosse, WI		
3880 Lafayette, LA	0.8225	0.8748
Acadia, LA		
Lafayette, LA		
St. Landry, LA		
St. Martin, LA		
3920 [2] Lafayette, IN	0.8824	0.9179
Clinton, IN		
Tippecanoe, IN		
3960 Lake Charles, LA	0.7841	0.8466
Calcasieu, LA		
3980 [2] Lakeland-Winter Haven, FL	0.8855	0.9201

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Polk, FL		
4000 Lancaster, PA ...	0.9282	0.9503
Lancaster, PA		
4040 Lansing-East Lansing, MI	0.9714	0.9803
Clinton, MI		
Eaton, MI		
Ingham, MI		
4080 Laredo, TX	0.8091	0.8650
Webb, TX		
4100 Las Cruces, NM	0.8688	0.9082
Dona Ana, NM		
4120 [1] Las Vegas, NV–AZ	1.1528	1.1023
Mohave, AZ		
Clark, NV		
Nye, NV		
4150 [2] Lawrence, KS	0.8074	0.8637
Douglas, KS		
4200 Lawton, OK	0.8267	0.8778
Comanche, OK		
4243 Lewiston-Auburn, ME	0.9383	0.9573
Androscoggin, ME		
4280 Lexington, KY	0.8685	0.9080
Bourbon, KY		
Clark, KY		
Fayette, KY		
Jessamine, KY		
Madison, KY		
Scott, KY		
Woodford, KY		
4320 Lima, OH	0.9522	0.9670
Allen, OH		
Auglaize, OH		
4360 Lincoln, NE	1.0033	1.0023
Lancaster, NE		
4400 Little Rock-North Little Rock, AR	0.8923	0.9249
Faulkner, AR		
Lonoke, AR		
Pulaski, AR		
Saline, AR		
4420 Longview-Marshall, TX	0.9113	0.9384
Gregg, TX		
Harrison, TX		
Upshur, TX		
4480 [1] Los Angeles-Long Beach, CA	1.1832	1.1221
Los Angeles, CA		
4520 [1] Louisville, KY–IN	0.9242	0.9475
Clark, IN		
Floyd, IN		
Harrison, IN		
Scott, IN		
Bullitt, KY		
Jefferson, KY		
Oldham, KY		
4600 Lubbock, TX	0.8272	0.8782
Lubbock, TX		
4640 Lynchburg, VA ..	0.9134	0.9399
Amherst, VA		
Bedford, VA		
Bedford City, VA		
Campbell, VA		
Lynchburg City, VA		
4680 Macon, GA	0.8975	0.9286
Bibb, GA		
Houston, GA		
Jones, GA		
Peach, GA		
Twiggs, GA		
4720 Madison, WI	1.0264	1.0180
Dane, WI		
4800 Mansfield, OH ...	0.9180	0.9431
Crawford, OH		
Richland, OH		
4840 Mayaguez, PR ..	0.4795	0.6045
Anasco, PR		
Cabo Rojo, PR		
Hormigueros, PR		
Mayaguez, PR		
Sabana Grande, PR		
San German, PR		
4880 McAllen-Edinburg-Mission, TX	0.8381	0.8861
Hidalgo, TX		
4890 Medford-Ashland, OR	1.0772	1.0522
Jackson, OR		
4900 Melbourne-Titusville-Palm Bay, FL	0.9776	0.9846
Brevard, Fl		
4920 [1] Memphis, TN–AR–MS	0.9009	0.9310
Crittenden, AR		
DeSoto, MS		
Fayette, TN		
Shelby, TN		
Tipton, TN		
4940 [2] Merced, CA	0.9967	0.9977
Merced, CA		
5000 [1] Miami, FL	0.9894	0.9927
Dade, FL		
5015 [1] Middlesex-Somerset-Hunterdon, NJ	1.1366	1.0916
Hunterdon, NJ		
Middlesex, NJ		
Somerset, NJ		
5080 [1] Milwaukee-Waukesha, WI	0.9988	0.9992
Milwaukee, WI		
Ozaukee, WI		
Washington, WI		
Waukesha, WI		
5120 [1] Minneapolis-St. Paul, MN–WI	1.1001	1.0675
Anoka, MN		
Carver, MN		
Chisago, MN		
Dakota, MN		
Hennepin, MN		
Isanti, MN		
Ramsey, MN		
Scott, MN		
Sherburne, MN		
Washington, MN		
Wright, MN		
Pierce, WI		
St. Croix, WI		
5140 Missoula, MT	0.8884	0.9222
Missoula, MT		
5160 Mobile, AL	0.7994	0.8579
Baldwin, AL		
Mobile, AL		
5170 Modesto, CA	1.1275	1.0856
Stanislaus, CA		
5190 [1] Monmouth-Ocean, NJ	1.1083	1.0730
Monmouth, NJ		
Ocean, NJ		
5200 Monroe, LA	0.7922	0.8526
Ouachita, LA		
5240 Montgomery, AL	0.7907	0.8514
Autauga, AL		
Elmore, AL		
Montgomery, AL		
5280 [2] Muncie, IN	0.8824	0.9179
Delaware, IN		
5330 Myrtle Beach, SC	0.9112	0.9383
Horry, SC		
5345 Naples, FL	0.9790	0.9856
Collier, FL		
5360 [1] Nashville, TN ..	0.9855	0.9900
Cheatham, TN		
Davidson, TN		
Dickson, TN		
Robertson, TN		
Rutherford TN		
Sumner, TN		
Williamson, TN		
Wilson, TN		
5380 [1] Nassau-Suffolk, NY	1.3140	1.2056
Nassau, NY		
Suffolk, NY		
5483 [1] New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	1.2468	1.1631
Fairfield, CT		
New Haven, CT		
5523 [2] New London-Norwich, CT	1.2183	1.1448
New London, CT		
5560 [1] New Orleans, LA	0.9174	0.9427
Jefferson, LA		
Orleans, LA		
Plaquemines, LA		
St. Bernard, LA		
St. Charles, LA		
St. James, LA		
St. John The Baptist, LA		
St. Tammany, LA		
5600 [1] New York, NY	1.4018	1.2602
Bronx, NY		
Kings, NY		
New York, NY		
Putnam, NY		
Queens, NY		
Richmond, NY		
Rockland, NY		
Westchester, NY		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
5640 [1] Newark, NJ	1.1518	1.1016
Essex, NJ		
Morris, NJ		
Sussex, NJ		
Union, NJ		
Warren, NJ		
5660 Newburgh, NY–PA	1.1509	1.1010
Orange, NY		
Pike, PA		
5720 [1] Norfolk-Virginia Beach-Newport News, VA–NC	0.8619	0.9032
Currituck, NC		
Chesapeake City, VA		
Gloucester, VA		
Hampton City, VA		
Isle of Wight, VA		
James City, VA		
Mathews, VA		
Newport News City, VA		
Norfolk City, VA		
Poquoson City, VA		
Portsmouth City, VA		
Suffolk City, VA		
Virginia Beach City VA		
Williamsburg City, VA		
York, VA		
5775 [1] Oakland, CA	1.5119	1.3272
Alameda, CA		
Contra Costa, CA		
5790 Ocala, FL	0.9728	0.9813
Marion, FL		
5800 Odessa-Midland, TX	0.9327	0.9534
Ector, TX		
Midland, TX		
5880 [1] Oklahoma City, OK	0.8984	0.9293
Canadian, OK		
Cleveland, OK		
Logan, OK		
McClain, OK		
Oklahoma, OK		
Pottawatomie, OK		
5910 Olympia, WA	1.0963	1.0650
Thurston, WA		
5920 Omaha, NE–IA	0.9745	0.9825
Pottawattamie, IA		
Cass, NE		
Douglas, NE		
Sarpy, NE		
Washington, NE		
5945 [1] Orange County, CA	1.1492	1.0999
Orange, CA		
5960 [1] Orlando, FL	0.9654	0.9762
Lake, FL		
Orange, FL		
Osceola, FL		
Seminole, FL		
5990 Owensboro, KY	0.8374	0.8856
Daviess, KY		
6015 [2] Panama City, FL	0.8855	0.9201
Bay, FL		
6020 Parkersburg-Marietta, WV–OH (WV Hospitals)	0.8039	0.8612
Washington, OH		
Wood, WV		
6020 [2] Parkersburg-Marietta, WV–OH (OH Hospitals)	0.8820	0.9176
Washington, OH		
Wood, WV		
6080 [2] Pensacola, FL	0.8855	0.9201
Escambia, FL		
Santa Rosa, FL		
6120 Peoria-Pekin, IL	0.8734	0.9115
Peoria, IL		
Tazewell, IL		
Woodford, IL		
6160 [1] Philadelphia, PA–NJ	1.0883	1.0597
Burlington, NJ		
Camden, NJ		
Gloucester, NJ		
Salem, NJ		
Bucks, PA		
Chester, PA		
Delaware, PA		
Montgomery, PA		
Philadelphia, PA		
6200 [1] Phoenix-Mesa, AZ	1.0129	1.0088
Maricopa, AZ		
Pinal, AZ		
6240 Pine Bluff, AR	0.7865	0.8483
Jefferson, AR		
6280 [1] Pittsburgh, PA	0.8901	0.9234
Allegheny, PA		
Beaver, PA		
Butler, PA		
Fayette, PA		
Washington, PA		
Westmoreland, PA		
6323 [2] Pittsfield, MA	1.0432	1.0294
Berkshire, MA		
6340 Pocatello, ID	0.9249	0.9479
Bannock, ID		
6360 Ponce, PR	0.4708	0.5970
Guayanilla, PR		
Juana Diaz, PR		
Penuelas, PR		
Ponce, PR		
Villalba, PR		
Yauco, PR		
6403 Portland, ME	0.9949	0.9965
Cumberland, ME		
Sagadahoc, ME		
York, ME		
6440 [1] Portland-Vancouver, OR–WA	1.1213	1.0816
Clackamas, OR		
Columbia, OR		
Multnomah, OR		
Washington, OR		
Yamhill, OR		
Clark, WA		
6483 [1] Providence-Warwick-Pawtucket, RI	1.0977	1.0659
Bristol, RI		
Kent, RI		
Newport, RI		
Providence, RI		
Washington, RI		
6520 Provo-Orem, UT	0.9976	0.9984
Utah, UT		
6560 [2] Pueblo, CO	0.9328	0.9535
Pueblo, CO		
6580 Punta Gorda, FL	0.9510	0.9662
Charlotte, FL		
6600 [2] Racine, WI	0.9304	0.9518
Racine, WI		
6640 [1] Raleigh-Durham-Chapel Hill, NC	0.9959	0.9972
Chatham, NC		
Durham, NC		
Franklin, NC		
Johnston, NC		
Orange, NC		
Wake, NC		
6660 Rapid City, SD	0.8806	0.9166
Pennington, SD		
6680 Reading, PA	0.9133	0.9398
Berks, PA		
6690 Redding, CA	1.1352	1.0907
Shasta, CA		
6720 Reno, NV	1.0682	1.0462
Washoe, NV		
6740 Richland-Kennewick-Pasco, WA	1.0609	1.0413
Benton, WA		
Franklin, WA		
6760 Richmond-Petersburg, VA	0.9349	0.9549
Charles City County, VA		
Chesterfield, VA		
Colonial Heights City, VA		
Dinwiddie, VA		
Goochland, VA		
Hanover, VA		
Henrico, VA		
Hopewell City, VA		
New Kent, VA		
Petersburg City, VA		
Powhatan, VA		
Prince George, VA		
Richmond City, VA		
6780 [1] Riverside-San Bernardino, CA	1.1348	1.0905
Riverside, CA		
San Bernardino, CA		
6800 Roanoke, VA	0.8700	0.9090
Botetourt, VA		
Roanoke, VA		
Roanoke City, VA		
Salem City, VA		
6820 Rochester, MN	1.1739	1.1160
Olmsted, MN		
6840 [1] Rochester, NY	0.9430	0.9606
Genesee, NY		
Livingston, NY		
Monroe, NY		
Ontario, NY		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Orleans, NY		
Wayne, NY		
6880 Rockford, IL	0.9666	0.9770
Boone, IL		
Ogle, IL		
Winnebago, IL		
6895 Rocky Mount, NC	0.9076	0.9358
Edgecombe, NC		
Nash, NC		
6920 [1] Sacramento, CA	1.1845	1.1229
El Dorado, CA		
Placer, CA		
Sacramento, CA		
6960 Saginaw-Bay City-Midland, MI	1.0032	1.0022
Bay, MI		
Midland, MI		
Saginaw, MI		
6980 St. Cloud, MN	0.9679	0.9779
Benton, MN		
Stearns, MN		
7000 [2] St. Joseph, MO	0.8056	0.8624
Andrew, MO		
Buchanan, MO		
7040 [1] St. Louis, MO–IL	0.9033	0.9327
Clinton, IL		
Jersey, IL		
Madison, IL		
Monroe, IL		
St. Clair, IL		
Franklin, MO		
Jefferson, MO		
Lincoln, MO		
St. Charles, MO		
St. Louis, MO		
St. Louis City, MO		
Warren, MO		
7080 Salem, OR	1.0482	1.0328
Marion, OR		
Polk, OR		
7120 Salinas, CA	1.4339	1.2799
Monterey, CA		
7160 [1] Salt Lake City-Ogden, UT	0.9913	0.9940
Davis, UT		
Salt Lake, UT		
Weber, UT		
7200 San Angelo, TX	0.8535	0.8972
Tom Green, TX		
7240 [1] San Antonio, TX	0.8870	0.9212
Bexar, TX		
Comal, TX		
Guadalupe, TX		
Wilson, TX		
7320 [1] San Diego, CA	1.1147	1.0772
San Diego, CA		
7360 [1] San Francisco, CA	1.4514	1.2906
Marin, CA		
San Francisco, CA		
San Mateo, CA		
7400 [1] San Jose, CA	1.4626	1.2974
Santa Clara, CA		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
7440 [1] San Juan-Bayamon, PR	0.4909	0.6143
Aguas Buenas, PR		
Barceloneta, PR		
Bayamon, PR		
Canovanas, PR		
Carolina, PR		
Catano, PR		
Ceiba, PR		
Comerio, PR		
Corozal, PR		
Dorado, PR		
Fajardo, PR		
Florida, PR		
Guaynabo, PR		
Humacao, PR		
Juncos, PR		
Los Piedras, PR		
Loiza, PR		
Luguillo, PR		
Manati, PR		
Morovis, PR		
Naguabo, PR		
Naranjito, PR		
Rio Grande, PR		
San Juan, PR		
Toa Alta, PR		
Toa Baja, PR		
Trujillo Alto, PR		
Vega Alta, PR		
Vega Baja, PR		
Yabucoa, PR		
7460 San Luis Obispo-Atascadero-Paso Robles, CA	1.1429	1.0958
San Luis Obispo, CA		
7480 Santa Barbara-Santa Maria-Lompoc, CA	1.0441	1.0300
Santa Barbara, CA		
7485 Santa Cruz-Watsonville, CA	1.2942	1.1932
Santa Cruz, CA		
7490 Santa Fe, NM	1.0653	1.0443
Los Alamos, NM		
Santa Fe, NM		
7500 Santa Rosa, CA	1.2877	1.1891
Sonoma, CA		
7510 Sarasota-Bradenton, FL	0.9971	0.9980
Manatee, FL		
Sarasota, FL		
7520 Savannah, GA	0.9488	0.9646
Bryan, GA		
Chatham, GA		
Effingham, GA		
7560 Scranton—Wilkes-Barre—Hazleton, PA	0.8412	0.8883
Columbia, PA		
Lackawanna, PA		
Luzerne, PA		
Wyoming, PA		
7600 [1] Seattle-Bellevue-Everett, WA	1.1562	1.1045
Island, WA		
King, WA		

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Snohomish, WA		
7610 [2] Sharon, PA	0.8378	0.8859
Mercer, PA		
7620 [2] Sheboygan, WI	0.9304	0.9518
Sheboygan, WI		
7640 Sherman-Denison, TX	0.9700	0.9794
Grayson, TX		
7680 Shreveport-Bossier City, LA	0.9083	0.9363
Bossier, LA		
Caddo, LA		
Webster, LA		
7720 Sioux City, IA–NE	0.8993	0.9299
Woodbury, IA		
Dakota, NE		
7760 Sioux Falls, SD	0.9309	0.9521
Lincoln, SD		
Minnehaha, SD		
7800 South Bend, IN	0.9821	0.9877
St. Joseph, IN		
7840 Spokane, WA	1.0901	1.0609
Spokane, WA		
7880 Springfield, IL	0.8944	0.9264
Menard, IL		
Sangamon, IL		
7920 Springfield, MO	0.8457	0.8916
Christian, MO		
Greene, MO		
Webster, MO		
8003 Springfield, MA	1.0543	1.0369
Hampden, MA		
Hampshire, MA		
8050 State College, PA	0.8740	0.9119
Centre, PA		
8080 [2] Steubenville-Weirton, OH–WV (OH Hospitals)	0.8820	0.9176
Jefferson, OH		
Brooke, WV		
Hancock, WV		
8080 Steubenville-Weirton, OH–WV (WV Hospitals)	0.8398	0.8873
Jefferson, OH		
Brooke, WV		
Hancock, WV		
8120 Stockton-Lodi, CA	1.0404	1.0275
San Joaquin, CA		
8140 [2] Sumter, SC	0.8498	0.8945
Sumter, SC		
8160 Syracuse, NY	0.9412	0.9594
Cayuga, NY		
Madison, NY		
Onondaga, NY		
Oswego, NY		
8200 Tacoma, WA	1.1116	1.0751
Pierce, WA		
8240 [2] Tallahassee, FL	0.8855	0.9201
Gadsden, FL		
Leon, FL		
8280 [1] Tampa-St. Petersburg-Clearwater, FL	0.9103	0.9377

TABLE 4A.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR URBAN AREAS—Continued

Urban area (constituent counties)	Wage index	GAF
Hernando, FL		
Hillsborough, FL		
Pasco, FL		
Pinellas, FL		
8320 [2] Terre Haute, IN	0.8824	0.9179
Clay, IN		
Vermillion, IN		
Vigo, IN		
8360 Texarkana, AR—Texarkana, TX	0.8150	0.8693
Miller, AR		
Bowie, TX		
8400 Toledo, OH	0.9397	0.9583
Fulton, OH		
Lucas, OH		
Wood, OH		
8440 Topeka, KS	0.9108	0.9380
Shawnee, KS		
8480 Trenton, NJ	1.0517	1.0351
Mercer, NJ		
8520 [2] Tucson, AZ	0.9270	0.9494
Pima, AZ		
8560 Tulsa, OK	0.9185	0.9434
Creek, OK		
Osage, OK		
Rogers, OK		
Tulsa, OK		
Wagoner, OK		
8600 Tuscaloosa, AL	0.8212	0.8738
Tuscaloosa, AL		
8640 Tyler, TX	0.9404	0.9588
Smith, TX		
8680 [2] Utica-Rome, NY	0.8526	0.8965
Herkimer, NY		
Oneida, NY		
8720 Vallejo-Fairfield-Napa, CA	1.3425	1.2235
Napa, CA		
Solano, CA		
8735 Ventura, CA	1.1064	1.0717
Ventura, CA		
8750 Victoria, TX	0.8184	0.8718
Victoria, TX		
8760 Vineland-Millville-Bridgeton, NJ	1.0405	1.0276
Cumberland, NJ		
8780 [2] Visalia-Tulare-Porterville, CA	0.9967	0.9977
Tulare, CA		
8800 Waco, TX	0.8394	0.8870
McLennan, TX		
8840 [1] Washington, DC–MD–VA–WV	1.0904	1.0611
District of Columbia, DC		
Calvert, MD		
Charles, MD		
Frederick, MD		
Montgomery, MD		
Prince Georges, MD		
Alexandria City, VA		
Arlington, VA		
Clarke, VA		
Culpeper, VA		
Fairfax, VA		
Fairfax City, VA		
Falls Church City, VA		
Fauquier, VA		
Fredericksburg City, VA		
King George, VA		
Loudoun, VA		
Manassas City, VA		
Manassas Park City, VA		
Prince William, VA		
Spotsylvania, VA		
Stafford, VA		
Warren, VA		
Berkeley, WV		
Jefferson, WV		
8920 [2] Waterloo-Cedar Falls, IA	0.8416	0.8886
Black Hawk, IA		
8940 Wausau, WI	0.9783	0.9851
Marathon, WI		
8960 [1] West Palm Beach-Boca Raton, FL	0.9798	0.9861
Palm Beach, FL		
9000 [2] Wheeling, WV–OH (WV Hospitals)	0.8018	0.8596
Belmont, OH		
Marshall, WV		
Ohio, WV		
9000 [2] Wheeling, WV–OH (OH Hospitals)	0.8820	0.9176
Belmont, OH		
Marshall, WV		
Ohio, WV		
9040 Wichita, KS	0.9238	0.9472
Butler, KS		
Harvey, KS		
Sedgwick, KS		
9080 Wichita Falls, TX	0.8341	0.8832
Archer, TX		
Wichita, TX		
9140 [2] Williamsport, PA	0.8378	0.8859
Lycoming, PA		
9160 Wilmington-Newark, DE–MD	1.0882	1.0596
New Castle, DE		
Cecil, MD		
9200 Wilmington, NC	0.9563	0.9699
New Hanover, NC		
Brunswick, NC		
9260 [2] Yakima, WA	1.0388	1.0264
Yakima, WA		
9270 [2] Yolo, CA	0.9967	0.9977
Yolo, CA		
9280 York, PA	0.9119	0.9388
York, PA		
9320 Youngstown-Warren, OH	0.9214	0.9455
Columbiana, OH		
Mahoning, OH		
Trumbull, OH		
9340 Yuba City, CA	1.0196	1.0134
Sutter, CA		
Yuba, CA		
9360 [2] Yuma, AZ	0.9270	0.9494
Yuma, AZ		

[1] Large Urban Area
[2] Hospitals geographically located in the area are assigned the statewide rural wage index for FY 2004.

33. On page 45576, in Table 4B—Wage Index and Capital Geographic Adjustment Factor (GAF) for Rural Areas, the table is corrected to read as follows:

TABLE 4B.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR RURAL AREAS

Nonurban area	Wage index	GAF
Alabama	0.7492	0.8206
Alaska	1.1886	1.1256
Arizona	0.9270	0.9494
Arkansas	0.7734	0.8386
California	0.9967	0.9977
Colorado	0.9328	0.9535
Connecticut	1.2183	1.1448
Delaware	0.9595	0.9721
Florida	0.8855	0.9201
Georgia	0.8595	0.9015
Hawaii	0.9958	0.9971
Idaho	0.8974	0.9285
Illinois	0.8254	0.8769
Indiana	0.8824	0.9179
Iowa	0.8416	0.8886
Kansas	0.8074	0.8637
Kentucky	0.7974	0.8564
Louisiana	0.7467	0.8187
Maine	0.8812	0.9170
Maryland	0.9125	0.9392
Massachusetts	1.0432	1.0294
Michigan	0.8877	0.9217
Minnesota	0.9345	0.9547
Mississippi	0.7778	0.8419
Missouri	0.8056	0.8624
Montana	0.8800	0.9162
Nebraska	0.8822	0.9177
Nevada	0.9806	0.9867
New Hampshire	1.0030	1.0021
New Jersey [1]	.....	.....
New Mexico	0.8270	0.8780
New York	0.8526	0.8965
North Carolina	0.8456	0.8915
North Dakota	0.7778	0.8419
Ohio	0.8820	0.9176
Oklahoma	0.7537	0.8240
Oregon	0.9994	0.9996
Pennsylvania	0.8378	0.8859
Puerto Rico	0.4018	0.5356
Rhode Island [1]	.....	.....
South Carolina	0.8498	0.8945
South Dakota	0.8195	0.8726
Tennessee	0.7886	0.8499
Texas	0.7780	0.8421
Utah	0.8974	0.9285
Vermont	0.9534	0.9678
Virginia	0.8498	0.8945

TABLE 4B.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR RURAL AREAS—Continued

Nonurban area	Wage index	GAF
Washington	1.0388	1.0264
West Virginia	0.8018	0.8596
Wisconsin	0.9304	0.9518
Wyoming	0.9110	0.9382

[1] All counties within the State are classified as urban.

34. On pages 45576 through 45577, in Table 4C—Wage Index and Capital Geographic Adjustment Factor (GAF) for Hospitals that are Reclassified, the table is corrected to read as follows:

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED

Area	Wage index	GAF
Akron, OH	0.9442	0.9614
Albany, GA	1.0664	1.0450
Albuquerque, NM (NM hospitals)	0.9300	0.9515
Albuquerque, NM (CO hospitals)	0.9328	0.9535
Alexandria, LA	0.8037	0.8610
Allentown-Bethlehem-Easton, PA	0.9721	0.9808
Altoona, PA	0.8827	0.9181
Amarillo, TX	0.8858	0.9203
Anchorage, AK	1.2351	1.1556
Ann Arbor, MI	1.0846	1.0572
Anniston, AL	0.7975	0.8565
Asheville, NC	0.9477	0.9639
Athens, GA	0.9564	0.9699
Atlanta, GA	0.9990	0.9993
Atlantic-Cape May, NJ	1.0531	1.0361
Augusta-Aiken, GA–SC	0.9433	0.9608
Austin-San Marcos, TX	0.9609	0.9731
Bangor, ME	0.9904	0.9934
Barnstable-Yarmouth, MA	1.2720	1.1791
Baton Rouge, LA	0.8406	0.8879
Bellingham, WA	1.1305	1.0876
Benton Harbor, MI	0.8935	0.9258
Bergen-Passaic, NJ	1.1731	1.1155
Billings, MT	0.8961	0.9276
Biloxi-Gulfport-Pascagoula, MS	0.8407	0.8880
Binghamton, NY	0.8428	0.8895
Birmingham, AL	0.9212	0.9453
Bismarck, ND	0.8033	0.8607
Bloomington-Normal, IL	0.8832	0.9185
Boise City, ID	0.9232	0.9467
Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH	1.1233	1.0829
Burlington, VT	0.9332	0.9538
Caguas, PR	0.4201	0.5522
Casper, WY	0.9209	0.9451
Champaign-Urbana, IL	0.9460	0.9627
Charleston-North Charleston, SC	0.9332	0.9538

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Charleston, WV (WV Hospitals)	0.8568	0.8996
Charleston, WV (OH Hospitals)	0.8820	0.9176
Charlotte-Gastonia-Rock Hill, NC–SC	0.9730	0.9814
Charlottesville, VA	0.9877	0.9916
Chattanooga, TN–GA	0.9086	0.9365
Chicago, IL	1.0752	1.0509
Cincinnati, OH–KY–IN	0.9413	0.9594
Clarksville-Hopkinsville, TN–KY	0.8354	0.8841
Cleveland-Lorain-Elyria, OH	0.9671	0.9774
Columbia, MO	0.8557	0.8988
Columbia, SC	0.8902	0.9234
Columbus, GA–AL	0.8595	0.9015
Columbus, OH	0.9648	0.9758
Corpus Christi, TX	0.8521	0.8962
Corvallis, OR	1.1241	1.0834
Dallas, TX	0.9974	0.9982
Davenport-Moline-Rock Island, IA–IL	0.8985	0.9293
Dayton-Springfield, OH	0.9529	0.9675
Decatur, AL	0.8580	0.9004
Denver, CO	1.0664	1.0450
Des Moines, IA	0.9106	0.9379
Detroit, MI	1.0101	1.0069
Dothan, AL	0.7765	0.8409
Duluth-Superior, MN–WI	1.0171	1.0117
Elkhart-Goshen, IN	0.9554	0.9692
Erie, PA	0.8526	0.8965
Eugene-Springfield, OR	1.0977	1.0659
Fargo-Moorhead, ND–MN	0.9501	0.9656
Fayetteville, NC	0.8817	0.9174
Flagstaff, AZ–UT	1.1079	1.0727
Flint, MI	1.0703	1.0476
Florence, AL	0.7797	0.8433
Fort Collins-Loveland, CO	1.0148	1.0101
Ft. Lauderdale, FL	1.0479	1.0326
Fort Pierce-Port St. Lucie, FL	1.0124	1.0085
Fort Smith, AR–OK	0.8077	0.8639
Fort Walton Beach, FL	0.8804	0.9165
Forth Worth-Arlington, TX	0.9359	0.9556
Gadsden, AL	0.8229	0.8750
Gainesville, FL	0.9693	0.9789
Grand Forks, ND–MN	0.8636	0.9045
Grand Junction, CO	0.9921	0.9946
Grand Rapids-Muskegon-Holland, MI	0.9469	0.9633
Great Falls, MT	0.8918	0.9246
Greeley, CO	0.9453	0.9622
Green Bay, WI	0.9518	0.9667
Greensboro-Winston-Salem-High Point, NC	0.9058	0.9345
Greenville, NC	0.9167	0.9422
Hamilton-Middletown, OH	0.9214	0.9455
Harrisburg-Lebanon-Carlisle, PA	0.9164	0.9420
Hartford, CT	1.1359	1.0912

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
Hickory-Morganton-Lenoir, NC	0.9113	0.9384
Honolulu, HI	1.1116	1.0751
Houston, TX	0.9834	0.9886
Huntington-Ashland, WV–KY–OH	0.9076	0.9358
Huntsville, AL	0.9120	0.9389
Indianapolis, IN	0.9916	0.9942
Iowa City, IA	0.9404	0.9588
Jackson, MS	0.8399	0.8874
Jackson, TN	0.8819	0.9175
Jacksonville, FL	0.9563	0.9699
Johnson City-Kingsport-Bristol, TN–VA (VA Hospitals)	0.8498	0.8945
Johnson City-Kingsport-Bristol, TN–VA (KY Hospitals)	0.8256	0.8770
Jonesboro, AR (AR Hospitals)	0.7809	0.8442
Jonesboro, AR (MO Hospitals)	0.8056	0.8624
Joplin, MO	0.8558	0.8989
Kalamazoo-Battlecreek, MI	1.0500	1.0340
Kansas City, KS–MO	0.9715	0.9804
Knoxville, TN	0.8820	0.9176
Kokomo, IN	0.9045	0.9336
Lafayette, LA	0.8225	0.8748
Lakeland-Winter Haven, FL	0.8855	0.9201
Las Vegas, NV–AZ	1.1401	1.0939
Lawton, OK	0.8140	0.8686
Lexington, KY	0.8475	0.8929
Lima, OH	0.9522	0.9670
Lincoln, NE	0.9597	0.9722
Little Rock-North Little Rock, AR	0.8923	0.9249
Longview-Marshall, TX	0.8943	0.9264
Los Angeles-Long Beach, CA	1.1832	1.1221
Louisville, KY–IN	0.9118	0.9387
Lubbock, TX	0.8272	0.8782
Lynchburg, VA	0.8941	0.9262
Macon, GA	0.8975	0.9286
Madison, WI	1.0117	1.0080
Medford-Ashland, OR	1.0425	1.0289
Melbourne-Titusville-Palm Bay, FL	0.9776	0.9846
Memphis, TN–AR–MS	0.8786	0.9152
Miami, FL	0.9894	0.9927
Milwaukee-Waukesha, WI	0.9829	0.9883
Minneapolis-St. Paul, MN–WI	1.1001	1.0675
Missoula, MT	0.8884	0.9222
Mobile, AL	0.7994	0.8579
Modesto, CA	1.1148	1.0773
Monmouth-Ocean, NJ	1.1083	1.0730
Monroe, LA	0.7922	0.8526
Montgomery, AL	0.7907	0.8514
Nashville, TN	0.9591	0.9718
New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	1.2468	1.1631
New Orleans, LA	0.9174	0.9427

TABLE 4C.—WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF) FOR HOSPITALS THAT ARE RECLASSIFIED—Continued

Area	Wage index	GAF
New York, NY	1.4018	1.2602
Newark, NJ	1.1518	1.1016
Newburgh, NY–PA	1.1048	1.0706
Oakland, CA	1.5119	1.3272
Odessa-Midland, TX	0.9076	0.9358
Oklahoma City, OK	0.8984	0.9293
Olympia, WA	1.0963	1.0650
Omaha, NE–IA	0.9745	0.9825
Orange County, CA	1.1492	1.0999
Orlando, FL	0.9654	0.9762
Peoria-Pekin, IL	0.8734	0.9115
Philadelphia, PA–NJ	1.0883	1.0597
Phoenix-Mesa, AZ	1.0129	1.0088
Pittsburgh, PA	0.8901	0.9234
Pittsfield, MA	0.9795	0.9859
Pocatello, ID	0.9249	0.9479
Portland, ME	0.9658	0.9765
Portland-Vancouver, OR–WA	1.1213	1.0816
Provo-Orem, UT	0.9976	0.9984
Raleigh-Durham-Chapel Hill, NC	0.9725	0.9811
Rapid City, SD	0.8806	0.9166
Reading, PA	0.8998	0.9302
Redding, CA	1.1352	1.0907
Reno, NV	1.0682	1.0462
Richland-Kennewick-Pasco, WA (WA Hospitals)	1.0388	1.0264
Richland-Kennewick-Pasco, WA (ID Hospitals)	1.0215	1.0147
Richmond-Petersburg, VA	0.9349	0.9549
Roanoke, VA	0.8700	0.9090
Rochester, MN	1.1739	1.1160
Rockford, IL	0.9441	0.9614
Sacramento, CA	1.1845	1.1229
Saginaw-Bay City-Midland, MI	0.9751	0.9829
St. Cloud, MN	0.9679	0.9779
St. Joseph, MO	0.8578	0.9003
St. Louis, MO–IL	0.9033	0.9327
Salinas, CA	1.4339	1.2799
Salt Lake City-Ogden, UT	0.9913	0.9940
San Antonio, TX	0.8870	0.9212
Santa Fe, NM	0.9524	0.9672
Santa Rosa, CA	1.2877	1.1891
Sarasota-Bradenton, FL	0.9971	0.9980
Savannah, GA	0.9488	0.9646
Seattle-Bellevue-Everett, WA	1.1562	1.1045
Sherman-Denison, TX	0.9203	0.9447
Shreveport-Bossier City, LA	0.8937	0.9259
Sioux City, IA–NE (NE Hospitals)	0.8822	0.9177
Sioux City, IA–NE (SD Hospitals)	0.8785	0.9151
Sioux Falls, SD	0.9184	0.9434
South Bend, IN	0.9715	0.9804
Spokane, WA	1.0717	1.0486
Springfield, IL	0.8944	0.9264
Springfield, MO	0.8259	0.8772
Syracuse, NY	0.9412	0.9594
Tampa-St. Petersburg-Clearwater, FL	0.9103	0.9377
Texarkana, AR-Texarkana, TX	0.7969	0.8560
Toledo, OH	0.9397	0.9583
Topeka, KS	0.9108	0.9380
Tucson, AZ	0.9270	0.9494
Tulsa, OK	0.8938	0.9260
Tuscaloosa, AL	0.8101	0.8657
Tyler, TX	0.9155	0.9413
Vallejo-Fairfield-Napa, CA	1.3425	1.2235
Victoria, TX	0.8184	0.8718
Waco, TX	0.8394	0.8870
Washington, DC–MD–VA–WV	1.0904	1.0611
Waterloo-Cedar Falls, IA	0.8416	0.8886
Wausau, WI	0.9783	0.9851
West Palm Beach-Boca Raton, FL	0.9798	0.9861
Wichita, KS	0.9004	0.9307
Wichita Falls, TX	0.8341	0.8832
Wilmington-Newark, DE–MD	1.0710	1.0481
Wilmington, NC	0.9424	0.9602
Youngstown-Warren, OH	0.9214	0.9455
Rural Florida	0.8699	0.9090
Rural Illinois (IA Hospitals)	0.8416	0.8886
Rural Illinois (MO Hospitals)	0.8254	0.8769
Rural Kentucky	0.7974	0.8564
Rural Louisiana	0.7467	0.8187
Rural Minnesota	0.9345	0.9547
Rural Missouri	0.8056	0.8624
Rural Nebraska	0.8822	0.9177
Rural Nevada	0.9276	0.9498
Rural New Hampshire	1.0030	1.0021
Rural Texas	0.7780	0.8421
Rural Washington	1.0388	1.0264
Rural Wyoming	0.8984	0.9293

35. On pages 45578, in Table 4F—Puerto Rico Wage Index and Capital Geographic Adjustment Factor (GAF), the table is corrected to read as follows:

TABLE 4F.—PUERTO RICO WAGE INDEX AND CAPITAL GEOGRAPHIC ADJUSTMENT FACTOR (GAF)

Area	Wage index	GAF	Wage index—Reclassified hospitals	GAF— Reclassified hospitals
Aguadilla, PR	0.9170	0.9424		
Arecibo, PR	0.8847	0.9195		
Caguas, PR	0.8946	0.9266	0.8946	0.9266
Mayaguez, PR	1.0211	1.0144		
Ponce, PR	1.0026	1.0018		
San Juan-Bayamon, PR	1.0453	1.0308		
Rural Puerto Rico	0.8557	0.8988		

36. On pages 45578 through 45584, in Table 4G, Pre-Reclassified Wage Index for Urban Areas, the table is corrected to read as follows:

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS

Urban area (Constituent counties)	Wage index
0040 Abilene, TX	0.7780
Taylor, TX	
0060 Aguadilla, PR	0.4306
Aguada, PR	
Aguadilla, PR	
Moca, PR	
0080 Akron, OH	0.9246
Portage, OH	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
Summit, OH	
0120 Albany, GA	1.0863
Dougherty, GA	
Lee, GA	
0160 Albany-Schenectady-Troy, NY	0.8526
Albany, NY	
Montgomery, NY	
Rensselaer, NY	
Saratoga, NY	
Schenectady, NY	
Schoharie, NY	
0200 Albuquerque, NM	0.9300
Bernalillo, NM	
Sandoval, NM	
Valencia, NM	
0220 Alexandria, LA	0.8019
Rapides, LA	
0240 Allentown-Bethlehem-Easton, PA	0.9721
Carbon, PA	
Lehigh, PA	
Northampton, PA	
0280 Altoona, PA	0.8806
Blair, PA	
0320 Amarillo, TX	0.8986
Potter, TX	
Randall, TX	
0380 Anchorage, AK	1.2216
Anchorage, AK	
0440 Ann Arbor, MI	1.1074
Lenawee, MI	
Livingston, MI	
Washtenaw, MI	
0450 Anniston, AL	0.8090
Calhoun, AL	
0460 Appleton-Oshkosh-Neenah, WI	0.9304
Calumet, WI	
Outagamie, WI	
Winnebago, WI	
0470 Arecibo, PR	0.4155
Arecibo, PR	
Camuy, PR	
Hatillo, PR	
0480 Asheville, NC	0.9720
Buncombe, NC	
Madison, NC	
0500 Athens, GA	0.9818
Clarke, GA	
Madison, GA	
Oconee, GA	
0520 Atlanta, GA	1.0130
Barrow, GA	
Bartow, GA	
Carroll, GA	
Cherokee, GA	
Clayton, GA	
Cobb, GA	
Coweta, GA	
DeKalb, GA	
Douglas, GA	
Fayette, GA	
Forsyth, GA	
Fulton, GA	
Gwinnett, GA	
Henry, GA	
Newton, GA	
Paulding, GA	
Pickens, GA	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
Rockdale, GA	
Spalding, GA	
Walton, GA	
0560 Atlantic-Cape May, NJ	1.0795
Atlantic, NJ	
Cape May, NJ	
0580 Auburn-Opelika, AL	0.8494
Lee, AL	
0600 Augusta-Aiken, GA–SC	0.9625
Columbia, GA	
McDuffie, GA	
Richmond, GA	
Aiken, SC	
Edgefield, SC	
0640 Austin-San Marcos, TX	0.9609
Bastrop, TX	
Caldwell, TX	
Hays, TX	
Travis, TX	
Williamson, TX	
0680 Bakersfield, CA	0.9967
Kern, CA	
0720 Baltimore, MD	0.9919
Anne Arundel, MD	
Baltimore, MD	
Baltimore City, MD	
Carroll, MD	
Harford, MD	
Howard, MD	
Queen Anne's, MD	
0733 Bangor, ME	0.9904
Penobscot, ME	
0743 Barnstable-Yarmouth, MA	1.2956
Barnstable, MA	
0760 Baton Rouge, LA	0.8406
Ascension, LA	
East Baton Rouge, LA	
Livingston, LA	
West Baton Rouge, LA	
0840 Beaumont-Port Arthur, TX	0.8424
Hardin, TX	
Jefferson, TX	
Orange, TX	
0860 Bellingham, WA	1.1757
Whatcom, WA	
0870 Benton Harbor, MI	0.8935
Berrien, MI	
0875 Bergen-Passaic, NJ	1.1692
Bergen, NJ	
Passaic, NJ	
0880 Billings, MT	0.8961
Yellowstone, MT	
0920 Biloxi-Gulfport-Pascagoula, MS	0.9029
Hancock, MS	
Harrison, MS	
Jackson, MS	
0960 Binghamton, NY	0.8526
Broome, NY	
Tioga, NY	
1000 Birmingham, AL	0.9212
Blount, AL	
Jefferson, AL	
St. Clair, AL	
Shelby, AL	
1010 Bismarck, ND	0.7965
Burleigh, ND	
Morton, ND	
1020 Bloomington, IN	0.8824
Monroe, IN	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
1040 Bloomington-Normal, IL	0.8832
McLean, IL	
1080 Boise City, ID	0.9209
Ada, ID	
Canyon, ID	
1123 Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH (NH Hospitals)	1.1233
Bristol, MA	
Essex, MA	
Middlesex, MA	
Norfolk, MA	
Plymouth, MA	
Suffolk, MA	
Worcester, MA	
Hillsborough, NH	
Merrimack, NH	
Rockingham, NH	
Strafford, NH	
1125 Boulder-Longmont, CO	1.0049
Boulder, CO	
1145 Brazoria, TX	0.8137
Brazoria, TX	
1150 Bremerton, WA	1.0580
Kitsap, WA	
1240 Brownsville-Harlingen-San Benito, TX	1.0303
Cameron, TX	
1260 Bryan-College Station, TX	0.9019
Brazos, TX	
1280 Buffalo-Niagara Falls, NY	0.9604
Erie, NY	
Niagara, NY	
1303 Burlington, VT	0.9704
Chittenden, VT	
Franklin, VT	
Grand Isle, VT	
1310 Caguas, PR	0.4158
Caguas, PR	
Cayey, PR	
Cidra, PR	
Gurabo, PR	
San Lorenzo, PR	
1320 Canton-Massillon, OH	0.9071
Carroll, OH	
Stark, OH	
1350 Casper, WY	0.9110
Natrona, WY	
1360 Cedar Rapids, IA	0.8874
Linn, IA	
1400 Champaign-Urbana, IL	0.9907
Champaign, IL	
1440 Charleston-North Charleston, SC	0.9332
Berkeley, SC	
Charleston, SC	
Dorchester, SC	
1480 Charleston, WV	0.8880
Kanawha, WV	
Putnam, WV	
1520 Charlotte-Gastonia-Rock Hill, NC–SC	0.9730
Cabarrus, NC	
Gaston, NC	
Lincoln, NC	
Mecklenburg, NC	
Rowan, NC	
Stanly, NC	
Union, NC	
York, SC	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
1540 Charlottesville, VA	1.0025
Albemarle, VA	
Charlottesville City, VA	
Fluvanna, VA	
Greene, VA	
1560 Chattanooga, TN–GA	0.9086
Catoosa, GA	
Dade, GA	
Walker, GA	
Hamilton, TN	
Marion, TN	
1580 Cheyenne, WY	0.9110
Laramie, WY	
1600 Chicago, IL	1.0892
Cook, IL	
DeKalb, IL	
DuPage, IL	
Grundy, IL	
Kane, IL	
Kendall, IL	
Lake, IL	
McHenry, IL	
Will, IL	
1620 Chico-Paradise, CA	1.0193
Butte, CA	
1640 Cincinnati, OH–KY–IN	0.9413
Dearborn, IN	
Ohio, IN	
Boone, KY	
Campbell, KY	
Gallatin, KY	
Grant, KY	
Kenton, KY	
Pendleton, KY	
Brown, OH	
Clermont, OH	
Hamilton, OH	
Warren, OH	
1660 Clarksville-Hopkinsville, TN–KY	0.8244
Christian, KY	
Montgomery, TN	
1680 Cleveland-Lorain-Elyria, OH	0.9671
Ashtabula, OH	
Cuyahoga, OH	
Geauga, OH	
Lake, OH	
Lorain, OH	
Medina, OH	
1720 Colorado Springs, CO	0.9833
El Paso, CO	
1740 Columbia, MO	0.8695
Boone, MO	
1760 Columbia, SC	0.8902
Lexington, SC	
Richland, SC	
1800 Columbus, GA–AL	0.8694
Russell, AL	
Chattahoochee, GA	
Harris, GA	
Muscogee, GA	
1840 Columbus, OH	0.9648
Delaware, OH	
Fairfield, OH	
Franklin, OH	
Licking, OH	
Madison, OH	
Pickaway, OH	
1880 Corpus Christi, TX	0.8521
Nueces, TX	
San Patricio, TX	
1890 Corvallis, OR	1.1516
Benton, OR	
1900 Cumberland, MD–WV (WV Hospital)	0.8200
Allegany, MD	
Mineral, WV	
1920 Dallas, TX	0.9974
Collin, TX	
Dallas, TX	
Denton, TX	
Ellis, TX	
Henderson, TX	
Hunt, TX	
Kaufman, TX	
Rockwall, TX	
1950 Danville, VA	0.9035
Danville City, VA	
Pittsylvania, VA	
1960 Davenport-Moline-Rock Island, IA–IL	0.8985
Scott, IA	
Henry, IL	
Rock Island, IL	
2000 Dayton-Springfield, OH	0.9518
Clark, OH	
Greene, OH	
Miami, OH	
Montgomery, OH	
2020 Daytona Beach, FL	0.9060
Flagler, FL	
Volusia, FL	
2030 Decatur, AL	0.8828
Lawrence, AL	
Morgan, AL	
2040 Decatur, IL	0.8254
Macon, IL	
2080 Denver, CO	1.0837
Adams, CO	
Arapahoe, CO	
Broomfield, CO	
Denver, CO	
Douglas, CO	
Jefferson, CO	
2120 Des Moines, IA	0.9106
Dallas, IA	
Polk, IA	
Warren, IA	
2160 Detroit, MI	1.0101
Lapeer, MI	
Macomb, MI	
Monroe, MI	
Oakland, MI	
St. Clair, MI	
Wayne, MI	
2180 Dothan, AL	0.7741
Dale, AL	
Houston, AL	
2190 Dover, DE	0.9805
Kent, DE	
2200 Dubuque, IA	0.8886
Dubuque, IA	
2240 Duluth-Superior, MN–WI	1.0171
St. Louis, MN	
Douglas, WI	
2281 Dutchess County, NY	1.0934
Dutchess, NY	
2290 Eau Claire, WI	0.9304
Chippewa, WI	
Eau Claire, WI	
2320 El Paso, TX	0.9196
El Paso, TX	
2330 Elkhart-Goshen, IN	0.9783
Elkhart, IN	
2335 Elmira, NY	0.8526
Chemung, NY	
2340 Enid, OK	0.8559
Garfield, OK	
2360 Erie, PA	0.8601
Erie, PA	
2400 Eugene-Springfield, OR	1.1456
Lane, OR	
2440 Evansville-Henderson, IN–KY (IN Hospitals)	0.8824
Posey, IN	
Vanderburgh, IN	
Warrick, IN	
Henderson, KY	
2520 Fargo-Moorhead, ND–MN	0.9797
Clay, MN	
Cass, ND	
2560 Fayetteville, NC	0.8986
Cumberland, NC	
2580 Fayetteville-Springdale-Rogers, AR	0.8396
Benton, AR	
Washington, AR	
2620 Flagstaff, AZ–UT	1.1333
Coconino, AZ	
Kane, UT	
2640 Flint, MI	1.0858
Genesee, MI	
2650 Florence, AL	0.7747
Colbert, AL	
Lauderdale, AL	
2655 Florence, SC	0.8709
Florence, SC	
2670 Fort Collins-Loveland, CO	1.0108
Larimer, CO	
2680 Ft. Lauderdale, FL	1.0163
Broward, FL	
2700 Fort Myers-Cape Coral, FL	0.9816
Lee, FL	
2710 Fort Pierce-Port St. Lucie, FL	1.0008
Martin, FL	
St. Lucie, FL	
2720 Fort Smith, AR–OK	0.8424
Crawford, AR	
Sebastian, AR	
Sequoyah, OK	
2750 Fort Walton Beach, FL	0.8966
Okaloosa, FL	
2760 Fort Wayne, IN	0.9585
Adams, IN	
Allen, IN	
De Kalb, IN	
Huntington, IN	
Wells, IN	
Whitley, IN	
2800 Forth Worth-Arlington, TX	0.9359
Hood, TX	
Johnson, TX	
Parker, TX	
Tarrant, TX	
2840 Fresno, CA	1.0142
Fresno, CA	
Madera, CA	
2880 Gadsden, AL	0.8206
Etowah, AL	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
2900 Gainesville, FL	0.9693
Alachua, FL	
2920 Galveston-Texas City, TX	0.9279
Galveston, TX	
2960 Gary, IN	0.9410
Lake, IN	
Porter, IN	
2975 Glens Falls, NY	0.8526
Warren, NY	
Washington, NY	
2980 Goldsboro, NC	0.8622
Wayne, NC	
2985 Grand Forks, ND–MN	0.8636
Polk, MN	
Grand Forks, ND	
2995 Grand Junction, CO	0.9633
Mesa, CO	
3000 Grand Rapids-Muskegon-Holland, MI	0.9469
Allegan, MI	
Kent, MI	
Muskegon, MI	
Ottawa, MI	
3040 Great Falls, MT	0.8809
Cascade, MT	
3060 Greeley, CO	0.9372
Weld, CO	
3080 Green Bay, WI	0.9461
Brown, WI	
3120 Greensboro-Winston-Salem-High Point, NC	0.9166
Alamance, NC	
Davidson, NC	
Davie, NC	
Forsyth, NC	
Guilford, NC	
Randolph, NC	
Stokes, NC	
Yadkin, NC	
3150 Greenville, NC	0.9098
Pitt, NC	
3160 Greenville-Spartanburg-Anderson, SC	0.9335
Anderson, SC	
Cherokee, SC	
Greenville, SC	
Pickens, SC	
Spartanburg, SC	
3180 Hagerstown, MD	0.9172
Washington, MD	
3200 Hamilton-Middletown, OH	0.9214
Butler, OH	
3240 Harrisburg-Lebanon-Carlisle, PA	0.9164
Cumberland, PA	
Dauphin, PA	
Lebanon, PA	
Perry, PA	
3283 Hartford, CT	1.2183
Hartford, CT	
Litchfield, CT	
Middlesex, CT	
Tolland, CT	
3285 Hattiesburg, MS	0.7778
Forrest, MS	
Lamar, MS	
3290 Hickory-Morganton-Lenoir, NC	0.9242
Alexander, NC	
Burke, NC	
Caldwell, NC	
Catawba, NC	
3320 Honolulu, HI	1.1098
Honolulu, HI	
3350 Houma, LA	0.7771
Lafourche, LA	
Terrebonne, LA	
3360 Houston, TX	0.9834
Chambers, TX	
Fort Bend, TX	
Harris, TX	
Liberty, TX	
Montgomery, TX	
Waller, TX	
3400 Huntington-Ashland, WV–KY–OH	0.9595
Boyd, KY	
Carter, KY	
Greenup, KY	
Lawrence, OH	
Cabell, WV	
Wayne, WV	
3440 Huntsville, AL	0.9245
Limestone, AL	
Madison, AL	
3480 Indianapolis, IN	0.9916
Boone, IN	
Hamilton, IN	
Hancock, IN	
Hendricks, IN	
Johnson, IN	
Madison, IN	
Marion, IN	
Morgan, IN	
Shelby, IN	
3500 Iowa City, IA	0.9548
Johnson, IA	
3520 Jackson, MI	0.8986
Jackson, MI	
3560 Jackson, MS	0.8357
Hinds, MS	
Madison, MS	
Rankin, MS	
3580 Jackson, TN	0.8984
Madison, TN	
Chester, TN	
3600 Jacksonville, FL	0.9529
Clay, FL	
Duval, FL	
Nassau, FL	
St. Johns, FL	
3605 Jacksonville, NC	0.8544
Onslow, NC	
3610 Jamestown, NY	0.8526
Chautauqua, NY	
3620 Janesville-Beloit, WI	0.9304
Rock, WI	
3640 Jersey City, NJ	1.1115
Hudson, NJ	
3660 Johnson City-Kingsport-Bristol, TN–VA	0.8253
Carter, TN	
Hawkins, TN	
Sullivan, TN	
Unicoi, TN	
Washington, TN	
Bristol City, VA	
Scott, VA	
Washington, VA	
3680 Johnstown, PA	0.8378
Cambria, PA	
Somerset, PA	
3700 Jonesboro, AR	0.7794
Craighead, AR	
3710 Joplin, MO	0.8681
Jasper, MO	
Newton, MO	
3720 Kalamazoo-Battlecreek, MI	1.0500
Calhoun, MI	
Kalamazoo, MI	
Van Buren, MI	
3740 Kankakee, IL	1.0419
Kankakee, IL	
3760 Kansas City, KS–MO	0.9715
Johnson, KS	
Leavenworth, KS	
Miami, KS	
Wyandotte, KS	
Cass, MO	
Clay, MO	
Clinton, MO	
Jackson, MO	
Lafayette, MO	
Platte, MO	
Ray, MO	
3800 Kenosha, WI	0.9761
Kenosha, WI	
3810 Killeen-Temple, TX	0.9159
Bell, TX	
Coryell, TX	
3840 Knoxville, TN	0.8820
Anderson, TN	
Blount, TN	
Knox, TN	
Loudon, TN	
Sevier, TN	
Union, TN	
3850 Kokomo, IN	0.9045
Howard, IN	
Tipton, IN	
3870 La Crosse, WI–MN	0.9304
Houston, MN	
La Crosse, WI	
3880 Lafayette, LA	0.8207
Acadia, LA	
Lafayette, LA	
St. Landry, LA	
St. Martin, LA	
3920 Lafayette, IN	0.8824
Clinton, IN	
Tippecanoe, IN	
3960 Lake Charles, LA	0.7841
Calcasieu, LA	
3980 Lakeland-Winter Haven, FL	0.8855
Polk, FL	
4000 Lancaster, PA	0.9282
Lancaster, PA	
4040 Lansing-East Lansing, MI	0.9714
Clinton, MI	
Eaton, MI	
Ingham, MI	
4080 Laredo, TX	0.8091
Webb, TX	
4100 Las Cruces, NM	0.8688
Dona Ana, NM	
4120 Las Vegas, NV–AZ	1.1528
Mohave, AZ	
Clark, NV	
Nye, NV	
4150 Lawrence, KS	0.8074

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
Douglas, KS	
4200 Lawton, OK	0.8267
Comanche, OK	
4243 Lewiston-Auburn, ME	0.9383
Androscoggin, ME	
4280 Lexington, KY	0.8685
Bourbon, KY	
Clark, KY	
Fayette, KY	
Jessamine, KY	
Madison, KY	
Scott, KY	
Woodford, KY	
4320 Lima, OH	0.9522
Allen, OH	
Auglaize, OH	
4360 Lincoln, NE	1.0033
Lancaster, NE	
4400 Little Rock-North Little Rock, AR	0.8923
Faulkner, AR	
Lonoke, AR	
Pulaski, AR	
Saline, AR	
4420 Longview-Marshall, TX	0.9113
Gregg, TX	
Harrison, TX	
Upshur, TX	
4480 Los Angeles-Long Beach, CA	1.1795
Los Angeles, CA	
4520 Louisville, KY–IN	0.9242
Clark, IN	
Floyd, IN	
Harrison, IN	
Scott, IN	
Bullitt, KY	
Jefferson, KY	
Oldham, KY	
4600 Lubbock, TX	0.8272
Lubbock, TX	
4640 Lynchburg, VA	0.9134
Amherst, VA	
Bedford, VA	
Bedford City, VA	
Campbell, VA	
Lynchburg City, VA	
4680 Macon, GA	0.8953
Bibb, GA	
Houston, GA	
Jones, GA	
Peach, GA	
Twiggs, GA	
4720 Madison, WI	1.0264
Dane, WI	
4800 Mansfield, OH	0.9180
Crawford, OH	
Richland, OH	
4840 Mayaguez, PR	0.4795
Anasco, PR	
Cabo Rojo, PR	
Hormigueros, PR	
Mayaguez, PR	
Sabana Grande, PR	
San German, PR	
4880 McAllen-Edinburg-Mission, TX	0.8381
Hidalgo, TX	
4890 Medford-Ashland, OR	1.0772
Jackson, OR	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
4900 Melbourne-Titusville-Palm Bay, FL	0.9776
Brevard, Fl	
4920 Memphis, TN–AR–MS	0.9009
Crittenden, AR	
DeSoto, MS	
Fayette, TN	
Shelby, TN	
Tipton, TN	
4940 Merced, CA	0.9967
Merced, CA	
5000 Miami, FL	0.9894
Dade, FL	
5015 Middlesex-Somerset-Hunterdon, NJ	1.1366
Hunterdon, NJ	
Middlesex, NJ	
Somerset, NJ	
5080 Milwaukee-Waukesha, WI	0.9988
Milwaukee, WI	
Ozaukee, WI	
Washington, WI	
Waukesha, WI	
5120 Minneapolis-St. Paul, MN–WI	1.1001
Anoka, MN	
Carver, MN	
Chisago, MN	
Dakota, MN	
Hennepin, MN	
Isanti, MN	
Ramsey, MN	
Scott, MN	
Sherburne, MN	
Washington, MN	
Wright, MN	
Pierce, WI	
St. Croix, WI	
5140 Missoula, MT	0.8800
Missoula, MT	
5160 Mobile, AL	0.7994
Baldwin, AL	
Mobile, AL	
5170 Modesto, CA	1.1275
Stanislaus, CA	
5190 Monmouth-Ocean, NJ	1.0956
Monmouth, NJ	
Ocean, NJ	
5200 Monroe, LA	0.7922
Ouachita, LA	
5240 Montgomery, AL	0.7907
Autauga, AL	
Elmore, AL	
Montgomery, AL	
5280 Muncie, IN	0.8824
Delaware, IN	
5330 Myrtle Beach, SC	0.9112
Horry, SC	
5345 Naples, FL	0.9790
Collier, FL	
5360 Nashville, TN	0.9855
Cheatham, TN	
Davidson, TN	
Dickson, TN	
Robertson, TN	
Rutherford TN	
Sumner, TN	
Williamson, TN	
Wilson, TN	
5380 Nassau-Suffolk, NY	1.3140

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
Nassau, NY	
Suffolk, NY	
5483 New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT	1.2385
Fairfield, CT	
New Haven, CT	
5523 New London-Norwich, CT	1.2183
New London, CT	
5560 New Orleans, LA	0.9174
Jefferson, LA	
Orleans, LA	
Plaquemines, LA	
St. Bernard, LA	
St. Charles, LA	
St. James, LA	
St. John The Baptist, LA	
St. Tammany, LA	
5600 New York, NY	1.4018
Bronx, NY	
Kings, NY	
New York, NY	
Putnam, NY	
Queens, NY	
Richmond, NY	
Rockland, NY	
Westchester, NY	
5640 Newark, NJ	1.1518
Essex, NJ	
Morris, NJ	
Sussex, NJ	
Union, NJ	
Warren, NJ	
5660 Newburgh, NY–PA	1.1509
Orange, NY	
Pike, PA	
5720 Norfolk-Virginia Beach-Newport News, VA–NC	0.8619
Currituck, NC	
Chesapeake City, VA	
Gloucester, VA	
Hampton City, VA	
Isle of Wight, VA	
James City, VA	
Mathews, VA	
Newport News City, VA	
Norfolk City, VA	
Poquoson City, VA	
Portsmouth City, VA	
Suffolk City, VA	
Virginia Beach City, VA	
Williamsburg City, VA	
York, VA	
5775 Oakland, CA	1.4921
Alameda, CA	
Contra Costa, CA	
5790 Ocala, FL	0.9728
Marion, FL	
5800 Odessa-Midland, TX	0.9327
Ector, TX	
Midland, TX	
5880 Oklahoma City, OK	0.8984
Canadian, OK	
Cleveland, OK	
Logan, OK	
McClain, OK	
Oklahoma, OK	
Pottawatomie, OK	
5910 Olympia, WA	1.0963
Thurston, WA	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
5920 Omaha, NE–IA	0.9745
Pottawattamie, IA	
Cass, NE	
Douglas, NE	
Sarpy, NE	
Washington, NE	
5945 Orange County, CA	1.1372
Orange, CA	
5960 Orlando, FL	0.9654
Lake, FL	
Orange, FL	
Osceola, FL	
Seminole, FL	
5990 Owensboro, KY	0.8374
Daviess, KY	
6015 Panama City, FL	0.8855
Bay, FL	
6020 Parkersburg-Marietta, WV–OH	0.8039
Washington, OH	
Wood, WV	
6080 Pensacola, FL	0.8855
Escambia, FL	
Santa Rosa, FL	
6120 Peoria-Pekin, IL	0.8734
Peoria, IL	
Tazewell, IL	
Woodford, IL	
6160 Philadelphia, PA–NJ	1.0883
Burlington, NJ	
Camden, NJ	
Gloucester, NJ	
Salem, NJ	
Bucks, PA	
Chester, PA	
Delaware, PA	
Montgomery, PA	
Philadelphia, PA	
6200 Phoenix-Mesa, AZ	1.0129
Maricopa, AZ	
Pinal, AZ	
6240 Pine Bluff, AR	0.7865
Jefferson, AR	
6280 Pittsburgh, PA	0.8901
Allegheny, PA	
Beaver, PA	
Butler, PA	
Fayette, PA	
Washington, PA	
Westmoreland, PA	
6323 Pittsfield, MA	1.0432
Berkshire, MA	
6340 Pocatello, ID	0.9042
Bannock, ID	
6360 Ponce, PR	0.4708
Guayanilla, PR	
Juana Diaz, PR	
Penuelas, PR	
Ponce, PR	
Villalba, PR	
Yauco, PR	
6403 Portland, ME	0.9949
Cumberland, ME	
Sagadahoc, ME	
York, ME	
6440 Portland-Vancouver, OR–WA	1.1213
Clackamas, OR	
Columbia, OR	
Multnomah, OR	
Washington, OR	
Yamhill, OR	
Clark, WA	
6483 Providence-Warwick-Pawtucket, RI	1.0977
Bristol, RI	
Kent, RI	
Newport, RI	
Providence, RI	
Washington, RI	
6520 Provo-Orem, UT	0.9976
Utah, UT	
6560 Pueblo, CO	0.9328
Pueblo, CO	
6580 Punta Gorda, FL	0.9510
Charlotte, FL	
6600 Racine, WI	0.9304
Racine, WI	
6640 Raleigh-Durham-Chapel Hill, NC	0.9959
Chatham, NC	
Durham, NC	
Franklin, NC	
Johnston, NC	
Orange, NC	
Wake, NC	
6660 Rapid City, SD	0.8806
Pennington, SD	
6680 Reading, PA	0.9133
Berks, PA	
6690 Redding, CA	1.1352
Shasta, CA	
6720 Reno, NV	1.0682
Washoe, NV	
6740 Richland-Kennewick-Pasco, WA	1.0609
Benton, WA	
Franklin, WA	
6760 Richmond-Petersburg, VA	0.9349
Charles City County, VA	
Chesterfield, VA	
Colonial Heights City, VA	
Dinwiddie, VA	
Goochland, VA	
Hanover, VA	
Henrico, VA	
Hopewell City, VA	
New Kent, VA	
Petersburg City, VA	
Powhatan, VA	
Prince George, VA	
Richmond City, VA	
6780 Riverside-San Bernardino, CA	1.1348
Riverside, CA	
San Bernardino, CA	
6800 Roanoke, VA	0.8700
Botetourt, VA	
Roanoke, VA	
Roanoke City, VA	
Salem City, VA	
6820 Rochester, MN	1.1739
Olmsted, MN	
6840 Rochester, NY	0.9430
Genesee, NY	
Livingston, NY	
Monroe, NY	
Ontario, NY	
Orleans, NY	
Wayne, NY	
6880 Rockford, IL	0.9666
Boone, IL	
Ogle, IL	
Winnebago, IL	
6895 Rocky Mount, NC	0.9076
Edgecombe, NC	
Nash, NC	
6920 Sacramento, CA	1.1845
El Dorado, CA	
Placer, CA	
Sacramento, CA	
6960 Saginaw-Bay City-Midland, MI	1.0032
Bay, MI	
Midland, MI	
Saginaw, MI	
6980 St. Cloud, MN	0.9506
Benton, MN	
Stearns, MN	
7000 St. Joseph, MO	0.8056
Andrew, MO	
Buchanan, MO	
7040 St. Louis, MO–IL	0.9033
Clinton, IL	
Jersey, IL	
Madison, IL	
Monroe, IL	
St. Clair, IL	
Franklin, MO	
Jefferson, MO	
Lincoln, MO	
St. Charles, MO	
St. Louis, MO	
St. Louis City, MO	
Warren, MO	
7080 Salem, OR	1.0482
Marion, OR	
Polk, OR	
7120 Salinas, CA	1.4339
Monterey, CA	
7160 Salt Lake City-Ogden, UT	0.9913
Davis, UT	
Salt Lake, UT	
Weber, UT	
7200 San Angelo, TX	0.8535
Tom Green, TX	
7240 San Antonio, TX	0.8870
Bexar, TX	
Comal, TX	
Guadalupe, TX	
Wilson, TX	
7320 San Diego, CA	1.1147
San Diego, CA	
7360 San Francisco, CA	1.4514
Marin, CA	
San Francisco, CA	
San Mateo, CA	
7400 San Jose, CA	1.4626
Santa Clara, CA	
7440 San Juan-Bayamon, PR	0.4909
Aguas Buenas, PR	
Barceloneta, PR	
Bayamon, PR	
Canovanas, PR	
Carolina, PR	
Catano, PR	
Ceiba, PR	
Comerio, PR	
Corozal, PR	
Dorado, PR	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
Fajardo, PR	
Florida, PR	
Guaynabo, PR	
Humacao, PR	
Juncos, PR	
Los Piedras, PR	
Loiza, PR	
Luguillo, PR	
Manati, PR	
Morovis, PR	
Naguabo, PR	
Naranjito, PR	
Rio Grande, PR	
San Juan, PR	
Toa Alta, PR	
Toa Baja, PR	
Trujillo Alto, PR	
Vega Alta, PR	
Vega Baja, PR	
Yabucoa, PR	
7460 San Luis Obispo-Atascadero-Paso Robles, CA	1.1429
San Luis Obispo, CA	
7480 Santa Barbara-Santa Maria-Lompoc, CA	1.0441
Santa Barbara, CA	
7485 Santa Cruz-Watsonville, CA	1.2942
Santa Cruz, CA	
7490 Santa Fe, NM	1.0653
Los Alamos, NM	
Santa Fe, NM	
7500 Santa Rosa, CA	1.2877
Sonoma, CA	
7510 Sarasota-Bradenton, FL	0.9964
Manatee, FL	
Sarasota, FL	
7520 Savannah, GA	0.9472
Bryan, GA	
Chatham, GA	
Effingham, GA	
7560 Scranton-Wilkes-Barre-Hazleton, PA	0.8412
Columbia, PA	
Lackawanna, PA	
Luzerne, PA	
Wyoming, PA	
7600 Seattle-Bellevue-Everett, WA	1.1562
Island, WA	
King, WA	
Snohomish, WA	
7610 Sharon, PA	0.8378
Mercer, PA	
7620 Sheboygan, WI	0.9304
Sheboygan, WI	
7640 Sherman-Denison, TX	0.9700
Grayson, TX	
7680 Shreveport-Bossier City, LA	0.9083
Bossier, LA	
Caddo, LA	
Webster, LA	
7720 Sioux City, IA–NE	0.8993
Woodbury, IA	
Dakota, NE	
7760 Sioux Falls, SD	0.9309
Lincoln, SD	
Minnehaha, SD	
7800 South Bend, IN	0.9821
St. Joseph, IN	
7840 Spokane, WA	1.0901
Spokane, WA	
7880 Springfield, IL	0.8944
Menard, IL	
Sangamon, IL	
7920 Springfield, MO	0.8457
Christian, MO	
Greene, MO	
Webster, MO	
8003 Springfield, MA	1.0543
Hampden, MA	
Hampshire, MA	
8050 State College, PA	0.8740
Centre, PA	
8080 Steubenville-Weirton, OH–WV (WV Hospitals)	0.8398
Jefferson, OH	
Brooke, WV	
Hancock, WV	
8120 Stockton-Lodi, CA	1.0404
San Joaquin, CA	
8140 Sumter, SC	0.8498
Sumter, SC	
8160 Syracuse, NY	0.9412
Cayuga, NY	
Madison, NY	
Onondaga, NY	
Oswego, NY	
8200 Tacoma, WA	1.1116
Pierce, WA	
8240 Tallahassee, FL	0.8855
Gadsden, FL	
Leon, FL	
8280 Tampa-St. Petersburg-Clearwater, FL	0.9103
Hernando, FL	
Hillsborough, FL	
Pasco, FL	
Pinellas, FL	
8320 Terre Haute, IN	0.8824
Clay, IN	
Vermillion, IN	
Vigo, IN	
8360 Texarkana, AR-Texarkana, TX	0.8150
Miller, AR	
Bowie, TX	
8400 Toledo, OH	0.9381
Fulton, OH	
Lucas, OH	
Wood, OH	
8440 Topeka, KS	0.9108
Shawnee, KS	
8480 Trenton, NJ	1.0517
Mercer, NJ	
8520 Tucson, AZ	0.9270
Pima, AZ	
8560 Tulsa, OK	0.9185
Creek, OK	
Osage, OK	
Rogers, OK	
Tulsa, OK	
Wagoner, OK	
8600 Tuscaloosa, AL	0.8212
Tuscaloosa, AL	
8640 Tyler, TX	0.9404
Smith, TX	
8680 Utica-Rome, NY	0.8526
Herkimer, NY	
Oneida, NY	
8720 Vallejo-Fairfield-Napa, CA	1.3377
Napa, CA	
Solano, CA	
8735 Ventura, CA	1.1064
Ventura, CA	
8750 Victoria, TX	0.8184
Victoria, TX	
8760 Vineland-Millville-Bridgeton, NJ	1.0405
Cumberland, NJ	
8780 Visalia-Tulare-Porterville, CA	0.9967
Tulare, CA	
8800 Waco, TX	0.8394
McLennan, TX	
8840 Washington, DC–MD–VA–WV	1.0904
District of Columbia, DC	
Calvert, MD	
Charles, MD	
Frederick, MD	
Montgomery, MD	
Prince Georges, MD	
Alexandria City, VA	
Arlington, VA	
Clarke, VA	
Culpepper, VA	
Fairfax, VA	
Fairfax City, VA	
Falls Church City, VA	
Fauquier, VA	
Fredericksburg City, VA	
King George, VA	
Loudoun, VA	
Manassas City, VA	
Manassas Park City, VA	
Prince William, VA	
Spotsylvania, VA	
Stafford, VA	
Warren, VA	
Berkeley, WV	
Jefferson, WV	
8920 Waterloo-Cedar Falls, IA	0.8416
Black Hawk, IA	
8940 Wausau, WI	0.9692
Marathon, WI	
8960 West Palm Beach-Boca Raton, FL	0.9798
Palm Beach, FL	
9000 Wheeling, WV–OH	0.8018
Belmont, OH	
Marshall, WV	
Ohio, WV	
9040 Wichita, KS	0.9238
Butler, KS	
Harvey, KS	
Sedgwick, KS	
9080 Wichita Falls, TX	0.8341
Archer, TX	
Wichita, TX	
9140 Williamsport, PA	0.8378
Lycoming, PA	
9160 Wilmington-Newark, DE–MD	1.0882
New Castle, DE	
Cecil, MD	
9200 Wilmington, NC	0.9563
New Hanover, NC	
Brunswick, NC	
9260 Yakima, WA	1.0388
Yakima, WA	

TABLE 4G.—PRE-RECLASSIFIED WAGE INDEX FOR URBAN AREAS—Continued

Urban area (Constituent counties)	Wage index
9270 Yolo, CA	0.9967
Yolo, CA	
9280 York, PA	0.9119
York, PA	
9320 Youngstown-Warren, OH	0.9214
Columbiana, OH	
Mahoning, OH	
Trumbull, OH	
9340 Yuba City, CA	1.0196
Sutter, CA	
Yuba, CA	
9360 Yuma, AZ	0.9270
Yuma, AZ	

37. On page 45584, in Table 4H—Pre-Reclassified Wage Index for Rural Areas, the table is corrected to read as follows:

Nonurban area	Wage index
Alabama	0.7492
Alaska	1.1886
Arizona	0.9270
Arkansas	0.7734
California	0.9967
Colorado	0.9328
Connecticut	1.2183
Delaware	0.9557
Florida	0.8855
Georgia	0.8595
Hawaii	0.9958
Idaho	0.8974
Illinois	0.8254
Indiana	0.8824
Iowa	0.8416
Kansas	0.8074
Kentucky	0.7973
Louisiana	0.7451
Maine	0.8812
Maryland	0.9125
Massachusetts	1.0432
Michigan	0.8877
Minnesota	0.9330
Mississippi	0.7778
Missouri	0.8056
Montana	0.8800
Nebraska	0.8822
Nevada	0.9806
New Hampshire	1.0030
New Jersey [1]	.....
New Mexico	0.8270
New York	0.8526
North Carolina	0.8456
North Dakota	0.7778
Ohio	0.8820
Oklahoma	0.7537
Oregon	0.9994
Pennsylvania	0.8378
Puerto Rico	0.4018
Rhode Island [1]	.....
South Carolina	0.8498
South Dakota	0.8195
Tennessee	0.7886
Texas	0.7780
Utah	0.8974
Vermont	0.9307
Virginia	0.8498
Washington	1.0388
West Virginia	0.8018
Wisconsin	0.9304
Wyoming	0.9110

[1] All counties within the State are classified as urban.

38. On page 45585, in Table 5—List of Diagnosis-Related Groups (DRGs), Relative Weighting Factors, and Geometric and Arithmetic Mean Length of Stay (LOS), the fourth column (DRG Title),

a. Line 13 ((DRG 28) ''Traumatic Stupor & Coma, Coma <1HR Age>17 w cc'' is corrected to read ''Traumatic Stupor & Coma, Coma <1HR Age>17 w cc'';

b. Line 14 line 59 (DRG 29) ''Traumatic Stupor & Coma, Coma >1HR Age<17 w/o cc'' is corrected to read ''Traumatic Stupor & Coma, Coma <1HR Age>17 w/o cc'';

c. Line 53 (DRG 68), ''Otitis Media & URI Age & gt;17 w cc'' is corrected to read ''Otitis Media & URI Age>17 w cc''; and

d. Line 54 (DRG 69), ''Otitis Media & URI Age & gt;17 w/o cc'' is corrected to read ''Otitis Media & URI Age>17 w/o cc''.

39. On page 45586, in Table 5—List of Diagnosis-Related Groups (DRGs), Relative Weighting Factors, and Geometric and Arithmetic Mean Length of Stay (LOS),

a. Line 25 (DRG 104), fifth column, the figure ''7.9351'' is corrected to read ''7.9389''; and

b. Line 27 (DRG 105), fifth column, the figure ''5.7088'' is corrected to read ''5.7156''.

40. On page 45593, in Table 5—List of Diagnosis-Related Groups (DRGs), Relative Weighting Factors, and Geometric and Arithmetic Mean Length of Stay (LOS),

a. Line 21 (DRG 481),

(1) Sixth column, the figure ''19.20'' is added; and

(2) Seventh column, the figure ''21.80'' is added.

b. Line 22, first, second, and third columns, the figures ''1'', ''9.20'', and ''21.80'' are corrected by deleting these figures; and

c. Line 36 (DRG 492), the fourth column, the title ''Chemotherapy w Acute Leukemia or w use of Hi Dose Chemoagent'' is corrected to read ''Chemotherapy w Acute Leukemia as Secondary Diagnosis or w use of High Dose Chemotherapy Agent''.

d. Line 49 (DRG 504),

(1) Sixth column, the figure ''0.30'' is corrected to read ''20.30''; and

(2) Seventh column, the figure, ''8.00'' is corrected to read ''28.00''.

41. On page 45594,

a. In Table 5—List of Diagnosis-Related Groups (DRGs), Relative Weighting Factors, and Geometric and Arithmetic Mean Length of Stay (LOS),

(1) Line 10 (DRG 525),

(a) Fifth column, the figure ''11.4372'' is corrected to read ''14.1896'';

(b) Sixth column, the figure ''8.90'' is corrected to read ''10.2''; and

(c) Seventh column, the figure ''17.00'' is corrected to read ''19.6''.

b. In Table 6A—New Diagnosis Codes, first column, line 1, the figure ''[1] 079.82'' is corrected to read ''079.821 [1]''.

42. On page 45595, in Table 6A—New Diagnosis Codes, first column,

a. Line 12, the figure ''480.31'' is corrected to read ''480.31 [1]''; and

b. Line 17, the figure ''[1] 517.3'' is corrected to read ''517.3''.

43. On page 45596,

a. In Table 6A—New Diagnosis Codes, first column, line 10, the figure ''[1] V01.82'' is corrected to read ''V01.82 [1]'';

b. In Table 6B—New Procedure Codes, line 3,

(1) Column 3, the figure ''5'' is corrected to read ''Y'';

(2) Column 4, the figure ''525'' is corrected to read ''5''; and

(3) Column 5, the figure ''525'' is added.

44. On pages 45596 and 45597, table heading, the table entitled ''Table 6C—Invalid Procedure Codes'' is corrected to read ''Table 6C—Invalid Diagnosis Codes''.

45. On pages 45638 through 45647, Table 9—Hospital Reclassifications and Redesignations by Individual Hospital—FY 2004 is corrected by—

a. Adding the following entries (in numerical order):

Provider No.	Actual MSA or rural area	Wage index MSA reclassification	Standardized amount MSA reclassification
040136	04	4400	
070015	3283	5600	
070036	3283	5483	

Provider No.	Actual MSA or rural area	Wage index MSA reclassification	Standardized amount MSA reclassification
140012	14	1600	
340039	34	1520	1520
340129	34	1520	
340131	34	3150	
340144	34	1520	
360037	1680	0080	
360056	3200	1640	1640
430028	43	6660	

b. Correcting the standardized amount MSA reclassification for the following entries:

Provider No.	Published standardized amount MSA reclassification	Corrected standardized amount MSA reclassification
340126	6640	6895

c. Correcting the wage index MSA reclassification for the following entries:

Provider No.	Published wage index MSA reclassification	Corrected wage index MSA reclassification
010005	3440	1000
060049	2080	2670
100217	2710	4900
100232	5790	2900
130003	50	6740
190086	5200	7680
340039		1520

d. Deleting the following entries:

Provider No.	Actual MSA or rural area	Wage index MSA reclassification	Standardized amount MSA reclassification
010044	01	25	
100211	8280	3980	
310087	8760	6160	
330386	33	5660	
390197	0240	6160	
390263	0240	6160	
460011	46	6520	

46. On pages 45648 through 45650, Table 10—Mean and .75 Standard Deviation by Diagnosis-Related Group (DRG)—July 2003 is corrected to read:

TABLE 10.—MEAN AND .75 STANDARD DEVIATION BY DIAGNOSIS-RELATED GROUP (DRG)—JULY 2003

DRG	Cases	Mean + .75 standard deviation
1	24,267	$60,950
2	11,855	$35,495
3	3	$38,670
6	358	$13,422
7	14,782	$44,651
8	4,189	$27,349
9	1,724	$22,103
10	18,551	$20,645
11	3,276	$14,588
12	52,059	$14,717
13	7,063	$13,412
14	235,629	$20,649
15	92,689	$16,064

TABLE 10.—MEAN AND .75 STANDARD DEVIATION BY DIAGNOSIS-RELATED GROUP (DRG)—JULY 2003—Continued

DRG	Cases	Mean + .75 standard deviation
16	9,895	$20,645
17	2,722	$11,711
18	29,545	$16,455
19	8,485	$11,848
20	6,179	$45,939
21	1,884	$24,848
22	2,759	$17,693
23	11,165	$13,566
24	58,700	$16,388
25	27,285	$10,243
26	20	$15,481
27	4,447	$21,583
28	13,952	$21,942
29	5,298	$11,870
30	3	$15,951
31	3,927	$15,129
32	1,914	$9,563
34	23,699	$16,230
35	7,411	$10,739
36	2,093	$10,243
37	1,375	$17,454
38	95	$7,950
39	556	$10,496
40	1,550	$14,867
42	1,575	$11,705
43	94	$9,191
44	1,205	$10,735
45	2,656	$12,162
46	3,449	$13,222
47	1,389	$9,033
49	2,381	$28,970
50	2,411	$13,659
51	242	$14,263
52	218	$13,403
53	2,464	$19,840
55	1,481	$15,300
56	471	$14,360
57	708	$17,369
59	114	$13,104
61	253	$20,533
62	2	$17,648
63	3,018	$22,970
64	3,109	$21,265
65	39,944	$9,647
66	7,774	$9,443
67	383	$12,823
68	11,465	$10,817
69	3,694	$8,350
70	31	$5,312
71	79	$10,701
72	959	$11,421
73	7,654	$13,387
75	43,245	$50,365
76	44,348	$46,358
77	2,472	$20,249
78	39,220	$21,219
79	167,196	$26,768
80	7,929	$14,141
81	5	$17,492
82	63,922	$23,263
83	6,703	$15,965
84	1,598	$9,061
85	22,136	$19,978
86	2,226	$11,541
87	60,498	$22,477
88	398,325	$14,903
89	525,617	$17,228

TABLE 10.—MEAN AND .75 STANDARD DEVIATION BY DIAGNOSIS-RELATED GROUP (DRG)—JULY 2003—Continued

DRG	Cases	Mean + .75 standard deviation
90	47,542	$10,197
91	44	$11,589
92	15,657	$20,101
93	1,752	$12,148
94	12,763	$18,831
95	1,650	$10,312
96	56,023	$12,449
97	28,360	$9,184
98	9	$11,369
99	21,198	$11,730
100	8,182	$8,813
101	22,194	$14,311
102	5,584	$9,146
103	495	$306,011
104	20,506	$130,419
105	28,981	$93,467
106	3,483	$119,674
107	82,849	$87,235
108	6,471	$91,161
109	57,053	$64,104
110	54,627	$67,935
111	9,477	$42,482
113	39,525	$46,445
114	8,280	$27,158
115	19,730	$59,709
116	115,521	$39,243
117	4,698	$22,635
118	8,243	$27,186
119	1,239	$21,882
120	38,097	$37,461
121	162,443	$25,794
122	76,199	$16,778
123	38,308	$25,403
124	135,070	$23,506
125	91,605	$18,143
126	5,371	$42,207
127	667,674	$16,687
128	7,104	$11,969
129	3,828	$16,850
130	88,024	$15,441
131	26,812	$9,413
132	141,313	$10,559
133	8,584	$9,090
134	40,950	$9,979
135	7,749	$14,879
136	1,177	$9,660
138	206,600	$13,753
139	86,760	$8,638
140	54,470	$8,802
141	108,038	$12,460
142	52,222	$9,661
143	247,984	$9,176
144	94,294	$19,911
145	7,277	$9,758
146	10,717	$45,045
147	2,622	$25,606
148	133,149	$55,961
149	19,992	$23,891
150	21,026	$47,648
151	5,108	$21,887
152	4,537	$31,514
153	2,042	$18,743
154	28,242	$66,985
155	6,581	$21,615
156	4	$13,610
157	8,229	$21,199
158	4,302	$10,898

TABLE 10.—MEAN AND .75 STANDARD DEVIATION BY DIAGNOSIS-RELATED GROUP (DRG)—JULY 2003—Continued

DRG	Cases	Mean + .75 standard deviation
159	18,005	$22,652
160	12,068	$13,727
161	10,697	$18,978
162	6,319	$10,842
163	8	$8,496
164	5,354	$38,494
165	2,318	$20,220
166	4,177	$23,548
167	4,064	$14,643
168	1,430	$21,184
169	808	$12,591
170	15,615	$46,595
171	1,508	$20,124
172	31,193	$22,687
173	2,456	$12,789
174	249,690	$16,591
175	34,572	$9,382
176	13,384	$17,977
177	9,012	$15,382
178	3,345	$11,611
179	13,115	$17,902
180	89,518	$15,767
181	26,863	$9,013
182	270,142	$13,570
183	90,281	$9,726
184	75	$7,829
185	5,350	$14,122
186	6	$13,840
187	632	$13,047
188	83,496	$18,050
189	13,002	$10,094
190	76	$13,314
191	9,509	$70,693
192	1,318	$30,582
193	4,791	$56,646
194	646	$27,181
195	3,986	$50,267
196	985	$26,442
197	18,180	$42,215
198	5,338	$20,057
199	1,639	$40,105
200	1,076	$48,840
201	2,132	$60,824
202	26,597	$21,538
203	29,851	$22,690
204	65,032	$18,780
205	27,308	$19,560
206	2,040	$11,756
207	32,486	$19,030
208	10,054	$11,133
209	397,136	$32,251
210	122,325	$29,402
211	29,910	$20,102
212	10	$24,400
213	9,941	$30,927
216	8,759	$35,017
217	17,302	$48,569
218	23,856	$26,012
219	19,900	$16,947
223	13,264	$17,479
224	11,697	$13,087
225	6,458	$19,210
226	5,850	$25,118
227	4,833	$13,561
228	2,523	$19,156
229	1,259	$11,806
230	2,453	$21,335

TABLE 10.—MEAN AND .75 STANDARD DEVIATION BY DIAGNOSIS-RELATED GROUP (DRG)—JULY 2003—Continued

DRG	Cases	Mean + .75 standard deviation
232	817	$15,763
233	9,955	$33,217
234	5,357	$20,460
235	5,077	$12,131
236	39,734	$11,649
237	1,762	$9,959
238	8,853	$22,389
239	45,836	$17,055
240	11,991	$20,968
241	3,139	$10,476
242	2,575	$18,916
243	95,842	$12,511
244	14,536	$11,855
245	5,794	$8,060
246	1,483	$9,996
247	20,262	$9,546
248	13,801	$14,154
249	12,889	$10,969
250	3,771	$11,727
251	2,358	$7,723
253	21,978	$12,388
254	10,705	$7,450
256	6,679	$13,456
257	15,630	$14,551
258	15,172	$11,527
259	3,515	$15,356
260	4,202	$11,332
261	1,785	$14,931
262	663	$15,556
263	23,018	$32,927
264	3,859	$17,783
265	4,097	$25,386
266	2,544	$14,569
267	240	$16,311
268	921	$19,160
269	9,800	$28,934
270	2,790	$13,512
271	19,129	$16,800
272	5,696	$16,372
273	1,322	$10,402
274	2,283	$19,471
275	227	$9,759
276	1,315	$10,938
277	99,585	$14,304
278	31,973	$9,001
279	10	$12,862
280	17,758	$11,723
281	7,518	$8,138
283	6,010	$11,903
284	2,013	$7,089
285	6,942	$34,194
286	2,497	$33,219
287	6,223	$30,590
288	5,643	$35,074
289	6,933	$15,251
290	9,910	$14,457
291	59	$10,867
292	6,506	$45,369
293	366	$23,584
294	97,377	$12,578
295	3,548	$13,073
296	277,113	$14,025
297	47,860	$8,433
298	115	$7,607
299	1,268	$15,188
300	18,635	$18,300
301	3,592	$10,394

TABLE 10.—MEAN AND .75 STANDARD DEVIATION BY DIAGNOSIS-RELATED GROUP (DRG)—JULY 2003—Continued

DRG	Cases	Mean + .75 standard deviation
302	8,919	$52,568
303	21,743	$38,927
304	12,600	$38,885
305	3,040	$19,958
306	7,011	$20,007
307	2,011	$10,074
308	7,246	$25,931
309	4,147	$15,113
310	24,762	$18,844
311	7,439	$10,426
312	1,516	$17,596
313	554	$11,488
314	2	$322,531
315	34,014	$33,973
316	118,639	$21,267
317	2,029	$13,340
318	5,737	$19,749
319	408	$11,321
320	185,666	$14,359
321	30,824	$9,396
322	54	$7,725
323	19,804	$13,565
324	6,943	$8,142
325	9,200	$10,835
326	2,722	$7,123
327	7	$5,731
328	742	$12,602
329	91	$8,723
331	51,130	$17,377
332	4,964	$10,097
333	268	$14,821
334	10,503	$24,076
335	12,644	$17,706
336	35,736	$13,949
337	29,363	$9,573
338	930	$19,992
339	1,475	$18,262
341	3,579	$21,414
342	687	$12,913
344	3,568	$22,429
345	1,361	$18,321
346	4,823	$17,335
347	311	$9,389
348	3,394	$12,387
349	611	$7,947
350	6,669	$12,143
352	956	$11,679
353	2,555	$29,268
354	7,393	$23,963
355	5,523	$14,500
356	25,715	$12,441
357	5,609	$37,303
358	21,488	$19,224
359	31,686	$13,249
360	15,637	$14,188
361	344	$17,957
362	5	$13,102
363	2,508	$15,450
364	1,624	$14,985
365	1,828	$33,961
366	4,555	$20,584
367	481	$9,537
368	3,547	$19,121
369	3,462	$10,155
370	1,377	$15,561
371	1,735	$10,212
372	965	$8,800

TABLE 10.—MEAN AND .75 STANDARD DEVIATION BY DIAGNOSIS-RELATED GROUP (DRG)—JULY 2003—Continued

DRG	Cases	Mean + .75 standard deviation
373	4,195	$6,098
374	99	$11,825
376	328	$8,877
377	53	$17,821
378	171	$12,848
379	360	$5,868
380	96	$7,077
381	194	$8,851
382	49	$3,600
383	2,009	$8,066
384	133	$5,926
385	2	$22,090
392	2,277	$53,937
394	2,592	$31,013
395	106,920	$13,517
396	19	$11,854
397	18,865	$19,906
398	18,054	$20,397
399	1,675	$11,244
401	5,843	$48,194
402	1,464	$19,205
403	31,718	$29,897
404	4,318	$14,782
406	2,416	$44,198
407	641	$20,591
408	2,107	$35,182
409	2,155	$20,799
410	28,305	$18,044
411	7	$6,308
412	17	$9,840
413	5,303	$22,045
414	632	$12,457
415	43,248	$59,623
416	190,961	$25,953
417	41	$16,917
418	25,757	$17,318
419	16,258	$14,095
420	3,154	$10,282
421	10,646	$11,935
422	68	$10,056
423	8,039	$28,618
424	1,258	$39,774
425	16,028	$11,214
426	4,549	$8,538
427	1,600	$8,463
428	793	$11,410
429	27,000	$13,332
430	64,921	$11,267
431	316	$10,220
432	448	$10,690
433	5,537	$4,752
439	1,516	$27,413
440	5,775	$29,517
441	684	$15,097
442	17,534	$39,029
443	3,910	$16,540
444	5,723	$12,286
445	2,544	$8,456
447	6,473	$8,222
449	32,997	$13,374
450	7,419	$7,054
452	25,608	$16,753
453	5,670	$8,623
454	4,756	$13,210
455	1,066	$8,058
461	4,964	$19,286
462	9,653	$16,368

TABLE 10.—MEAN AND .75 STANDARD DEVIATION BY DIAGNOSIS-RELATED GROUP (DRG)—JULY 2003—Continued

DRG	Cases	Mean + .75 standard deviation
463	26,785	$11,378
464	7,137	$8,327
465	197	$10,114
466	1,716	$11,143
467	1,099	$7,982
468	51,309	$63,557
470	860	$28,413
471	13,222	$48,749
473	8,064	$53,842
475	109,073	$61,001
476	3,631	$38,059
477	26,262	$30,961
478	107,707	$39,719
479	23,849	$24,028
480	627	$160,255
481	861	$105,050
482	5,284	$57,555
483	45,589	$273,650
484	345	$91,730
485	3,244	$52,335
486	2,218	$81,989
487	3,885	$32,670
488	752	$79,121
489	13,365	$29,515
490	5,439	$17,149
491	15,267	$27,730
492	3,092	$62,862
493	59,236	$30,239

TABLE 10.—MEAN AND .75 STANDARD DEVIATION BY DIAGNOSIS-RELATED GROUP (DRG)—JULY 2003—Continued

DRG	Cases	Mean + .75 standard deviation
494	28,580	$16,623
495	199	$139,829
496	2,489	$95,191
497	21,941	$56,996
498	15,707	$42,663
499	34,575	$23,446
500	49,702	$15,440
501	2,596	$42,839
502	774	$23,764
503	5,957	$20,407
504	128	$203,606
505	136	$26,710
506	923	$68,196
507	343	$30,206
508	622	$21,886
509	156	$10,594
510	1,634	$18,264
511	586	$10,560
512	505	$87,711
513	214	$97,229
515	8,235	$91,055
516	33,015	$38,062
517	68,536	$30,211
518	48,849	$29,634
519	9,009	$40,231
520	12,990	$26,021
521	30,580	$11,606
522	5,993	$8,691

TABLE 10.—MEAN AND .75 STANDARD DEVIATION BY DIAGNOSIS-RELATED GROUP (DRG)—JULY 2003—Continued

DRG	Cases	Mean + .75 standard deviation
523	15,190	$6,564
524	131,223	$12,175
525	583	$195,369
526	51,533	$41,296
527	135,957	$33,156
528	1,591	$122,442
529	3,656	$36,874
530	2,681	$19,867
531	3,839	$51,789
532	2,961	$24,910
533	43,024	$27,417
534	51,857	$17,726
535	6,061	$135,910
536	20,673	$104,255
537	6,861	$30,151
538	6,415	$16,597
539	4,443	$55,375
540	1,884	$21,594

47. On pages 45661 through 45662, in Table I—Impact Analysis of Final Changes for FY 2004 Operating Prospective Payment System (Percent of Changes in Payments per Case), columns 4 and 10 are corrected to read as follows:

TABLE I.—IMPACT ANALYSIS OF FINAL CHANGES FOR FY 2004 OPERATING PROSPECTIVE PAYMENT SYSTEM

(Percent changes in payments per case)

	Published new wage data) [4] (4)	Corrected new wage data [4] (4)	Published all FY 2004 changes [10] (10)	Corrected all FY 2004 changes [10] (10)
By Geographic Location				
All hospitals	−0.3	−0.2	1.8	1.8
Urban hospitals	−0.3	−0.2	1.2	1.2
Large urban areas(populations over 1 million)	−0.3	−0.2	1.1	1.1
Other urban areas(populations of 1 million of fewer)	−0.3	−0.3	1.4	1.4
Rural hospitals	−0.3	0.1	5.8	5.9
Bed Size (Urban):				
0–99 beds	0.0	0.1	2.1	2.1
100–199 beds	−0.3	−0.2	1.2	1.2
200–299 beds	−0.3	−0.3	1.4	1.4
300–499 beds	−0.1	0.0	0.8	0.8
500 or more beds	−0.7	−0.6	1.4	1.4
Bed Size (Rural):				
0–49 beds	−0.4	0.1	6.0	5.8
50–99 beds	−0.3	0.1	6.2	6.1
100–149 beds	−0.4	0.0	6.0	6.1
150–199 beds	−0.2	0.4	4.4	4.7
200 or more beds	−0.1	0.2	5.7	6.1
Urban by Region:				
New England	−0.3	−0.5	2.8	2.8
Middle Atlantic	−0.9	−0.8	−2.8	−2.7
South Atlantic	−0.1	−0.1	2.7	2.6
East North Central	−0.6	−0.6	2.7	2.6
East South Central	0.1	0.2	2.9	2.8
West North Central	0.0	0.1	3.1	3.1
West South Central	−0.1	0.0	1.6	1.5
Mountain	0.5	0.8	4.4	4.3
Pacific	−0.1	0.1	−0.6	−0.6
Puerto Rico	−0.3	−0.2	2.8	2.7

TABLE I.—IMPACT ANALYSIS OF FINAL CHANGES FOR FY 2004 OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued

(Percent changes in payments per case)

	Published new wage data) [4] (4)	Corrected new wage data [4] (4)	Published all FY 2004 changes [10] (10)	Corrected all FY 2004 changes [10] (10)
Rural by Region:				
New England	−0.2	0.2	6.8	6.7
Middle Atlantic	−0.4	−0.3	4.1	4.0
South Atlantic	−0.1	0.2	5.3	5.6
East North Central	0.1	0.5	4.5	5.0
East South Central	−0.4	−0.2	4.7	4.7
West North Central	−0.1	0.7	7.9	7.8
West South Central	−0.6	−0.2	5.8	5.7
Mountain	−0.3	0.0	7.1	6.8
Pacific	−0.6	0.0	8.7	8.5
Puerto Rico	−4.2	−4.3	−0.3	−0.4
By Payment Classification:				
Urban hospitals	−0.3	−0.2	1.2	1.3
Large urban areas (populations over 1 million)	−0.3	−0.2	1.2	1.3
Other urban areas (populations of 1 million of fewer)	−0.3	−0.3	1.3	1.2
Rural areas	−0.3	0.1	5.9	5.8
Teaching Status:				
Non-teaching	−0.2	0.0	2.6	2.6
Fewer than 100 Residents	−0.2	0.0	1.3	1.3
100 or more Residents	−0.7	−0.7	1.2	1.3
Urban DSH:				
Non-DSH	−0.2	0.0	2.5	2.5
100 or more beds	−0.4	−0.3	0.9	1.0
Less than 100 beds	−0.1	0.1	0.9	0.8
Rural DSH:				
Sole Community (SCH)	−0.2	0.0	10.0	9.7
Referral Center (RRC)	−0.3	0.2	4.5	4.5
Other Rural: 100 or more beds	−0.7	−0.3	2.5	2.5
Less than 100 beds	−0.6	−0.1	2.8	2.6
Urban teaching and DSH:				
DSH	−0.4	−0.3	0.9	0.9
Teaching and no DSH	−0.3	−0.2	2.1	2.1
No teaching and DSH	−0.3	−0.2	1.0	1.0
No teaching and no DSH	−0.1	0.0	1.8	1.8
Rural Hospital Types:				
Non special status hospitals	−0.5	−0.1	2.7	2.8
RRC	−0.2	0.5	3.5	3.5
SCH	−0.1	0.0	10.8	10.5
Medicare-dependent hospitals (MDH)	−0.5	0.2	3.3	3.1
SCH and RRC	−0.2	0.0	7.4	7.2
Type of Ownership:				
Voluntary	−0.3	−0.2	2.2	2.2
Proprietary	0.0	0.1	−2.1	−2.2
Government	−0.4	−0.2	4.0	4.0
Unknown 5	−1.0	−0.9	3.5	3.5
Medicare Utilization as a Percent of Inpatient Days:				
0–25	0.1	0.3	2.5	2.5
25–50	−0.4	−0.3	1.2	1.2
50–65	−0.3	−0.2	2.8	2.8
Over 65	−0.2	0.0	1.1	1.1
Unknown	0.1	0.3	1.7	1.7
Hospitals Reclassified by the Medicare Geographic Classification Review Board: FY 2004 Reclassifications:				
All Reclassified Hospitals	−0.3	0.1	2.6	2.7
Standardized Amount Only	−0.8	−0.4	5.4	5.4
Wage Index Only	−0.3	0.0	1.9	2.0
Both	−0.3	0.1	4.1	5.8
Nonreclassified Hospitals	−0.3	−0.2	1.8	1.8
All Reclassified Urban Hospitals	−0.3	−0.2	−1.8	−1.8
Standardized Amount Only	−0.9	−0.8	−4.6	4.8
Wage Index Only	−0.3	−0.3	−4.1	−4.2
Both	0.1	0.2	4.1	4.1
Urban Nonreclassified Hospitals	−0.3	−0.2	1.4	1.4
All Reclassified Rural Hospitals	−0.2	0.2	5.5	5.7
Standardized Amount Only	−0.1	0.4	2.3	6.9
Wage Index Only	−0.3	0.2	5.7	5.6

TABLE I.—IMPACT ANALYSIS OF FINAL CHANGES FOR FY 2004 OPERATING PROSPECTIVE PAYMENT SYSTEM—Continued

(Percent changes in payments per case)

	Published new wage data) [4] (4)	Corrected new wage data [4] (4)	Published all FY 2004 changes [10] (10)	Corrected all FY 2004 changes [10] (10)
Both	0.0	0.6	5.4	5.4
Rural Nonreclassified Hospitals	−0.3	0.0	6.2	6.2
Other Reclassified Hospitals (Section 1886(D)(8)(B))	0.0	−0.3	3.0	3.5

[4] This column displays the impact of updating the wage index with wage data from hospitals' FY 2000 cost reports.

[10] This column shows changes in payments from FY 2003 to FY 2004. It incorporates all of the changes displayed in columns 2, 3, and 8 of the final rule (the changes displayed in columns 4, 5, and 6 are included in column 8). It also reflects the impact of the FY 2004 update, changes in hospitals' reclassification status in FY 2004 compared to FY 2003, and the difference in outlier payments from FY 2003 to FY 2004. The sum of these impacts may be different from the percentage changes shown here due to rounding and interactive effect.

48. On page 45662, in Table I—Impact Analysis of Final Changes for FY 2004 Operating Prospective Payment System (Percent of Changes in Payments per Case), line 39 (All Reclassified Hospitals—Standardized Amount Only), column 10 the figure ''−4.6'' is corrected to read ''4.6''.

49. On page 45664, bottom half of the page,

a. First column, second full paragraph, line 13, the figure ''1.005522'' is corrected to read ''1.002588''.

b. Second column, second full paragraph, lines 8 and 9, the figure ''$ 4.4 million'' is corrected to read ''2.2 million''; and

c. Third column, first partial paragraph, line 1, the figure ''1.005522'' is corrected to read ''1.002588''.

50. On page 45670, first column, first paragraph, fourth bulleted item,

a. Line 4, the figure ''1.0059'' is corrected to read ''1.0026''; and

b. Line 5, the figure ''0.9522'' is corrected to read ''0.9523''.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a document take effect. However, we can waive this procedure, if we find good cause that notice and comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of the finding and the reasons for it into the notice issued. We can also waive the 30-day delayed effective date of the Administrative Procedure Act (5 U.S.C. 553(d)) when there is good cause to do so and we publish in the rule an explanation of our good cause.

In this document, we are correcting an error related to our discussion of DRG 525, and the assignment of procedure code 37.62. In light of the much lower charges associated with code 37.62, we are removing all cases with code 37.62 from DRG 525 and reassigning them to DRGs 104 and 105. This correction is necessary to ensure adequate payment for this procedure and for the other procedures that will continue to be assigned to DRG 525. Especially because these are frequently life-saving procedures, it is important that the Medicare payment amount better reflect hospitals' true costs in performing these procedures. We are concerned that, without this correction, payments for the other procedures in DRG 525, particularly procedure code 37.66, will be inadequate. As a result, Medicare beneficiaries' access to these important procedures could be limited. Accordingly, we believe there is a compelling public interest to waive notice and comment rulemaking, as well as the 30-day delay in effective date, for this correction.

We also find it unnecessary to undertake notice and comment rulemaking with respect to the other corrections contained in this document because the remainder of this document merely provides technical corrections to the final rule. We are merely correcting computational or technical errors and making a variety of typographical and grammatical corrections. We are not making changes to payment methodology or payment policy. For example, our changes to the hospital wage index and budget neutrality factor are based upon computational methodologies for which we previously provided notice and received comments. By correcting these data we are not announcing new computational methodologies, but merely ensuring that the data used in the calculations are correct. Similarly, our changes to the add-on payment for InFUSE merely incorporate the correct data into our previously published methodologies for calculating add-on payments. Thus, because the public has already had the opportunity to comment on the payment methodology used in IPPS, additional comment would be unnecessary.

In addition, we believe it is impracticable at this point in time to solicit additional comments or to delay the effective date of these corrections beyond October 1, 2003. The Social Security Act, in section 1886(d)(3), requires a national adjusted DRG prospective payment rate to be in place at the beginning of the fiscal year. Because the fiscal year begins on October 1, 2003, it is imperative that we ensure that the correct rates are in place by October 1, 2003, and it would not have been possible to publish a notice and receive comments on it in the brief period of time between discovering our errors and the October 1, 2003 effective date for the updated IPPS rates.

Finally, we believe that engaging in notice and comment prior to making these corrections or delaying the effective date beyond October 1, 2003 would be contrary to the public interest. As a matter of good public policy, the rates used in the IPPS should not be based on miscalculations or inappropriate data. The public interest is served by ensuring that the rates used in the IPPS are correct. Thus, it would be contrary to the public interest to delay implementing such corrected rates in order either to engage in notice and comment rulemaking or to provide for a 30-day delay in effective date. Therefore, we find good cause to waive notice and comment procedures, as well as the 30-day delay in effective date.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: Sepember 30, 2003.

Ann C. Agnew,

Executive Secretary to the Department.

[FR Doc. 03–25192 Filed 9–30–03; 3:27 pm]

BILLING CODE 4120–01–P

Federal Register

Monday,
October 6, 2003

Part III

Securities and Exchange Commission

17 CFR Parts 230, 239, et al.
Amendments to Investment Company Advertising Rules; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 270, and 274

[Release Nos. 33–8294; 34–48558; IC–26195; File No. S7–17–02]

RIN 3235–AH19

Amendments to Investment Company Advertising Rules

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adopting rule and form amendments under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 that require enhanced disclosure in investment company advertisements and that are designed to encourage advertisements that convey balanced information to prospective investors, particularly with respect to past performance. The amendments also implement section 24(g) of the Investment Company Act by permitting the use of a prospectus under section 10(b) of the Securities Act with respect to securities issued by an investment company that includes information the substance of which is not included in the investment company's statutory prospectus.

DATES: *Effective Date:* November 15, 2003.

Compliance Dates: See section II.F. of this release for information on compliance dates.

FOR FURTHER INFORMATION CONTACT: Christopher P. Kaiser, Special Counsel, David S. Schwartz, Senior Counsel, or Keith E. Carpenter, Senior Special Counsel, at (202) 942–0721, Office of Disclosure Regulation, Division of Investment Management, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0506.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (''Commission'') is adopting amendments to rule 134 [17 CFR 230.134], rule 156 [17 CFR 230.156], and rule 482 [17 CFR 230.482] under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] (''Securities Act'') and rule 34b–1 [17 CFR 270.34b–1] under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] (''Investment Company Act''). The Commission also is adopting technical amendments to Form N–1A [17 CFR 239.15A and 274.11A], Form N–3 [17 CFR 239.17a and 274.11b], Form N–4 [17 CFR 239.17b and 274.11c], and Form N–6 [17 CFR 239.17c and 274.11d], registration forms used by investment companies to register under the Investment Company Act and to offer their securities under the Securities Act.

Table of Contents

I. Introduction and Background
II. Discussion
A. Eliminating the ''Substance of Which'' Requirement from Rule 482 and Rescinding Rule 134 for Funds
B. Applicability of Antifraud Provisions To Fund Advertising
C. Enhanced Disclosure Under Rule 482
D. Reorganization of Rule 482 and Technical Form Amendments
E. Rule 482(a)(5)(i) Relating to Variable Insurance Products
F. Compliance Dates
III. Cost/Benefit Analysis
IV. Consideration of Effects on Efficiency, Competition, and Capital Formation
V. Paperwork Reduction Act
VI. Final Regulatory Flexibility Analysis
VII. Statutory Authority
Text of Rule and Form Amendments

I. Introduction and Background

Like most issuers of securities, when an investment company (''fund'') offers its shares to the public, its promotional efforts become subject to the advertising restrictions of the Securities Act. Congress imposed these restrictions so that investors would base their investment decisions on the full disclosures contained in the ''statutory prospectus,'' which Congress intended to be the primary selling document.[1] The advertising restrictions of the Securities Act cause special problems for many investment companies, particularly for open-end management investment companies (''mutual funds'') and other investment companies that continuously offer and sell their shares.[2] For these funds, the advertising restrictions apply continuously because the offering process, in effect, is continuous.

In recognition of these problems, the Commission has adopted special advertising rules for investment companies. The most important of these is rule 482 under the Securities Act, which permits investment companies to advertise investment performance data, as well as other information.[3] Rule 482 advertisements are ''prospectuses'' under section 10(b) of the Securities Act (so-called ''omitting prospectuses''),[4] which means that, historically, they could only contain information the ''substance of which'' is included in the statutory prospectus.[5]

In the National Securities Markets Improvement Act of 1996 (''NSMIA''), Congress amended the Investment Company Act to permit, subject to rules adopted by the Commission, the use of prospectuses under section 10(b) of the Securities Act that include information the substance of which is not included in the statutory prospectus.[6] In May 2002, we issued a release proposing to amend rule 482 and make other related rule and form changes to implement this provision of the legislation (the ''Proposing Release'').[7]

At the same time, we proposed other amendments to the fund advertising rules to reinforce antifraud protections and encourage the provision of information to investors that is more balanced and informative, particularly in the area of investment performance. These proposed amendments addressed our concern that some funds, when advertising their performance, may resort to techniques that create unrealistic investor expectations or may mislead potential investors. These concerns arose during 1999 and 2000 when many funds experienced extraordinary performance and engaged in advertising campaigns focusing on past performance.[8] In recent months,

[1] ''Statutory prospectus'' refers to the full prospectus required by section 10(a) of the Securities Act. 15 U.S.C. 77j(a).

[2] An open-end management investment company is an investment company, other than a unit investment trust or face-amount certificate company, that offers for sale or has outstanding any redeemable security of which it is the issuer. Sections 4 and 5(a)(1) of the Investment Company Act [15 U.S.C. 80a–4 and 80a–5(a)(1)]. Mutual funds typically offer and sell their shares continuously to provide an ongoing flow of capital into their portfolios and to enable them to meet redemption requests from their shareholders.

A unit investment trust (''UIT'') is ''an investment company which (A) is organized under a trust indenture, contract of custodianship or agency, or similar instrument, (B) does not have a board of directors, and (C) issues only redeemable securities, each of which represents an undivided interest in a unit of specified securities, but does not include a voting trust.'' Section 4(2) of the Investment Company Act [15 U.S.C. 80a–4(2)]. UITs typically have active secondary markets in which the trusts' sponsors are continuously purchasing and selling the trusts' units.

A face-amount certificate is a security that obligates the issuer to pay a stated (or determinable) amount on a fixed (or determinable) date or series of dates more than twenty-four months after the date of issuance. Section 2(a)(15) of the Investment Company Act [15 U.S.C. 80a–2(a)(15)]. A face-amount certificate company is an investment company that engages or proposes to engage in the business of issuing certain face-amount certificates. Section 4(1) of the Investment Company Act [15 U.S.C. 80a–4(1)].

[3] 17 CFR 230.482.

[4] 15 U.S.C. 77j(b).

[5] Current 17 CFR 230.482(a)(2).

[6] National Securities Markets Improvement Act of 1996, Pub. L. No. 104–290, 110 Stat. 3416, 3428, Section 204.

[7] Investment Company Act Release No. 25575 (May 17, 2002) [67 FR 36712 (May 24, 2002)] (''Proposing Release'').

[8] *See* Proposing Release, *supra* note 7, 67 FR at 36713 nn. 8 and 9 and accompanying text (discussion regarding funds' advertising during

following improved market performance, commentators have already noted an increase in advertisements highlighting favorable short-term performance and have expressed concern about this practice.[9] The Commission received 29 comment letters on the proposal. Commenters generally supported the proposal, but also suggested revisions in certain areas.[10] Today, the Commission is adopting these proposed amendments, with certain modifications as described below to address the suggestions of the commenters.

II. Discussion

A. Eliminating the ''Substance of Which'' Requirement From Rule 482 and Rescinding Rule 134 for Funds

We are adopting, as proposed, the amendment removing the requirement that a rule 482 advertisement contain only information the ''substance of which'' is included in the statutory prospectus.[11] This amendment implements section 24(g) of the Investment Company Act, added by NSMIA, which directs the Commission to adopt rules or regulations that permit registered investment companies to use prospectuses that (i) include information the substance of which is not included in the statutory prospectus, and (ii) are deemed to be permitted by section 10(b) of the Securities Act.[12] Eliminating this requirement will permit investment companies to include up-to-date information in rule 482 advertisements, such as information about current economic conditions that normally would not be included in a fund's prospectus. The amendment also will permit funds to eliminate certain information from the statutory prospectus, such as boilerplate disclosure about the methods used to calculate performance in fund advertising, that clutters the statutory prospectus and obscures other important information. As a result, investors should receive better, more understandable, and more timely information in both the statutory prospectus and fund advertisements. In addition, the costs of regulatory compliance should be reduced for funds and, ultimately, for investors.

Elimination of the ''substance of which'' requirement from rule 482 should not diminish investor protection. The ''substance of which'' requirement is a technical requirement that does not, in itself, prevent misleading statements because it does not require an advertisement to use the same words as the statutory prospectus or prohibit the use of advertising techniques that are not included in the statutory prospectus.[13] Importantly, rule 482 advertisements, as ''prospectuses,'' will remain subject to liability under section 12(a)(2) of the Securities Act and the antifraud provisions of the federal securities laws. Also, rule 482 advertisements, as section 10(b) prospectuses under the Securities Act, are subject to the summary suspension provisions of section 10(b), which permit the Commission to suspend the use of a materially false or misleading prospectus.[14] In addition, fund advertising materials must continue to be filed with NASD Regulation, Inc. (''NASDR'') or the Commission, and NASDR rules relating to fund advertising will continue to apply.[15] Finally, we are adopting additional amendments to rule 482 to reinforce antifraud protections, particularly in the area of fund performance.[16]

We are using our exemptive authority under the Securities Act to eliminate the ''substance of which'' requirement from rule 482 for the securities of business development companies (''BDCs'') as well as registered investment companies.[17] Currently, BDCs and registered investment companies are treated similarly under rule 482. We believe that it is appropriate to extend the benefits that would result from elimination of the ''substance of which'' requirement to BDCs, given that elimination of this requirement should not diminish investor protection. We note, however, that BDCs, unlike mutual funds, do not continuously offer and sell their shares and do not make extensive use of advertisements.

We are also adopting amendments removing the provisions of rule 134 that apply specifically to funds and are excluding both registered investment companies and business development companies from relying on rule 134.[18] We believe that, with the elimination of the ''substance of which'' requirement from rule 482, funds will no longer need to rely on rule 134. Rule 134 will remain available to other issuers. We have made technical modifications to our proposed amendments to rule 134 in order to retain the existing introductory text of rule 134 for these issuers.[19] Rule 482, as amended, will provide funds with sufficient flexibility to discuss topics, such as current economic conditions, that are currently discussed in rule 134 advertisements but generally not in the statutory prospectus. We believe that investor protection will be increased if fund advertisements including this

1999 and 2000 focused on extraordinary performance).

[9] *See* Kimberly Weisul, *Mutual Fund Ads: Reader Beware,* Business Week, September 15, 2003, at 44; Suzanne McCoy, *Performance Ads Return in Q2 as Spending Drops* (August 12, 2003) *http://www.ignites.com;* Gregg Wolper, *Buy this Fund—It's Had a Great Week!,* Morningstar Online, July 15, 2003, available at *http://news.morningstar.com/doc/document/print/1,3651,93809,00.html.*

[10] The comment letters and a summary of the comments are available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, NW., Washington, DC 20549–0102. Public comments submitted electronically and the comment summary are also available on the Commission's Internet Web site (*http://www.sec.gov*).

[11] The ''substance of which'' requirement is presently contained in current rule 482(a)(2) [17 CFR 230.482(a)(2)]. We are also revising the language in the note to current paragraph (a)(3) of rule 482, which states that ''[t]he fact that the statements included in the advertisement are included in the section 10(a) prospectus does not relieve the issuer, underwriter, or dealer of the obligation to ensure that the advertisement is not false or misleading.'' [17 CFR 230.482(a)(3)]. The removal of the ''substance of which'' requirement makes the reference to the section 10(a) prospectus unnecessary. The revised language of this note is incorporated into the note to newly adopted paragraph (a) of rule 482 [17 CFR 230.482(a)]. *See* Section II.B., ''Applicability of Antifraud Provisions to Fund Advertising,'' *infra.*

[12] 15 U.S.C. 80a–24(g). *See also* S. Rep. No. 293, 104th Cong., 2d Sess. 8 (1996) (stating that the ''bill improves fund advertising by giving the Commission express authority to create a new investment company 'advertising prospectus' '').

[13] *See* Investment Company Act Release No. 9811 (June 8, 1977) [42 FR 30379, 30380 (June 14, 1977)] (''1977 Advertising Proposing Release'') (proposing rule 434d, subsequently renumbered as rule 482).

[14] 15 U.S.C. 77j(b).

[15] Section 24(b) of the Investment Company Act [15 U.S.C. 80a–24(b)] requires the filing with the Commission of ''any advertisement, pamphlet, circular, form letter, or other sales literature'' for any registered investment company other than a closed-end fund. Rule 24b–3 under the Investment Company Act [17 CFR 270.24b–3] relieves funds of the obligation to file advertisements and other sales materials with the Commission if those materials are filed with NASDR.

Members of the National Association of Securities Dealers, Inc. (''NASD'') also must comply with rule 2210 of the NASD Conduct Rules when sponsoring fund advertisements. Rule 2210 outlines general standards for what may constitute misleading fund advertising and specific requirements for advertising communications. Rules 2210(d)(1) and (2) of the NASD Conduct Rules.

[16] *See* discussion in Section II.B., ''Applicability of Antifraud Provisions to Fund Advertising,'' and Section II.C., ''Enhanced Disclosure Under Rule 482,'' *infra.*

[17] Section 28 of the Securities Act [15 U.S.C. 77z–3]. Business development companies are a category of closed-end investment companies that are not required to register under the Investment Company Act. *See* section 2(a)(48) of the Investment Company Act [15 U.S.C. 80a–2(a)(48)] (defining ''business development company'').

[18] 17 CFR 230.134. Rule 134, in contrast to rule 482, is a content-based rule that specifies certain categories of information that a fund may advertise. Currently, funds may advertise a broad range of information under rule 134, other than performance information. *See* Proposing Release, *supra* note 7, 67 FR at 36714.

[19] *See* 17 CFR 230.134(e) (registered investment companies and business development companies excluded from rule 134).

information are subject to rule 482 and, as a result, to liability under section 12(a)(2) of the Securities Act.[20]

A number of commenters opposed the elimination of funds' ability to rely on rule 134, objecting to the application of the more stringent liability standard under section 12(a)(2) of the Securities Act to fund advertisements that have in the past fallen within the scope of rule 134. Commenters argued that the limitations on the type of information that may be included in rule 134 advertisements provide sufficient protection against fraud or misleading statements so that the more rigorous liability standard under section 12(a)(2) is not necessary. In addition, they argued that, in the absence of evidence of significant abuse, there is no reason to eliminate funds' ability to rely on rule 134 and impose the burden of increased liability.

We are not persuaded by these comments because we believe that the standard of liability that attaches to a fund advertisement should not depend on the content of the advertisement. Nor do we believe that exactly the same content should be subject to different liability standards depending on whether that content is included in a rule 134 advertisement or a rule 482 advertisement. Assuming that commenters are correct that the limitations on the type of information that may be included in rule 134 advertisements provide protection against fraud, then it should not be problematic to apply a more rigorous liability standard to this information. Further, our elimination of funds' ability to rely on rule 134 is not intended to address significant past abuses, but to help to prevent false and misleading advertisements in the future. Finally, excluding investment companies from rule 134 is consistent with the goal of regulatory simplification. With the elimination of the ''substance of which'' requirement from rule 482, any advertisement that could be presented under rule 134 may also be presented under rule 482. The elimination of funds' ability to rely on rule 134 will eliminate unnecessary complexity in the regulation of fund advertising.

B. Applicability of Antifraud Provisions to Fund Advertising

We are adopting, with modifications suggested by the commenters, amendments to the fund advertising rules that are intended to reemphasize that fund advertisements are subject to the antifraud provisions of the federal securities laws. When we initially proposed rule 482 in 1977, we indicated that rule 482 advertisements would be subject to section 12(a)(2) of the Securities Act and the antifraud provisions of the federal securities laws.[21] Since then, we have reiterated that compliance with the ''four corners'' of rule 482 does not alter the fact that funds, underwriters, and dealers are subject to the antifraud provisions of the federal securities laws with respect to fund advertisements.[22]

To emphasize this principle, we are adding a note to newly adopted paragraph (a) of rule 482 that states that an advertisement that complies with rule 482 does not relieve the fund, underwriter, or dealer of any obligations with respect to the advertisement under the antifraud provisions of the federal securities laws. We also are adding a similar note to the introductory paragraph of rule 34b–1 under the Investment Company Act with respect to supplemental sales literature. These notes include cross-references to rule 156 under the Securities Act, which provides guidance about the factors to be weighed in determining whether statements, representations, illustrations, and descriptions contained in fund advertisements and sales literature are misleading.[23]

As proposed, the language of the notes to rules 482 and 34b–1 would have stated that compliance with the rules does not relieve the fund, underwriter, or dealer of the obligation to ''ensure'' that the advertisement is not false or misleading. One commenter objected to the use of the term ''ensure,'' stating that it could potentially expand the responsibility of funds, underwriters, and dealers because it might imply that they are guarantors of the accuracy of statements contained in advertisements. Our proposal incorporated language, including the term ''ensure,'' similar to that used in an existing note to paragraph (a)(3) of rule 482, and we did not intend to alter existing standards of liability.[24] In order to address the commenter's concern, however, we have revised the language of the note to remove the term ''ensure'' and clarify that compliance with rules 482 and 34b–1 does not relieve the fund, underwriter, or dealer of any obligations with respect to the advertisement under the antifraud provisions of the federal securities laws. This change is intended to clarify that the scope of a fund's, underwriter's, or dealer's obligations under the antifraud provisions is drawn from the federal securities laws and relevant precedents and not from the language of rule 482 or 34b–1 itself.

Two commenters urged the Commission to confirm in the adopting release that, notwithstanding the note to rule 482(a), performance information in a rule 482 advertisement (as opposed to other disclosures included in the advertisement) will not be deemed to be false or misleading if it (i) is computed in accordance with the methodology required by the rule; and (ii) complies with the currentness requirements of the rule. We disagree with this position. An advertisement that complies with rule

[20] Because a rule 482 advertisement is a prospectus under section 10(b) of the Securities Act, a rule 482 advertisement is subject to section 12(a)(2) of the Securities Act [15 U.S.C. 77l(a)(2)], which imposes liability for materially false or misleading statements in a prospectus or oral communication, subject to a reasonable care defense. An action under section 12(a)(2) does not require proof of scienter (*i.e.*, an intent to defraud investors), *e.g., Wigand* v. *Flo-Tek, Inc.,* 609 F.2d 1028, 1034 (2d Cir. 1979), or investor reliance on a misleading statement or omission, *e.g., MidAmerica Fed. S. & L. Assoc.* v. *Shearson/American Express, Inc.,* 886 F.2d 1249, 1256 (10th Cir. 1989); *Sanders* v. *John Nuveen & Co.,* 619 F.2d 1222, 1225 (7th Cir. 1980), *cert. denied,* 450 U.S. 1005 (1981). In contrast, antifraud claims by investors under section 10(b) of the Securities Exchange Act of 1934 (''Exchange Act'') [15 U.S.C. 78j(b)] require proof of scienter and investor reliance. Under either type of claim, however, the plaintiff must establish that the misrepresentation or omission is material. Rule 134 advertisements are subject to the antifraud provisions under the Federal securities laws but do not create liability under section 12(a)(2) of the Securities Act because rule 134 advertisements are not considered ''prospectuses.'' Rule 134 was adopted under section 2(a)(10)(b) of the Securities Act [15 U.S.C. 77b(a)(10)(b)], which excepts certain communications from the definition of ''prospectus.''

[21] 1977 Advertising Proposing Release, *supra* note, 42 FR at 30380.

[22] Investment Company Act Release No. 16245 (Feb. 2, 1988) [53 FR 3868, 3878 n. 51 (Feb. 10, 1988)]. *See also* Investment Company Act Release No. 24832 (Jan. 18, 2001) [66 FR 9002, 9008 (Feb. 5, 2001)] (compliance with rule 482 is not a safe harbor from antifraud liability); Investment Company Act Release No. 15315 (Sept. 17, 1986) [51 FR 34384, 34391 (Sept. 26, 1986)] (in proposing amendments to rule 482 to require the inclusion of a legend on advertisements, Commission stated that it was ''not suggesting that the legend information contains all the material information necessary to prevent an ad from being misleading . . . [and] that whoever sponsors the ad, be it the fund, the underwriter, or the dealer, bears the primary responsibility for assuring that the ad is not false or misleading''); 1977 Advertising Proposing Release, *supra* note, 42 FR at 30380 (advertisements made pursuant to rule 434d (subsequently renumbered as rule 482) would be subject to the antifraud provisions of the securities laws); *In the Matter of The Dreyfus Corporation and Michael L. Schonberg,* Investment Advisers Act Release No. 1870 (May 10, 2000) (advertisements that comply with rule 482 are subject to the general antifraud provisions of the securities laws).

[23] 17 CFR 230.156.

[24] Note to current rule 482(a)(3) [17 CFR 230.482(a)(3)] (''The fact that the statements included in the advertisement are included in the section 10(a) prospectus does not relieve the issuer, underwriter, or dealer of the obligation to ensure that the advertisement is not false or misleading.'')

482 will be deemed to be an ''omitting prospectus'' under section 10(b) of the Securities Act for the purposes of section 5(b)(1) of the Securities Act.[25] Rule 482, however, is not a safe harbor from antifraud liability for any information included in a rule 482 advertisement, including performance information complying with the requirements of the rule.

In addition, we are amending rule 156 to provide further guidance regarding the factors to be weighed in considering whether a statement involving a material fact in investment company sales materials is or might be misleading. As discussed in the Proposing Release, we are concerned that the advertisement of past performance without an adequate explanation of other facts may create unrealistic investor expectations or even mislead potential investors.[26] For that reason, we are modifying the language of rule 156 to state more explicitly that portrayals of past income, gain, or growth of assets may be misleading where the portrayals omit explanations, qualifications, limitations, or other statements necessary or appropriate to make these portrayals of past performance not misleading.[27] This language is intended to address our concerns with fund performance advertisements that do not provide adequate disclosure: (i) Of unusual circumstances that have contributed to fund performance; (ii) that more current performance may be lower than advertised performance; or (iii) that would permit an investor to evaluate the significance of performance that is based on selective dates.[28] We remind funds and their underwriters and dealers, however, that this language would address other circumstances that we have not specifically enumerated and that each fund, and its underwriters and dealers, is responsible for analyzing the facts and circumstances concerning its advertisements and determining whether its advertisements may be misleading.

C. Enhanced Disclosure Under Rule 482

We are adopting, with modifications to address commenters' concerns, additional amendments to rule 482 that will require enhanced disclosure of certain information designed to encourage advertisements that convey balanced information to prospective investors. Our amendments require that funds that advertise performance information make available to investors total returns that are current to the most recent month-end. They also require that fund advertisements include improved narrative information and present explanatory information more prominently.

Availability of Month-End Performance Information

Currently, rule 482(g) requires all performance data contained in any mutual fund advertisement to be as of the most recent practicable date, provided that any advertisement containing total return quotations is considered to have complied with the requirement if the total return quotations are current to the most recent calendar quarter ended prior to submission of the advertisement for publication.[29] We are adopting a second condition for a fund advertisement to be considered to have complied with the requirement of rule 482 that performance be as of the most recent practicable date. Specifically, total return quotations current to the most recent month-end, and available to investors within seven business days of the most recent month-end, must be provided at a toll-free or collect telephone number or on a Web site, unless the advertisement contains total return quotations that are current to the most recent month ended seven business days prior to the date of use of the advertisement.[30] As a result, investors who are provided advertisements highlighting a fund's performance should have ready access to performance data that is current to the most recent month-end and will not be forced to rely on performance data that may be more than three months old at the time of use by the investor.

We have modified the proposed new condition to require that month-end performance information be available to investors within seven business days, rather than three calendar days, of the most recent month-end. A number of commenters objected to the three calendar-day timeframe as too short to gather the necessary information, particularly in cases in which funds are sold through intermediaries such as insurance companies and fund supermarkets, which sell funds from multiple complexes.[31] Some commenters suggested longer timeframes ranging up to seven business days. Other commenters indicated that it could take ten business days or more to gather all of the necessary information and that the Commission should adopt a standard permitting month-end performance information to be provided ''as soon as reasonably practicable'' or within a ''reasonable time.''

We are persuaded by the comments that the proposed timeframe should be extended to seven business days. Particularly in the case of intermediary-sold funds, it could be difficult to gather, format, and make available the necessary information in three calendar days. Based on the comments, we believe that seven business days typically will provide sufficient time for making month-end performance data available. We recognize that there may be circumstances where more time is needed. We note, however, that if a fund exceeds the seven business-day timeframe in making month-end performance data available, it may nonetheless be in compliance with the currentness provisions of rule 482, as long as the performance data contained in an advertisement is ''as of the most recent practicable date considering the type of investment company and the media through which the data will be conveyed.''[32]

We are also modifying the proposed condition in order to permit month-end performance information to be made available either at a toll-free or collect telephone number or on a Web site. The proposed rules would have required funds to make the information available by toll-free or collect telephone number. A number of commenters argued that funds should be permitted to make the information available through the Internet. They argued that telephone access to month-end information could be unnecessarily burdensome for both investors and funds. They argued that

[25] Section 5(b)(1) of the Securities Act [15 U.S.C. 77e(b)(1)] makes it unlawful to use interstate commerce to transmit any prospectus relating to a security with respect to which a registration statement has been filed unless the prospectus meets the requirements of section 10 of the Securities Act. Section 10(b) of the Securities Act [15 U.S.C. 77j(b)] permits the Commission to adopt rules that provide for a prospectus that ''omits in part'' or ''summarizes'' information contained in the statutory prospectus. Rule 482 was adopted under the authority of section 10(b) of the Securities Act.

[26] *See* Proposing Release, *supra* note 7, at Section I.B., ''Performance Advertising Practices,'' 67 FR at 36715–16.

[27] 17 CFR 230.156(b)(2)(i); *Cf.* 17 CFR 230.156(b)(1)(ii) (''A statement could be misleading because of * * * [t]he absence of explanations, qualifications, limitations or other statements necessary or appropriate to make such statement not misleading * * * '').

[28] *See* Proposing Release, *supra* note 7, 67 FR at 36715–16 (discussing concerns about lack of disclosure relating to unusual circumstances contributing to fund performance, currentness of performance information, and selective use of performance figures).

[29] Current 17 CFR 230.482(g).

[30] 17 CFR 230.482(g)(1)(ii) and (g)(2).

[31] A fund supermarket is a program offered by a broker-dealer or other financial institution through which its customers may purchase and redeem shares of a variety of funds from different fund complexes.

[32] 17 CFR 230.482(g).

an automated system could be unwieldy, requiring the investor to navigate through several series of menus and numerous prompts to retrieve the requested information when, for example, an intermediary offers numerous funds or a variable insurance contract issuer offers multiple contracts with multiple underlying investment options. They also argued that funds would incur significant expense in setting up automated telephone systems or in using live telephone operators to provide updated information, whereas most funds could use existing Web sites as an efficient means of communicating month-end performance data.

We are persuaded by these comments and are revising the proposal to permit funds to make month-end data available at a toll-free or collect telephone number or at a Web site.[33] We were particularly concerned that investors could become frustrated with navigating through multiple telephone prompts to obtain information about the particular fund in which they are interested. We were persuaded that funds should be permitted to determine whether this information could be provided in a more accessible, user-friendly format on a Web site. A single table could, for example, contain performance information for multiple funds, enabling an investor to find the relevant information at a glance. We encourage funds and their intermediaries to take advantage of the rule's flexibility to present month-end performance information through a medium and in a format that is readily accessed and understood by investors.

We remind funds that the availability of month-end performance information by telephone or Web site does not alter the application of the antifraud provisions of the federal securities laws to an advertisement. The month-end information obtained through a telephone call or Web site would not be considered part of the advertisement itself and would not cure any materially misleading statement or omission in the advertisement.

We wish to clarify that a fund advertisement may provide the telephone number or Web site of a third-party intermediary as the source for obtaining month-end performance information. The Proposing Release stated that updated performance information should be available from the fund itself and that other forms of distribution of this information should supplement availability from the fund itself.[34] We recognize, however, that, in some cases, it may not be practical for month-end performance information to be available from the fund itself. For example, when a fund is sold through and advertised by a fund supermarket, it may be most practical for the fund supermarket to provide updated performance information to its customers. In the case of a variable annuity contract, fund performance net of contract charges is typically calculated by the insurance company sponsor rather than the fund and updated contract performance may perhaps be most appropriately provided by the insurance company.

Several commenters asked us to clarify whether the narrative disclosures that would normally be required in a rule 482 advertisement would be required when updated month-end performance information is provided through a toll-free or collect telephone number. These disclosures include statements regarding factors that investors should consider before investing, prospectus availability, limitations of past performance information, and sales loads.[35] These disclosures need not be provided on a toll-free or collect telephone line that is dedicated exclusively to providing updated month-end performance information to investors calling in response to a rule 482 performance advertisement because the investors would have received those disclosures in the original advertisement. If, however, the telephone number is used more broadly (*e.g.*, for all incoming calls to a fund group), the toll-free or collect telephone number should include the narrative disclosures required by rule 482 because a caller may not have seen the original advertisement with the required disclosures. Similarly, if updated month-end performance information is provided on a Web site, all of the narrative disclosures required by rule 482 should be included because the Web site is broadly accessible to the public.

We are modifying the proposal to address the concerns of several commenters who suggested that the Commission not require a fund that advertises performance current to the most recent month-end also to provide that information by toll-free or collect telephone number. The commenters argued that, in such cases, providing a telephone number for obtaining this information would confuse investors. Investors would call the telephone number, only to be given the same information that already appears in the advertisement. Accordingly, we are modifying the proposal to provide that an advertisement containing total return quotations is considered to have complied with the requirement that all performance data be as of the most recent practicable date if the total return quotations are current to the most recent month ended seven business days prior to the date of use of the advertisement.[36] A fund advertisement including information meeting this standard need not identify a toll-free or collect telephone number or a Web site where an investor may obtain performance data current to the most recent month-end.[37]

We note that the exception from the requirement to provide month-end performance information by toll-free or collect telephone number or Web site applies only to advertisements that contain total return quotations that are current to the most recent month ended seven business days prior to the date of *use* of the advertisement. It is not sufficient if the advertisement contains total return quotations that are current to the most recent month ended seven business days prior to the date of *publication or submission for publication* of the advertisement if that standard is no longer met when the advertisement is used. It also is not sufficient if the advertisement contains total return quotations that are current to the most recent month ended seven business days prior to the date of *first use* of the advertisement if that standard is not met throughout the entire period of use of the advertisement.[38] Our intent is that an investor have access to current month-end information at the time he or she reviews an advertisement, either in the advertisement itself or through a toll-free or collect telephone number or Web site.

Thus, a Web site that is continuously updated so that it always contains total return quotations that are current to the most recent month ended seven business days earlier need not identify a toll-free or collect telephone number or a Web site where an investor may obtain month-end performance data. Similarly, an advertisement in a daily newspaper that appears on one particular day and contains total return quotations that are current to the most recent month ended seven business days prior to the date that the

[33] 17 CFR 230.482(g)(1)(ii); 17 CFR 230.482(b)(3)(i).

[34] *See* Proposing Release, *supra* note , 67 FR at 36719.

[35] 17 CFR 230.482(b)(1)(i), (b)(3)(i), and (b)(3)(ii).

[36] 17 CFR 230.482(g)(2).

[37] 17 CFR 230.482(b)(3)(i).

[38] Note to rule 482(b)(3)(i) [17 CFR 230.482(b)(3)(i)]; note to rule 482(g) [17 CFR 230.482(g)].

advertisement appears need not identify a source where an investor may obtain month-end performance data. By contrast, an advertisement containing performance information for a group of funds that is intended to be distributed to investors for an extended period (*e.g.*, throughout a quarter) would be required to identify a toll-free or collect telephone number or a Web site where an investor may obtain month-end performance data even if the advertisement contains total return quotations that are current to the most recent month ended seven business days prior to the date on which the advertisement is first distributed to investors.

In determining the date of use of an advertisement, consideration should be given to all the facts and circumstances, such as the dates on which the advertisement is first published and distributed, the last date on which the advertisement is distributed, and, in the case of an advertisement appearing in a periodical, the dates on which the next issue of the periodical is first published and distributed. We would encourage funds to provide month-end performance information by toll-free or collect telephone number or Web site in any case where a question about the date of use results in a question as to whether an advertisement contains total return quotations that are current to the most recent month ended seven business days prior to the date of use.

Two commenters stated that an advertisement that includes performance information that is more current than the most recent month-end also should not be required to provide a source for month-end information. We disagree. When a fund chooses a date other than a quarter or month-end for presenting performance, there is potential for ''cherry picking'' the date to provide particularly favorable information. In such a case, we believe that month-end performance information should be made available to investors as a check on any such ''cherry picking'' and to provide investors with information from different funds for comparable periods.

Improved Narrative Disclosure

Advertising that focused on extraordinary fund performance during 1999–2000 led to increasing concerns that some funds, when advertising their performance, may resort to techniques that create unrealistic investor expectations or may mislead potential investors. These concerns have arisen again with the recent improvement in market performance, as commentators have noted an increase in advertisements highlighting favorable short-term performance.[39] To address these concerns, we are adopting, with modifications to address concerns raised by commenters, changes to the narrative disclosure that is required to accompany performance advertisements. These changes are intended to help investors understand the limitations of past performance data and enhance their ability to obtain updated performance information. In particular, these amendments will require funds to include the following information in rule 482 advertisements that contain performance data: (i) A statement that past performance does not guarantee future results; (ii) a statement that current performance may be lower or higher than the performance data quoted; and (iii) a toll-free or collect telephone number or a website where an investor may obtain performance data current to the most recent month-end, unless the advertisement includes total return quotations current to the most recent month ended seven business days prior to the date of use.[40] An advertisement may combine two or more of these required statements in a single sentence, provided that each of the required disclosures is clear and easy to understand. Similarly, an advertisement may use any language that clearly communicates the information required to be disclosed.

We have modified the proposed required disclosure regarding the availability of month-end performance data in two ways that parallel modifications that we have made to the proposed requirements regarding availability of month-end performance data. First, the rule as adopted will permit identification of *either* a Web site *or* a toll-free or collect telephone number where an investor may obtain current month-end information. Second, an advertisement containing total return quotations current to the most recent month ended seven business days prior to the date of use would not be required to identify a toll-free or collect telephone number or a Web site where an investor may obtain performance data current to the most recent month end.[41]

We are also adopting, with modifications suggested by a commenter, an amendment to rule 482 that would direct prospective investors' attention to a fund's charges and expenses. As proposed, the amendment would have required a fund to note in its rule 482 advertisement that information about charges and expenses is included in the statutory prospectus. As adopted, the rule would require rule 482 advertisements to include a statement that advises an investor to consider the fund's investment objectives, risks, and charges and expenses carefully before investing; explains that the prospectus contains this and other information about the investment company; identifies a source from which an investor may obtain a prospectus; and states that the prospectus should be read carefully before investing.[42] We were persuaded by a commenter's argument that the proposed required disclosures, while helpful, would not adequately direct investors' attention to the important factors that they should consider. We agree with the commenter that investors should consider a fund's objectives and risks, and its charges and expenses, before investing because these factors will directly affect future returns. We are concerned that the many fund advertisements highlighting performance have focused investors' attention on fund returns and that investors may be overlooking other important fund features, particularly charges and expenses, that may diminish a fund's returns.[43]

One commenter sought clarification as to how this provision would apply in the context of variable insurance products in light of recently adopted changes to disclosure requirements for variable insurance prospectuses, which require disclosure of the range of operating expenses of underlying funds in the contract prospectus, with detailed information about the expenses of each underlying fund required to be

[39] *See supra* note 9.

[40] 17 CFR 230.482(b)(3)(i).

[41] *See* ''Availability of Month-End Performance Information,'' *supra.*

[42] 17 CFR 230.482(b)(1)(i). Similar disclosure will also be required in an advertisement used with a profile pursuant to rule 498 under the Securities Act [17 CFR 230.498]. 17 CFR 230.482(b)(1)(ii).

Rule 482 currently does not require a fund to highlight the importance of information regarding the fund's investment objectives, risks, and charges and expenses. The rule does, however, require an advertisement to identify a source from which an investor may obtain a prospectus containing more complete information about the fund, which should be read carefully before investing. Current 17 CFR 230.482(a)(3)(i). The rule also requires that a fund that advertises performance data include some information about sales loads and other non-recurring fees. Current 17 CFR 230.482(a)(6).

[43] *See* Securities and Exchange Commission, *Mutual Fund Investing: Look at More Than a Fund's Past Performance* (last modified Jan. 24, 2000) *http://www.sec.gov/investor/pubs/mfperform.htm* (cautioning investors to look beyond performance when evaluating funds and to consider the costs relating to a fund investment). *See also* NASD Notice to Members No. 98–107 (1998) (reminding members of their obligation to ensure that discussions concerning fees and expenses in fund advertising are fair, balanced, and not misleading).

disclosed in the fund's prospectus.[44] A variable insurance product advertisement should direct investors to both the contract prospectus and the underlying fund prospectuses. Both the contract prospectus and the underlying fund prospectuses contain information relating to the product's investment objectives, risks, and charges and expenses as well as other important information.

Presentation of Explanatory Information

We are adopting, with modifications suggested by commenters, requirements that funds present certain information in their rule 482 advertisements more prominently. These prominence requirements are designed to prevent advertisements from marginalizing or minimizing the presentation of the required disclosure. The amendments will require print advertisements to present required narrative disclosures in a type size at least as large as and of a style different from, but at least as prominent as, that used in the major portion of the advertisement.[45] This requirement will apply to the required narrative disclosures about the prospectus and the performance data.[46] The amendments will also provide an exception to this requirement, which was suggested by a commenter; *i.e.*, when performance data is presented in a type size smaller than that of the major portion of the advertisement, the required narrative disclosure pertaining to the performance data may appear in a type size no smaller than that of the performance data.[47] We were persuaded that, in such cases, presenting the required performance-related narrative disclosure in a type size larger than that of the performance data itself may be distracting.

The newly adopted type size and style requirements will apply to print advertisements. We have modified the proposed requirement, as suggested by a commenter, to clarify that if an advertisement is delivered through an electronic medium, the type size and style requirements may be satisfied by presenting the required narrative disclosures in any manner reasonably calculated to draw investor attention to them.[48] This is consistent with rule 420(b) under the Securities Act, which provides that prospectuses distributed through an electronic medium may satisfy legibility requirements applicable to printed documents by presenting all required information in a format readily communicated to investors, and where indicated, in a manner reasonably calculated to draw investor attention to the specific information.[49]

We are adopting, as proposed, the requirement that radio and television advertisements give the required narrative disclosures emphasis equal to that used in the major portion of the advertisement.[50] Two commenters recommended that, with respect to television advertisements, we clarify that the required narrative disclosures need not be provided orally and that, instead, they may be provided in written text on the television screen. We do not agree that the required disclosures would have an emphasis equal to that of the major portion of the advertisement if the required disclosures are in written form, while the major portion of the advertisement is spoken. If the required disclosures appear in writing on a television screen during a spoken advertisement, we believe that they are more likely to be overlooked, and not seen as a significant part of the advertisement, than if they are included in the spoken presentation of the advertisement.

In addition, we are adopting, as proposed, a requirement that the narrative disclosures that specifically relate to fund performance be presented in close proximity to the performance data in both print and radio and television advertisements.[51] In a print advertisement, this information also would be required to appear in the body of the advertisement and not in a footnote. Rule 482 currently requires that performance advertisements identify the dates during which quoted performance occurred.[52] We are adopting, as proposed, a requirement that this information be adjacent to, and have no less prominence than, the performance quotation itself.[53] These proximity requirements are intended to help investors more readily find information necessary to understand and evaluate the performance data shown, and to remind investors of the limitations of performance data.

While the newly adopted prominence and proximity requirements apply only to certain information expressly required by rule 482, we wish to emphasize that the purpose of these requirements is to encourage fair and balanced advertisements. In that regard, we encourage funds and their underwriters and dealers to review their advertisements to ensure that the format of all the information in an advertisement results in a fair and balanced presentation. For example, an advertisement that hypes extraordinary performance but contains only footnote disclosure of unusual circumstances that have contributed to fund performance may not result in a fair and balanced presentation.[54]

[44] Form N–4, Item 3 [17 CFR 239.17b; 17 CFR 274.11c]; Form N–6, Item 3 [17 CFR 239.17c; 17 CFR 274.11d].

[45] 17 CFR 230.482(b)(5). The presentation requirements for rule 482 are the same as those currently required under rule 134. 17 CFR 230.134(a)(iii). The presentation requirements would replace the current rule 482 requirement that certain required disclosures be ''conspicuous.'' Current 17 CFR 230.482(a)(3).

[46] 17 CFR 230.482(b)(1) and (3). The narrative disclosure covered by the prominence requirement will also include, if applicable, the ''subject to completion'' legend that will be required by rule 482(b)(2) and, if the advertisement is used with a profile under rule 498 under the Securities Act [17 CFR 230.498], disclosure advising investors to consider the fund's investment objectives, risks, and charges and expenses carefully before investing, explaining that the profile contains this and other information about the fund, describing the procedures for investing in the fund, and indicating the availability of the prospectus. 17 CFR 230.482(b)(1)(ii) and (b)(2). In addition, the prominence requirement will extend to disclosures specific to money market funds. 17 CFR 230.482(b)(4).

[47] 17 CFR 230.482(b)(5).

[48] *Id.*

[49] 17 CFR 230.420(b). Rule 420 applies to rule 482 advertisements. Note to rule 482(a) [17 CFR 230.482(a)]. *See* Securities Act Release No. 7289 (May 9, 1996) [61 FR 24652, 24652 (May 15, 1996)] (amending Commission rules to provide that issuer, when delivering electronic version of document, may comply with requirements prescribing physical appearance of paper document by (i) presenting the information in a format readily communicated to investors; and (ii) where legends are required to be printed in red ink or bold-face type, or in a different font size, presenting legends in any manner reasonably calculated to draw attention to them).

[50] 17 CFR 230.482(b)(5).

[51] *Id.* The disclosure subject to the proximity requirement would include all of the disclosures required by paragraphs (b)(3)(i) and (ii) of rule 482. 17 CFR 230.482(b)(3)(i) and (ii). Paragraph (b)(3)(i) of rule 482 requires disclosure that the performance data quoted represents past performance; that past performance does not guarantee future results; in the case of a non-money market fund, that the investment return and principal value of an investment will fluctuate; that current performance may be lower or higher than the performance data quoted; and a toll-free telephone number or Web site where an investor may obtain month-end performance data. Paragraph (b)(3)(ii) of rule 482 requires that, if a sales load or any other nonrecurring fee is charged, the advertisement must disclose the maximum amount of the load or fee. In addition, if the sales load or fee is not reflected, the advertisement must also disclose that the performance data does not reflect its deduction, and that, if reflected, the load or fee would reduce the performance quoted. *Cf.* Proposing Release, *supra* note 7, 67 FR at 36721 n. 82 (omitting to state explicitly that disclosures of paragraph (b)(3)(ii) of rule 482 are covered by proximity requirement).

[52] Current 17 CFR 230.482(d)(1)(i), (e)(1)(iv), (e)(2)(v), (e)(3)(iv), (e)(4)(vi), and (e)(5)(v).

[53] 17 CFR 230.482(d)(1)(iv), (d)(2)(v), (d)(3)(iv), (d)(4)(vi), (d)(5)(v), and (e)(1)(i).

[54] *See* Section II.B., ''Applicability of Antifraud Provisions to Fund Advertising,'' *supra* (discussing Commission's concerns with inadequate disclosure in fund performance advertising of unusual circumstances contributing to performance).

Two commenters also recommended that for purposes of spoken advertisements, such as those on radio and television, we clarify that the proximity requirements would not require that the required performance-related disclosures immediately follow any performance information so long as they are given emphasis equal to that of the major portion of the advertisement. In the case of spoken advertisements, we believe that the required performance-related disclosures should appear immediately after, immediately before, or briefly separated from the performance information. Our goal is that investors be readily able to understand the limitations of past performance data, and we would be concerned if performance information in a spoken advertisement were significantly separated from the required disclosures. On the other hand, we recognize that, in a relatively short, spoken advertisement, funds should have some flexibility to determine the appropriate placement of the required disclosures.

One commenter requested clarification of how the proximity requirements would apply to advertisements consisting of lists of fund performance information over multiple pages. The commenter stated that we should not interpret the amendments to require that the required disclosures be repeated on every page of such a listing, which could result in the required disclosures being viewed as boilerplate and ignored. We agree that, in the case of an advertisement that consists of a list of performance data longer than one page in length, the required performance-related disclosures may appear once, at the beginning of the list, such as on the cover page or first page, provided that the required disclosures are presented in conformity with the prominence requirements of the rule.[55]

Several commenters requested clarification concerning the applicability of the proximity requirements to Web site advertisements, arguing that it should be sufficient if the required performance-related disclosures appear either (i) on a screen that must be accessed prior to the investor accessing the actual performance information, or (ii) through a pop-up message or link on the screen that contains the performance information. As a general matter, we disagree with this interpretation of the proximity requirements and would expect the required performance-related disclosures to appear on the same webpage as the performance data to which the disclosures relate and in close proximity to that data. This will provide investors who are reviewing a Web site advertisement with access to the required disclosure that is substantially equivalent to that provided through a paper advertisement that meets the proximity requirements.

We are also adopting amendments to rule 34b–1 to clarify that the newly adopted prominence and proximity requirements will apply to supplemental sales literature.[56]

D. Reorganization of Rule 482 and Technical Form Amendments

We are adopting, as proposed, amendments reorganizing rule 482 to make it easier to use. We are also adopting, as proposed, amendments to Forms N–1A, N–3, N–4, and N–6 to reflect the removal of the ''substance of which'' requirement in rule 482.[57] In addition, we are adopting additional technical amendments to Forms N–3 and N–4, also to reflect the removal of the ''substance of which'' requirement in rule 482.[58]

E. Rule 482(a)(5)(i) Relating to Variable Insurance Products

Rule 482 generally prohibits a rule 482 advertisement from containing or being accompanied by an application to purchase fund shares.[59] However, the rule contains an exception from the prohibition against applications for unit investment trusts that offer variable annuity or variable life insurance contracts.[60] These contracts permit investors to allocate premiums among a variety of underlying mutual funds in which the unit investment trust invests. The contract prospectuses contain descriptions of the underlying mutual funds, which are considered rule 482 advertisements for the underlying funds.[61] The underlying funds are separately registered as management investment companies on Form N–1A and offer their shares through separate prospectuses. The exception from the prohibition on applications for variable insurance contracts permits an application for the contract (which provides for investor allocation of purchase payments to specific underlying funds) to accompany the contract prospectus, even though the contract prospectus constitutes a rule 482 advertisement for the underlying mutual funds and even though prospectuses for the underlying funds do not accompany the contract prospectus.[62]

By its terms, the exception permits a contract application to accompany a rule 482 advertisement for the underlying funds only when the rule 482 advertisement is a part of the contract prospectus itself. As we noted in the Proposing Release, in recent years, members of the variable insurance industry have argued that it should be permissible for a contract prospectus and application to be accompanied by other rule 482 advertisements for the underlying funds that are not a part of the prospectus itself.[63]

Advocates of this position argue that rule 482 permits either of the following: (i) delivery of a rule 482 advertisement for an underlying fund (without an application); and (ii) delivery of a contract prospectus with an application. Therefore, they argue that, under rule 482, delivery of a rule 482 advertisement for an underlying fund (without an application) could be either preceded or followed by delivery of a contract prospectus with an application. As a result, they conclude that it should be permissible for a contract prospectus and application to be accompanied by other rule 482 advertisements for the underlying funds because whether the delivery of the additional rule 482 advertisements is made together with the contract material or separately from

[55] This clarification is limited to advertisements consisting of multi-page *paper* documents. Applicability of the presentation requirements to Web sites consisting of multiple Web pages is discussed *infra.*

[56] 17 CFR 270.34b–1(a) and (b)(1)(i).

[57] *See* Item 21 of Form N–1A [17 CFR 239.15A; 17 CFR 274.11A]; Items 4 and 25 of Form N–3 [17 CFR 239.17a; 17 CFR 274.11b]; Items 4 and 21 of Form N–4 [17 CFR 239.17b; 17 CFR 274.11c]. The amendments delete Item 25 of Form N–6 [17 CFR 239.17c; 17 CFR 274.11d].

Form N–1A is the registration form for open-end management investment companies. Form N–3 is the registration form for separate accounts organized as management investment companies that offer variable annuity contracts. Form N–4 is the registration form for separate accounts organized as unit investment trusts that offer variable annuity contracts. Form N–6 is the registration form for separate accounts that are registered as unit investment trusts and that offer variable life insurance policies.

[58] *See* General Instruction F and Item 28 of Form N–3 and General Instruction F and Item 24 of Form N–4.

[59] Current 17 CFR 230.482(a)(5); newly adopted 17 CFR 230.482(c).

[60] Current 17 CFR 230.482(a)(5)(i); newly adopted 17 CFR 230.482(c)(1).

[61] *See* Item 5(c) of Form N–4 and Item 4(c) of Form N–6 (requiring brief description of each underlying mutual fund offered through the contract). *See also* Investment Company Act Release No. 14575 (June 14, 1985) [50 FR 26145, 26155 n. 48 and accompanying text (June 25, 1985)] (describing treatment of underlying mutual funds in contract prospectus as omitting prospectuses).

[62] *See* Investment Company Act Release No. 15315 (Sept. 17, 1986) [51 FR 34384, 34391 n. 60 (Sept. 26, 1986)].

[63] Proposing Release, *supra* note, 67 FR at 36723.

it is a question of form rather than substance.

We solicited comment regarding whether it should be permissible for a contract prospectus and application to be accompanied by other rule 482 advertisements for the underlying funds that are not a part of the prospectus itself. Three commenters supported permitting the practice. None opposed permitting the practice.

We agree that rule 482 advertisements for the underlying funds not contained in the contract prospectus itself should be permitted to be delivered simultaneously with the contract prospectus and the accompanying contract application, and we are adopting a revision to rule 482 to clarify that this practice is permitted.[64] We are persuaded that whether the delivery of the additional rule 482 advertisements is made together with the contract material or separately from it is a question of form rather than substance.

F. Compliance Dates

The amendment eliminating the ''substance of which'' requirement from rule 482 will take effect on November 15, 2003. Fund advertisements submitted for publication after March 31, 2004, should comply with all other amendments adopted in this release. This timeframe is consistent with the transition period requested by most commenters. Some variable insurance commenters requested a 12-month transition period, but, in light of the modifications we have made to the proposal (*e.g.,* month-end performance may be provided by Web site rather than by telephone), we do not believe that such a lengthy transition period is necessary.

III. Cost/Benefit Analysis

The Commission is sensitive to the costs and benefits associated with its rules. To provide funds with the ability to disclose more timely information in advertisements, the amendments adopted today remove the ''substance of which'' requirement contained in rule 482 under the Securities Act, and rescind the provisions in rule 134 under the Securities Act that apply to funds. In addition, the amendments reinforce the antifraud protections in the fund advertising rules, and require enhanced disclosure of certain information in fund advertisements designed to encourage advertisements that convey balanced information to prospective investors. Finally, the amendments make certain organizational changes to rule 482 and technical amendments to the registration forms.

In the Proposing Release, we provided an analysis of the costs and benefits of the amendments then proposed, and we requested comments.[65] Three commenters commented directly on this cost/benefit analysis, while others raised cost and benefit issues with regard to specific substantive provisions without specifically mentioning the cost/benefit analysis.

A. Benefits

The amendments modify rule 482 of the Securities Act and related rules and forms to provide more timely, informative, and balanced information in fund advertising for the benefit of investors. The amendments also simplify and clarify the advertising rules, thus, reducing regulatory compliance costs, and these cost savings may be passed on to investors.

1. Enhanced Disclosure of Information to Investors

Currently, the regulations concerning advertising include significant disclosure requirements. The amendments, as adopted, enhance the disclosure required to be provided to investors in fund advertising in several respects:

• *Availability of Monthly Performance Figures.* Performance advertisements will have to disclose a toll-free or collect telephone number or a Web site where an investor may obtain performance data current to the most recent month-end, unless the advertisement includes total return quotations current to the most recent month ended seven business days prior to the date of use.[66] Easy access to and awareness of this information will benefit investors not only by providing potentially more timely performance data and reducing the ability of funds to selectively use performance data, but also by highlighting for investors the limitations of relying too heavily on any one set of performance figures. In addition, availability of updated monthly performance data will make it easier for investors to compare performance among competing funds.

• *Legend.* If an advertisement provides performance figures, the amendments require the inclusion of a legend stating that past performance does not guarantee future results, and that current performance may be lower or higher than the data quoted.[67] This legend will benefit investors by making them more aware of the limitations of relying on performance data for investment decisions and thus may result in more informed investment decisions.

• *Availability of Information Regarding Investment Objectives, Risks, and Charges and Expenses.* Rule 482 advertisements will have to highlight the availability of information concerning the fund's investment objectives, risks, and charges and expenses.[68] This provision will benefit investors by directing them to important information that could affect their returns, and will allow investors to more easily compare the objectives, risks, and costs of competing funds.

• *Prominence Requirements.* Rule 482 advertisements will be required to present certain disclosures, including those discussed above, (i) in a size and type style at least as prominent as that used in the major portion of the advertisement (or, in the case of performance-related disclosures, in a type size no smaller than that of the performance data when the performance data is presented in a type size smaller than that of the major portion of the advertisement), or (ii) in the case of radio or television advertisements, with emphasis equal to that used in the major portion of the advertisement.[69] These provisions help to ensure that advertisers do not marginalize or minimize the presentation of the required disclosure described above.

• *Proximity Requirement.* In addition, the required disclosures regarding performance data will have to be presented in the body of the advertisement in close proximity to the performance data and not in a footnote. With regard to television or radio advertisements, the required disclosures will also have to be presented in close proximity to the performance data.[70] The length of and the date of the last day in the base period used in computing yield quotations, average annual total returns, after-tax returns, and other performance measures will have to be adjacent to the performance data.[71] As with other disclosure requirements, this provision will help investors to more easily find information necessary to evaluate the performance figures shown and will

[64] 17 CFR 230.482(c)(1).

[65] *See* Proposing Release, *supra* note, at Section IV, ''Cost/Benefit Analysis,'' 67 FR at 36723–26.

[66] 17 CFR 230.482(b)(3)(i).

[67] *Id.*

[68] 17 CFR 230.482(b)(1)(i). This disclosure would also be required in an advertisement used with a profile pursuant to rule 498 under the Securities Act. 17 CFR 482(b)(1)(ii).

[69] 17 CFR 230.482(b)(5).

[70] *Id.*

[71] 17 CFR 230.482(d)(1)(iv), (d)(2)(v), (d)(3)(iv), (d)(4)(vi), (d)(5)(v), and (e)(1)(i).

help to remind investors of the limitations of performance data.

The benefits of these enhanced disclosure requirements to investors may be limited by the extent to which funds currently provide this disclosure voluntarily. Staff discussions with members of the fund industry indicate that most investment companies already comply with many of the requirements of the amendments, by, for example, calculating performance data on at least a monthly basis, inserting warnings in advertisements that past performance is no guarantee of future performance, and operating Web sites and telephone call banks.

Nevertheless, in the case of investment companies that do not already voluntarily comply with the requirements of the amendments, the enhanced disclosure requirements provide two benefits to investors. To the extent investment decisions are made based on advertising, the improved disclosure will result in investors making better informed investment decisions, and therefore in a more efficient distribution of assets by investors among different funds. The transparency resulting from the enhanced disclosure in fund advertising may, in turn, also contribute to increased competition among funds and result in a more efficient allocation of resources among competing investment products. Although it is not possible to precisely quantify the beneficial effects of more efficient allocation of investors' assets and increased competition, they may be significant, given the size of the mutual fund industry.[72]

2. Simplification and Clarification of Fund Advertising Rules

The amendments add clarifying language to rule 482 and rule 156 under the Securities Act and rule 34b–1 under the Investment Company Act to reemphasize the applicability of the antifraud provisions of the federal securities laws to fund advertisements. In addition, the amendments reorganize rule 482 to make it easier for funds to apply, by adding headings, reordering provisions, and clarifying certain language.

The reemphasis of the applicability of the antifraud provisions may help to deter presentation of misleading information in advertisements. The amendments to reorganize rule 482 may aid funds and others in understanding and complying with the advertising rules, making it easier and cheaper for funds to advertise. Both of these improvements may, in turn, contribute to an increased flow of accurate and useful investment information to investors, which may lead to better-informed investment decisions and amplify the previously discussed benefits of efficient asset allocation.[73] Although difficult to quantify, this easing of regulation may provide some reduction of burden to the funds that choose to advertise.

3. Elimination of the ''Substance of Which'' Requirement and the Rescission of Rule 134 Provisions That Apply to Funds

To simplify the current structure of fund advertising rules and to provide funds the ability to disclose more timely information in advertisements, the amendments also remove the provision contained in rule 482 limiting advertisements only to that information the ''substance of which'' is in the statutory prospectus. We believe that, with the elimination of the ''substance of which'' requirement from rule 482, funds will no longer need to rely on rule 134. As a result, the amendments also remove the provisions of rule 134 that apply specifically to funds and exclude both registered investment companies and business development companies from relying on rule 134.

The elimination of the ''substance of which'' requirement eliminates requirements for funds to include or update advertising related information in their prospectus or SAI, both in the initial registration statements and in post-effective amendments, before issuing an advertisement to the public. This will reduce filing costs for funds, including both internal costs and external costs such as outside legal fees. The amendments will also reduce the costs associated with printing and distributing prospectuses and SAIs. The elimination of unnecessary information from the prospectus or SAIs, because it will remove distracting clutter, may make the remaining information more understandable to investors.

Finally, the rescission of the rule 134 provisions that apply to funds consolidates the regulation of most fund advertising in rule 482, which will cover advertisements now covered by rule 134. This simplification will contribute to the benefits of easier and cheaper advertising as discussed in section III.A.2 (''Simplification and Clarification of Fund Advertising Rules'') above, principally by removing the unnecessary restrictions on the content of the advertisements and the unnecessary distinction with regard to their legal classification. The transfer of fund advertising regulation from rule 134 to rule 482 may also enhance investor protection by subjecting fund advertisements formerly governed by rule 134 to potential civil liability under section 12(a)(2) of the Securities Act.[74]

One commenter disagreed that there would be a benefit to funds as a result of having to comply with only one advertising rule. The commenter stated that, in its experience, there is no correlation between the number of advertising rules and the costs of advertising. We do not believe, however, that this commenter's particular experience negates our conclusion with regard to the potential benefits of simplifying the regulation of fund advertising. In compiling the cost/benefit analysis, the staff found that some funds estimated no savings resulting from the amendments intended to simplify and clarify the advertising rules; these amendments included the rescission of rule 134 as it applies to funds, as well as other amendments such as the removal of the ''substance of which'' requirement. On the other hand, the staff also found that others did anticipate such a savings. Our estimate below represents an average, overall benefit for all the amendments intended to simplify and clarify the advertising rules and, as such, takes into account those funds that foresee no benefits from the simplification and clarification of the rules.

4. Quantification of Benefits

The Commission estimates that, on an annual basis, the amendments will save funds approximately 1.96 burden hours, or $73.03, per investment company in internal costs but only negligible amounts in external costs. We estimate that 5,025 investment companies will be affected by the amendments, and, thus, the Commission estimates that the annual internal burden associated with rule 482 will decrease by approximately 9,849 (1.96 hours per investment

[72] *See* Investment Company Institute, *2001 Mutual Fund Fact Book* at 63.

[73] The trade-off between lower advertising burdens and increased advertising activity is complex and further complicated by business cycles and marketing strategy among other factors. We believe, however, that investors and funds will enjoy benefits in any event—either resources will be saved in reducing the costs and burdens of advertising or they will be spent to increase the amount and timeliness of information provided to investors in advertising.

[74] The benefits of potential direct investor suits in both remedying fraudulent advertising by funds and deterring such advertising in the future are difficult to quantify, but may be significant. The benefits will be reduced to the extent that the potential liability increases litigation and insurance costs for funds. However, because suits based on misleading advertising are relatively rare, we continue to estimate that the associated costs will be minimal.

company × 5,025 investment companies) burden hours.[75] These burden hours represent a monetary savings of approximately $366,974 (9,849 hours × $37.26 wage rate) per year.[76]

B. Costs

The Commission estimates that the costs of the amendments, in the aggregate, will be minimal and limited in duration. The Commission estimates that funds will incur one-time costs in modifying their current rule 482 advertisements to meet the new disclosure and presentation requirements, although many funds already provide the disclosure that would be required. For example, funds may have to modify their layouts and typesetting in order to convert existing advertisements to meet the requirements of the rule, or alternatively, replace existing advertisements more quickly than they otherwise would.

The requirement for funds to provide access to performance figures that are current as of the last month end may also impose costs, some of which will be ongoing, both to generate such figures on a monthly basis and to provide the information by a toll-free or collect telephone number or on a Web site. This could include costs for computer time, accounting personnel, information technology staff, and additional computer and telephone equipment. The cost/benefit analysis in the Proposing Release estimated that the costs of making updated performance information available would be negligible because many, if not most, funds already provide this or more current performance information through these means and, therefore, the marginal cost for most funds for making updated performance information available is expected to be negligible.

Several commenters, however, argued that the costs associated with the proposed requirement that updated performance information be provided by toll-free or collect telephone number would be significant.[77] Such costs, commenters stated, could include those of setting up and maintaining an automated telephone system to provide the updated performance data. While two commenters did provide some specific estimates of their own anticipated costs of compliance with this proposed requirement, none of the commenters gave cost figures applicable to the industry as a whole.[78] Moreover, none of the commenters estimated the number of funds that would incur such costs. The cost/benefit analysis in the Proposing Release reached its conclusion, in part, because information gathered by the staff indicated that many, if not most, funds already had toll-free telephone systems and used them to distribute performance data that was at least as current as the month-end. The information provided by the commenters does not persuade us that our conclusion regarding aggregate costs was incorrect.

In any event, we have modified the proposal to address these commenters' concerns. The amendments, as adopted, will not require month-end performance data to be made available by toll-free or collect telephone. Rather, funds may make the information available by toll-free or collect telephone number or on the fund's Web site. In addition, we have modified the proposal to provide that where the fund advertisement includes total return quotations current to the most recent month ended seven business days prior to the date of use, the fund is not also required to make such data available by telephone or through its website. We expect that both of these revisions to the proposed amendments will further reduce any cost burden associated with disclosing month-end performance data.

The elimination of the ''substance of which'' requirement and the rescission of rule 134 as applicable to funds may require some funds to incur costs to convert many of their rule 134 advertisements to rule 482 advertisements. These costs, however, should be minimal and non-recurring, since the rule 482 requirements would permit advertisements that are not significantly different from those currently permitted under current rule 134.

One commenter expressed concern regarding the proposed language of the new notes to rule 482(a) and rule 34b–1 stating that compliance with the rules does not relieve the fund, underwriter, or dealer of the obligation to ensure that the advertisement is not false or misleading. The commenter was concerned that the new notes may expand liability for independent directors in connection with fund advertisements, resulting in a significant cost burden. However, as we indicate above,[79] the new notes are to make clear that liability for advertisements is based on the federal securities laws and that the advertising rule amendments are not intended to change the existing liability standards.

With regard to the rescission of rule 134 as it applies to funds, a number of commenters expressed concern over costs associated with the higher standard of liability under rule 482, but did not provide any specific figures or other quantitative analysis. As we note

[75] The estimate of the number of investment companies is based on data derived from the Commission's EDGAR filing system. The estimate of the decrease in burden hours is based on information gathered from the fund industry by the Commission staff and from the staff's experience with the various advertising regulations.

[76] These figures are based on a Commission estimate of 5025 investment companies and an estimated hourly wage rate of $37.26. The estimated wage rate figure is based on published hourly wage rates for in-house attorneys ($33.66), paralegals ($19.93), and compliance examiners ($23.16) and the estimate, based on the Commission staff's discussions with certain fund complexes, that attorneys would account for 50% of hours spent on advertising regulation and that paralegals and compliance examiners would account for the remaining 50% in equal ratio, yielding a weighted wage rate of $27.60 (($33.66 × .50) + ($19.93 × .25) + (23.16 × .25) = $27.60). Securities Industry Association, *Report on Office Salaries in the Securities Industry 2000* (Sept. 2002); Securities Industry Association, *Report on Management & Professional Earnings in the Securities Industry 2000* (Sept. 2002). This weighted wage rate was then adjusted upward by 35% for overhead, reflecting the costs of supervision, space, and administrative support, to obtain the total per hour internal cost of $37.26 ($27.60 × 1.35 = $37.26).

The benefits estimated in this analysis differ from those provided in the Proposing Release because of intervening changes in the number of investment companies and the wage rates. Although the Commission modified the proposed amendments, these modifications did not affect our estimates of the benefits associated with the amendments. Some commenters indicated that the cost of making updated month-end information available by toll-free or collect telephone number, as the proposal would have required, would be significant. Nonetheless, the modification to the proposed requirement to permit funds to make month-end performance data available through a toll-free or collect telephone number or Web site did not affect our estimates of costs or benefits. The staff indicated in the Proposing Release that it expected the costs of making updated month-end information available by toll-free or collect telephone number would be negligible, because many, if not most, funds already provide month-end or more current performance information through those means. See Proposing Release, *supra* note 7, 67 FR at 36726.

[77] On the other hand, one commenter did not object to the telephone-only requirement, indicating that making updated monthly performance data available in the manner contemplated by the proposal would be affordable for all funds, regardless of size.

[78] One commenter estimated that the cost of installing an automated voice response telephone system for an insurance company to provide performance information about funds underlying variable contracts would be $500,000. Another commenter cited that $500,000 estimate and added that the estimate is for hardware and software requirements only and does not include personnel expenses and further stated that expenses for companies that do not presently have automated telephone systems would likely be several times higher. It appears that the commenter that calculated the $500,000 estimate intended that this figure represent the cost the commenter itself would incur and not a projection that every insurance company or every fund would incur a $500,000 expense. Another commenter, a fund supermarket, estimated the cost of updating its website to provide toll-free numbers for the many funds offered would amount to $70,000.

[79] *See* Section II.B., ''Applicability of Antifraud Provisions to Fund Advertising,'' *supra.*

above, however, suits based on misleading advertising are relatively rare and we continue to estimate that the associated costs will be minimal.[80]

We further note that the amendments, as adopted, extend the compliance period to two full calendar quarters after adoption, lowering conversion costs by allowing more time for planning and enabling funds to come into compliance in the regular course of quarterly advertising cycles. This extension reinforces our estimate that such expenses will be minimal.

The Commission estimates the one-time switchover costs for each investment company attributable to the amendments will be approximately 2.18 hours, or $81.23 (2.18 hours x $37.26 wage rate), in internal costs, and $2,417 in external costs.[81] In total this represents a one-time cost of approximately 10,955 (2.18 hours x 5,025 investment companies) internal burden hours (translating into approximately $408,183 (10,955 hours x $37.26 wage rate) in internal costs) and $12,145,425 ($2,417 cost per investment company x 5,025 investment companies) in external costs.[82]

C. Conclusion

The Commission expects that the advertising rule amendments will encourage more informed and efficient investing, while easing the regulatory burden on fund advertising, and that these likely benefits would justify the associated costs.

IV. Consideration of Effects on Efficiency, Competition, and Capital Formation

Section 2(c) of the Investment Company Act, Section 2(b) of the Securities Act, and Section 3(f) of the Exchange Act require the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.[83]

In the Proposing Release, we requested comment on whether the proposed amendments would promote efficiency, competition, and capital formation. The Commission received one letter specifically addressing the effect of the proposed amendments on competition. This commenter objected to the rescission of rule 134 for funds on the grounds, among others, that investment companies would be treated less favorably than other issuers engaged in ongoing offerings of their securities that would continue to be able to rely on rule 134.

The amendments the Commission is adopting today seek to improve fund advertising by enhancing disclosure requirements and by simplifying and clarifying the rules, including elimination of the requirement that rule 482 advertisements contain only information the ''substance of which'' is included in the statutory prospectus. These changes may improve efficiency. The rule simplifications may lower the regulatory burden on funds engaged in advertising, freeing resources for more productive uses. For example, funds would no longer have to update their prospectuses or SAIs in order to change the types of performance information in advertisements. The enhanced disclosure requirements may provide greater and timelier access by investors to updated performance figures, which would promote more efficient allocation of investments by investors and more efficient allocation of assets among competing funds. The amendments may also improve competition, as enhanced disclosure may prompt funds to seek to provide better-informed investors with improved products and services. Finally, the effects of the amendments on capital formation are unclear. Although we believe that the amendments would benefit investors, the magnitude of the effect of the amendments on efficiency, competition, and capital formation is difficult to quantify, particularly given that most funds may already comply with at least some of the new disclosure requirements.

V. Paperwork Reduction Act

A. Introduction

As explained in the Proposing Release, certain provisions of the amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*]. The titles for the existing collections of information are: (i) ''Form N–1A under the Investment Company Act of 1940 and Securities Act of 1933, Registration Statement of Open-End Management Investment Companies''; (ii) ''Form N–2—Registration Statement of Closed-End Management Investment Companies''[84]; (iii) ''Form N–3—Registration Statement of Separate Accounts Organized as Management Investment Companies''; (iv) ''Form N–4—Registration Statement of Separate Accounts Organized as Unit Investment Trusts''; (v) ''Form N–6 Under the Investment Company Act and the Securities Act of 1933, Registration Statement of Insurance Company Separate Accounts Registered as Unit Investment Trusts that Offer Variable Life Insurance Policies''; and (vi) ''Rule 34b–1 of the Investment Company Act of 1940, Sales Literature Deemed To Be Misleading.'' A new collection of information has been created entitled ''Rule 482 under the Securities Act of 1933, Advertising by an Investment Company.''[85]

Form N–1A (OMB Control No. 3235–0307), Form N–2 (OMB Control No. 3235–0026), Form N–3 (OMB Control No. 3235–0316), Form N–4 (OMB Control No. 3235–0318), and Form N–6 (OMB Control No. 3235–0503) were adopted pursuant to section 5 of the Securities Act [15 U.S.C. 77e] and section 8(a) of the Investment Company Act [15 U.S.C. 80a–8(a)]. Rule 482 of Regulation C (OMB Control No. 3235–0565) was adopted pursuant to section 10(b) of the Securities Act [15 U.S.C.

[80] *See supra* note 74.

[81] These figures are based on averages derived from information gathered from several members of the fund industry by the Commission staff and from the staff's experience with the various advertising rules. Internal costs include, for example, the cost of reviewing all fund advertisements for compliance with the revised rules. External costs include, for example, the costs of typesetting and printing for new fund advertisements.

The costs estimate in this analysis differ from those provided in the Proposing Release because of intervening changes in the number of investment companies and the wage rates. Although the Commission modified the proposed amendments, these modifications did not affect our estimate of the costs associated with the amendments. *See supra* note 76.

[82] *See* discussion in notes 75 and 76, *supra,* regarding number of investment companies, wage rates, and previous estimates of costs and benefits.

[83] 15 U.S.C. 77b(b), 78c(f), and 80a–2(c).

[84] Although the amendments do not amend Form N–2, that form is included in this Paperwork Reduction Act (''PRA'') summary because the PRA burden for rule 482 has previously been included in the various investment company registration statement forms affected by rule 482, including Form N–2. As discussed below, the Commission has transferred the PRA burden associated with rule 482 from all of these registration statement forms to a new rule 482 category.

[85] The amendments modify rule 482, which is part of Regulation C under the Securities Act of 1933. Regulation C describes the disclosure that must appear in registration statements under the Securities Act and Investment Company Act. The PRA burden associated with rule 482 was previously included in the various investment company registration statement forms, not in Regulation C. However, because the amendments eliminate the rationale for allocating the PRA burden for rule 482 to the registration forms, the Commission has transferred the burden associated with rule 482 to a new category. The total PRA burden for each of the registration forms is different from that included in the PRA submissions that preceded this analysis because of the transfer of burden associated with rule 482, as well as the intervening changes in the number of filings. However, the newly adopted amendments to the forms do not have any effect on the burden hours for the forms.

77j(b)]. Rule 34b–1 (OMB Control No. 3235–0346) was adopted pursuant to section 34(b) of the Investment Company Act [15 U.S.C. 80a–33(b)].[86]

We published notice soliciting comments on the collection of information requirements in the Proposing Release and submitted these requirements to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. OMB approved these collection requirements.

The amendments modify rule 482 under the Securities Act and related rules and forms, to provide more timely, understandable, and balanced information in fund advertising for the benefit of investors, while simplifying and clarifying the advertising rules for the benefit of funds.[87] First, the amendments enhance the disclosure that funds must provide in advertisements, including by highlighting the availability of information concerning investment objectives, risks, and charges and expenses, and requiring an amended legend stating that past performance does not guarantee future results. The amendments also set forth requirements to help ensure that funds present these and other required disclosures at least as prominently as the material included in the body of the advertisement. Second, if a fund advertisement includes performance data, the fund must make month-end performance figures available to investors by a toll-free or collect telephone number or on a Web site, and disclose the availability of this month-end performance data in the advertisement, unless the advertisement includes total return quotations current to the most recent month ended seven business days prior to the date of use. Third, the amendments add clarifying language to rule 482 under the Securities Act and rule 34b–1 under the Investment Company Act to reemphasize the separate applicability of the antifraud provisions of the federal securities laws, and amend rule 156 under the Securities Act to provide further guidance regarding the factors to be weighed in determining whether a statement involving a material fact in investment company sales literature is or might be misleading. Fourth, the amendments (i) remove the provision contained in rule 482 that limits rule 482 advertisements to only that information the ''substance of which'' is in the statutory prospectus, and (ii) rescind the provisions in rule 134 under the Securities Act that apply to funds. Fifth, the amendments clarify portions of rule 482 (without changing their content) by adding headings, reordering provisions, and simplifying certain provisions. Finally, the amendments make technical and conforming changes to Forms N–1A, N–3, N–4, and N–6.

Compliance with the disclosure requirements is mandatory. Responses to the disclosure requirements will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

B. The Registration Forms Burden

Previously, the PRA burdens imposed by rule 482 were accounted for under the various registration forms used by investment companies affected by the rule: Form N–1A, Form N–2, Form N–3, Form N–4, and Form N–6. We have transferred the burden hours associated with rule 482 from these forms to a separate rule 482 category as follows:

Form	Hours transferred (hours)
Form N–1A	177,514
Form N–2	1,014
Form N–3	792
Form N–4	36,630
Form N–16	9,065
Total hours transferred to new rule 482 category	225,015

The information required to be filed with the Commission pursuant to the information collections contained in the registration forms permits the verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

1. Form N–1A

The purpose of Form N–1A is to meet the registration and disclosure requirements of the Securities Act and the Investment Company Act and to provide investors with information necessary to evaluate an investment in the fund. The respondents to this information collection are open-end funds registering with the Commission. Compliance with the disclosure requirements on Form N–1A is mandatory. Responses to the disclosure requirements are not confidential.

The previous hour burden for preparing an initial Form N–1A filing was 824 burden hours per portfolio, and the Commission attributed 23 of these burden hours per portfolio to compliance with rule 482, reducing the remaining burden hours per portfolio to 801.[88] The previous annual hour burden for preparing post-effective amendments on Form N–1A was 122 hours per portfolio, and the Commission attributed 23 of these burden hours per portfolio to compliance with rule 482, reducing the remaining burden hours per portfolio to 99. The Commission estimated that, on an annual basis, 193 portfolios file initial registration statements on Form N–1A and 7,525 file post-effective amendments on Form N–1A. Thus, the burden hours attributable to rule 482 transferred from Form N–1A to the new rule 482 collection of information amounted to 177,514 ((23 hours x 193 portfolios) + (23 hours x 7,525 portfolios)). After shifting the rule 482 burden hours to a new collection of information, the total burden hours that remain allocated to Form N–1A for all purposes unassociated with rule 482 amount to 899,568 ((801 hours x 193 portfolios) + (99 hours x 7,525 portfolios)).

Except for the transfer of PRA burden from Form N–1A to the new collection of information for rule 482, the Commission estimates no effect on the remaining PRA burden for Form N–1A from the amendments. The change in PRA burden resulting from the amendments is accounted for under the new rule 482 collection of information.

2. Form N–2

The purpose of Form N–2 is to meet the registration and disclosure requirements of the Securities Act and the Investment Company Act and to enable funds to provide investors with information necessary to evaluate an investment in the fund. The respondents to this information collection are closed-end funds registering with the Commission. Compliance with the disclosure requirements of Form N–2 is mandatory. Responses to the disclosure requirements are not confidential.

The previous hour burden for preparing an initial registration statement on Form N–2 was 542.4 burden hours per filing, and the previous hour burden for preparing a post-effective amendment on Form N–2

[86] Although this release also amends rule 156, there are no burden hours assigned to that rule by OMB and it has no OMB control number.

[87] The Commission is adopting amendments to rules 134, 156, and 482 under the Securities Act, rule 34b–1 under the Investment Company Act, and Forms N–1A, N–3, N–4, and N–6 under the Investment Company Act and Securities Act.

[88] The estimate of the burden hours attributable to compliance with rule 482 for filings on Forms N–1A, and Form N–2 were based on information supplied to the Commission staff by members of the fund industry and the staff's experience with these registration forms.

was 107.4 hours per filing. The Commission attributed 5.7 of these burden hours per filing to compliance with rule 482, reducing the burden hours per filing to 536.7 and 101.7, respectively. The Commission estimated that, on an annual basis, 140 respondents file an initial registration statement on Form N–2 and 38 file post-effective amendments on Form N–2. Thus, the burden hours attributable to rule 482 transferred from Form N–2 to the new rule 482 collection of information amounted to 1,014 ((5.7 hours × 140 filings) + (5.7 hours × 38 filings)). After shifting the rule 482 burden hours to a new collection of information, the total burden hours that remain allocated to Form N–2 for all purposes unassociated with rule 482 amount to 79,003 ((536.7 hours × 140 filings) + (101.7 hours × 38 filings)).

Except for the transfer of PRA burden from Form N–2 to the new collection of information for rule 482, the Commission estimates no effect on the remaining Form N–2 PRA burden from the amendments. The change in PRA burden resulting from the amendments is accounted for under the new rule 482 collection of information.

3. Form N–3

The purpose of Form N–3 is to meet the registration and disclosure requirements of the Securities Act and the Investment Company Act and to enable funds to provide investors with information necessary to evaluate an investment in the fund. The respondents to this information collection are separate accounts, organized as management investment companies and offering variable annuities, registering with the Commission. Compliance with the disclosure requirements of Form N–3 is mandatory. Responses to the disclosure requirements are not confidential.

The previous annual hour burden for preparing an initial registration statement on Form N–3 was 910.5 hours per portfolio, and the Commission attributed 3.3 of these burden hours per portfolio to compliance with rule 482, reducing the remaining burden hours per portfolio to 907.2.[89] The previous annual hour burden for preparing post-effective amendments on Form N–3 was 151.7 hours per portfolio, and the Commission attributed 3.3 of these burden hours per portfolio to rule 482, reducing the remaining burden hours per portfolio to 148.4. The Commission estimated that, on an annual basis, no initial registration statements are filed on Form N–3 and 60 post-effective amendments, including 240 portfolios, are filed on Form N–3. Thus, the burden hours attributable to rule 482 transferred from Form N–3 to the new rule 482 collection of information amounted to 792 (3.3 hours × 240 portfolios). After shifting the rule 482 burden hours to a new collection of information, the total burden hours that remain allocated to Form N–3 for all purposes unassociated with rule 482 amount to 35,616 (148.4 × 240 portfolios) hours.

Except for the transfer of PRA burden from Form N–3 to the new collection of information for rule 482, the Commission estimates no effect on the remaining PRA burden for Form N–3 resulting from the amendments. The change in PRA burden resulting from the amendments is accounted for under the new rule 482 PRA collection of information.

4. Form N–4

The purpose of Form N–4 is to meet the registration and disclosure requirements of the Securities Act and the Investment Company Act and to enable separate accounts issuing variable annuity contracts to provide investors with information necessary to evaluate an investment in a contract. The respondents to this information collection are separate accounts, organized as unit investment trusts and offering variable annuities, registering with the Commission. Compliance with the disclosure requirements of Form N–4 is mandatory. Responses to the disclosure requirements are not confidential.

The previous hour burden for preparing an initial Form N–4 filing was 298 burden hours per filing, and the Commission attributed 24.8 of these burden hours per filing to rule 482, reducing the remaining burden hours per filing to 273.2.[90] The previous annual hour burden for preparing post-effective amendments on Form N–4 was 219.8 hours per filing, and the Commission attributed 24.8 of these burden hours per filing to rule 482, reducing the remaining burden hours per filing to 195. The Commission estimated that, on an annual basis, 157 respondents file initial registration statements on Form N–4 and 1320 respondents file post-effective amendments on Form N–4. Thus, the burden hours attributable to rule 482 transferred from Form N–4 to the new rule 482 collection of information amount to 36,630 ((24.8 hours × 157 filings) + (24.8 hours × 1320 filings)). After shifting the rule 482 burden hours to a new collection of information, the total hour burden that remains allocated to Form N–4 for all purposes unassociated with rule 482 amount to 300,292 ((273.2 hours × 157 filings) + (195 hours × 1320 filings)).

Except for the transfer of PRA burden from Form N–4 to the new collection of information for rule 482, the Commission estimates no effect on the remaining PRA burden for Form N–4 resulting from the amendments. The change in PRA burden resulting from the amendments is accounted for under the new rule 482 PRA collection of information.

5. Form N–6

The purpose of Form N–6 is to meet the registration and disclosure requirements of the Securities Act and the Investment Company Act and to enable separate accounts issuing variable life insurance policies to provide investors with information necessary to evaluate an investment in a policy. The respondents to this information collection are separate accounts, organized as unit investment trusts and offering variable life insurance policies, registering with the Commission. Compliance with the disclosure requirements of Form N–6 is mandatory. Responses to the disclosure requirements are not confidential.

The previous hour burden for preparing an initial registration statement on Form N–6 was 800 burden hours per filing and the hour burden for a post-effective amendment on Form N–6 was 100 hours per post-effective amendment filed as an annual update, and 10 hours per post-effective amendment filed for other purposes. The Commission attributed 35 of these burden hours per filing to compliance with rule 482 for both initial registration statements and post-effective amendments that are annual updates.[91] The Commission estimated no burden hours associated with rule 482 for additional post-effective amendments that are not annual updates. The Commission estimated that, on an annual basis, 59 initial registration

[89] Estimates of the burden hours attributable to rule 482 for Forms N–3, N–4, and N–6 were derived by estimating the total burden hours for compliance with rule 482 for all variable insurance separate accounts, based on the staff's discussions with a member of the variable insurance products industry that issues both variable annuities and variable life insurance policies. We then converted this estimated number of burden hours associated with rule 482 into a percentage of the total burden hours associated with Forms N–3, N–4, and N–6 collectively. We allocated the rule 482 burden to each form by multiplying the total burden of each form by this percentage. However, we excluded burden hours attributable to initial filings on Form N–3 because we anticipated no such filings.

[90] *See* discussion in note 89, *supra.*

[91] *See* discussion in note 89, *supra.*

statements will be filed on Form N–6 and 500 post-effective amendments will be filed on Form N–6, 200 as annual updates and 300 as additional post-effective amendments.[92] Thus, the burden hours attributable to rule 482 transferred from Form N–6 to the new rule 482 collection of information amounted to 9,065 ((35 hours × 59 filings) + (35 hours × 200 filings)). The total hour burden that remains allocated to Form N–6 for all purposes unassociated with rule 482 is 61,135 ((765 hours × 59 filings) + (65 hours × 200 filings) + (10 hours × 300 filings)) hours.

Except for the transfer of PRA burden from Form N–6 to the new collection of information for rule 482, the Commission estimates no effect on the remaining PRA burden for Form N–6 resulting from the amendments. The change in PRA burden resulting from the amendments is accounted for under the new rule 482 PRA collection of information.

C. Change in Burden Attributable to Amendments

The information required by the amendments to the advertising rules is primarily for the use and benefit of investors. The Commission is concerned that investors receive information in advertisements that is accurate, balanced, timely, not misleading, and otherwise appropriate and helpful in making investment decisions. The additional information that is required to be disclosed to investors pursuant to the collection of information provisions of the rules affected by the amendments, addresses these concerns regarding investor protection.

1. Rule 34b–1

Rule 34b–1, as amended, contains collection of information requirements. The rule applies to supplemental sales literature, *i.e.*, sales literature that is preceded or accompanied by the statutory prospectus, and requires the inclusion of standardized performance data in sales literature that includes performance data. Compliance with rule 34b–1 is mandatory for every registered investment company that issues supplemental sales literature. Responses to the disclosure requirements will not be kept confidential.

We estimated that approximately 37,000 responses are filed annually pursuant to rule 34b–1, and the burden per response is 2.9 hours. The amendments change rule 34b–1 to add language to clarify the Commission's present interpretation of its rules, namely, that compliance with rule 34b–1 does not relieve the fund, underwriter, or dealer of any obligations with respect to the sales literature under the antifraud provisions of the federal securities laws. This added language merely confirms the present state of the law and imposes no additional burden hours. In addition, the amendments to rule 34b–1 make the newly adopted changes in the narrative disclosure and presentation requirements under rule 482 applicable to supplemental sales literature, but these narrative disclosure and presentation requirements also will impose no additional burden for purposes of rule 34b–1.[93]

2. Rule 482

Rule 482, as amended, contains collection of information requirements in that it permits a fund to advertise information subject to certain disclosure requirements. Compliance with rule 482 is mandatory for every fund that issues rule 482 advertisements. Responses to the disclosure requirements will not be kept confidential.

The Commission currently estimates that 41,484 responses are filed annually by 5,025 funds pursuant to rule 482. The burden associated with rule 482 was previously included in the collections of information for the investment company registration statement forms, but at the time of the Proposing Release the Commission transferred this PRA burden to a new rule 482 collection of information. The Commission then adjusted this amount to account for the estimated savings of 6,890 burden hours associated with the proposed amendments to arrive at a total annual burden for rule 482 of 218,125.[94]

The Commission's per-investment-company burden estimates calculated at the time of the Proposing Release remain unchanged.[95] However, the Commission is adjusting the total annual burden hours associated with rule 482 to reflect a decrease in the number of investment companies from 5,587 to the current number of 5,025. The Commission estimates an increase of 3,653 (0.727 hours per fund × 5,025 funds) annual burden hours will be required to comply with the amendments as adopted, as a result of one-time switchover cost of 10,959 burden hours amortized over a three-year period. The Commission also estimates a decrease of 9,849 annual burden hours (1.96 hours per fund × 5,025 funds) resulting from the amendments as adopted due to the simplification and clarification of rule 482, including the removal of the ''substance of which'' requirement. The net result would be an annual decrease of approximately 6,196 (3,653 hours increase − 9,849 hours decrease) hours.[96] The current estimate of the total annual burden for rule 482, as amended, is 218,819.[97]

VI. Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis (''Analysis'') has been prepared in accordance with 5 U.S.C. 604, and relates to the Commission's

[92] Based on its analysis of data from the EDGAR filing system from 2000–2001, the Commission estimated that there are approximately 200 variable life insurance policies, with respect to which at least one post-effective amendment must be filed per year. In addition, the Commission estimated, also based on EDGAR filing data, that 300 additional post-effective amendments are filed for these variable life insurance policies each year, generally to make non-material changes to their registration statements.

[93] The secondary effect on the burden attributable to rule 34b–1 due to the amendments to rule 482 is estimated to be negligible. Both before and after the amendments, rule 34b–1 requires any performance data included in supplemental sales literature to be accompanied by performance data computed using the standardized formulas for advertising performance under rule 482. We estimate that the changes in types of disclosure and presentation that would be required by the amendments to rule 482 would not affect the amount of review necessary for funds to ensure compliance with rule 34b–1. Therefore, all changes in burden associated with the amendments are accounted for under the category associated with the principal rule generating the burden, *i.e.,* the new rule 482 collection of information.

[94] The Commission calculated this adjustment at the proposing stage by estimating a burden hour annual increase per investment company of 0.727 hours and a burden hour annual decrease per investment company of 1.96, and then multiplying these figures by the then current number of investment companies (5,587) to arrive at an estimated net decrease of approximately 6,890 total annual burden hours (0.727 × 5,587–1.96 × 5,587 = −6,889). The Commission then subtracted this estimated annual net decrease from the rule 482 burden hours that had been transferred from the registration forms, yielding the total annual rule 482 burden of 218,125 (225,015 hours transferred—6,890 decrease = 218,125), which was used in the Proposing Release.

[95] The estimates of changes in the burden hours per investment company attributable to rule 482 are based on a survey of information conducted by the Commission staff of members of the mutual fund and variable insurance products industry at the time of the Proposing Release. The Commission estimates no change in these per-investment-company burden rates due to changes to the amendments between the proposing stage and this adoption.

[96] This estimated net decrease of 6,196 hours compares to an estimated net decrease of 6,890 in the Proposing Release. The difference of 694 hours is a result of the change in the number of investment companies since the time of the Proposing Release.

[97] 218,125 total hours (Proposing Release estimate) + 694 hours (lower net decrease) as explained in note , *supra.*

rule and form amendments under the Securities Act and the Investment Company Act to provide investment companies with the ability to disclose more timely information in advertisements and to reinforce the antifraud protections that apply to investment company advertisements. The amendments implement a provision of NSMIA [98] by eliminating the requirement in rule 482 under the Securities Act that investment company advertisements contain only information the ''substance of which'' is included in the statutory prospectus. The amendments also require enhanced disclosure in investment company advertisements and are designed to encourage advertisements that convey balanced information to prospective investors, particularly with respect to past performance. The Commission is also rescinding the provisions in rule 134 under the Securities Act that apply to investment companies.

The Commission prepared an Initial Regulatory Flexibility Analysis (''IRFA'') in accordance with 5 U.S.C. 603. The Proposing Release included the IRFA and solicited comments on it. The Commission received one comment specifically addressing the IRFA.

A. Reasons for and Objectives of Amendments

The Commission amended the advertising regulations described above to achieve two separate objectives. First, the Commission is simplifying and clarifying the rules governing fund advertising. Specifically, the amendments remove the ''substance of which'' requirement of rule 482 and rescind the provisions of rule 134 that apply to investment companies, following Congress' directive in NSMIA to adopt rules or regulations allowing funds the use of a section 10(b) prospectus that may include information the substance of which is not included in the statutory prospectus.[99] We are also adopting technical amendments to reorganize and clarify the language of rule 482. These simplifying and clarifying amendments will aid funds and others in understanding and complying with the advertising rules, making it easier and cheaper for funds to advertise.

Second, the Commission is enhancing the disclosure required in rule 482 advertising. Specifically, we are requiring rule 482 advertisements to: (i) Highlight the availability of certain additional information, such as that regarding objectives, risks, charges, and expenses, as well as updated monthly performance figures; (ii) provide an amended legend; and (iii) present certain required disclosure with prominence equal to the major portion of the advertisement. We are adopting these amendments because of our concern about fund performance advertising that could create unrealistic investor expectations or even mislead potential investors. The enhanced disclosure requirements will help to ensure that investors find advertising clear, easy to use, and balanced, and that investors are made aware of important and timely information necessary to make informed investment decisions.

B. Significant Issues Raised by Public Comment

The Commission requested comment with respect to the IRFA prepared and published with the Proposing Release. Two commenters indicated that the cost of complying with the proposed requirement that updated information be made available through a toll-free or collect telephone number would be particularly burdensome for smaller fund complexes, stating that some smaller complexes do not already have automated voice response systems. The commenters cited costs of buying and maintaining an automated telephone system or dedicating employees to provide the required information. One of these commenters, the only commenter who specifically addressed the IRFA, also stated that the IRFA likely underestimated the costs that small fund complexes would incur from having to satisfy the requirement that updated monthly information be provided by a toll-free or collect telephone number.[100] One commenter indicated that making updated monthly performance data available in the manner contemplated by the proposal would be affordable for all funds, regardless of size.

None of the commenters provided additional data or figures to quantify this cost.[101] The commenters did not indicate either the number of small funds that would need to set up a telephone system (versus those that already have such a system in place that could be adapted to meet the proposed requirements) or how much small funds may have to pay to establish and maintain such systems.

C. Small Entities Subject to the Rule

For purposes of the Regulatory Flexibility Act, an investment company is a small entity if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.[102] Approximately 237 out of 5025 investment companies meet this definition.[103]

The Commission estimates, based on the staff's discussions with members of the fund industry, that approximately two-thirds of small entity funds do not advertise and, thus, do not incur any burdens or costs associated with rule 482. For small entity funds that do advertise, the Commission estimates an internal hour burden of approximately 80 hours per small entity fund. This represents approximately 6,320 (80 hours x 79 small entities) hours, or $235,483 (6,320 hours x $37.26 wage rate) in internal costs, for all small entities. The Commission estimates that the external cost burden associated with rule 482 for small entities, as with other funds, is negligible. To the extent small entities currently advertise, the burden and costs may affect them to a greater extent because small entities are unable to take advantage of economies of scale available to larger fund complexes.[104]

[98] National Securities Markets Improvement Act of 1996, Pub. L. No. 104–290, 110 Stat. 3416, 3428, Section 204.

[99] *Id.*

[100] The commenter stated that the only costs that the IRFA discussed for small entities were those of actual production and review of advertising. However, the IRFA also refers to other one-time switchover costs that would result from the rule and recognizes that these costs may have a relatively greater effect on small entities. The IRFA states that among these costs are those of making available updated monthly performance data by a toll-free telephone number. Proposing Release, *supra* note , 67 FR at 36731.

[101] One commenter estimated the cost of implementing an automatic voice response system for fund performance at $500,000. Another commenter cited this estimate and stated that it is for hardware and software requirements only and does not include personnel expenses. The commenter also stated that expenses for companies that do not presently have automated telephone systems would likely be several times higher than the estimate provided. Neither of these commenters specifically addressed the issue of costs incurred by small entities. Both were focusing on the costs of a system that insurance companies would use to provide information about funds underlying their variable insurance products.

[102] 17 CFR 270.0–10.

[103] This estimate is based on figures compiled by the Commission staff regarding investment companies registered on Form N–1A, N–2, N–3, N–4, and N–6. In determining whether an insurance company separate account is a small entity for purposes of the Regulatory Flexibility Act, the assets of insurance company separate accounts are aggregated with the assets of their sponsoring insurance companies. 17 CFR 270.0–10(b). Currently, no insurance company separate account filing on Form N–3, Form N–4, or Form N–6 qualifies as a small entity.

[104] We note, however, that to the extent that the amendments reduce the regulatory burden of advertising, small entities may be encouraged to increase their advertising activity.

D. Reporting, Recordkeeping, and Other Compliance Requirements

The amendments will modify the disclosure requirements applicable to rule 482 advertisements. Advertisements will have to contain an amended legend, an explanation about where information about investment objectives, risks, and charges and expenses can be found, and, if performance figures are used, information about where updated performance information can be found, unless the advertisement includes total return quotations current to the most recent month ended seven business days prior to the date of use. In addition, the required disclosure will generally have to be given as much prominence in the advertisement as the major portion of the advertisement. The amendments will also rescind the requirements of rule 134 as they apply to funds, but we expect that this will not result in any appreciable change in the disclosure that funds make in their advertisements because present rule 134 advertisements will generally become rule 482 advertisements.

The Commission has considered the potential effect that the amendments will have on the preparation of advertisements. Without regard to the size of the entity, we estimate that the amendments will result in a net decrease of 1.23 hours, or $45.83 (1.23 hours x $37.26 wage rate), per investment company per year in internal costs and a net increase of $805.67 per investment company per year in external costs.[105]

The Commission estimates some one-time switchover costs and burdens that will be imposed on all funds, but which may have a relatively greater impact on smaller firms. These costs include the costs of altering existing advertisements, including those now covered by rule 134, to comply with the new provisions of rule 482; generating performance figures on a monthly basis; and making available the updated monthly performance data through a toll-free or collect telephone number or a Web site when required. The costs of making updated performance data available could include expenses for computer time, legal and accounting fees, information technology staff, and additional computer and telephone equipment. However, we believe, based on consultation with a number of fund complexes, that many funds that presently advertise already provide performance information on a basis at least as current as monthly through these means and, therefore, expect the marginal cost increases for most funds to be minimal.

The Commission anticipates that the amendments will also provide ongoing reductions in the compliance burden for all funds by clarifying the language of rule 482, eliminating the ''substance of which'' requirement, and simplifying fund advertising requirements through rescission of rule 134 for fund advertising. These changes will effect savings primarily by reducing the time and money funds now spend on legal review and amending their prospectuses and SAIs to comply with the ''substance of which'' requirement in current rule 482.

E. Agency Action To Minimize Effect on Small Entities

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish our stated objective, while minimizing any significant adverse impact on small entities. In connection with the amendments, the Commission considered the following alternatives: (a) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (b) the clarification, consolidation, or simplification of compliance and reporting requirements under the amendments for small entities; (c) the use of performance rather than design standards; and (d) an exemption from coverage of the amendments, or any part thereof, for small entities.

The Commission believes at the present time that special compliance or reporting requirements for small entities, or an exemption from coverage for small entities, would not be appropriate or consistent with investor protection. The disclosure amendments will provide shareholders and the public with more balanced information about a fund's performance. Different disclosure requirements for small entities, such as reducing the level of disclosure that small entities would have to provide shareholders in advertising, may create the risk that shareholders would not receive balanced information about a fund's performance or would receive confusing, false, or misleading information. In addition, applying different standards for advertising by small and large funds might impede investors' ability to adequately compare funds. We believe it is important for the enhanced advertising disclosure required by the amendments to be provided to investors by all funds, not just funds that are not considered small entities.

The Commission also notes that current advertising requirements, and its disclosure rules in general, do not distinguish between small entities and other funds. In addition, we believe that it would be inappropriate to impose a different timetable on small entities for complying with the requirements.[106] Further clarification, consolidation, or simplification of the proposals for funds that are small entities may be inconsistent with investor protection. We do not consider using performance rather than design standards to be consistent with our statutory mandate of investor protection in the present context.

We note, however, that we have modified our proposal in several ways that will reduce burdens on funds, including small funds, and will address the concerns raised by the commenters referenced above. As adopted, the amendments will not require funds to provide updated month-end performance data by toll-free or collect telephone. Rather, funds will be permitted to choose whether to make the month-end information available by telephone or on the fund's Web site. In general, commenters indicated that making the information available over a fund Web site would be less burdensome than using a telephone system. In addition, we have modified the proposal to provide that if the advertisement includes total return quotations current to the most recent month ended seven business days prior to the date of use, the fund is not required to make such data available by telephone or on its Web site. We expect that both of these revisions to the proposed amendments will reduce the cost burden for all funds, including small entities.

VII. Statutory Authority

The Commission is adopting amendments to rule 134 pursuant to

[105] These figures are based on the Commission staff's discussions with several fund complexes. With regard to internal costs, they represent the net of the amortized one-time switchover cost of .727 hours per fund per year and the decrease in burden associated with rule 482, for purposes of the Paperwork Reduction Act, of 1.96 hours per fund per year. With regard to external costs, the $805.67 figure represents one-time switchover costs amortized over three years.

The estimate provided here differs from that provided in the Initial Regulatory Flexibility Analysis in the Proposing Release because of a change in the number of small entities and the wage rate used. *See supra* note #76. Although the Commission modified the proposed amendments, these modifications did not affect our estimate of the burden on small entities.

[106] The Commission has expanded the proposed compliance period from 90 days from the effective date to the end of the second full calendar quarter after adoption. This revision should lessen any burden for small entities, as well as other funds.

authority set forth in sections 2(a)(10) and 19(a) of the Securities Act [15 U.S.C. 77b(a)(10) and 77s(a)]. The Commission is adopting amendments to rule 156 pursuant to authority set forth in section 19(a) of the Securities Act [15 U.S.C. 77s(a)] and sections 10(b) and 23(a) of the Exchange Act [15 U.S.C. 78j(b) and 78w(a)]. The Commission is adopting amendments to rule 482 pursuant to authority set forth in sections 5, 10(b), 19(a), and 28 of the Securities Act [15 U.S.C. 77e, 77j(b), 77s(a), and 77z–3] and sections 24(g) and 38(a) of the Investment Company Act [15 U.S.C. 80a–24(g) and 80a–37(a)]. The Commission is adopting amendments to rule 34b–1 pursuant to authority set forth in sections 34(b) and 38(a) of the Investment Company Act [15 U.S.C. 80a–33(b) and 80a–37(a)]. The Commission is adopting amendments to Form N–1A, Form N–3, Form N–4, and Form N–6 pursuant to authority set forth in sections 5, 6, 7, 10, and 19(a) of the Securities Act [15 U.S.C. 77e, 77f, 77g, 77j, and 77s(a)] and sections 8, 24(a), 30, and 38 of the Investment Company Act [15 U.S.C. 80a–8, 80a–24(a), 80a–29, and 80a–37].

List of Subjects

17 CFR Part 230

Advertising, Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 239

Reporting and recordkeeping requirements, Securities.

17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rule and Form Amendments

■ For the reasons set out in the preamble, the Commission amends Title 17, Chapter II, of the Code of Federal Regulations as follows.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 1. The general authority citation for Part 230 is revised to read as follows:

Authority: 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z-3, 77sss, 78c, 78d, 78j, 78l, 78m, 78n, 78o, 78t, 78w, 78*ll*(d), 78mm, 79t, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

■ 2. Section 230.134 is amended by:

■ a. Removing the authority citation following § 230.134;

■ b. Removing paragraphs (a)(3)(iii) and (a)(13);

■ c. Redesignating paragraphs (a)(3)(iv) and (a)(14) as paragraphs (a)(3)(iii) and (a)(13), respectively;

■ d. In newly redesignated paragraph (a)(13)(ii), revising the reference ''(a)(14)(i)'' to read ''(a)(13)(i)''; and

■ e. Revising paragraph (e) to read as follows:

§ 230.134 Communications not deemed a prospectus.

* * * * *

(e) This § 230.134 does not apply to a notice, circular, advertisement, letter, or other communication relating to an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) or a business development company as defined in section 2(a)(48) of the Investment Company Act (15 U.S.C. 80a–2(a)(48)).

■ 3. Section 230.156 is amended by:

■ a. Removing the authority citation following § 230.156; and

■ b. Revising paragraph (b)(2)(i) to read as follows:

§ 230.156 Investment company sales literature.

* * * * *

(b) * * *

(2) * * *

(i) Portrayals of past income, gain, or growth of assets convey an impression of the net investment results achieved by an actual or hypothetical investment which would not be justified under the circumstances, including portrayals that omit explanations, qualifications, limitations, or other statements necessary or appropriate to make the portrayals not misleading; and

* * * * *

■ 4. Section 230.482 is revised to read as follows:

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

(a) *Scope of rule.* This section applies to an advertisement or other sales material (*advertisement*) with respect to securities of an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (*1940 Act*), or a business development company, that is selling or proposing to sell its securities pursuant to a registration statement that has been filed under the Act. This section does not apply to an advertisement that is excepted from the definition of prospectus by section 2(a)(10) of the Act (15 U.S.C. 77b(a)(10)), or a Profile under § 230.498. An advertisement that complies with this section, which may include information the substance of which is not included in the prospectus specified in section 10(a) of the Act (15 U.S.C 77j(a)), will be deemed to be a prospectus under section 10(b) of the Act (15 U.S.C. 77j(b)) for the purpose of section 5(b)(1) of the Act (15 U.S.C. 77e(b)(1)).

Note to paragraph (a): The fact that an advertisement complies with this section does not relieve the investment company, underwriter, or dealer of any obligations with respect to the advertisement under the antifraud provisions of the federal securities laws. For guidance about factors to be weighed in determining whether statements, representations, illustrations, and descriptions contained in investment company advertisements are misleading, *see* § 230.156. In addition, an advertisement that complies with this section is subject to the legibility requirements of § 230.420.

(b) *Required disclosure.* This paragraph describes information that is required to be included in an advertisement in order to comply with this section.

(1) *Availability of additional information.* An advertisement must include a statement that:

(i) Advises an investor to consider the investment objectives, risks, and charges and expenses of the investment company carefully before investing; explains that the prospectus contains this and other information about the investment company; identifies a source from which an investor may obtain a prospectus; and states that the prospectus should be read carefully before investing; or

(ii) If used with a Profile, advises an investor to consider the investment objectives, risks, and charges and expenses of the investment company carefully before investing; explains that the accompanying Profile contains this and other information about the investment company; describes the procedures for investing in the investment company; and indicates the availability of the investment company's prospectus.

(2) *Advertisements used prior to effectiveness of registration statement.* An advertisement that is used prior to effectiveness of the investment company's registration statement or the determination of the public offering price (in the case of a registration statement that becomes effective omitting information from the prospectus contained in the registration statement in reliance upon § 230.430A) must include the ''Subject to Completion'' legend required by § 230.481(b)(2).

(3) *Advertisements including performance data.* An advertisement that includes performance data of an open-end management investment company or a separate account

registered under the 1940 Act as a unit investment trust offering variable annuity contracts (*trust account*) must include the following

(i) A legend disclosing that the performance data quoted represents past performance; that past performance does not guarantee future results; that the investment return and principal value of an investment will fluctuate so that an investor's shares, when redeemed, may be worth more or less than their original cost; and that current performance may be lower or higher than the performance data quoted. The legend should also identify either a toll-free (or collect) telephone number or a Web site where an investor may obtain performance data current to the most recent month-end unless the advertisement includes total return quotations current to the most recent month ended seven business days prior to the date of use. An advertisement for a money market fund may omit the disclosure about principal value fluctuation; and

Note to paragraph (b)(3)(i): The date of use refers to the date or dates when an advertisement is used by investors, not the date on which an advertisement is published or submitted for publication. The date of use refers to the entire period of use by investors and not simply the first date on which an advertisement is used.

(ii) If a sales load or any other nonrecurring fee is charged, the maximum amount of the load or fee, and if the sales load or fee is not reflected, a statement that the performance data does not reflect the deduction of the sales load or fee, and that, if reflected, the load or fee would reduce the performance quoted.

(4) *Money market funds.* An advertisement for an investment company that holds itself out to be a money market fund must include the following statement:

An investment in the Fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. Although the Fund seeks to preserve the value of your investment at $1.00 per share, it is possible to lose money by investing in the Fund.

A money market fund that does not hold itself out as maintaining a stable net asset value may omit the second sentence of this statement.

(5) *Presentation.* In a print advertisement, the statements required by paragraphs (b)(1) through (b)(4) of this section must be presented in a type size at least as large as and of a style different from, but at least as prominent as, that used in the major portion of the advertisement, provided that when performance data is presented in a type size smaller than that of the major portion of the advertisement, the statements required by paragraph (b)(3) of this section may appear in a type size no smaller than that of the performance data. If an advertisement is delivered through an electronic medium, the legibility requirements for the statements required by paragraph (b)(1) through (b)(4) of this section relating to type size and style may be satisfied by presenting the statements in any manner reasonably calculated to draw investor attention to them. In a radio or television advertisement, the statements required by paragraph (b)(1) through (b)(4) of this section must be given emphasis equal to that used in the major portion of the advertisement. The statements required by paragraph (b)(3) of this section must be presented in close proximity to the performance data, and, in a print advertisement, must be presented in the body of the advertisement and not in a footnote.

(6) *Commission legend.* An advertisement that complies with this section need not contain the Commission legend required by § 230.481(b)(1).

(c) *Use of applications.* An advertisement that complies with this section may not contain or be accompanied by any application by which a prospective investor may invest in the investment company, except that:

(1) *Variable annuity and variable life insurance contracts.* A prospectus meeting the requirements of section 10(a) of the Act (15 U.S.C. 77j(a)) by which a unit investment trust offers variable annuity or variable life insurance contracts may contain a contract application although the prospectus includes, or is accompanied by, information about an investment company in which the unit investment trust invests that, pursuant to this section, is deemed a prospectus under section 10(b) of the Act (15 U.S.C. 77j(b)); and

(2) *Profile.* An advertisement that complies with this section may be used with a Profile that includes, or is accompanied by, an application to purchase shares of the investment company as permitted under § 230.498.

(d) *Performance data for non-money market funds.* In the case of an open-end management investment company or a trust account (other than a money market fund referred to in paragraph (e) of this section), any quotation of the company's performance contained in an advertisement shall be limited to quotations of:

(1) *Current yield.* A current yield that:

(i) Is based on the methods of computation prescribed in Form N–1A (§§ 239.15A and 274.11A of this chapter), N–3 (§§ 239.17a and 274.11b of this chapter), or N–4 (§§ 239.17b and 274.11c of this chapter);

(ii) Is accompanied by quotations of total return as provided for in paragraph (d)(3) of this section;

(iii) Is set out in no greater prominence than the required quotations of total return; and

(iv) Adjacent to the quotation and with no less prominence than the quotation, identifies the length of and the date of the last day in the base period used in computing the quotation.

(2) *Tax-equivalent yield.* A tax-equivalent yield that:

(i) Is based on the methods of computation prescribed in Form N–1A (§§ 239.15A and 274.11A of this chapter), N–3 (§§ 239.17a and 274.11b of this chapter), or N–4 (§§ 239.17b and 274.11c of this chapter);

(ii) Is accompanied by quotations of yield as provided for in paragraph (d)(1) of this section and total return as provided for in paragraph (d)(3) of this section;

(iii) Is set out in no greater prominence than the required quotations of yield and total return;

(iv) Relates to the same base period as the required quotation of yield; and

(v) Adjacent to the quotation and with no less prominence than the quotation, identifies the length of and the date of the last day in the base period used in computing the quotation.

(3) *Average annual total return.* Average annual total return for one, five, and ten year periods, except that if the company's registration statement under the Act (15 U.S.C. 77a *et seq.*) has been in effect for less than one, five, or ten years, the time period during which the registration statement was in effect is substituted for the period(s) otherwise prescribed. The quotations must:

(i) Be based on the methods of computation prescribed in Form N–1A (§§ 239.15A and 274.11A of this chapter), N–3 (§§ 239.17a and 274.11b of this chapter), or N–4 (§§ 239.17b and 274.11c of this chapter);

(ii) Be current to the most recent calendar quarter ended prior to the submission of the advertisement for publication;

(iii) Be set out with equal prominence; and

(iv) Adjacent to the quotation and with no less prominence than the quotation, identify the length of and the last day of the one, five, and ten year periods.

(4) *After-tax return.* For an open-end management investment company,

average annual total return (after taxes on distributions) and average annual total return (after taxes on distributions and redemption) for one, five, and ten year periods, except that if the company's registration statement under the Act (15 U.S.C. 77a *et seq.*) has been in effect for less than one, five, or ten years, the time period during which the registration statement was in effect is substituted for the period(s) otherwise prescribed. The quotations must:

(i) Be based on the methods of computation prescribed in Form N–1A (§§ 239.15A and 274.11A of this chapter);

(ii) Be current to the most recent calendar quarter ended prior to the submission of the advertisement for publication;

(iii) Be accompanied by quotations of total return as provided for in paragraph (d)(3) of this section;

(iv) Include both average annual total return (after taxes on distributions) and average annual total return (after taxes on distributions and redemption);

(v) Be set out with equal prominence and be set out in no greater prominence than the required quotations of total return; and

(vi) Adjacent to the quotations and with no less prominence than the quotations, identify the length of and the last day of the one, five, and ten year periods.

(5) *Other performance measures.* Any other historical measure of company performance (not subject to any prescribed method of computation) if such measurement:

(i) Reflects all elements of return;

(ii) Is accompanied by quotations of total return as provided for in paragraph (d)(3) of this section;

(iii) In the case of any measure of performance adjusted to reflect the effect of taxes, is accompanied by quotations of total return as provided for in paragraph (d)(4) of this section;

(iv) Is set out in no greater prominence than the required quotations of total return; and

(v) Adjacent to the measurement and with no less prominence than the measurement, identifies the length of and the last day of the period for which performance is measured.

(e) *Performance data for money market funds.* In the case of a money market fund:

(1) *Yield.* Any quotation of the money market fund's yield in an advertisement shall be based on the methods of computation prescribed in Form N–1A (§§ 239.15A and 274.11A of this chapter), N–3 (§§ 239.17a and 274.11b of this chapter), or N–4 (§§ 239.17b and 274.11c of this chapter) and may include:

(i) A quotation of current yield that, adjacent to the quotation and with no less prominence than the quotation, identifies the length of and the date of the last day in the base period used in computing that quotation;

(ii) A quotation of effective yield if it appears in the same advertisement as a quotation of current yield and each quotation relates to an identical base period and is presented with equal prominence; or

(iii) A quotation or quotations of tax-equivalent yield or tax-equivalent effective yield if it appears in the same advertisement as a quotation of current yield and each quotation relates to the same base period as the quotation of current yield, is presented with equal prominence, and states the income tax rate used in the calculation.

(2) *Total return.* Accompany any quotation of the money market fund's total return in an advertisement with a quotation of the money market fund's current yield under paragraph (e)(1)(i) of this section. Place the quotations of total return and current yield next to each other, in the same size print, and if there is a material difference between the quoted total return and the quoted current yield, include a statement that the yield quotation more closely reflects the current earnings of the money market fund than the total return quotation.

(f) *Advertisements that make tax representations.* An advertisement for an open-end management investment company (other than a company that is permitted under § 270.35d-1(a)(4) of this chapter to use a name suggesting that the company's distributions are exempt from federal income tax or from both federal and state income tax) that represents or implies that the company is managed to limit or control the effect of taxes on company performance must accompany any quotation of the company's performance permitted by paragraph (d) of this section with quotations of total return as provided for in paragraph (d)(4) of this section.

(g) *Timeliness of performance data.* All performance data contained in any advertisement must be as of the most recent practicable date considering the type of investment company and the media through which the data will be conveyed, except that any advertisement containing total return quotations will be considered to have complied with this paragraph provided that:

(1)(i) The total return quotations are current to the most recent calendar quarter ended prior to the submission of the advertisement for publication; and

(ii) Total return quotations current to the most recent month ended seven business days prior to the date of use are provided at the toll-free (or collect) telephone number or Web site identified pursuant to paragraph (b)(3)(i) of this section; or

(2) The total return quotations are current to the most recent month ended seven business days prior to the date of use of the advertisement.

Note to paragraph (g): The date of use refers to the date or dates when an advertisement is used by investors, not the date on which an advertisement is published or submitted for publication. The date of use refers to the entire period of use by investors and not simply the first date on which an advertisement is used.

(h) *Filing.* An advertisement that complies with this section need not be filed as part of the registration statement filed under the Act.

Note to paragraph (h): These advertisements, unless filed with NASD Regulation, Inc., are required to be filed in accordance with the requirements of § 230.497.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

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

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, 79t, 80a–8, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

■ 6. The authority citation for part 270 continues to read in part as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–34(d), 80a–37, and 80a–39, unless otherwise noted.

* * * * *

■ 7. Section 270.34b–1 is amended by:

■ a. Adding a note following the introductory text of § 270.34b–1;

■ b. Revising paragraph (a);

■ c. Revising paragraph (b)(1)(i);

■ d. Revising the reference ''(d)(1)(i) of § 230.482'' in paragraph (b)(1)(ii)(A) to read ''(e)(1)(i) of § 230.482'';

■ e. Revising the reference ''§ 230.482(d)(1)(iii)'' in paragraph (b)(1)(ii)(B) to read ''§ 230.482(e)(1)(iii)'';

■ f. Revising the reference ''(d)(1)(i) of § 230.482'' in the first sentence of paragraph (b)(1)(ii)(C) to read ''(e)(1)(i) of § 230.482'';

■ g. Revising the reference ''(e)(3) of § 230.482'' in paragraph (b)(1)(iii)(A) to read ''(d)(3) of § 230.482'';
■ h. Revising the reference ''(e)(4) of § 230.482'' in paragraph (b)(1)(iii)(B) to read ''(d)(4) of § 230.482'';
■ i. Revising the reference ''(e)(4) of § 230.482'' in paragraph (b)(1)(iii)(C) to read ''(d)(4) of § 230.482'';
■ j. Revising the reference ''(e)(1) of § 230.482'' in paragraph (b)(1)(iii)(D) to read ''(d)(1) of § 230.482'';
■ k. Revising the references ''(e)(2)'' and ''(e)(1) of § 230.482'' in paragraph (b)(1)(iii)(E) to read ''(d)(2)'' and ''(d)(1) of § 230.482'', respectively;
■ l. Revising the reference ''paragraph (f) of § 230.482'' in paragraph (b)(2) to read ''paragraph (g) of § 230.482''; and
■ m. Revising the reference ''(e)(3)(ii), (e)(4)(ii)'' in paragraph (b)(3) to read ''(d)(3)(ii), (d)(4)(ii)'.

The addition and revisions read as follows:

§ 270.34b–1 Sales literature deemed to be misleading.

* * * * *

Note to introductory text of § 270.34b–1: The fact that the sales literature includes the information specified in paragraphs (a) and (b) of this section does not relieve the investment company, underwriter, or dealer of any obligations with respect to the sales literature under the antifraud provisions of the federal securities laws. For guidance about factors to be weighed in determining whether statements, representations, illustrations, and descriptions contained in investment company sales literature are misleading, *see* § 230.156 of this chapter.

(a) Sales literature for a money market fund shall contain the information required by paragraph (b)(4) of § 230.482 of this chapter, presented in the manner required by paragraph (b)(5) of § 230.482 of this chapter.

(b)(1) * * *

(i) In any sales literature that contains performance data for an investment company, include the disclosure required by paragraph (b)(3) of § 230.482 of this chapter, presented in the manner required by paragraph (b)(5) of § 230.482 of this chapter.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 8. The authority citation for Part 274 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78l, 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, and 80a–29, unless otherwise noted.

Note: The text of Forms N–1A, N–3, N–4, and N–6 does not, and these amendments will not, appear in the *Code of Federal Regulations.*

9. Item 21 of Form N–1A (referenced in §§ 239.15A and 274.11A) is amended by:

a. Revising the introductory text of paragraphs (a) and (b); and

b. Removing paragraphs (a)(5) and (b)(7), to read as follows:

Form N–1A

* * * * *

Item 21. Calculation of Performance Data

(a) *Money Market Funds.* Yield quotation(s) for a Money Market Fund included in the prospectus should be calculated according to paragraphs (a)(1)–(4).

* * * * *

(b) *Other Funds.* Performance information included in the prospectus should be calculated according to paragraphs (b)(1)–(6).

* * * * *

10. General Instruction F of Form N–3 (referenced in §§ 239.17a and 274.11b) is amended by:

a. Removing General Instruction F.2; and

b. Redesignating General Instruction F.1 as General Instruction F.

11. Item 4 of Form N–3 (referenced in §§ 239.17a and 274.11b) is amended by:

a. Removing Item 4(c); and

b. Redesignating Item 4(d) as Item 4(c).

12. Item 25 of Form N–3 (referenced in §§ 239.17a and 274.11b) is amended by:

a. Removing Instruction 5 to paragraph (a); and

b. Revising paragraphs (a) and (b), and Instruction 6 to paragraph (b)(i), to read as follows:

Form N–3

* * * * *

Item 25. Calculation of Performance Data

(a) *Money Market Accounts.* Yield quotation(s) included in the prospectus for an account or sub-account that holds itself out as a ''money market'' account or sub-account should be calculated according to paragraphs (a)(i)–(ii).

(i) *Yield Quotation.* Based on the 7 days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the yield by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the account or sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then multiplying the base period return by (365/7) with the resulting yield figure carried to at least the nearest hundredth of one percent.

(ii) *Effective Yield Quotation.* Based on the 7 days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the effective yield, carried to at least the nearest hundredth of one percent, by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the account or sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then compounding the base period return by adding 1, raising the sum to a power equal to 365 divided by 7, and subtracting 1 from the result, according to the following formula:

$$\text{EFFECTIVE YIELD} = [(\text{BASE PERIOD RETURN} + 1)^{365/7}] - 1.$$

Instructions:

* * * * *

(b) *Other Accounts.* Performance information included in the prospectus should be calculated according to paragraphs (b)(i)–(iii).

(i) *Average Annual Total Return Quotation.* For the 1-, 5-, and 10-year periods ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the average annual total return by finding the average annual compounded rates of return over the 1-, 5-, and 10-year periods that would equate the initial amount invested to the ending redeemable value, according to the following formula:

$$P(1+T)^n = ERV$$

Where:

P = a hypothetical initial payment of $1,000

T = average annual total return

n = number of years

ERV = ending redeemable value of a hypothetical $1,000 payment made at the beginning of the 1-, 5-, or 10-year periods at the end of the 1-, 5-, or 10-year periods (or fractional portion).

Instructions:

* * * * *

6. Total return information in the prospectus need only be current to the end of the Registrant's most recent fiscal year.

(ii) *Yield Quotation.* Based on a 30-day (or one month) period ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate yield by dividing the net investment income per accumulation unit earned during the period by the maximum offering price per unit on the last day of the period, according to the following formula:

$$\text{YIELD} = 2\left[\left(\frac{a-b}{cd}+1\right)^{6}-1\right]$$

Where:

a = dividends and interest earned during the period.

b = expenses accrued for the period (net of reimbursements).

c = the average daily number of accumulation units outstanding during the period.

d = the maximum offering price per accumulation unit on the last day of the period.

Instructions:

* * * * *

(iii) *Non-Standardized Performance Quotation.* A Registrant may calculate performance using any other historical measure of performance (not subject to any prescribed method of computation) if the measurement reflects all elements of return.

* * * * *

13. Item 28 of Form N–3 (referenced in §§ 239.17a and 274.11b) is amended by:

a. Adding the word ''and'' after the semicolon at the end of Item 28(b)(15);

b. Removing Item 28(b)(16);

c. Redesignating Item 28(b)(17) as Item 28(b)(16); and

d. Revising Instruction 1 to Item 28 to read as follows:

Form N–3

* * * * *

Item 28.

* * * * *

(b) * * *

(15) copies of any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, the Insurance Company, underwriter, adviser, or initial contractowners and written assurances from the Insurance Company or initial contractowners that the purchases were made for investment purposes without any present intention of redeeming; and

(16) copies of any codes of ethics adopted under Rule 17j–1 under the 1940 Act [17 CFR 270.17j–1] and currently applicable to the Registrant (*i.e.,* the codes of the Registrant and its investment advisers and principal underwriters). If there are no codes of ethics applicable to the Registrant, state the reason (*e.g.,* the Registrant is a Money Market Fund).

Instructions:

1. Subject to the Rules regarding incorporation by reference and Instruction 2 below, the foregoing exhibits shall be filed as part of the Registration Statement. Exhibits numbered 5, 12, 13, and 14 above need be filed only as part of a 1933 Act Registration Statement. Exhibits shall be lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits.

* * * * *

14. General Instruction F of Form N–4 (referenced in §§ 239.17b and 274.11c) is amended by:

a. Removing General Instruction F.2; and

b. Redesignating General Instruction F.1 as General Instruction F.

15. Item 4 of Form N–4 (referenced in §§ 239.17b and 274.11c) is amended by:

a. Removing Item 4(b); and

b. Redesignating Item 4(c) as Item 4(b).

16. Item 21 of Form N–4 (referenced in §§ 239.17b and 274.11c) is amended by:

a. Removing Instruction 5 to paragraph (a); and

b. Revising paragraphs (a) and (b), and Instruction 6 to paragraph (b)(i), to read as follows:

Form N–4

* * * * *

Item 21. Calculation of Performance Data

(a) *Money Market Funded Sub-Accounts.* Yield quotation(s) included in the prospectus for an account or sub-account that holds itself out as a ''money market'' account or sub-account should be calculated according to paragraphs (a)(i)—(ii).

(i) *Yield Quotation.* Based on the 7 days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the yield by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the account or sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then multiplying the base period return by (365/7) with the resulting yield figure carried to at least the nearest hundredth of one percent.

(ii) *Effective Yield Quotation.* Based on the 7 days ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the effective yield, carried to at least the nearest hundredth of one percent, by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the account or sub-account at the beginning of the period, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then compounding the base period return by adding 1, raising the sum to a power equal to 365 divided by 7, and subtracting 1 from the result, according to the following formula:

$$\text{EFFECTIVE YIELD} = [(\text{BASE PERIOD RETURN} + 1)^{365/7}] - 1.$$

Instructions:

* * * * *

(b) *Other Sub-Accounts.* Performance information included in the prospectus should be calculated according to paragraphs (b)(i)—(iii).

(i) *Average Annual Total Return Quotation.* For the 1-, 5-, and 10-year periods ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate the average annual total return by finding the average annual compounded rates of return over the 1-, 5-, and 10-year periods that would equate the initial amount invested to the ending redeemable value, according to the following formula:

$$P(1+T)^{n} = ERV$$

Where:

P = a hypothetical initial payment of $1,000

T = average annual total return

n = number of years

ERV = ending redeemable value of a hypothetical $1,000 payment made at the beginning of the 1-, 5-, or 10-

year periods at the end of the 1-, 5-, or 10-year periods (or fractional portion).

Instructions:

* * * * *

6. Total return information in the prospectus need only be current to the end of the Registrant's most recent fiscal year.

(ii) *Yield Quotation.* Based on a 30-day (or one month) period ended on the date of the most recent balance sheet of the Registrant included in the registration statement, calculate yield by dividing the net investment income per accumulation unit earned during the period by the maximum offering price per unit on the last day of the period, according to the following formula:

$$\text{YIELD} = 2\left[\left(\frac{a-b}{cd}+1\right)^{6}-1\right]$$

Where:

a = net investment income earned during the period by the portfolio company attributable to shares owned by the sub-account.

b = expenses accrued for the period (net of reimbursements).

c = the average daily number of accumulation units outstanding during the period.

d = the maximum offering price per accumulation unit on the last day of the period.

Instructions:

* * * * *

(iii) *Non-Standardized Performance Quotation.* A Registrant may calculate performance using any other historical measure of performance (not subject to any prescribed method of computation) if the measurement reflects all elements of return.

* * * * *

19. Item 24 of Form N–4 (referenced in §§ 239.17b and 274.11c) is amended by:

a. Adding the word ''and'' after the semicolon at the end of Item 24(b)(11);

b. Removing Item 24(b)(13); and

c. Revising Instruction 1 to Item 24.

The revisions read as follows:

Form N–4

* * * * *

Item 24

* * * * *

(b) * * *

(11) all financial statements omitted from Item 23; and

(12) copies of any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, the depositor, underwriter, or initial contractowners and written assurances from the depositor or initial contractowners that the purchases were made for investment purposes without any present intention of redeeming.

Instructions:

1. Subject to the Rules regarding incorporation by reference and Instruction 2 below, the foregoing exhibits shall be filed as part of the Registration Statement. Exhibits numbered 3, 9, 10, and 11 above need to be filed only as part of a 1933 Act Registration Statement. Exhibits shall be lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits.

* * * * *

20. General Instruction B.2.(b) of Form N–6 (referenced in §§ 239.17c and 274.11d) is amended by revising the reference ''Items 27(c), (k), (l), (n), and (o)'' to read ''Items 26(c), (k), (l), (n), and (o)''.

21. Item 25 of Form N–6 (referenced in §§ 239.17c and 274.11d) is removed.

22. Form N–6 (referenced in §§ 239.17c and 274.11d) is further amended by:

a. Redesignating Items 26 through 34 as Items 25 though 33;

b. Revising the reference ''Item 26'' in paragraph (j) of newly redesignated Item 25 to read ''Item 25''; and

c. Revising the reference ''Item 26'' in paragraphs (l) and (m) of newly redesignated Item 26 to read ''Item 25''.

By the Commission.

Dated: September 29, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–25114 Filed 10–3–03; 8:45 am]

BILLING CODE 8010–01–P

Reader Aids

Federal Register

Vol. 68, No. 193

Monday October 6, 2003

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal__register/**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

56521–56764 1
56765–57318 2
57319–57606 3
57607–57782 6

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7710 56521
Administrative Orders:
Presidential Determinations:
No. 2003–40 57319

5 CFR

575 56665
890 56523
892 ..... 56523, 56525

7 CFR

301 56529
930 57321
956 57324
1220 57326
Proposed Rules:
58 57382

9 CFR

113 57607
Proposed Rules:
113 57638

10 CFR

30 57327
40 57327
70 57327
Proposed Rules:
52 57383

12 CFR

3 56530
208 56530
225 56530
325 56530
567 56530
702 56537
704 56537
712 56537
723 56537
742 56537
Proposed Rules:
3 56568
208 56568
225 56568
325 56568
567 56568
701 56586
708a 56589
741 56586

13 CFR

120 56553

14 CFR

39 ..... 57337, 57339, 57343, 57346, 57609, 57611
71 57347
97 ..... 57347, 57349
Proposed Rules:
39 ..... 56591, 56594, 56596, 56598, 56792, 56794, 56796, 56799, 56801, 57392, 57394, 57639

15 CFR

303 56555

17 CFR

230 57760
239 57760
270 57760
274 57760
275 56692
279 56692

19 CFR

Proposed Rules:
191 56804

21 CFR

520 57351
522 56765
529 57613
Proposed Rules:
1 56600
356 57642

22 CFR

120 57352

24 CFR

598 57604
599 57604

26 CFR

1 56556

30 CFR

935 57352
938 56765
Proposed Rules:
917 57398

33 CFR

117 ..... 57356, 57614
165 ..... 57358, 57366, 57368, 57370, 57616
334 57624
Proposed Rules:
334 57642

37 CFR

2 56556

38 CFR

Proposed Rules:
17 56876

39 CFR

111 56557

224 56557
230 57372
261 56557
262 56557
263 56557
264 56557
265 56557
266 56557
267 56557
268 56557

40 CFR

62 57518
80 56776

Proposed Rules:

80 56805
82 56809
261 56603

41 CFR

101–6 56560
101–8 57730

42 CFR

412 57732
413 57732

44 CFR

65 57625

47 CFR

52 56781
64 56764

Proposed Rules:

73 (2 documents) 56810, 56811

48 CFR

Ch. 1 ....56668, 56689
1 56669
2 ....56669, 56676, 56681
4 ....56669, 56676, 56679
5 56676
6 56676
7 56676
8 56688
9 56676
10 ....56676, 56681
12 ....56676, 56681, 56682
13 ....56669, 56681
14 56676
19 ....56676, 56681
22 56676
24 56688
25 ....56676, 56681, 56684, 56685
31 56686
32 ....56669, 56682
34 56676
35 56676
36 56676
52 ....56669, 56682, 56684, 56685
202 56560
213 56560
226 56561
237 56563
252 ....56560, 56561
1817 57629

Proposed Rules:

16 56613
39 56613

49 CFR

171 57629
172 57629
173 57629
175 57629
176 57629
177 57629
178 57629
179 57629

50 CFR

17 56564
32 57308
622 57375
635 56783
660 57379
679 ....56788, 57381, 57634, 57636
697 56789

Proposed Rules:

17 ....57643, 57646
622 57400
648 56811

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT OCTOBER 6, 2003

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cherries (tart) grown in—
- Michigan et al.; published 10-3-03

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:
- Ready-to-eat meat and poultry products; listeria monocytogenes control; published 6-6-03

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- West Coast States and Western Pacific fisheries—
  - Pacific Coast groundfish; published 9-4-03

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control:
- State operating permits programs—
  - Kansas; published 8-6-03

Air quality implementation plans; approval and promulgation; various States:
- California; published 9-4-03
- Maryland; published 8-6-03
- Pennsylvania; published 8-5-03

FEDERAL COMMUNICATIONS COMMISSION

Radio services, special:
- Maritime communications; rules consolidation, revision, and streamlining; published 8-7-03

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:
- Progesterone intravaginal inserts; published 10-6-03

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Acquisition regulations:
- Interagency acquisitions; five year limitation; published 10-6-03

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Aircraft:
- Repair stations; published 3-14-03

Airworthiness directives:
- Dornier; published 8-18-03

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Milk marketing orders:
- Pacific Northwest et al.; comments due by 10-17-03; published 8-18-03 [FR 03-20689]

Nectarines and peaches grown in—
- California; comments due by 10-14-03; published 8-15-03 [FR 03-20875]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Alaska; fisheries of Exclusive Economic Zone—
  - Pacific cod; comments due by 10-16-03; published 10-6-03 [FR 03-25265]
- Caribbean, Gulf, and South Atlantic fisheries—
  - Gulf of Mexico shrimp; comments due by 10-14-03; published 8-14-03 [FR 03-20681]
- West Coast States and Western Pacific fisheries—
  - Pacific Coast groundfish; comments due by 10-17-03; published 8-18-03 [FR 03-21069]

Meetings:
- New England Fishery Management Council; comments due by 10-15-03; published 8-19-03 [FR 03-21206]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control:
- State operating permit programs—
  - Iowa; comments due by 10-16-03; published 9-16-03 [FR 03-23585]
- State operating permits programs—
  - Iowa; comments due by 10-16-03; published 9-16-03 [FR 03-23584]
  - North Dakota; comments due by 10-17-03; published 9-17-03 [FR 03-23751]
  - North Dakota; comments due by 10-17-03; published 9-17-03 [FR 03-23752]

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
- Various States; comments due by 10-17-03; published 9-17-03 [FR 03-23749]

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
- Various States; comments due by 10-17-03; published 9-17-03 [FR 03-23750]

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 10-16-03; published 9-16-03 [FR 03-23593]
- Illinois; comments due by 10-15-03; published 9-15-03 [FR 03-23268]
- Indiana; comments due by 10-16-03; published 9-16-03 [FR 03-23592]
- Kansas; comments due by 10-16-03; published 9-16-03 [FR 03-23590]
- Missouri; comments due by 10-16-03; published 9-16-03 [FR 03-23591]
- North Carolina; comments due by 10-15-03; published 9-15-03 [FR 03-23266]
- Wisconsin; comments due by 10-16-03; published 9-16-03 [FR 03-23426]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Hydramethylnon; comments due by 10-14-03; published 8-13-03 [FR 03-20432]
- Tralkoxydim; comments due by 10-14-03; published 8-13-03 [FR 03-20433]

Water pollution; effluent guidelines for point source categories:
- Meat and poultry products processing facilities; comments due by 10-14-03; published 9-29-03 [FR 03-24770]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Satellite communications—
  - Satellite and earth station license procedures; electronic filings requirements; comments due by 10-14-03; published 9-12-03 [FR 03-23315]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare:
- Claims; electronic submission; comments due by 10-14-03; published 8-15-03 [FR 03-20955]
- Part B drugs; payment reform; comments due by 10-14-03; published 8-20-03 [FR 03-21308]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs and biological products:
- Pre- and postmarketing safety reporting requirements; comments due by 10-14-03; published 6-18-03 [FR 03-15341]

Human drugs:
- External analgesic products (OTC); administrative record and tentative final monograph; comments due by 10-15-03; published 7-17-03 [FR 03-17934]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:
- Louisiana; comments due by 10-17-03; published 8-18-03 [FR 03-21088]

Ports and waterways safety:
- Cape Fear River Bridge, NC; security zone; comments due by 10-14-03; published 7-15-03 [FR 03-17836]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
- Critical habitat designations—
  - Mussels in Mobile River Basin, AL; comments

due by 10-14-03; published 8-14-03 [FR 03-20729]

INTERIOR DEPARTMENT
National Park Service
Special regulations:
Yellowstone and Grant Teton National Parks and John D. Rockefeller, Jr. Memorial Parkway, WY; winter visitation and recreational use management; comments due by 10-14-03; published 8-27-03 [FR 03-21332]

JUSTICE DEPARTMENT
Alcohol, Tobacco, Firearms, and Explosives Bureau
Safe Explosives Act; implementation:
Delivery of explosive materials by common or contract carrier; comments due by 10-14-03; published 9-11-03 [FR 03-23093]

LABOR DEPARTMENT
Acquisition regulations; revision; comments due by 10-14-03; published 8-15-03 [FR 03-20095]

LABOR DEPARTMENT
Mine Safety and Health Administration
Metal and nonmetal mine safety and health:
Underground mines—
Diesel particulate matter exposure of miners; comments due by 10-14-03; published 8-14-03 [FR 03-20190]
Diesel particulate matter exposure of miners; comments due by 10-14-03; published 8-26-03 [FR 03-21886]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Grant and Cooperative Agreement Handbook:
NASA Center, facility, computer system, or technical information access; investigative requirements; comments due by 10-14-03; published 8-15-03 [FR 03-20921]
Photographs and illustrations in reports or publications; public acknowledgements; comments due by 10-14-03; published 8-15-03 [FR 03-20920]

NUCLEAR REGULATORY COMMISSION
Byproduct material; domestic licensing:
Portable gauges; security requirements; comments due by 10-15-03; published 8-1-03 [FR 03-19588]

PERSONNEL MANAGEMENT OFFICE
Acquisition regulations:
Federal Employees Health Benefits Program—
Large provider agreements, subcontracts, and miscellaneous changes; comments due by 10-14-03; published 8-15-03 [FR 03-20857]

SECURITIES AND EXCHANGE COMMISSION
Securities:
Depository shares evidenced by American depositary receipts; Form F-6 use; eligibility requirements; comments due by 10-17-03; published 9-17-03 [FR 03-23737]
Insider lending prohibition; foreign bank exemption; comments due by 10-17-03; published 9-17-03 [FR 03-23655]

SOCIAL SECURITY ADMINISTRATION
Social security benefits:
Federal old-age, survivors, and disability insurance—
Stepchildren; entitlement and termination requirements; comments due by 10-14-03; published 8-12-03 [FR 03-20490]

STATE DEPARTMENT
Visas; immigrant documentation:
Diversity Visa Program; diversity Immigrant status; electronic petition; comments due by 10-17-03; published 8-18-03 [FR 03-21071]

TENNESSEE VALLEY AUTHORITY
Agency information collection activities; proposals, submissions, and approvals; comments due by 10-14-03; published 8-27-03 [FR 03-21868]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Boeing; comments due by 10-14-03; published 8-27-03 [FR 03-21873]
Dassault; comments due by 10-14-03; published 9-19-03 [FR 03-23937]
Learjet; comments due by 10-14-03; published 8-12-03 [FR 03-20238]
McDonnell Douglas; comments due by 10-14-03; published 8-27-03 [FR 03-21874]
Pratt & Whitney Canada; comments due by 10-14-03; published 8-14-03 [FR 03-20484]
Rolls-Royce Corp.; comments due by 10-14-03; published 8-13-03 [FR 03-20573]
VOR Federal airways; comments due by 10-14-03; published 8-28-03 [FR 03-22042]

TRANSPORTATION DEPARTMENT
Federal Motor Carrier Safety Administration
Motor carrier safety standards:
Longer combination vehicle operators; minimum training requirements and driver-instructor requirements; comments due by 10-14-03; published 8-12-03 [FR 03-20368]
Special training requirements—
Entry-level comercial motor vehicle operators; minimum training requirements; comments due by 10-14-03; published 8-15-03 [FR 03-20888]

TREASURY DEPARTMENT
Foreign Assets Control Office
Trading with the Enemy Act; implementation:
Civil penalties hearing regulations; comments due by 10-14-03; published 9-11-03 [FR 03-22969]

TREASURY DEPARTMENT
Internal Revenue Service
Employment taxes and collection of income tax at source:
Federal unemployment tax deposits; de minimis threshold; comments due by 10-15-03; published 7-17-03 [FR 03-18042]
Income taxes:
Tax-exempt bonds; remedial actions; comments due by 10-14-03; published 7-21-03 [FR 03-18327]
Tax attributes reduction due to discharge of indebtedness; cross-reference; comments due by 10-16-03; published 7-18-03 [FR 03-18146]

TREASURY DEPARTMENT
Alcohol and Tobacco Tax and Trade Bureau
Alcohol; viticultural area designations:
Dundee Hills, OR; comments due by 10-14-03; published 8-15-03 [FR 03-20914]

VETERANS AFFAIRS DEPARTMENT
Board of Veterans' Appeals:
Appeals regulations and rules of practice—
Grounds of clear and unmistakable error decisions; comments due by 10-14-03; published 9-12-03 [FR 03-23260]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 2555/P.L. 108–90

Department of Homeland Security Appropriations Act, 2004 (Oct. 1, 2003; 117 Stat. 1137)

Last List October 2, 2003

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $1195.00 domestic, $298.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–050–00001–6)	9.00	[4] Jan. 1, 2003
3 (1997 Compilation and Parts 100 and 101)	(869–050–00002–4)	32.00	[1] Jan. 1, 2003
4	(869–050–00003–2)	9.50	Jan. 1, 2003
5 Parts:			
1–699	(869–050–00004–1)	57.00	Jan. 1, 2003
700–1199	(869–050–00005–9)	46.00	Jan. 1, 2003
1200–End, 6 (6 Reserved)	(869–050–00006–7)	58.00	Jan. 1, 2003
7 Parts:			
1–26	(869–050–00007–5)	40.00	Jan. 1, 2003
27–52	(869–050–00008–3)	47.00	Jan. 1, 2003
53–209	(869–050–00009–1)	36.00	Jan. 1, 2003
210–299	(869–050–00010–5)	59.00	Jan. 1, 2003
300–399	(869–050–00011–3)	43.00	Jan. 1, 2003
400–699	(869–050–00012–1)	39.00	Jan. 1, 2003
700–899	(869–050–00013–0)	42.00	Jan. 1, 2003
900–999	(869–050–00014–8)	57.00	Jan. 1, 2003
1000–1199	(869–050–00015–6)	23.00	Jan. 1, 2003
1200–1599	(869–050–00016–4)	58.00	Jan. 1, 2003
1600–1899	(869–050–00017–2)	61.00	Jan. 1, 2003
1900–1939	(869–050–00018–1)	29.00	[4] Jan. 1, 2003
1940–1949	(869–050–00019–9)	47.00	Jan. 1, 2003
1950–1999	(869–050–00020–2)	45.00	Jan. 1, 2003
2000–End	(869–050–00021–1)	46.00	Jan. 1, 2003
8	(869–050–00022–9)	58.00	Jan. 1, 2003
9 Parts:			
1–199	(869–050–00023–7)	58.00	Jan. 1, 2003
200–End	(869–050–00024–5)	56.00	Jan. 1, 2003
10 Parts:			
1–50	(869–050–00025–3)	58.00	Jan. 1, 2003
51–199	(869–050–00026–1)	56.00	Jan. 1, 2003
200–499	(869–050–00027–0)	44.00	Jan. 1, 2003
500–End	(869–050–00028–8)	58.00	Jan. 1, 2003
11	(869–050–00029–6)	38.00	Jan. 1, 2003
12 Parts:			
1–199	(869–050–00030–0)	30.00	Jan. 1, 2003
200–219	(869–050–00031–8)	38.00	Jan. 1, 2003
220–299	(869–050–00032–6)	58.00	Jan. 1, 2003
300–499	(869–050–00033–4)	43.00	Jan. 1, 2003
500–599	(869–050–00034–2)	38.00	Jan. 1, 2003
600–899	(869–050–00035–1)	54.00	Jan. 1, 2003
900–End	(869–050–00036–9)	47.00	Jan. 1, 2003
13	(869–050–00037–7)	47.00	Jan. 1, 2003
14 Parts:			
1–59	(869–050–00038–5)	60.00	Jan. 1, 2003
60–139	(869–050–00039–3)	58.00	Jan. 1, 2003
140–199	(869–050–00040–7)	28.00	Jan. 1, 2003
200–1199	(869–050–00041–5)	47.00	Jan. 1, 2003
1200–End	(869–050–00042–3)	43.00	Jan. 1, 2003
15 Parts:			
0–299	(869–050–00043–1)	37.00	Jan. 1, 2003
300–799	(869–050–00044–0)	57.00	Jan. 1, 2003
800–End	(869–050–00045–8)	40.00	Jan. 1, 2003
16 Parts:			
0–999	(869–050–00046–6)	47.00	Jan. 1, 2003
1000–End	(869–050–00047–4)	57.00	Jan. 1, 2003
17 Parts:			
1–199	(869–050–00049–1)	50.00	Apr. 1, 2003
200–239	(869–050–00050–4)	58.00	Apr. 1, 2003
240–End	(869–050–00051–2)	62.00	Apr. 1, 2003
18 Parts:			
1–399	(869–050–00052–1)	62.00	Apr. 1, 2003
400–End	(869–050–00053–9)	25.00	Apr. 1, 2003
19 Parts:			
1–140	(869–050–00054–7)	60.00	Apr. 1, 2003
141–199	(869–050–00055–5)	58.00	Apr. 1, 2003
200–End	(869–050–00056–3)	30.00	Apr. 1, 2003
20 Parts:			
1–399	(869–050–00057–1)	50.00	Apr. 1, 2003
400–499	(869–050–00058–0)	63.00	Apr. 1, 2003
500–End	(869–050–00059–8)	63.00	Apr. 1, 2003
21 Parts:			
1–99	(869–050–00060–1)	40.00	Apr. 1, 2003
100–169	(869–050–00061–0)	47.00	Apr. 1, 2003
170–199	(869–050–00062–8)	50.00	Apr. 1, 2003
200–299	(869–050–00063–6)	17.00	Apr. 1, 2003
300–499	(869–050–00064–4)	29.00	Apr. 1, 2003
500–599	(869–050–00065–2)	47.00	Apr. 1, 2003
600–799	(869–050–00066–1)	15.00	Apr. 1, 2003
800–1299	(869–050–00067–9)	58.00	Apr. 1, 2003
1300–End	(869–050–00068–7)	22.00	Apr. 1, 2003
22 Parts:			
1–299	(869–050–00069–5)	62.00	Apr. 1, 2003
300–End	(869–050–00070–9)	44.00	Apr. 1, 2003
23	(869–050–00071–7)	44.00	Apr. 1, 2003
24 Parts:			
0–199	(869–050–00072–5)	58.00	Apr. 1, 2003
200–499	(869–050–00073–3)	50.00	Apr. 1, 2003
500–699	(869–050–00074–1)	30.00	Apr. 1, 2003
700–1699	(869–050–00075–0)	61.00	Apr. 1, 2003
1700–End	(869–050–00076–8)	30.00	Apr. 1, 2003
25	(869–050–00077–6)	63.00	Apr. 1, 2003
26 Parts:			
§§ 1.0–1–1.60	(869–050–00078–4)	49.00	Apr. 1, 2003
§§ 1.61–1.169	(869–050–00079–2)	63.00	Apr. 1, 2003
§§ 1.170–1.300	(869–050–00080–6)	57.00	Apr. 1, 2003
§§ 1.301–1.400	(869–050–00081–4)	46.00	Apr. 1, 2003
§§ 1.401–1.440	(869–050–00082–2)	61.00	Apr. 1, 2003
§§ 1.441–1.500	(869–050–00083–1)	50.00	Apr. 1, 2003
§§ 1.501–1.640	(869–050–00084–9)	49.00	Apr. 1, 2003
§§ 1.641–1.850	(869–050–00085–7)	60.00	Apr. 1, 2003
§§ 1.851–1.907	(869–050–00086–5)	60.00	Apr. 1, 2003
§§ 1.908–1.1000	(869–050–00087–3)	60.00	Apr. 1, 2003
§§ 1.1001–1.1400	(869–050–00088–1)	61.00	Apr. 1, 2003
§§ 1.1401–1.1503–2A	(869–050–00089–0)	50.00	Apr. 1, 2003
§§ 1.1551–End	(869–050–00090–3)	50.00	Apr. 1, 2003
2–29	(869–050–00091–1)	60.00	Apr. 1, 2003
30–39	(869–050–00092–0)	41.00	Apr. 1, 2003
40–49	(869–050–00093–8)	26.00	Apr. 1, 2003
50–299	(869–050–00094–6)	41.00	Apr. 1, 2003
300–499	(869–050–00095–4)	61.00	Apr. 1, 2003
500–599	(869–050–00096–2)	12.00	[5] Apr. 1, 2003
600–End	(869–050–00097–1)	17.00	Apr. 1, 2003

Title	Stock Number	Price	Revision Date
27 Parts:			
1–199	(869–050–00098–9)	63.00	Apr. 1, 2003
200–End	(869–050–00099–7)	25.00	Apr. 1, 2003
28 Parts:			
0–42	(869–050–00100–4)	61.00	July 1, 2003
43–End	(869–050–00101–2)	58.00	July 1, 2003
29 Parts:			
0–99	(869–050–00102–1)	50.00	July 1, 2003
100–499	(869–050–00103–9)	22.00	July 1, 2003
500–899	(869–050–00104–7)	61.00	July 1, 2003
900–1899	(869–050–00105–5)	35.00	July 1, 2003
1900–1910 (§§ 1900 to 1910.999)	(869–048–00104–2)	58.00	July 1, 2002
1910 (§§ 1910.1000 to end)	(869–050–00107–1)	46.00	July 1, 2003
1911–1925	(869–050–00108–0)	30.00	July 1, 2003
1926	(869–050–00109–8)	50.00	July 1, 2003
1927–End	(869–048–00108–5)	59.00	July 1, 2002
30 Parts:			
1–199	(869–048–00109–3)	56.00	July 1, 2002
200–699	(869–050–00112–8)	50.00	July 1, 2003
700–End	(869–050–00113–6)	57.00	July 1, 2003
31 Parts:			
0–199	(869–048–00112–3)	35.00	July 1, 2002
200–End	(869–048–00113–1)	60.00	July 1, 2002
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–050–00116–1)	60.00	July 1, 2003
191–399	(869–050–00117–9)	63.00	July 1, 2003
400–629	(869–048–00116–6)	47.00	July 1, 2002
630–699	(869–050–00119–5)	37.00	[7] July 1, 2003
700–799	(869–048–00118–2)	44.00	July 1, 2002
800–End	(869–050–00121–7)	47.00	July 1, 2003
33 Parts:			
1–124	(869–048–00120–4)	47.00	July 1, 2002
125–199	(869–048–00121–2)	60.00	July 1, 2002
200–End	(869–050–00124–1)	50.00	July 1, 2003
34 Parts:			
1–299	(869–048–00123–9)	45.00	July 1, 2002
300–399	(869–050–00126–8)	43.00	[7] July 1, 2003
400–End	(869–050–00127–6)	61.00	July 1, 2003
35	(869–050–00128–4)	10.00	[6] July 1, 2003
36 Parts			
1–199	(869–050–00129–2)	37.00	July 1, 2003
200–299	(869–050–00130–6)	37.00	July 1, 2003
300–End	(869–048–00129–8)	58.00	July 1, 2002
37	(869–048–00130–1)	47.00	July 1, 2002
38 Parts:			
0–17	(869–050–00133–1)	58.00	July 1, 2003
18–End	(869–050–00134–9)	62.00	July 1, 2003
39	(869–050–00135–7)	41.00	July 1, 2003
40 Parts:			
1–49	(869–050–00136–5)	60.00	July 1, 2003
50–51	(869–048–00135–2)	40.00	July 1, 2002
52 (52.01–52.1018)	(869–048–00136–1)	55.00	July 1, 2002
52 (52.1019–End)	(869–048–00137–9)	58.00	July 1, 2002
53–59	(869–050–00140–3)	31.00	July 1, 2003
60 (60.1–End)	(869–050–00141–1)	58.00	July 1, 2003
60 (Apps)	(869–050–00142–0)	51.00	[8] July 1, 2003
61–62	(869–050–00143–8)	43.00	July 1, 2003
63 (63.1–63.599)	(869–048–00142–5)	56.00	July 1, 2002
63 (63.600–63.1199)	(869–048–00143–3)	46.00	July 1, 2002
63 (63.1200–End)	(869–048–00144–1)	61.00	July 1, 2002
64–71	(869–048–00145–0)	29.00	July 1, 2002
72–80	(869–048–00146–8)	59.00	July 1, 2002
81–85	(869–048–00147–6)	47.00	July 1, 2002
86 (86.1–86.599–99)	(869–048–00148–4)	52.00	[8] July 1, 2002
86 (86.600–1–End)	(869–048–00149–2)	47.00	July 1, 2002
87–99	(869–048–00150–6)	57.00	July 1, 2002
100–135	(869–048–00151–4)	42.00	July 1, 2002
136–149	(869–048–00152–2)	58.00	July 1, 2002
150–189	(869–048–00153–1)	47.00	July 1, 2002
190–259	(869–050–00157–8)	39.00	July 1, 2003
260–265	(869–048–00155–7)	47.00	July 1, 2002
266–299	(869–048–00156–5)	47.00	July 1, 2002
300–399	(869–048–00157–3)	43.00	July 1, 2002
400–424	(869–050–00161–6)	56.00	July 1, 2003
425–699	(869–048–00159–0)	59.00	July 1, 2002
700–789	(869–048–00160–3)	58.00	July 1, 2002
790–End	(869–050–00164–1)	58.00	July 1, 2003
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–048–00162–0)	23.00	July 1, 2002
101	(869–050–00166–7)	24.00	July 1, 2003
102–200	(869–048–00164–6)	41.00	July 1, 2002
201–End	(869–048–00165–4)	24.00	July 1, 2002
42 Parts:			
1–399	(869–048–00166–2)	56.00	Oct. 1, 2002
400–429	(869–048–00167–1)	59.00	Oct. 1, 2002
430–End	(869–048–00168–9)	61.00	Oct. 1, 2002
43 Parts:			
1–999	(869–048–00169–7)	47.00	Oct. 1, 2002
1000–end	(869–048–00170–1)	59.00	Oct. 1, 2002
44	(869–048–00171–9)	47.00	Oct. 1, 2002
45 Parts:			
1–199	(869–048–00172–7)	57.00	Oct. 1, 2002
200–499	(869–048–00173–5)	31.00	[9] Oct. 1, 2002
500–1199	(869–048–00174–3)	47.00	Oct. 1, 2002
1200–End	(869–048–00175–1)	57.00	Oct. 1, 2002
46 Parts:			
1–40	(869–048–00176–0)	44.00	Oct. 1, 2002
41–69	(869–048–00177–8)	37.00	Oct. 1, 2002
70–89	(869–048–00178–6)	14.00	Oct. 1, 2002
90–139	(869–048–00179–4)	42.00	Oct. 1, 2002
140–155	(869–048–00180–8)	24.00	[9] Oct. 1, 2002
156–165	(869–048–00181–6)	31.00	[9] Oct. 1, 2002
166–199	(869–048–00182–4)	44.00	Oct. 1, 2002
200–499	(869–048–00183–2)	37.00	Oct. 1, 2002
500–End	(869–048–00184–1)	24.00	Oct. 1, 2002
47 Parts:			
0–19	(869–048–00185–9)	57.00	Oct. 1, 2002
20–39	(869–048–00186–7)	45.00	Oct. 1, 2002
40–69	(869–048–00187–5)	36.00	Oct. 1, 2002
70–79	(869–048–00188–3)	58.00	Oct. 1, 2002
80–End	(869–048–00189–1)	57.00	Oct. 1, 2002
48 Chapters:			
1 (Parts 1–51)	(869–048–00190–5)	59.00	Oct. 1, 2002
1 (Parts 52–99)	(869–048–00191–3)	47.00	Oct. 1, 2002
2 (Parts 201–299)	(869–048–00192–1)	53.00	Oct. 1, 2002
3–6	(869–048–00193–0)	30.00	Oct. 1, 2002
7–14	(869–048–00194–8)	47.00	Oct. 1, 2002
15–28	(869–048–00195–6)	55.00	Oct. 1, 2002
29–End	(869–048–00196–4)	38.00	[9] Oct. 1, 2002
49 Parts:			
1–99	(869–048–00197–2)	56.00	Oct. 1, 2002
100–185	(869–048–00198–1)	60.00	Oct. 1, 2002
186–199	(869–048–00199–9)	18.00	Oct. 1, 2002
200–399	(869–048–00200–6)	61.00	Oct. 1, 2002

Title	Stock Number	Price	Revision Date
400–999	(869–048–00201–4)	61.00	Oct. 1, 2002
1000–1199	(869–048–00202–2)	25.00	Oct. 1, 2002
1200–End	(869–048–00203–1)	30.00	Oct. 1, 2002
50 Parts:			
1–17	(869–048–00204–9)	60.00	Oct. 1, 2002
18–199	(869–048–00205–7)	40.00	Oct. 1, 2002
200–599	(869–048–00206–5)	38.00	Oct. 1, 2002
600–End	(869–048–00207–3)	58.00	Oct. 1, 2002
CFR Index and Findings Aids	(869–050–00048–2)	59.00	Jan. 1, 2003
Complete 2003 CFR set		1,195.00	2003
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2003
Individual copies		2.00	2003
Complete set (one-time mailing)		298.00	2002
Complete set (one-time mailing)		290.00	2001

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2002, through January 1, 2003. The CFR volume issued as of January 1, 2002 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2002, through July 1, 2003. The CFR volume issued as of July 1, 2002 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2001, through July 1, 2002. The CFR volume issued as of July 1, 2001 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2001, through October 1, 2002. The CFR volume issued as of October 1, 2001 should be retained.