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Presidential Documents

Title 3—

The President

Proclamation 7717 of October 8, 2003

National Domestic Violence Awareness Month, 2003

By the President of the United States of America

A Proclamation

Across our country, domestic violence traumatizes victims, endangers children, harms families, and threatens communities. According to the most recent report from the Department of Justice, there were almost 700,000 incidents of domestic violence in 2001. Approximately one-third of women who are murdered each year are killed by their current or former husband or partner. Children who are subjected to domestic violence too often grow up to inflict violence on others, creating a cycle of violence that must be stopped. During National Domestic Violence Awareness Month, we renew our Nation's commitment to prevent and punish the perpetrators of this despicable crime and bring hope and healing to those affected by it.

In some communities across our country, law enforcement, medical, and legal services for domestic violence victims are fragmented, requiring victims to travel to several different places to receive the help and treatment they need. Comprehensive service centers for domestic violence victims and their dependents enable health and justice professionals to better serve those in need. My Administration supports efforts to provide a wide variety of victim services in one location, including medical care, counseling and social services, law enforcement and legal resources, faith-based services, employment assistance, and housing assistance.

Local nonprofit and faith-based programs and their volunteers also offer critical assistance and support to victims in need—help that may not otherwise be available. In August of this year, the dedicated advocates at the Federally supported National Domestic Violence Hotline answered their one millionth call for help. Volunteers who want to help victims in the local community can find more information at the USA Freedom Corps Volunteer Network (located at www.usafreedomcorps.gov).

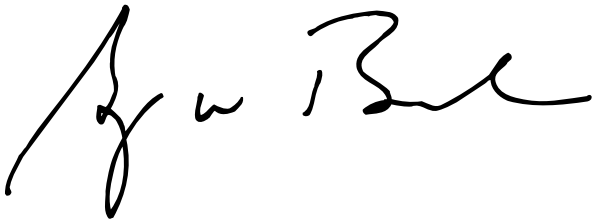
My Administration is fighting domestic violence and strengthening services for victims and their dependents by supporting local and private efforts and securing historic levels of funding for the Violence Against Women programs at the Department of Justice. In fiscal year 2002, we spent $390 million to prevent domestic violence and help victims, which represented an approximately $100 million increase in funding. Since then, we have continued to provide a similar level of funding, and cities and towns across America are using this money to strengthen their responses to the victims of domestic violence, sexual assault, and stalking. The Federal commitment to domestic violence has made it possible for women to seek relief from abuse and reclaim their dignity and their lives. Moreover, Federal prosecutions in cases involving violence against women increased by 35 percent in 2002.

Today is the first day of issue for the U.S. Postal Service Stop Family Violence postage stamp, which will raise money to support the national fight against domestic violence. On behalf of families and communities across America, I call on all citizens to help raise public awareness about how to prevent, recognize, and stop domestic violence. I applaud the commitment of all those who are helping to improve the lives of domestic violence

survivors and their families. Working together, we can continue to find better solutions to this national problem.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 2003 as National Domestic Violence Awareness Month. I urge all Americans to help victims of domestic violence and to work together to address this tragic problem.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of October, in the year of our Lord two thousand three, and of the Independence of the United States of America the two hundred and twenty-eighth.



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Rules and Regulations

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

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

RIN 3206–AJ46

Federal Employees' Group Life Insurance Program: Removal of Premiums and Age Bands From Regulations

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to remove the premiums and age bands from the Federal Employees' Group Life Insurance (FEGLI) regulations. This allows OPM to make necessary premium changes on a more timely basis.

EFFECTIVE DATE: November 13, 2003.

FOR FURTHER INFORMATION CONTACT: Karen Leibach, (202) 606–0004.

SUPPLEMENTARY INFORMATION: On April 9, 2003, OPM published a proposed rule in the **Federal Register** (68 FR 17315) to remove the premiums and age bands from the FEGLI regulations. OPM will announce future premium changes in a **Federal Register** notice and will maintain the rates on the FEGLI Web site (*www.opm.gov/insure/life*). This will simplify the process for making premium changes when necessary and allow for changes to be made in a more timely manner.

We received no comments on the proposed regulatory change.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only affects life insurance benefits of Federal employees and retirees.

Executive Order 12866, Regulatory Review

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

List of Subjects in 5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life insurance, Retirement.

Office of Personnel Management.

Kay Coles James,

Director.

■ Accordingly, OPM is amending 5 CFR part 870 as follows:

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

■ 1. The authority citation for part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; subpart J also issued under sec. 599C, Pub. L. 101–513, 104 Stat. 2064, as amended; § 870.302(a)(3)(ii) also issued under sec. 153, Pub. L. 104–134, 110 Stat. 1321; § 870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251 and sec. 7(e), Pub. L. 105–274, 112 Stat. 2419.

Subpart D—Cost of Insurance

■ 2. In § 870.401, revise paragraphs (a), (b)(1), and (d) to read as follows:

§ 870.401 Withholdings and contributions for Basic insurance.

(a)(1) The cost of Basic insurance is shared between the insured individual and the Government. The employee pays two-thirds of the cost, and the Government pays one-third.

(2) When OPM makes any adjustment to the Basic life insurance premium, it will issue a public notice in the **Federal Register.**

(b)(1) During each pay period in which an insured employee is in pay status for any part of the period, the employee's share of the premium must be withheld from the employee's biweekly pay. The amount withheld from the pay of an employee who is paid on other than a biweekly basis must be computed and adjusted to the nearest one-tenth of one cent.

* * * * *

(d)(1) For an annuitant or compensationer who elects to continue Basic insurance and chooses the maximum reduction of 75 percent after age 65 under § 870.702(a)(2), the annuitant's share of the premium is withheld monthly and the compensationer's share is withheld every 4 weeks. These withholdings stop the month after the month in which the annuitant or compensationer reaches age 65. There are no withholdings from individuals who retired or began receiving compensation before January 1, 1990, and who elected the 75 percent reduction. For the purpose of this paragraph, an individual who separates from service after meeting the requirements for an immediate annuity under 5 U.S.C. 8412(g) is considered to retire on the day before the annuity begins.

(2) An annuitant or compensationer who elects to continue Basic insurance and chooses either the reduction election of 50 percent or the election of no reduction after age 65 under § 870.702(a)(3) or (4) pays an additional premium for the 50 percent or no reduction election. This additional premium is withheld for each $1,000 of the BIA. At age 65, the Basic premium will stop, but the annuitant or compensationer must continue to pay the additional premium for either the 50 percent or the no reduction election.

* * * * *

■ 3. Revise § 870.402 to read as follows:

§ 870.402 Withholdings for Optional insurance.

(a)(1) The insured individual pays the full cost of all Optional insurance. There is no Government contribution toward the cost of any Optional insurance.

(2) Optional insurance premiums are based on 5-year age bands beginning at age 35. The last age band for Option A is age 60+. The last age band for Options B and C is 80+. For the purpose of this subpart, effective April 24, 1999, an individual is considered to reach the next age band the 1st day of the pay period following the pay period in which his/her birthday occurs.

(3) When OPM makes any adjustment to the Optional life insurance premiums, it will issue a public notice in the **Federal Register.**

(b) During each pay period in any part of which an insured employee is in pay status, the employing agency must withhold the full cost of Optional insurance from his/her pay.

(c)(1) Subject to the provisions for reemployed annuitants in § 870.707, the

full cost of Optional insurance must be withheld from the annuity of an annuitant the compensation of a compensationer.

(2) The withholdings for Option A stop the month after the month in which an annuitant or compensationer reaches age 65.

(3) For an annuitant or compensationer who elects Full Reduction for any Option B or Option C multiples under § 870.705, the withholdings for those multiples stop the month after the month in which he/she reaches age 65.

(4) For an annuitant or compensationer who elects No Reduction for any Option B or Option C multiples, the withholdings for those multiples continue, as long as he/she remains insured.

(d)(1) For Option A and Option C, the amount withheld from pay, annuity, or compensation paid on other than a biweekly basis must be computed and adjusted to the nearest cent.

(2) For Option B, the amount withheld from pay, annuity, or compensation paid on other than a biweekly basis must be computed and adjusted to the nearest one-tenth of 1 cent.

(e) If an employee's annual pay is paid during a period shorter than 52 work weeks, the employing office must determine the amount to withhold. To do this, it converts the biweekly cost to an annual cost and prorates it over the number of installments of pay regularly paid during the year.

(f) When an agency withholds less than or none of the proper amount of Optional life insurance deductions from an individual's pay, annuity, or compensation, the agency must submit an amount equal to the uncollected deductions required under 5 U.S.C. 8714a, 8714b, and 8714c to OPM for deposit in the Employees' Life Insurance Fund.

■ 4. In § 870.404, revise paragraph (d) to read as follows:

§ 870.404 Withholdings and contributions provisions that apply to both Basic and Optional insurance.

* * * * *

(d) The deposit described in §§ 870.401(f) and 870.402(f) must be made no later than 60 calendar days after the date the employing office determines the amount of the underdeduction that has occurred, regardless of whether or when the underdeduction is recovered by the agency. The agency must determine whether to waive collection of the overpayment of pay, in accordance with 5 U.S.C. 5584, as implemented by 4 CFR chapter I, subchapter G. However, if the agency involved is excluded from the provisions of 5 U.S.C. 5584, it may use any applicable authority to waive the collection.

* * * * *

■ 5. In § 870.801, revise paragraph (e) to read as follows:

§ 870.801 Order of precedence and payment of benefits.

* * * * *

(e) Upon the death of an insured family member, Option C benefits are paid to the employee, annuitant, or compensationer responsible for withholdings under § 870.402(a), except as provided in paragraph (f) of this section.

* * * * *

[FR Doc. 03–25945 Filed 10–10–03; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 02–125–1]

Emerald Ash Borer; Quarantine and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are quarantining 13 counties in Michigan because of the emerald ash borer and restricting the interstate movement of regulated articles from these quarantined areas. This action is necessary on an emergency basis to prevent the artificial spread of this plant pest from infested areas in the State of Michigan to noninfested areas of the United States.

DATES: This interim rule was effective October 8, 2003. We will consider all comments that we receive on or before December 15, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–125–1, 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. 02–125–1. 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. 02–125–1'' 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: Ms. Deborah McPartlan, Operations Officer, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–4387.

SUPPLEMENTARY INFORMATION:

Background

The emerald ash borer (EAB) (*Agrilus planipennis*) is a destructive wood-boring insect that attacks ash trees (*Fraxinus* spp., including green ash, white ash, black ash, and several horticultural varieties of ash). The insect, which is indigenous to Asia and known to occur in China, Korea, Japan, Mongolia, the Russian Far East, Taiwan, and Canada, eventually kills healthy ash trees after it bores beneath their bark and disrupts their vascular tissues.

EAB has been found in ash trees in several Michigan counties. Within those counties, EAB has infested thousands of square miles, and we estimate that over 30 million ash trees are currently at risk in affected counties. EAB has already caused an estimated $11.6 million in landscape industry and wood lot losses, and approximately $2 million in lost nursery stock sales. Inestimable, though, is the loss of aesthetic, recreational, and habitat-providing values that ash trees provide. Should EAB spread from infested areas in Michigan into forests of the north-central United States, where nursery, landscaping, and timber industries and forest-based recreation and tourism industries are vital components of the economy, the pest's impact would be tremendous. Further, in the affected counties and the areas that surround those counties, ash is a major component of the urban forest because of its natural resistance to other

tree pests and its hardiness in urban environments.

Officials of the U.S. Department of Agriculture (USDA) and officials of State, county, and city agencies in Michigan have been conducting an intensive survey and eradication program in the infested areas. The State of Michigan has quarantined 13 counties in the southeastern portion of the State and is restricting the intrastate movement of certain articles from the quarantined areas to prevent the artificial spread of EAB within Michigan. However, Federal regulations are necessary to restrict the interstate movement of certain articles from the quarantined areas to prevent the artificial spread of EAB to other States.

Therefore, we are amending the ''Domestic Quarantine Notices'' in 7 CFR part 301 by adding a new subpart, ''Emerald Ash Borer'' (§§ 301.53–1 through 301.53–9, referred to below as the regulations). These regulations quarantine the 13 counties designated in Michigan's State quarantine and restrict the interstate movement of regulated articles from the quarantined areas.

Definitions

In § 301.53–1, we define the following terms: Administrator, Animal and Plant Health Inspection Service (APHIS), certificate, compliance agreement, emerald ash borer, infestation, inspector, interstate, limited permit, moved (movement, move), person, quarantined area, regulated article, and State. With one exception, these terms are widely used in our other domestic quarantines in part 301, and the definitions we provide in § 301.53–1 are consistent with those provided elsewhere in part 301. We have defined the term *emerald ash borer* as the insect known as emerald ash borer (*Agrilus planipennis*) in any stage of development.

Regulated Articles

Certain articles present a significant risk of spreading EAB if the articles are moved from quarantined areas without restriction. We call these articles ''regulated articles.'' Regulated articles may not be moved interstate from quarantined areas except in accordance with the conditions specified in §§ 301.53–4 through 301.53–9 of the regulations. In § 301.53–2, paragraph (a) designates the following as regulated articles: (1) The emerald ash borer; (2) firewood (all hardwood species); and (3) nursery stock, green lumber, and other material living, dead, cut, or fallen, including logs, stumps, roots, branches, and composted and uncomposted chips of the genus *Fraxinus.* We are designating all hardwood species of firewood as regulated articles because as hardwood is dried and cut into firewood, it is difficult to identify the species of the tree from which the firewood was derived.

Paragraph (b) of § 301.53–2 provides that any other article, product, or means of conveyance not listed in paragraph (a) of that section may be designated as a regulated article if an inspector determines that it presents a risk of spreading EAB and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations. This provision will allow an inspector who discovers evidence of EAB in an article, product, or means of conveyance to take immediate action after informing the person in possession of it that it is being regulated.

Quarantined Areas

In § 301.53–3, paragraph (a) provides that the Administrator will quarantine each State or portion of a State in which EAB has been found by an inspector, in which the Administrator has reason to believe that EAB is present, or which the Administrator deems necessary to regulate because of its inseparability for quarantine enforcement purposes from localities where EAB has been found. Less than an entire State will be designated as a quarantined area only under certain conditions. Such a designation may be made if the Administrator determines that: (1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles listed in § 301.53–2 that are equivalent to the interstate movement restrictions imposed by the regulations in §§ 301.53–1 through 301.53–9; and (2) the designation of less than an entire State as a quarantined area will be adequate to prevent the artificial spread of the EAB.

Paragraph (b) of § 301.53–3 provides that the Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area in accordance with the criteria in § 301.53–3(a). The Administrator will give written notice of this temporary designation to the owner or person in possession of the nonquarantined area, or, in the case of publicly owned land, the person responsible for the management of the nonquarantined area. This is necessary to prevent the spread of EAB before restrictions can be published in the **Federal Register** concerning the interstate movement of regulated articles from the designated area. As soon as practicable, this area will be added to the list of quarantined areas or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of an area for which designation is terminated will be given notice of the termination as soon as practicable.

In accordance with these criteria, we are quarantining 13 counties in Michigan because of the EAB and restricting the interstate movement of regulated articles from the quarantined areas. Specifically, in § 301.53–3(c) we list Genesee, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Shiawassee, Washtenaw, and Wayne Counties, MI, as quarantined areas.

Interstate Movement of Regulated Articles From Quarantined Areas

In § 301.53–4, paragraph (a) provides that regulated articles may be moved interstate from a quarantined area into or through an area that is not quarantined if they are accompanied by a certificate or limited permit issued and attached as prescribed by §§ 301.53–5 and 301.53–8.

Paragraph (b) of § 301.53–4 provides that a regulated article may be moved interstate without a certificate or limited permit if the regulated article is moved by the USDA for experimental or scientific purposes or if the regulated article originates outside the quarantined area. Articles originating outside the quarantined area that are moved interstate through a quarantined area must be moved under the following conditions: (1) The points of origin and destination are indicated on a waybill accompanying the regulated article; (2) the regulated article, if moved through the quarantined area during the period of May 1 through August 31 or when the ambient air temperature is 40 °F or higher, is moved in an enclosed vehicle or is completely covered to prevent access by the EAB; (3) the regulated article is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed, or handled at locations approved by an inspector; and (4) the article has not been combined or commingled with other articles so as to lose its individual identity.

Certificates and Limited Permits

Under Federal domestic plant quarantine programs, there is a difference between the use of certificates and the use of limited permits. Prior to movement, certificates are issued for regulated articles upon a finding by an inspector that, because of certain conditions (*e.g.*, the article is

free of a pest), the movement presents low risk of disseminating pests. With a certificate, the article may be moved interstate without further restrictions. Limited permits are issued for regulated articles when an inspector has determined that, because of possible pest or disease risk, such articles may be safely moved interstate only subject to further restrictions, such as movement to specified areas and movement for specified purposes. Section 301.53–5 sets out the conditions for issuing certificates and limited permits for movement from areas quarantined for EAB and for canceling certificates and limited permits.

Paragraph (a) of 301.53–5 provides that an inspector or a person operating under a compliance agreement (discussed below) will issue a certificate for the interstate movement of a regulated article if he or she determines that the regulated article:

- Is apparently free of EAB, based on inspection, or the article has been grown, produced, manufactured, stored, or handled in a manner that, in the judgment of the inspector, prevents the regulated article from presenting a risk of spreading EAB;
- Is to be moved in compliance with any additional emergency conditions the Administrator may impose under the Plant Protection Act to prevent the artificial spread of EAB; and
- Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

Paragraph (b) of 301.53–5 provides for the issuance of a limited permit (rather than a certificate) by an inspector or person operating under a compliance agreement for movement of a regulated article if he or she determines that the regulated article:

- Is to be moved interstate to a specified destination for specific processing, handling, or utilization (the destination and other conditions to be listed in the limited permit and/or compliance agreement), and the interstate movement will not result in the artificial spread of EAB because EAB will be destroyed by the specific processing, handling, or utilization;
- Is to be moved interstate in compliance with any additional emergency conditions the Administrator may impose under the Plant Protection Act to prevent the artificial spread of EAB; and
- Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

Paragraph (c) of 301.53–5 provides that an inspector will issue blank certificates and limited permits to a person operating under a compliance agreement or authorize reproduction of the certificates or limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates or limited permits may then be completed and used, as needed, for the interstate movement of regulated articles that have met all of the requirements of § 301.53–5(a) or § 301.53–5(b), respectively.

Paragraph (d) of 301.53–5 provides that a certificate or limited permit may be canceled by an inspector, orally or in writing, whenever the inspector determines that the holder of the certificate or limited permit has not complied with the regulations. If the cancellation is oral, the cancellation will become effective upon notification by the inspector. The cancellation and the reasons for the cancellation will then be confirmed in writing as soon as circumstances allow after oral notification of the cancellation. Any person whose certificate or limited permit has been canceled may appeal the decision, in writing, within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

Compliance Agreements

Section 301.53–6 provides for the use and cancellation of compliance agreements. Under § 301.53–6(a), compliance agreements may be entered into by any person engaged in the growing, handling, or interstate movement of regulated articles if such persons review with an inspector each stipulation of the compliance agreement. Any person who enters into a compliance agreement with APHIS must agree to comply with the regulations.

Paragraph (b) of 301.53–6 explains that a compliance agreement may be canceled by an inspector, orally or in writing, whenever the inspector determines that the person who entered into the compliance agreement has not complied with the regulations. If the cancellation is oral, the cancellation will become effective upon oral notification by the inspector. The cancellation and the reasons for the cancellation will then be confirmed in writing as soon as circumstances allow after oral notification of the cancellation. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

Assembly and Inspection of Regulated Articles

Paragraph (a) of § 301.53–7 provides that any person who requires certification or other services from an inspector must request the services at least 48 hours before they are needed. Paragraph (b) of § 301.53–7 provides that regulated articles must be assembled at the place and in the manner an inspector designates as necessary to comply with the regulations.

Attachment and Disposition of Certificates and Limited Permits

In § 301.53–8, paragraph (a) requires that regulated articles intended for interstate movement be plainly marked with the name and address of the consignor and the name and address of the consignee and that, during the interstate movement, the certificate or limited permit issued for the interstate movement of regulated articles be attached to either: (1) The regulated article, (2) the container carrying the regulated article, or (3) the accompanying waybill. However, the certificate or limited permit may be attached to the consignee's copy of the waybill only if the certificate or limited permit and the waybill contain a sufficient description of the regulated article to identify the regulated article. This provision is necessary for enforcement purposes.

Paragraph (b) of 301.89–9 requires the carrier of the article to furnish the certificate or limited permit to the consignee at the shipment's destination.

Costs and Charges

Section 301.53–9 provides that the services of an inspector are provided without cost during normal business hours to persons requiring those services to comply with the regulations. The user will be responsible for all costs

and charges arising from inspection and other services provided outside of normal business hours.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent the spread of EAB into noninfested areas of the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

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

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. 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 quarantining 13 counties in Michigan because of the EAB and restricting the interstate movement of regulated articles from these quarantined areas. This action is necessary on an emergency basis to prevent the artificial spread of this plant pest from infested areas in the State of Michigan to noninfested areas of the United States.

As stated previously, EAB is a highly destructive, wood-boring insect pest that attacks several species of ash (*Fraxinus* spp.). White ash (*Fraxinus americana* L.), black ash (*Fraxinus nigra* Marsh.), and green ash (*Fraxinus pennsylvanica* Marshall.) varieties are known to be susceptible in the United States; however, there are indications that other varieties of ash may also be at risk. Therefore, we are placing restrictions on certain articles of the genus *Fraxinus*.

If the EAB spreads from infested areas in Michigan to the surrounding forests of the northeastern United States, where nursery, landscaping, and timber industries and forest-based recreation and tourism industries play a vital economic role, its impact would be severe. Within 50 miles of Detroit, there are 2,280 square kilometers of forest land, and within 100 miles of the city, there are 7,836 square kilometers of forest. The pest has the potential to destroy entire stands of ash, and any incursion of the pest can result in substantial losses to forest ecosystems, urban trees, and the timber industry. Adults bore D-shaped holes up to a diameter of 1 centimeter into sapwood, and these holes create pathways for pathogens and insect vectors.

Domestically, black, green, and white ash serve as an important component in the forests of the northeast. Further, the wood is used for a variety of applications that require a strong, hard wood with less rigidity than maple. White ash is one of the primary commercial hardwoods used for the production of tool handles, baseball bats, furniture, antique vehicle parts, containers, railroad cars and ties, canoe paddles, snowshoes, boats, doors, and cabinets. Green ash is a valued species for solid wood products, pulp and paper requiring hardwood fibers, crating, boxing, handle stock, and rough lumber. Black ash, while not as strong as other varieties, is regularly used for interior furnishings, furniture, and cabinets. Damage left by the EAB reduces the quality and market value of wood products, and dying and dead trees are useless for manufacturers.

Beyond manufacturing, ash trees play an important role in the urban landscape. Ash is known for its natural resistance to many other trees pests and its hardiness in cities. Many of the ash trees that now serve as ornamental, street, shade, and landscape beautification trees were planted to replace elm trees destroyed because of Dutch elm disease. Ash trees are vital sources of food and shelter for wildlife and livestock, and they have been planted in the rehabilitation of damaged natural areas. Because of the EAB, these natural and aesthetic values are at risk in affected regions.

Earlier this year, Michigan's State EAB quarantine designated only six counties as quarantined areas. Recently, Michigan expanded its quarantine to include seven more counties. County-specific figures included in this analysis apply only to the six counties (Livingston, Macomb, Monroe, Oakland, Washtenaw, and Wayne) originally quarantined by the State; information for the seven counties (Genesee, Ingham, Jackson, Lapeer, Lenawee, St. Clair, and Shiawassee) recently added to the quarantine is not yet available.

Damage to ash trees in the lots owned by the landscape industry and woodlots in southeast Michigan over the past 5 years is estimated at $11.6 million. In Michigan and Canada, we estimate that between 250,000 and 2 million trees are already affected by the pest. In the six counties originally quarantined by the State of Michigan, 26.1 million trees are at risk, and the replacement value of those trees is estimated to be $11.7 billion; this figure, of course, excludes their aesthetic, oxygen-producing, and habitat-providing values. Already, because of EAB infestation and subsequent damage and the effects of the quarantine placed by the State of Michigan, producers have lost approximately $2 million in nursery stock sales. While ash species other than black, green, and white ash have not been attacked in North America, we believe the remaining 13 species may also be susceptible, and in 2002 the Canadian Food Inspection Agency confirmed that theory in the results of a EAB pest risk assessment. In Japan, EAB has also affected trees in the genus *Ulmus* (elms), *Juglans* (walnuts and butternuts), and *Pterocarya* (wingnuts).

The pattern and significant numbers of trees harmed or destroyed because of the pest suggest that EAB has been established in Michigan for at least 5 years, though it was definitively identified only in July 2002. We are not aware of the capability for EAB's natural spread in North America, and information on EAB biology in Asia is scarce. Studies on the pest in both North America and Asia are underway. Current research suggests that EAB typically completes one generation per year in northeastern China and that females lay 68 to 90 eggs in their lifetime. Usually, trees die 2 to 4 years after an EAB attack. We know that adult beetles are capable of dispersing by flight in 8 to 12 meter bursts, and we are aware of EAB ''bursting'' distances of several kilometers in search of new ash host material.

Since EAB appears to survive well in North American climatic conditions, it is probable that EAB could continue to disperse among various contiguous corridors of host material in natural and urban environments. In northeastern China, EAB has successfully built severely damaging populations and traveled great distances in search of new hosts. Especially troubling in North America is the apparent lack of natural predators and other biological factors that would contribute to EAB mortality. A relative of EAB, the bronze birch borer (Agrilus axius), is capable of a natural spread of 10 to 20 miles per year, and this might be a possible estimate of EAB's spreading capability.

The spread of EAB can be accelerated through human-assisted movement and trade of nursery stock, lumber, and logs. Solid wood packing materials (SWPM), especially if those materials include bark, pose a special concern. From 1985

to 2000, APHIS personnel reported 38 interceptions of species of the genus *Agrilus* in shipments of SWPM at ports of entry in 11 different States, and those shipments originated in at least 11 countries. Since EAB larvae can overwinter in the sapwood they burrow into, it is uncertain whether debarking of lumber is an effective way to destroy the pest.

Specific Risks to Urban Forests

Urban areas of the United States cover approximately 3.5 percent of the total land area of the country, contain more than 75 percent of the population, and support an estimated 3.8 billion trees valued at $2.4 trillion. Michigan's total urban tree population is estimated at 110,858,000 trees, and ash is a vital component of this urban forest. Trees in urban Michigan, like trees in any city, sequester gaseous air pollutants and particulate matter, help people conserve energy through the shade they provide, assist in the dispersal of storm water, provide protective shelter belts for urban fauna, and contribute aesthetic pleasure to the lives of city-dwellers and tourists.

Field data from eight cities suggests that ash trees comprise up to 14 percent of the total leaf area of those cities. Based on these data, the ash tree resources at risk in just those eight cities would amount to $565 million; see table 1 below. The survey, the only available data regarding urban ash at risk, concentrates on ash in the eastern United States; however ash is more widely planted in urban regions of the midwest. These estimates are based on the assumption that all living ash in the cities may be destroyed by EAB and did not incorporate estimates of the EAB's biological or artificial spread rates, since those are not known.

TABLE 1.—PRELIMINARY ESTIMATES OF TREE RESOURCES AT RISK FOR INFESTATION BY AGRILUS PLANIPENNIS IN EIGHT U.S. CITIES (ORDERED BY ASH LEAF AREA) BASED ON THE TOTAL OF ALL LIVING PREFERRED HOST SPECIES (ASH TREES)

City	Leaf area (%)	Number of ash trees	Value lost	Value per tree
Chicago, IL	14.4	603,000	$230,949,000	$383
Baltimore, MD	8.5	292,700	227,568,000	777
Philadelphia, PA	4.7	117,000	68,408,000	584
Boston, MA	0.9	29,200	13,341,000	457
Syracuse, NY	0.9	6,900	6,400,000	929
New York, NY	0.3	27,600	9,770,000	354
Atlanta, GA	0.3	38,900	7,119,000	183
Oakland, CA	0.2	7,500	1,514,000	202
Total value loss for all cities			565,069,000	

Further, assuming that the EAB is capable of spreading through all urban areas of the lower 48 States and destroying all urban ash trees, the United States could suffer a national undiscounted loss of $20 to $60 billion. Since firm data are not available regarding the pest's biological or artificial spread patterns in North America, all losses are based on limited data that assume a 100 percent destruction rate. More field data from urban areas across the United States are needed to provide more accurate estimates of the resources at risk from EAB.

Specific Risks to Timber

Within Michigan, there are 693 million EAB-susceptible trees grown on timberland, with an undiscounted compensatory value estimated at $18.92 billion. In the 6 counties first quarantined by the State of Michigan, there are more than 31 million ash trees at risk. We are investigating possible monetary losses to forestry interests based on stumpage [1] value. These losses are likely to be less than monetary losses based on compensatory value, since stumpage values are usually applied to older trees that are greater than 5 inches in diameter, and compensatory values are applied for trees greater than 1 inch in diameter.

Should the EAB spread or be artificially introduced to areas outside of Michigan, monetary losses could grow significantly. Ash trees for timber products are predominantly concentrated in the East, and available data on production volumes for ash were available only for this region. Table 2 shows the net volumes of ash trees grown for sawtimber in the Eastern region of the United States in 1996, the most recent year for which data is available. A net volume of 113,916 million board feet of ash sawtimber is grown in the Eastern region, comprising 7.5 percent of the volume of all hardwoods. The average stumpage price for sawtimber sold from national forests in 2000 was $220.30 per 1,000 board feet for all eastern hardwoods.

TABLE 2.—NET VOLUME OF SAWTIMBER ON TIMBER LAND IN THE EASTERN UNITED STATES, BY REGIONS AND SPECIES

[In million board feet]

Species	Total East	Total North	Northeast	North central	Total South	Southeast	South central
Ash	113,916	35,575	11,740	23,835	78,341	34,848	43,493
Total hardwoods	1,516,086	519,699	229,504	290,195	996,387	424,233	572,154
Ash as % of all hardwoods	7.5	6.8	5.1	8.2	7.9	8.2	7.6
All species	2,055,509	665,938	321,067	344,871	1,389,571	599,100	790,471

[1] Stumpage value refers to the commercial value of trees standing in the forest. Stumpage prices may be offered in reference to board foot volume ($/m.b.f.), weight ($/ton), or truck loads ($/load).

(From: *http://extension.usu.edu/forestry/Management/Timber_Valueterms2Know.htm*)

TABLE 2.—NET VOLUME OF SAWTIMBER ON TIMBER LAND IN THE EASTERN UNITED STATES, BY REGIONS AND SPECIES—Continued

[In million board feet]

Species	Total East	Total North	Northeast	North central	Total South	Southeast	South central
Ash as % of all species	5.5	5.3	3.7	6.9	5.6	5.8	5.5

Using the estimates provided in table 2, the value of ash timber grown in the eastern United States is $25.1 billion (see table 3 below). Based on the establishment of the EAB in Michigan and its range in Asia, it should be able to survive in most of the eastern United States. In Michigan, an estimated 7.7 billion board feet of ash timber is harvested annually. Using the stumpage figures listed previously, Michigan alone could see a loss of $1.7 billion in timber trees.

TABLE 3.—VALUE OF POTENTIAL LOSSES IN ASH TIMBER TREES IN THE EASTERN UNITED STATES BECAUSE OF INFESTATION BY THE EMERALD ASH BORER FOR DIFFERENT REGIONS, BASED ON STUMPAGE PRICES

Region	Volume of timber trees (million board feet)	Value of losses (million dollars)[1]
Michigan	7,700	$1.697
Northeastern region	11,740	2,558
Northern region	35,575	7,842
Total Eastern region	113,916	25,111

[1] Assumes average stumpage price of $22.43 per 1,000 board feet (Agricultural Statistics, 2002).

Other Effects

We must also consider the value of ash trees as important environmental and recreational resources. The recreational use of national forest lands amounted to 341.2 million visitor days [2] in 1996, the most recent year for which data were available. In Michigan, 4.87 million visitor days were spent in the national forests in 1997. While not specifically attributable to the presence of ash trees, these statistics illustrate the importance of forest-based recreation in the United States. Ash trees are important components of U.S. forests; in addition to their aesthetic value, they provide food and shelter for wildlife.

Citizens may also be affected by the presence of EAB in their own yards and neighborhoods. Removing dead or infested trees is costly and inconvenient, and replacement trees may have to grow for years before they offer the same amount of shade and ornamental value. Further, the quarantine restricts people from freely moving firewood and ash products through Michigan.

Effects on Nursery Stock

An estimated $2 million in annual nursery stock sales have already been lost in the six Michigan counties first quarantined by the State. The Michigan Nursery and Landscape Association reports that nursery, plant production, and landscaping industries employ 347,000 Michigan citizens and contribute $3.7 billion to the State's economy. Michigan's nursery producers generate about $711 million in annual sales and distribute their products to 35 U.S. States, Mexico, and Canada; these producers are the second largest agricultural group in Michigan and the fifth largest nursery industry in the United States. Losses, of course, could be larger if the EAB were allowed to spread to other areas of the country. Several European agrilids are known nursery pests, and we now know that EAB is capable of infesting small-diameter nursery stock.

Economic Effects on Small Entities

The Regulatory Flexibility Act requires that agencies specifically consider the economic effects of their rules on small entities. The Small Business Administration (SBA) has established size criteria based on the North American Industry Classification (NAICS) for determining which economic entities meet the definition of a small firm. The small entity size standard for nursery and tree production (NAICS code 111421) is $750,000 or less in annual receipts, and $5 million or less in annual receipts for forest nurseries and gathering of forest products (NAICS code 113210). The SBA classifies logging operations (NAICS code 113310), sawmills (NAICS code 321113), and wood product manufacturers generally (NAICS subsector 321) as small entities if fewer than 500 people are employed.

More than 4,000 businesses considered small entities by the SBA are affected within the 6 counties first quarantined for EAB. These entities must meet certain requirements before moving regulated articles from the quarantined areas. Regulated entities may incur additional costs to dispose of articles such as wood debris from tree pruning and removal. Nurseries are currently prohibited from moving ash trees under the State quarantine. However, of the nurseries within those 6 counties, only 10 to 20 operations having a substantial amount of ash nursery stock in the ground are expected to be significantly affected. These entities represent only 0.2 to 0.5 percent of the number of nurseries in the six counties first quarantined.

Conclusions

Damage caused to EAB-affected ash trees in the landscape and woodlots in southeast Michigan over the past 5 years is estimated at $11.6 million. In addition, $2 million of nursery stock was restricted from sale due to the infestation. The monetary values at risk are $11.7 billion in replacement costs in 6 counties first quarantined for EAB alone. The undiscounted value of the national urban tree population that are ash trees amounts to $20 to $60 billion. The undiscounted compensatory value

[2] A visitor day aggregates 12 visitor hours, which may entail 1 person visiting for 12 hours, 12 persons visiting for 1 hour, or any equivalent combination of individual or group use, either continuous or intermittent.

of the 693 million ash trees grown on timberland in Michigan is $18.92 billion, and the corresponding nationwide estimate amounts to 7,553 million trees, valued at $282.26 billion. There are approximately 31 million ash trees in the 6 counties first quarantined by the State.

When conservatively valued in terms of stumpage prices, the value of sawtimber at risk in the eastern United States alone amounts to $25 billion. Over 4,000 businesses that are considered small by SBA standards are affected in the 6 counties first quarantined because of EAB in Michigan. However, very few nursery operations having a substantial amount of ash nursery stock in the ground are expected to be significantly affected. Overall, this rule will help safeguard U.S. ash trees from the EAB by restricting the interstate movement of the nursery stock, logs, and lumber that can serve as its vectors. Although, at this time, we are not able to evaluate the specific effects of this regulation on the seven counties most recently added to Michigan's EAB quarantine, we expect that those counties contain entities similar to those we have considered in this analysis. Therefore, we believe any economic effects on small entities will be small and are outweighed by the benefits associated with preventing a larger U.S. EAB infestation.

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

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579–0233 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. 02–125–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 02–125, and send your comments within 60 days of publication of this rule.

This interim rule establishes regulations quarantining 13 counties in Michigan because of the emerald ash borer and restricting the interstate movement of regulated articles from these quarantined areas. This action is necessary on an emergency basis to prevent the artificial spread of this plant pest from infested areas in the State of Michigan to noninfested areas of the United States. The paperwork associated with the Emerald ash borer program will include the completion of compliance agreements, certificates, and limited permits. There will also be requests for inspections. We are soliciting comments from the public (as well as affected agencies) concerning our information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, 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 information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.48 hours per response.

Respondents: Growers, packers, shippers, and exporters of regulated articles and State plant health protection authorities and other cooperators.

Estimated annual number of respondents: 225.

Estimated annual number of responses per respondent: 1.6666.

Estimated annual number of responses: 375.

Estimated total annual burden on respondents: 180 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.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this interim rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 *note*).

■ 2. Part 301 is amended by adding a new ''Subpart—Emerald Ash Borer,'' §§ 301.53–1 through 301.53–9, to read as follows:

Subpart—Emerald Ash Borer

Sec.

301.53–1 Definitions.
301.53–2 Regulated articles.
301.53–3 Quarantined areas.

301.53–4 Conditions governing the interstate movement of regulated articles from quarantined areas.
301.53–5 Issuance and cancellation of certificates and limited permits.
301.53–6 Compliance agreements and cancellation.
301.53–7 Assembly and inspection of regulated articles.
301.53–8 Attachment and disposition of certificates and limited permits.
301.53–9 Costs and charges.

Subpart—Emerald Ash Borer

§ 301.53–1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any individual authorized to act for the Administrator.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Certificate. A document that is issued for a regulated article by an inspector or by a person operating under a compliance agreement and that represents that such article is eligible for interstate movement in accordance with § 301.53–5(a).

Compliance agreement. A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles that are moved interstate, in which the person agrees to comply with the provisions of this subpart and any conditions imposed under this subpart.

Emerald ash borer. The insect known as emerald ash borer (Agrilus planipennis [Coleoptera: Buprestidae]) in any stage of development.

Infestation. The presence of the emerald ash borer or the existence of circumstances that make it reasonable to believe that the ash borer is present.

Inspector. Any employee of the Animal and Plant Health Inspection Service, or other individual authorized by the Administrator to enforce the provisions of this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document in which an inspector or a person operating under a compliance agreement affirms that the regulated article not eligible for a certificate is eligible for interstate movement only to a specified destination and in accordance with conditions specified on the permit.

Moved (movement, move). Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or any other legal entity.

Quarantined area. Any State, or any portion of a State, listed in § 301.53–3(c) or otherwise designated as a quarantined area in accordance with § 301.53–3(b).

Regulated article. Any article listed in § 301.53–2(a) or otherwise designated as a regulated article in accordance with § 301.53–2(b).

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

§ 301.53–2 Regulated articles.

The following are regulated articles:

(a) The emerald ash borer; firewood of all hardwood species; nursery stock, green lumber, and other material living, dead, cut, or fallen, including logs, stumps, roots, branches, and composted and uncomposted chips of the genus *Fraxinus.*

(b) Any other article, product, or means of conveyance not listed in paragraph (a) of this section may be designated as a regulated article if an inspector determines that it presents a risk of spreading emerald ash borer and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

§ 301.53–3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each State or each portion of a State in which the emerald ash borer has been found by an inspector, in which the Administrator has reason to believe that the emerald ash borer is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities where emerald ash borer has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than an entire State as a quarantined area will be adequate to prevent the artificial interstate spread of the emerald ash borer.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area in accordance with the criteria specified in paragraph (a) of this section. The Administrator will give written notice of this designation to the owner or person in possession of the nonquarantined area, or, in the case of publicly owned land, to the person responsible for the management of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area is subject to this subpart. As soon as practicable, this area either will be added to the list of designated quarantined areas in paragraph (c) of this section, or the Administrator will terminate the designation. The owner or person in possession of, or, in the case of publicly owned land, the person responsible for the management of, an area for which the designation is terminated will be given written notice of the termination as soon as practicable.

(c) The following areas are designated as quarantined areas:

Michigan

Genesee County. The entire county.
Ingham County. The entire county.
Jackson County. The entire county.
Lapeer County. The entire county.
Lenawee County. The entire county.
Livingston County. The entire county.
Macomb County. The entire county.
Monroe County. The entire county.
Oakland County. The entire county.
Shiawassee County. The entire county.
St. Clair County. The entire county.
Washtenaw County. The entire county.
Wayne County. The entire county.

§ 301.53–4 Conditions governing the interstate movement of regulated articles from quarantined areas.

Regulated articles may be moved interstate from a quarantined area only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.53–5 and 301.53–8;

(b) Without a certificate or limited permit if:

(1) The regulated article is moved by the United States Department of Agriculture for experimental or scientific purposes; or

(2) The regulated article originates outside the quarantined area and is moved interstate through the quarantined area under the following conditions:

(i) The points of origin and destination are indicated on a waybill accompanying the regulated article; and

(ii) The regulated article, if moved through the quarantined area during the period of May 1 through August 31 or when the ambient air temperature is 40 °F or higher, is moved in an enclosed vehicle or is completely covered to prevent access by the EAB; and

(iii) The regulated article is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed, or handled at locations approved by an inspector as not posing a risk of infestation by emerald ash borer; and

(iv) The article has not been combined or commingled with other articles so as to lose its individual identity.

§ 301.53–5 Issuance and cancellation of certificates and limited permits.

(a) An inspector [1] or person operating under a compliance agreement will issue a certificate for the interstate movement of a regulated article if he or she determines that the regulated article:

(1)(i) Is apparently free of EAB, based on inspection; or the article or

(ii) Has been grown, produced, manufactured, stored, or handled in a manner that, in the judgment of the inspector, prevents the regulated article from presenting a risk of spreading EAB; and

(2) Is to be moved in compliance with any additional emergency conditions that the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) [2] in order to prevent the artificial spread of emerald ash borer; and

(3) Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated articles.

(b) An inspector or a person operating under a compliance agreement will issue a limited permit for the interstate movement of a regulated article not eligible for a certificate if he or she determines that the regulated article:

(1) Is to be moved interstate to a specified destination for specific processing, handling, or utilization (the destination and other conditions to be listed on the limited permit), and this interstate movement will not result in the spread of emerald ash borer because emerald ash borer will be destroyed by the specific processing, handling, or utilization; and

(2) Is to be moved in compliance with any additional emergency conditions that the Administrator may impose under section 414 of the Plant Protection Act (7 U.S.C. 7714) in order to prevent the spread of emerald ash borer; and

(3) Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(c) An inspector shall issue blank certificates and limited permits to a person operating under a compliance agreement in accordance with § 301.53–6 or authorize reproduction of the certificates or limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates and limited permits may then be completed and used, as needed, for the interstate movement of regulated articles that have met all of the requirements of paragraph (a) or (b), respectively, of this section.

(d) Any certificate or limited permit may be canceled orally or in writing by an inspector whenever the inspector determines that the holder of the certificate or limited permit has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose certificate or limited permit has been canceled may appeal the decision in writing to the Administrator within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

(Approved by the Office of Management and Budget under control number 0579–0233)

§ 301.53–6 Compliance agreements and cancellation.

(a) Persons engaged in growing, handling, or moving regulated articles interstate may enter into a compliance agreement [3] if such persons review with an inspector each provision of the compliance agreement. Any person who enters into a compliance agreement with APHIS must agree to comply with the provisions of this subpart and any conditions imposed under this subpart.

(b) Any compliance agreement may be canceled orally or in writing by an inspector whenever the inspector determines that the person who has entered into the compliance agreement has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to the Administrator within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

(Approved by the Office of Management and Budget under control number 0579–0233)

§ 301.53–7 Assembly and inspection of regulated articles.

(a) Persons requiring certification or other services must request the services from an inspector [4] at least 48 hours before the services are needed.

(b) The regulated articles must be assembled at the place and in the manner that the inspector designates as necessary to comply with this subpart.

(Approved by the Office of Management and Budget under control number 0579–0233)

§ 301.53–8 Attachment and disposition of certificates and limited permits.

(a) A regulated article must be plainly marked with the name and address of the consignor and the name and address of the consignee and must have the certificate or limited permit issued for the interstate movement of a regulated article securely attached at all times during interstate movement to:

(1) The regulated article;

(2) The container carrying the regulated article; or

[1] Inspectors are assigned to local offices of APHIS, which are listed in the local telephone directories. Information concerning such local offices may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737–1236.

[2] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 423 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

[3] Compliance agreements may be initiated by contacting a local office of APHIS. The addresses and telephone numbers of local offices are listed in local telephone directories and may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, MD 20737–1236.

[4] See footnote 1 to § 301.53–5.

(3) The consignee's copy of the accompanying waybill: *Provided,* that the description of the regulated article on the certificate or limited permit, and on the waybill, are sufficient to identify the regulated article; and

(b) The carrier must furnish the certificate or limited permit authorizing interstate movement of a regulated article to the consignee at the destination of the shipment.

(Approved by the Office of Management and Budget under control number 0579–0233)

§ 301.53–9 Costs and charges.

The services of the inspector during normal business hours will be furnished without cost to persons requiring the services. The user will be responsible for all costs and charges arising from inspection and other services provided outside of normal business hours.

Done in Washington, DC, this 8th day of October, 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–25881 Filed 10–10–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 03–032–3]

Sapote Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rules as final rule.

SUMMARY: We are adopting as a final rule, without change, two interim rules regarding sapote fruit fly. The first interim rule established regulations restricting the movement of regulated articles from a newly established quarantined area in Hidalgo County, TX. The second interim rule removed the quarantine on that portion of Hidalgo County, TX, and thus removed the restrictions on the interstate movement of regulated articles from that area. The first interim rule was necessary to prevent the spread of sapote fruit fly to noninfested areas of the United States, and the second interim rule was necessary to reflect our determination that the sapote fruit fly had been eradicated from Hidalgo County, TX.

EFFECTIVE DATE: The first interim rule became effective on May 2, 2003, and the second interim rule became effective on July 15, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen A. Knight, Senior Staff Officer, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737–1236; (301) 734–8247.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective May 2, 2003, and published in the **Federal Register** on May 8, 2003 (68 FR 24605–24613, Docket No. 03–032–1), we amended the Domestic Quarantine Notices in 7 CFR part 301 by adding a new ''Subpart—Sapote Fruit Fly'' (§§ 301.99 through 301.99–10, referred to below as the regulations). The regulations designated a portion of Hidalgo County, TX, as a quarantined area because of an infestation of sapote fruit fly and restricted the interstate movement of regulated articles from the quarantined area.

In a second interim rule effective July 15, 2003, and published in the **Federal Register** on July 22, 2003 (68 FR 43285–43286, Docket No. 03–032–2), we amended the regulations by removing the quarantine on a portion of Hidalgo County, TX, and removing restrictions on the interstate movement of regulated articles from that area based on our determination that the sapote fruit fly had been eradicated from that area. Upon the effective date of our July 2003 interim rule, there were no longer any areas in the continental United States quarantined for the sapote fruit fly.

Comments on each interim rule were required to be received on or before 60 days after the date of its publication in the **Federal Register**. We did not receive any comments on either of the interim rules. Therefore, for the reasons given in the interim rules, we are adopting the interim rules as a final rule.

This action also affirms the information contained in the interim rules concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule establishing ''Subpart—Sapote Fruit Fly'' (7 CFR 301.99 through 301.99–10) that was published at 68 FR 24605–24613 on May 8, 2003, as amended by the interim rule published at 68 FR 43285–43286 on July 22, 2003.

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

Done in Washington, DC, this 8th day of October, 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–25882 Filed 10–10–03; 8:45 am]

BILLING CODE 3410–34–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 102

RIN 3245–AE94

Disclosure of Information Regulations

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: SBA is adopting its proposed regulations implementing the Electronic Freedom of Information Act Amendments of 1996 (EFOIA) and updating SBA's FOIA regulations to conform to current law and procedure. SBA's amended regulations will make more information available electronically, give SBA more time to respond to certain requests, and increase processing fees to more accurately reflect the full cost of search and document review.

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

FOR FURTHER INFORMATION CONTACT: Kitty Higgins, Paralegal Specialist, Freedom of Information/Privacy Acts (FOI/PA) Office, at 202–401–8203 or *foia@sba.gov.*

Individuals with disabilities may obtain this document in an alternate format (*e.g.*, Braille, large print, audiotape, or computer diskette) upon request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: On September 11, 2002, SBA issued a proposed rule to amend its Disclosure of Information regulations (13 CFR part 102, Subpart A) based on the Electronic Freedom of Information Act Amendments of 1996 (EFOIA), 5 U.S.C. 552(a)(2), 67 FR 57539. EFOIA includes provisions authorizing or requiring agencies to promulgate regulations

implementing certain EFOIA statutory requirements, including the aggregation of FOIA requests, and the expedited processing of FOIA requests. In addition, EFOIA changes the time limit for responding to a FOIA request from ten to twenty working days, and includes provisions regarding the availability of documents in electronic form, the treatment of electronic records, and the establishment of ''electronic reading rooms.'' This final rule will revise SBA's FOIA regulations to comply with EFOIA and to reflect current SBA FOIA procedures and practices. It also increases the amount SBA can charge for search and review time to $30 per hour.

The Freedom of Information/Privacy Acts (FOI/PA) Office received one comment, which was not substantive. The commenter suggested that the regulations ''should convey the sense of openness associated with the FOIA.'' The commenter also suggested that the regulations ''should require SBA's FOIA Office to post in its electronic reading room* * *those documents which have been released 5 or more times and are likely to be requested again* * *.'' SBA's regulations are in compliance with both the EFOIA and Department of Justice guidelines. In addition, there is a ''Frequently Requested Records'' section in the electronic reading room.

Compliance With Executive Orders 12866, 12988, and 13132, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

The Office of Management and Budget has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, Regulatory Planning and Review. These amendments are not likely to have an annual economic effect of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the U.S. economy. Instead, these changes will make SBA's FOIA program more streamlined and easier for the public to understand and use.

SBA has determined that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. Thus, fees assessed by SBA are nominal.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this rule would not impose new reporting or record keeping requirements.

For purposes of Executive Order 13132, SBA has determined that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12988, SBA has determined that this rule is drafted, to the extent practicable, in accordance with the standards set forth in that order.

List of Subjects in 13 CFR Part 102

Freedom of information, Privacy.

■ For the reasons set forth in the preamble, amend part 102 of title 13 of the Code of Federal Regulations as follows:

PART 102—RECORD DISCLOSURE AND PRIVACY

■ 1. The authority citation for part 102 continues to read as follows:

Authority: 5 U.S.C. 552 and 552a; 31 U.S.C. 1 *et seq.* and 67 *et seq.*; 44 U.S.C. 3501 *et seq.*; E. O. 12600, 3 CFR, 1987 Comp., p. 235.

■ 2. Revise Subpart A of part 102 to read as follows:

Subpart A—Disclosure of Information

Sec.
102.1 General provisions.
102.2 Public reading rooms.
102.3 Requirements pertaining to the submission of requests.
102.4 Timing of responses to requests.
102.5 Responses to requests.
102.6 Fees.
102.7 Business information.
102.8 Appeals.
102.9 Public Index.

Subpart A—Disclosure of Information

§ 102.1 General provisions.

This subpart describes the procedures that the U.S. Small Business Administration (SBA) follows for responding to requests made under the Freedom of Information Act (FOIA) (5 U.S.C. 552).

§ 102.2 Public reading rooms.

(a) SBA maintains a public reading room in the Headquarters Reference Library at 409 3rd St., SW., Suite 5000, Washington, DC 20416 where you may read and copy the following:

(1) Final SBA opinions and orders issued by the Office of Hearings and Appeals in adjudicating a case,

(2) Official non-privileged policy statements, opinions, or interpretations,

(3) Standard operating procedures affecting members of the public,

(4) Records SBA has released in response to previous FOIA requests which, because of their subject matter, SBA determines are likely to be requested again, and

(5) An index of the records referred to under paragraph (a)(4) of this section.

(b) The records described in paragraph (a) of this section are available in the SBA Online Reading Room at *http://www.sba.gov/library/.*

(c) Reading room records created on or after November 1, 1996 are available electronically.

§ 102.3 Requirements pertaining to the submission of requests.

(a) You may make a request for SBA records by writing directly to the program or field office that maintains the records, or to the Freedom of Information/Privacy Acts (FOI/PA) Office by mail to 409 3rd St., SW., Washington, DC 20416 or fax to 202–205–7059 or e-mail to *foia@sba.gov.* The office receiving your request will forward it to the correct office. The correct office will consider your request to be complete only when you:

(1) Describe the records sought in enough detail for an Agency employee to locate the records with a reasonable amount of effort;

(2) Agree to pay applicable fees pursuant to § 102.6, unless you seek a waiver of fees; and

(3) Make an advance payment if either the correct office estimates the fees will exceed $250 or you owe for past FOIA fees. If you owe past due FOIA fees, you must pay the estimated amount, plus any past due charges and interest.

(b) If you make a request on behalf of another person for information pertaining to that person, your request must include an authorization signed by the latter, allowing SBA to release such information to you.

(c) To make a Privacy Act request for records about yourself, you must follow the procedures detailed in § 102.34(b) of Subpart B.

§ 102.4 Timing of responses to requests.

(a) *In general.* Subject to paragraphs (b) and (c) of this section, once the correct office receives your complete request, that office must respond within 20 working days unless that office notifies you in writing that the time is extended by an additional 10 working days for one or more of the following reasons:

(1) The need to search for and collect the requested records from field facilities or other establishments separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(b) *Additional time.* Where an extension of more than ten working days will be necessary due to exceptional circumstances, the correct office will give the requester an opportunity to modify the request so it may be processed within the usual time limits in paragraph (a) of this section, or to arrange an alternative time period for processing the request or a modified request.

(c) *Expedited processing.* (1) SBA will give expedited processing to requests and appeals upon written request, if one of the following conditions is met:

(i) You demonstrate someone's life or physical safety will be in imminent danger if SBA does not expedite its response to your request; or

(ii) You are a news media representative (as defined in § 102.6(b)(8)) who demonstrates an urgent need to inform the public about an actual or alleged Federal government activity.

(2) You must provide a written statement, certified to be true and correct to the best of your knowledge and belief, explaining in detail one of these circumstances of ''compelling need'' and submit it to the correct office. Within 10 working days of its receipt of such a statement, or sooner, if SBA concludes that circumstances warrant, that office will notify you of its decision whether or not to grant expedited processing. If expedited processing is granted, the request shall be given priority and processed as soon as practicable. If an expedited processing request is denied, an appeal may be submitted which will be acted on expeditiously.

(d) *Multiple requests.* Where an office believes that multiple requests submitted by a requester, or by a group of collaborating requesters, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, they will be aggregated for processing.

§ 102.5 Responses to requests.

Within the time limits described in § 102.4, SBA will respond to your request in writing. SBA's response will do one or more of the following:

(a) Advise you that SBA is releasing the requested documents;

(b) Explain why SBA has decided not to give you all or some of the records requested, citing specific FOIA exemptions where applicable and noting the number of pages withheld (except where noting the number of pages withheld would harm an interest protected by an exemption), and explain how to appeal that decision;

(c) Provide a cost estimate or bill you for the actual fee, less any advance payment you have made. SBA will not provide any records until payment in full is received; and/or

(d) Advise you that SBA will refer your request for records generated by another Federal agency to that agency for proper processing.

§ 102.6 Fees.

(a) *In general.* SBA will charge fees for processing requests as outlined in this section. Fees must be paid by check or money order made payable to SBA.

(b) *Definitions and applicable fees.* For purposes of this section:

(1) *Direct costs* means those expenses that SBA actually incurs in searching for and duplicating (and, in the case of commercial use requesters, reviewing) documents in response to an FOIA request. Direct costs include the salary of the employee performing the work and the cost of operating duplication machinery.

(2) *Search* means the process of looking for and retrieving records responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. SBA may charge search fees even if they fail to locate records or if records located are determined to be exempt from disclosure. Search fees are $30 per hour.

(3) *Duplication* means the making of a copy of a record. Copies can take the form of paper, microfilm, audiovisual materials, or electronic records (for example, magnetic tape or disk), among others. SBA will charge $.10 per page for photocopy duplication and the actual cost for other methods. SBA will honor a requester's specified preference of form or format of disclosure if the record is readily reproducible with reasonable efforts in the requested form or format by the office responding to the request.

(4) *Review* refers to the examination of documents responsive to a request in order to determine whether any portion of it is exempt from disclosure. It includes processing any record for disclosure, *e.g.*, all necessary redaction and preparation for disclosure. It also includes time spent considering any formal objection to disclosure made by a business submitter under § 102.7, but does not include time spent resolving general legal or policy issues regarding the application of exemptions. Review costs are recoverable even if a record is ultimately not disclosed. Only commercial use requesters are assessed review costs. Review costs are $30 per hour.

(5) *A commercial use request* refers to a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade or profit interests, which can include furthering those interests through litigation. When it appears the requester will put the requested records to a commercial use, either because of the nature of the request itself or where SBA has reasonable cause to doubt a requester's stated use, SBA will seek additional clarification. SBA will charge commercial use requesters the full direct costs of searching for, reviewing for release, and duplicating the records sought.

(6) *Educational institution* means a state-certified preschool, elementary or secondary school; an accredited college or university; an accredited institution of professional education; or any accredited or state-certified institution of vocational education that operates a program of scholarly research. An educational institution requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scholarly research. SBA will provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages.

(7) *Noncommercial scientific institution* means an institution that is not operated on a commercial basis, and that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry. A noncommercial scientific institution requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought to further scientific research. SBA will charge noncommercial scientific institution requesters for the cost of reproduction alone after the first 100 pages.

(8) *A representative of the news media* is a requester actively gathering information for one or more news media who:

(i) Is employed by a news medium or

(ii) Has a reasonable expectation of selling the information obtained to one or more news media. A news medium is an entity organized and operated to distribute information to the general public. A news medium may provide information by subscription and may target its dissemination to a narrow section of the general public so long as any member of the general public may purchase information from it. A request for records supporting the news dissemination function of the requester shall not be considered to be for commercial use. A news media requester must show that the request is authorized by and is made under the auspices of a qualifying news medium and that the records are not sought for a commercial use but are sought to further the dissemination of information to the general public. SBA will provide documents to representatives of the news media for the cost of reproduction alone, excluding charges for the first 100 pages.

(9) *A member of the general public* is a requester who does not fit into any of the categories in paragraphs (b)(1) through (8) of this section. SBA will charge requesters in this category search time after the first two hours and duplication after the first 100 pages.

(c) *Other charges.* SBA will recover the full costs of providing special services, such as certifying that records are true copies or sending copies by other than ordinary mail, to the extent that SBA elects to provide them.

(d) *Charging interest.* SBA will charge interest on any unpaid bill starting on the 31st day following the date of billing. Interest charges will accrue at the maximum rate allowed under 31 U.S.C. 3717. If still unpaid by the 91st day after the billing date, SBA may notify consumer credit reporting agencies of the delinquency and/or take other appropriate action in accordance with law.

(e) *Fee waivers or reductions.* SBA will furnish responsive records without charge or at a reduced charge when a requester can show that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(1) You must submit a request for a fee waiver or reduction to the initial processing office.

(2) On the basis of the information that you provide, the initial processing office will determine whether you meet the fee waiver requirements outlined in this section.

§ 102.7 Business information.

(a) *In general.* Business information provided to SBA from a submitter will only be disclosed in accordance with this section.

(b) *Definitions.* For purposes of this section:

(1) *Business information* is commercial or financial information obtained by SBA from a submitter that may arguably be protected from disclosure under Exemption 4 of the FOIA.

(2) *Submitter* is any person or entity who provides business information, directly or indirectly to SBA.

(c) *Designation of business information.* Submitters of business information will use reasonable, good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of their submissions that they consider to be protected from disclosure under Exemption 4 of the FOIA. Designations will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer designation period.

(d) *Notice to submitters.* SBA will provide a submitter with written notice of a FOIA request or administrative appeal that seeks its business information whenever SBA intends to release that information. The notice will either describe the business information or include copies of the records in the form SBA proposes to release them. SBA will also advise the requester that the submitter is being given the opportunity to object to any proposed disclosure. When notification of a voluminous number of submitters is required, SBA may post or publish such a notice in a place reasonably likely to accomplish notice.

(e) *Opportunity to object to disclosure.* SBA will give the submitter ten working days from the date of the written notice to submit a detailed written statement specifying all grounds upon which disclosure is opposed. A reasonable extension of time may be granted by the correct office upon good cause shown by the submitter. The submitter's statement must demonstrate why it believes information is a trade secret or commercial or financial information that is privileged or confidential. If a submitter fails to timely respond to the notice, such failure will be deemed a waiver by the submitter of any objection to the disclosure of the information. Information provided by a submitter under this paragraph may itself be subject to disclosure under the FOIA.

(f) *Notice of intent to disclose.* SBA will consider a submitter's objections and specific grounds for nondisclosure in accordance with paragraph (e) of this section in deciding whether to disclose business information. If SBA decides to disclose business information despite the objection of a submitter, SBA will give the submitter written notice, advising the submitter what will be disclosed, and that such disclosure will occur within 10 working days from the date of the notice.

§ 102.8 Appeals.

(a) If you are dissatisfied with SBA's response to your request, you may appeal an adverse determination denying your request, in any respect, to the Chief, FOI/PA Office, 409 Third St., SW., Washington, DC 20416.

(b) The Chief must receive your signed, written appeal within 60 calendar days of the date of the SBA determination from which you are appealing.

(c) You should include as much information as possible, *i.e.*, identifying the records not disclosed, the reason(s) a fee should be waived, or the reason(s) a request should be expedited. You must identify the deciding official and his/her office location.

(d) The Chief will decide your appeal unless the Chief originally made the determination you are appealing. In that case, the Assistant Administrator for Hearings and Appeals will decide your appeal.

(e) If SBA upholds the initial adverse determination, SBA will tell you why the decision has been upheld and tell you how to obtain judicial review of the decision.

§ 102.9 Public Index.

(a) The Public Index is a document that provides identifying information about official documents that SBA has issued.

(b) SBA has administratively determined, as permitted by FOIA, that periodic publication and distribution of the Public Index is unnecessary and impracticable.

(c) The Public Index is an appendix to SBA Standard Operating Procedure 40 03. You can obtain the latest edition of SOP 40 03 from SBA's Online Reading Room at *http://www.sba.gov/library* or by requesting it from any SBA office.

Dated: October 1, 2003.

Hector V. Barreto,

Administrator.

[FR Doc. 03–25878 Filed 10–10–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE197; Special Conditions No. 23–138–SC]

Special Conditions: AMSAFE, Incorporated, Zenair Model CH2000, Inflatable Three-Point Self-Adjusting Restraint Safety Belt With an Integrated Inflatable Airbag Device

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the installation of an AMSAFE, Inc. Inflatable Three-Point Self-Adjusting Restraint Safety Belt with an Integrated Inflatable Airbag Device on the Zenair model CH2000. This airplane, as modified by AMSAFE, Inc. will have novel and unusual design features associated with the lap belt portion of the safety belt, which contains an integrated airbag device. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: October 2, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Pat Mullen, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE–111, 901 Locust, Kansas City, Missouri, 816–329–4128, fax 816–329–4090.

SUPPLEMENTARY INFORMATION:

Background

On March 8, 2003, AMSAFE, Inc. Inflatable Restraints Division, 5456 East McDowell Road, Mesa, AZ, 85215, applied for a supplemental type certificate to install an inflatable lapbelt restraint with a standard upper torso restraint (or shoulder harness) in the Zenair model CH2000. The model CH2000 is a single-engine, two-place airplane with a stall speed in the landing configuration that is below 45 knots.

The inflatable restraint system is a three-point restraint system consisting of a shoulder harness and an inflatable airbag lap belt, and will be installed on both the pilot and co-pilot seats. In the event of an emergency landing, the airbag will inflate and provide a protective cushion between the occupant's head and the airplane's yoke and instrument panel. This will reduce the potential for head and torso injury. The inflatable restraint behaves in a manner that is similar to an automotive airbag, but in this case, the airbags are integrated into the lapbelt. The shoulder harness is conventional and does not inflate. While airbags and inflatable restraints are standard in the automotive industry, the use of an inflatable three-point restraint is novel for general aviation operations.

The FAA has determined that this project will be accomplished on the basis of providing the same current level of safety of the model CH2000 occupant restraint design. The FAA has considered the installation of airbags as having two primary safety concerns:

- That they perform properly under foreseeable operating conditions; and
- That they do not perform in a manner or at such times as to impede the pilot's ability to maintain control of the airplane or constitute a hazard to the airplane or occupants.

The latter point has the potential to be the more rigorous of the requirements. An unexpected deployment while conducting the takeoff and landing phases of flight may result in an unsafe condition. The unexpected deployment may either startle the pilot, or generate a force sufficient to cause a sudden movement of the control yoke. Either action could result in a loss of control of the airplane, the consequences of which are magnified due to the low operating altitudes during these phases of flight. The FAA has considered this when establishing the special conditions.

The inflatable airbag is integrated into the lap belt and relies on sensors to electronically activate the inflator for deployment. These sensors could be susceptible to inadvertent activation, causing deployment in a potentially unsafe manner. The consequences of an inadvertent deployment must be considered in establishing the reliability of the system. AMSAFE, Inc. must show that the effects of an inadvertent deployment in flight are not a hazard to the airplane or that an inadvertent deployment is extremely improbable. In addition, any general aviation aircraft can generate a large amount of cumulative wear and tear on a restraint system. It is likely that the potential for inadvertent deployment increases as a result of this cumulative damage. Therefore, the impact of wear and tear on inadvertent deployment must be considered. Ultimately, because of the effects of this cumulative damage, a life limit must be established for the appropriate system components in the restraint system design.

There are additional factors to be considered to minimize the chances of inadvertent deployment. General aviation airplanes are exposed to a unique operating environment, since the same airplane may be used by both experienced and student pilots. The effect of this environment on inadvertent deployment of the restraint must be understood. Therefore, qualification testing of the firing hardware/software must consider the following:

- The airplane vibration levels appropriate for a general aviation airplane; and
- The inertial loads that result from typical flight or ground maneuvers, including gusts and hard landings.

Any tendency for the firing mechanism to activate as a result of these loads or acceleration levels is unacceptable.

Other influences on inadvertent deployment include high intensity electromagnetic fields (HIRF) and lightning. Since the sensors that trigger deployment are electronic, they must be protected from the effects of these threats. To comply with HIRF and lightning requirements, the AMSAFE, Inc. inflatable restraint system is considered a critical system, since its inadvertent deployment could have a hazardous effect on the airplane.

Given the level of safety of the current Zenair model CH2000 lap belt and shoulder harness restraint, the inflatable restraint must show that it will offer an equivalent level of protection in the event of an emergency landing. In the event of an inadvertent deployment, the restraint must still be at least as strong as a Technical Standard Order certificated belt and shoulder harness. There is no requirement for the inflatable portion of the restraint to offer protection during multiple impacts, where more than one impact would require protection.

The inflatable seatbelt system must deploy and provide protection for each occupant under a crash condition where it is necessary to prevent serious head injury. However, the Zenair CH2000 seats are not certificated to the requirements specified in § 23.562 and it is not known if they would remain intact following exposure to the crash pulse identified in § 23.562. Therefore, the test crash pulse used to satisfy this requirement may have a peak longitudinal deceleration lower than that required by § 23.562. However, the test pulse must have an onset rate (deceleration divided by time) equal to or greater than the onset rate of the

pulse described in § 23.562. This will demonstrate that the crash sensor will trigger when exposed to a rapidly applied deceleration, like an actual crash event.

It is possible a wide range of occupants will use the inflatable restraint. Thus, the protection offered by this restraint should be effective for occupants that range from the fifth percentile female to the ninety-fifth percentile male. Energy absorption must be performed in a consistent manner for this occupant range.

In support of this operational capability, there must be a means to verify the integrity of this system before each flight. As an option, AMSAFE, Inc. can establish inspection intervals where they have demonstrated the system to be reliable between these intervals.

It is possible that an inflatable restraint will be ''armed'' even though no occupant is using the seat. While there will be means to verify the integrity of the system before flight, it's also prudent to require that unoccupied seats with active restraints not constitute a hazard to any occupant. This will protect any individual performing maintenance items inside the cockpit while the aircraft is on the ground and includes protection against inadvertent deployment.

In addition, the use and operation of this restraint must be transparent to the user. Therefore, the design must prevent the inflatable seatbelt from being incorrectly buckled and/or installed such that the airbag would not properly deploy. As an alternative, AMSAFE, Inc. may show that such deployment is not hazardous to the occupant, and will still provide the required protection.

The cockpit of the model CH2000 is a confined area, and the FAA is concerned that noxious gasses may accumulate in the event the inflatable restraint deploys. When deployment does occur, either by design or inadvertently, there must not be a release of hazardous quantities of gas or particulate matter into the cockpit area.

Fire is a concern for any airplane, regardless of the size or class of the airplane. An inflatable restraint should not increase the risk already associated with fire. Therefore, the inflatable restraint should be protected from the effects of fire, so that an additional hazard is not created by, for example, a rupture of the inflator.

Finally, the inflatable restraint is likely to have a large volume displacement, where the inflated bag could impede the egress of an occupant. Since the bag deflates to absorb energy, it is likely that the inflatable restraint would be deflated at the time an occupant would attempt egress. However, it is appropriate to specify a time interval after which the inflatable restraint may not impede rapid egress. Ten seconds has been chosen as reasonable time. This time limit will offer a level of protection throughout the impact event.

Type Certification Basis

Under the provisions of § 21.101, AMSAFE, Inc. must show that the Zenair model CH2000, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. TA5CH or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. TA5CH are as follows:

FAR 21.29 and FAR 23 effective February 1, 1965, as amended by 23–1 through 23–42.

JAR–VLA effective April 26, 1990, through Amendment VLA/92/1 effective January 1, 1992, used as a safety equivalence to FAR 23, as provided by AC 23–11.

FAR 36 dated December 1, 1969, as amended by current amendment as of date of type certification.

For the model listed above, the certification basis also includes all exemptions, if any; equivalent level of safety findings, if any; and the special conditions adopted by this rulemaking action.

The Administrator has determined that the applicable airworthiness regulations (*i.e.*, part 23 as amended) do not contain adequate or appropriate safety standards for the AMSAFE, Inc. inflatable restraint as installed on Zenair model CH2000 because of a novel or unusual design feature. Therefore, special conditions are prescribed under the provisions of § 21.16.

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

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to that model under the provisions of § 21.101.

Novel or Unusual Design Features

The Zenair model CH2000 will incorporate the following novel or unusual design feature:

The AMSAFE, Inc. Inflatable Three-Point Self-Adjusting Restraint safety belt with an integrated inflatable airbag device. The purpose of the inflatable airbag seatbelt is to reduce the potential for injury in the event of an accident. In a severe impact, an airbag will deploy from the lapbelt portion of the restraint, in a manner similar to an automotive airbag. The airbag will deploy between the head of the occupant and the airplane's yoke and instrument panel. This will, therefore, provide some protection to the head of the occupant. The restraint will rely on sensors to electronically activate the inflator for deployment.

Title 14 of the Code of Federal Regulations, parts 21 and 23, states performance criteria for seats and restraints in an objective manner. However, none of these criteria are adequate to address the specific issues raised concerning inflatable restraints. Therefore, the FAA has determined that, in addition to the requirements of part 21 and part 23, special conditions are needed to address the installation of this inflatable restraint.

Accordingly, these special conditions are adopted for the Zenair model CH2000 equipped with the AMSAFE, Inc. Three-Point Self-Adjusting Restraint safety belt with an integrated inflatable airbag device. Other conditions may be developed, as needed, based on further FAA review and discussions with the manufacturer and civil aviation authorities.

Discussion of Comments

Notice of proposed special conditions No. 23–03–01–SC for the Zenair model CH2000 equipped with the AMSAFE, Inc. Three-Point Self-Adjusting Restraint safety belt with an integrated airbag device was published on July 17, 2003 (68 FR 42315). One comment was received, regarding the requirement that the lapbelt must deploy and provide protection under the crash conditions specified in § 23.562 (proposed Special Condition No. 1).

The commenter is in general agreement with the special conditions proposed for this particular program. In addition, the commenter is in agreement that a dynamic test is necessary to demonstrate the deployment timing and positioning of the inflatable lapbelt. However, the commenter states that proposed SC No. 1, as written, requires the inflatable restraint to operate only when subjected to the crash pulse

identified in § 23.562. In addition, since the seats installed in the Zenair CH2000 do not meet the requirements of § 23.562, an inflatable restraint that operates only after being exposed to this pulse may offer little benefit.

The commenter suggests that reference to § 23.562 be retained, but allow for the following:

- The test pulse may have a reduction in the peak longitudinal deceleration but the onset rate (deceleration divided by time) must be equal to or greater than the pulse specified in § 23.562.
- The peak longitudinal deceleration must be greater than the deployment threshold of the crash sensor.
- The peak longitudinal deceleration must be equal to or greater than the forward static design load factors required by the original certification basis of the airplane.

The FAA concurs. The seats installed in the Zenair CH2000 may not satisfy the requirements of § 23.562, so it is not appropriate to install an inflatable restraint that will deploy only when subjected to the crash pulse specified in § 23.562. The FAA agrees that the test pulse used to satisfy the dynamic test requirements must be less severe than that specified in § 23.562. In addition, we agree with the commenter that the onset rate of the test pulse should be equal to or greater than the onset rate of the pulse required by § 23.562. This will show that the crash sensor will trigger when exposed to a high deceleration that builds up in rapid time, like a real crash event.

The FAA will incorporate the commenter's input into Special Condition No. 1.

Applicability

As discussed above, these special conditions are applicable to the Zenair model CH2000 equipped with the AMSAFE, Inc. Three-Point Self-Adjusting Restraint safety belt with an integrated inflatable airbag device. Should AMSAFE, Inc. apply at a later date for a supplemental type certificate to modify any other model on Type Certificate number TA5CH to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features on the Zenair model CH2000. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

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

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 21.101; and 14 CFR 11.38 and 11.19.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the typ certification basis for the Zenair model CH2000, as modified by AMSAFE, Inc.

Three-Point Self-Adjusting Restraint Safety Belt With an Integrated Airbag Device

1. It must be shown that the inflatable lapbelt will deploy and provide protection under crash conditions where it is necessary to prevent serious head injuries. Compliance will be demonstrated using the dynamic test condition specified in § 23.562, which may be modified as follows:

a. The peak longitudinal deceleration may be reduced, however the onset rate of the deceleration must be equal to or greater then the crash pulse identified in § 23.562.

b. The peak longitudinal deceleration must be above the deployment threshold of the crash sensor, and equal to or greater than the forward static design longitudinal load factor required by the original certification basis of the airplane.

The means of protection must take into consideration a range of stature from a 5th percentile female to a 95th percentile male. The inflatable lapbelt must provide a consistent approach to energy absorption throughout that range.

2. The inflatable lapbelt must provide adequate protection for each occupant. In addition, unoccupied seats that have active seat belts must not constitute a hazard to any occupant.

3. The design must prevent the inflatable safety belt from being incorrectly buckled and/or incorrectly installed such that the airbag would not properly deploy. Alternatively, it must be shown that such deployment is not hazardous to the occupant and will provide the required protection.

4. It must be shown that the inflatable lapbelt system is not susceptible to inadvertent deployment as a result of wear and tear or inertial loads resulting from in-flight or ground maneuvers (including gusts and hard landings) that are likely to be experienced in service.

5. It must be shown (or be extremely improbable) that an inadvertent deployment of the restraint system during the most critical part of the flight does not impede the pilot's ability to maintain control of the airplane or cause an unsafe condition (or hazard to the airplane). In addition, a deployed inflatable restraint must be at least as strong as a Technical Standard Order certificated belt and shoulder harness.

6. It must be shown that deployment of the restraint system is not hazardous to the occupant or result in injuries that could impede rapid egress. This assessment should include occupants whose belt is loosely fastened.

7. It must be shown that an inadvertent deployment that could cause injury to a standing or sitting person is improbable.

8. It must be shown that the inflatable safety belt will not impede rapid egress of the occupants 10 seconds after its deployment.

9. For the purposes of complying with HIRF and lightning requirements, the inflatable safety belt system is considered a critical system since its deployment could have a hazardous effect on the airplane.

10. It must be shown that the inflatable safety belt will not release hazardous quantities of gas or particulate matter into the cabin.

11. The inflatable safety belt installation must be protected from the effects of fire such that no hazard to occupants will result.

12. There must be a means to verify the integrity of the inflatable safety belt activation system prior to each flight or it must be demonstrated to reliably operate between inspection intervals.

13. A life limit must be established for appropriate system components.

14. Qualification testing of the internal firing mechanism must be performed at vibration levels appropriate for a general aviation airplane.

Issued in Kansas City, Missouri, on October 2, 2003.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–25950 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM259; Special Condition No. 25–249–SC]

Special Conditions: Bombardier Aerospace Model BD–100–1A10; Side-Facing Single Occupancy Seats

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Bombardier Aerospace Model BD–100–1A10 airplane. This airplane as modified by Learjet Inc. (Subsidiary of Bombardier Aerospace) will have novel or unusual design features associated with side-facing single-occupant seats. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: October 6, 2003.

FOR FURTHER INFORMATION CONTACT: Michael Thompson, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–1157; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

On April 11, 2003, Learjet Inc. (subsidiary of Bombardier Aerospace) applied for a supplemental type certificate for installation of single-occupant side-facing seats on Bombardier BD–100–1A10 airplanes. Bombardier Aerospace requested that special conditions be issued for these seats and that the special conditions be listed on the type certificate data sheet of the BD–100–1A10 airplane. The Model BD–100–1A10 is a twin engine, turbofan powered, transport category airplane which is currently the subject of a type certification program.

Section 25.785(a) at Amendment 25–64 requires that each seat ''at each station designated as occupiable during takeoff and landing must be designed so that persons occupying these seats will not suffer serious injury in an emergency landing as a result of the inertia forces specified in §§ 25.561 and 25.562.'' Additionally, § 25.562 requires dynamic testing of all seats that are occupied during takeoff and landing. However, side-facing seats are considered a novel design for transport category airplanes that include Amendment 25–64 in the certification basis and were not considered when those airworthiness standards were promulgated. Hence, the existing regulations do not provide adequate or appropriate safety standards for occupants of side-facing seats. In order to provide a level of safety that is equivalent to that afforded occupants of forward and aft facing seats, additional airworthiness standards in the form of special conditions are necessary.

These special conditions are applicable only to single-occupant side-facing seats. They are not sufficient or intended to be used for the certification of multiple-occupant side-facing divans or sofas.

Type Certification Basis

Under the provisions of § 21.101, Learjet Inc. (subsidiary of Bombardier Aerospace) must show that the Model BD–100–1A10 airplane, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in T00005NY or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in T00005NY are as follows:

14 CFR part 25, effective February 1, 1965, as amended by Amendments 25–1 through 25–98; 14 CFR part 34, effective September 10, 1990.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Bombardier Aerospace Model BD–100–1A10 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Bombardier Aerospace Model BD–100–1A10 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

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

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model.

Novel or Unusual Design Features

Bombardier Aerospace will install single-occupant side-facing seats on BD–100–1A10 airplanes. Section 25.785(b) requires that each seat ''at each station designated as occupiable during takeoff and landing must be designed so that persons occupying these seats will not suffer serious injury in an emergency landing as a result of the inertia forces specified in §§ 25.561 and 25.562.'' Additionally, § 25.562 requires dynamic testing of all seats that are occupied during takeoff and landing. However, side-facing seats are considered a novel design for transport category airplanes that include Amendment 25–64 in the certification basis, and were not considered when those airworthiness standards were promulgated. Hence, the existing regulations do not provide adequate or appropriate safety standards for occupants of side-facing seats. In order to provide a level of safety that is equivalent to that afforded occupants of forward and aft facing seats, additional airworthiness standards, in the form of special conditions, are necessary.

Discussion

The following special conditions are considered to provide occupants of single-occupancy side-facing seats a level of safety that is equivalent to that afforded occupants of forward and aft facing seats. These special conditions supplement 14 CFR part 25 and, more specifically, they supplement §§ 25.785 and 25.562.

Comments

Notice of proposed special conditions No. 25–03–06-SC for the Bombardier Aerospace Model BD–100–1A10 airplane was published in the **Federal Register** on August 26, 2003 (68 FR 51203). No comments were received, and these special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Bombardier Aerospace Model BD–100–1A10 airplane. Should Bombardier Aerospace apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Bombardier Aerospace Model BD–100–1A10 airplane is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

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

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

The Special Conditions

■ Accordingly, the Federal Aviation Administration (FAA) issues the following special conditions as part of the type certification basis for Bombardier Aerospace Model BD–100–1A10 airplanes. In addition to the airworthiness standards of §§ 25.562 and 25.785, the minimum acceptable standards for dynamic certification of Model BD–100–1A10 single-occupant side-facing seats are proposed as follows:

Injury Criteria

(a) *Existing Criteria:* All injury protection criteria of § 25.562(c)(1) through (c)(6) apply to the occupant of a side-facing seat. Head Injury Criterion (HIC) assessments are required only for head contact with the seat and/or adjacent structures.

(b) *Body-to-Wall/Furnishing Contact:* The seat must be installed aft of a structure, such as an interior wall or furnishing, that will support the pelvis, upper arm, chest, and head of an occupant seated next to the structure. A conservative representation of the structure and its stiffness must be included in the tests. It is recommended, but not required, that the contact surface of this structure be covered with at least two inches of energy absorbing protective padding (foam or equivalent), such as Ensolite.

(c) *Thoracic Trauma:* The Thoracic Trauma Index (TTI) injury criterion must be substantiated by dynamic test or by rational analysis, based on a previous test or tests of a similar seat installation. Testing must be conducted with a Side Impact Dummy (SID), as defined by 49 CFR part 572, subpart F, or its equivalent. TTI must be less than 85, as defined in 49 CFR part 572, subpart F. TTI data must be processed as defined in Federal Motor Vehicle Safety Standard (FMVSS) Part 571.214, section S6.13.5.

(d) *Pelvis:* Pelvic lateral acceleration must be shown by dynamic test or by rational analysis based on previous test(s) of a similar seat installation to not exceed 130g. Pelvic acceleration data must be processed as defined in FMVSS Part 571.214, section S6.13.5.

(e) *Shoulder Strap Loads:* Where upper torso straps (shoulder straps) are used for occupants, tension loads in individual straps must not exceed 1,750 pounds. If dual straps are used for restraining the upper torso, the total strap tension loads must not exceed 2,000 pounds.

Test Requirements

The above performance measures must not be exceeded during the following dynamic tests:

(a) Conduct a longitudinal test per § 25.562(b)(2) with a SID, undeformed floor, no yaw, and with all lateral structural supports (armrests/walls).

Pass/fail injury assessments: TTI and pelvic acceleration.

(b) Conduct a longitudinal test per § 25.562(b)(2) with the Hybrid II ATD, deformed floor, 10 degrees yaw, and with all lateral structural supports (armrests/walls).

Pass/fail injury assessments: HIC, upper torso restraint load, restraint system retention and pelvic acceleration.

(c) Conduct a downward vertical test per § 25.562(b)(1) with a modified Hybrid II ATD with existing pass/fail criteria.

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

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–25951 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM249; Special Conditions No. 25–250–SC]

Special Conditions: Embraer Model ERJ–170 Series Airplanes; Electronic Flight Controls (Command Signal Integrity)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Embraer Model ERJ–170 series airplanes. These airplanes will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These design features are associated with electronic flight control systems. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for this and other novel or unusual design features of Embraer Model 170 series airplanes.

EFFECTIVE DATES: October 6, 2003.

FOR FURTHER INFORMATION CONTACT: Tom Groves, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1503; facsimile (425) 227–1149; e-mail *tom.groves@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On May 20, 1999, Embraer applied for a type certificate for its new Model ERJ–170 airplane. Two basic versions of the Model ERJ–170 are included in the application. The ERJ–170–100 airplane is a 69–78 passenger, twin-engine regional jet with a maximum takeoff weight of 81,240 pounds. The ERJ–170–200 is a derivative with a lengthened fuselage. Passenger capacity for the ERJ–170–200 is increased to 86, and maximum takeoff weight is increased to 85,960 pounds.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Embraer must show that the Model ERJ–

170 series airplanes meet the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–98.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, part 25, as amended) do not contain adequate or appropriate safety standards for Embraer Model ERJ–170 series airplanes because of novel or unusual design features, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, Embraer Model ERJ–170 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 93–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.17(a)(2), Amendment 21–69, effective September 16, 1991.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design features, the special conditions would also apply to the other model under the provisions of § 21.101.

Novel or Unusual Design Features

The ERJ–170 airplane will use fly-by-wire (FBW) technology as a means of sending command and control signals to the control surface actuators of the rudder, rudder trim, elevator, spoilers, horizontal stabilizer, and auto speedbrake. The ailerons will be controlled by a traditional cable linkage to the hydraulic actuators.

The ERJ–170 FBW flight control systems provide two modes of operation, direct and normal. Direct mode provides an analog link between pilot commands and control surfaces. In direct mode, flight control transducers send signals to Actuator Control Electronics units (ACE). The ACE sends analog command and control signals to the Power Control Units (PCU), which move the control surface actuators of the rudder, rudder trim, elevator, spoilers, horizontal stabilizer, and auto speedbrake.

In normal mode, the rudder, elevator and spoiler command-to-surface gain schedules are tailored to particular flight conditions to provide improved control characteristics. These gains are calculated digitally in the Flight Control Module (FCM) and supplement the direct mode commands provided by the ACEs.

In the ERJ–170 FBW design being presented, command and control of the airplane's aerodynamic control surfaces will be achieved by electronic interfaces. These interfaces involve not only direct commands to the PCU but all the necessary feedback sensor signals. A successful demonstration of signal integrity must include all the elements which contribute to the command and control signals to the control surface closed loop system (CSCL). The CSCL may include the following:

(1) The computing components and wiring;

(2) The input components, such as column position sensors;

(3) Feedback components, such as control surface position, inertial reference, and air data sensors; and

(4) Actuation components and their structural mounting components.

A system evaluation that includes all the inputs to and elements of the CSCL in an integrated environment (including signals that could disturb the system) is necessary to ensure appropriate system robustness throughout the flight envelope.

For the purpose of this proposed special condition, the control surface closed loop system does not include pilot input to the flight control system. Pilot in the loop control inputs and the associated handling requirements are adequately covered by existing regulations, including regulations in subpart B as well as §§ 25.671 and 25.672.

The signal paths within the control surface closed loop system can be susceptible to interference from electromagnetic and electrostatic sources within the integrated systems environment of the aircraft as well as external causes, such as HIRF and lightning (not considered in this special condition), which could modify the command and control signals.

The effects of interference sources within the system may include, but are not restricted to, the following:

- Loss of data bits,
- Unwanted transients in the power supply source,
- Disruption of normal computer operations,
- Misbehavior of signals by parallel computers (*e.g.*, redundancy management),
- Adverse effects caused by transport lag, and
- Any other cause that may alter the command and control signals.

For those reasons, special design measures and laboratory tests intended to validate these designs will be required to demonstrate the integrity of the FBW Flight Controls System to a level of safety equivalent to that which is achieved with traditional hydromechanical designs.

The regulations which primarily address hydromechanical flight control systems, (*i.e.*, 14 CFR 25.671 and 25.672) do not specifically require that command and control signals remain unaltered from internal or external interference. Traditional designs feature steel cables and pushrods as means to move surface actuators which are hydraulically powered. These designs are not likely to be affected by spurious electromagnetic and computer induced signals, as are the FBW designs.

Similar special conditions have been issued previously for other airplanes that utilize FBW flight control systems, such as the Airbus A320 series, Airbus A330/340 series, and most recently, the Boeing 777 series.

The special conditions applied to the Boeing 777 series include a requirement for changes in mode of flight critical control systems. This requirement was intended to ensure a minimum level of availability for normal mode flight control. For the Boeing 777 series, the FAA did not consider § 25.1309(b) adequate for that purpose.

In the ERJ–170 FBW flight control system, normal mode consists of a simple analog control signal augmented by limited authority digitally computed signals. Direct mode consists of only the analog signal. The FAA believes that the existing 14 CFR 25.1309(b) provides a suitable requirement for assessing the effect and frequency of FBW flight control system mode changes or lost functionality for the ERJ–170 series, and thus the specific requirement included with the Boeing 777 series special conditions was not included in these proposed special conditions.

In addition to the specific difference noted above, a number of smaller changes were made to the Boeing 777 series special condition to create these proposed special conditions. These additional changes were made to improve readability and to define with greater precision the intended scope of some of the paragraphs through use of consistent and defined terminology.

Discussion of Comments

Notice of proposed special conditions No. 25–03–05–SC for the Embraer Model ERJ–170 series airplane was published in the **Federal Register** on June 16, 2003 (68 FR 35612). No comments were received, and these special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Embraer Model ERJ–170 series airplanes. Should Embraer apply later for a change to the type certificate to include another model incorporating the same novel or unusual design features, these special conditions would apply to that model as well under the provisions of § 21.101.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Embraer Model ERJ–170 series airplane is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

Conclusion

This action affects only certain novel or unusual design features on the Embraer Model ERJ–170 series airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

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

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

The Special Conditions

■ Accordingly, the Federal Aviation Administration (FAA) issues the following special conditions as part of the type certification basis for Embraer Model ERJ–170 series airplanes.

Electronic Flight Controls (Command Signal Integrity)

In addition to compliance with §§ 25.671 and 25.672, the following requirements must be met:

(a) It must be shown that either the FBW flight control system signals cannot be altered unintentionally or that altered signal characteristics would meet the following criteria:

(1) Stable gain and phase margins are maintained for all control surface closed loop systems. Pilot control inputs (pilot in the loop) are excluded from this requirement.

(2) Sufficient pitch, roll, and yaw control power is available to provide control for continued safe flight and landing, considering all the FBW flight control system signal malfunctions that are not extremely improbable.

(3) The effect of spurious signals on the systems which are included in the control surface loop must not result in unacceptable transients or degradation of the airplane's performance. Specifically, signals that would cause a significant uncommanded motion of a control surface actuator must be readily detected and deactivated, or the surface motion must be arrested by other means in a satisfactory manner. Small amplitude residual system oscillations may be acceptable.

(b) It must be demonstrated that the output from the control surface closed loop system does not result in uncommanded, sustained oscillations of flight control surfaces. The effects of minor instabilities may be acceptable, provided that they are thoroughly investigated, documented, and understood.

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

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–25949 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–67–AD; Amendment 39–13334; AD 2003–20–16]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747SP, 747SR, 747–100, 747–200, and 747–300 Series Airplanes; Equipped With Pratt & Whitney Model JT9D–3, –7, and –7Q Series Engines and Model JT9D–7R4G2 Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747SP, 747SR, 747–100, 747–200, and 747–300 series airplanes, that currently requires repetitive operational tests of the reversible gearbox pneumatic drive unit (PDU) or the reversing air motor PDU to ensure that the unit can restrain the thrust reverser sleeve, and correction of any discrepancy found. This amendment requires installation of a terminating modification, repetitive functional tests of that installation to detect discrepancies, and repair if necessary. This amendment also removes airplanes from the applicability and adds certain new requirements. The actions specified by this AD are intended to ensure the integrity of the fail-safe features of the thrust reverser system by preventing possible failure modes in the thrust reverser control system that can result in inadvertent deployment of a thrust reverser during flight. This action is intended to address the identified unsafe condition.

DATES: Effective November 18, 2003.

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

The incorporation by reference of a certain publication, as listed in the regulations, was approved previously by the Director of the Federal Register as of September 5, 1995 (60 FR 39631, August 3, 1995).

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

FOR FURTHER INFORMATION CONTACT: Dan Kinney, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6499; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–16–02, amendment 39–9321 (60 FR 39631, August 3, 1995), which is applicable to certain Boeing Model 747SP, 747SR, 747–100, –200, and –300 series airplanes, was published as a supplemental Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on May 1, 2003 (68 FR 23235). The action proposed to continue to require repetitive operational tests of the reversible gearbox pneumatic drive unit (PDU) or the reversing air motor PDU to ensure that the unit can restrain the thrust reverser sleeve, and correction of any discrepancy found. The action also

proposed the installation of a terminating modification, repetitive functional tests of that installation to detect discrepancies, and repair if necessary. Additionally, the action also proposed to remove airplanes from the applicability and to add certain new requirements.

Clarification of Applicability

The FAA has revised the applicability paragraph of this AD by specifying the applicable engine models for the Pratt & Whitney Model JT9D–7 series engines (*i.e.*, –7, –7A, –7F, and –7J). We also point out that the Model JT9D–7Q series engines is a separate engine series and is not included in the Model JT9D–7 series engines. To clarify that point, we have added a new Note 1 to advise and clarify that this AD does not apply to Pratt & Whitney Model JT9D–70A engines, as those engines are not part of the Model JT9D–7 series engines. Subsequent notes in this AD have been renumbered accordingly.

Comments

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

Request for Clarification of the ''New Relevant Service Information'' Paragraph

One commenter states that the description of the new relevant service information fails to note that changing from three-step aisle stand clutch packs to two-step, as described in Boeing Service Bulletin (SB) 747–78–2152, Revision 4, may not be necessary. The commenter explains that Revisions 5 and 6 of that SB provide for continued use of the three-step clutch in some instances. Therefore, the commenter requests that clarification to allow such continued use of the three-step clutch be specified in the final rule.

The FAA acknowledges that the description in the ''New Relevant Service Information'' paragraph did not specify continued use of the three-step clutch and agrees that clarification is needed. We point out that the intent of the requirements in paragraph (c)(3) of the final rule is that the system pass all required tests. Although the two-step configuration is typically necessary for the microswitch pack conversion, we acknowledge that provision for use of the three-step clutch is provided for in Revisions 5 and 6 of Boeing SB 747–78–2152. Since paragraph (c)(3) of the final rule specifies compliance with either Revision 5 or 6 (including the provision for use of the three-step clutch), it is unnecessary to revise the final rule for that reason.

Request To Revise Specified Revision of the Airplane Maintenance Manual (AMM)

One commenter advises that there is a later revision of the Boeing 747 AMM than that revision specified as the source of service information for the repetitive test instructions in paragraph (d) of the supplemental NPRM.

The FAA acknowledges that a later revision of the AMM has been issued and infers that the commenter is requesting that we revise the supplemental NPRM to specify the newer revision of the AMM. Revising the AD is unnecessary because, as long as the referenced section is unchanged in later versions of the AMM, those later versions may be used to comply with this AD. On the other hand, since the AMM is not a document that is approved by the FAA, it is possible that a specific revision level may be revised in such a way as to affect the accomplishment of the AD. Therefore, when a specific revision level is referenced in an AD, that specific revision has been ''approved'' for the purposes of the AD. Under the provisions of paragraph (g)(1) of the final rule, we may approve requests for using a later revision of the AMM that changes the referenced section if data are submitted to substantiate that such use would provide an acceptable level of safety. No change is necessary to this AD in that regard.

Request To Extend Compliance Time for Dispatch Limitations

One commenter notes that some airplanes could be modified before the effective date of the AD and could then revert to operating with unmodified thrust reversers installed, which would be contrary to the requirements of paragraph (c)(3) of the supplemental NPRM. Therefore, the commenter requests that, instead of the compliance time specified in paragraph (e) of the supplemental NPRM of ''within 10 days after deactivation of the thrust reverser,'' the compliance time read, ''within 90 days after the effective date of the AD.'' The commenter explains that such an extension of the compliance time would prevent possible non-compliance with the AD. Further, the commenter states that there is no more risk of the unmodified reverser deploying on a modified airplane than on an unmodified airplane.

The FAA does not agree that the compliance time for paragraph (e) of this AD should be revised. If an airplane has one or more unmodified thrust reverser(s) installed prior to the effective date of the AD, it has not yet complied with the requirements of paragraph (c)(3) of the AD. The compliance time for the modification required by paragraph (c)(3) of the AD is within 48 months after the effective date of the AD. The qualifying provisions of paragraph (e) of the AD specifically apply to airplanes ''after incorporation of the modification required by paragraph (c)(3) of the AD.'' We consider the 48-month compliance time for the modification required by paragraph (c)(3) of the AD, plus the 10-day dispatch limitation of the Master Minimum Equipment List, to be adequate time to complete the requirements of paragraph (e) of the AD. It is unnecessary to revise the AD for that reason.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA 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). However, for clarity and consistency in this final rule, we have retained the language of the supplemental NPRM regarding that material.

Change to Labor Rate Estimate

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

Cost Impact

There are approximately 455 airplanes of the affected design in the worldwide fleet. The FAA estimates that 218 airplanes of U.S. registry will be affected by this AD.

The operational tests that are currently required by AD 95–16–02, and retained in this AD, take approximately 16 work hours (4 per engine) per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required actions is estimated to be $1,040 per airplane, per test cycle.

It will take approximately 544 work hours per airplane, to accomplish the wiring modifications, at an average labor rate of $65 per work hour. Required parts will cost approximately $21,600 per airplane. Based on these figures, the cost impact of the wiring modifications required by this AD on U.S. operators is estimated to be $12,417,280, or $56,960 per airplane.

It will take approximately 104 work hours (26 per engine) per airplane to accomplish the removal of the thrust reverser sequencing mechanism and installation of a solenoid-operated shutoff valve, at an average labor rate of $65 per work hour. The cost of required parts is minimal. Based on these figures, the cost impact of the removal and installation required by this AD on U.S. operators is estimated to be $1,473,680, or $6,760 per airplane.

It will take approximately 568 work hours per airplane to accomplish the sync lock hardware installation, at an average labor rate of $65 per work hour. Required parts will cost approximately $166,000 per airplane. Based on these figures, the cost impact of the installation required by this AD on U.S. operators is estimated to be $44,236,560, or $202,920 per airplane.

It will take approximately 8 work hours (2 per engine) per airplane to accomplish the functional test, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the functional test required by this AD on U.S. operators is estimated to be $113,360, or $520 per airplane, per test cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–9321 (60 FR 39631, August 3, 1995), and by adding a new airworthiness directive (AD), amendment 39–13334, to read as follows:

2003–20–16 Boeing: Amendment 39–13334. Docket 99–NM–67–AD. Supersedes AD 95–16–02, amendment 39–9321.

Applicability: Model 747SP, 747SR, 747–100, 747–200, and 747–300 series airplanes; equipped with Pratt & Whitney Model JT9D–3, –7 (*i.e.*, –7, –7A, –7F, and –7J), and –7Q series engines and Model JT9D–7R4G2 engines; certificated in any category.

Note 1: This AD does not apply to Boeing Model 747–200 series airplanes that are equipped with Pratt & Whitney JT9D–70A engines, as that engine is not part of the Model JT9D–7 series engines.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure the integrity of the fail-safe features of the thrust reverser system by preventing possible failure modes in the thrust reverser control system that can result in inadvertent deployment of a thrust reverser during flight, accomplish the following:

Restatement of Requirements of AD 95–16–02

Operational Test

(a) Within 90 days after September 5, 1995 (the effective date of AD 95–16–02, amendment 39–9321), perform an operational test of the reversible gearbox pneumatic drive unit (PDU) or the reversing air motor PDU to ensure that the unit can restrain the thrust reverser sleeve, in accordance with Boeing Alert Service Bulletin 747–78A2131, dated September 15, 1994. Repeat the test thereafter at intervals not to exceed 2,000 flight hours until accomplishment of paragraph (c) of this AD.

Note 3: Paragraph (a) of this AD merely restates the requirements of paragraph (a) of AD 95–16–02. The intent of including this paragraph is to ensure that the currently required repetitive tests continue to be done until the terminating modifications specified in paragraph (c) of this AD are installed.

Corrective Action

(b) If any of the tests required by paragraph (a) of this AD cannot be successfully performed, or if any discrepancy is found during those tests, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(1) Prior to further flight, correct any discrepancy found, in accordance with Boeing Alert Service Bulletin 747–78A2131, dated September 15, 1994. Or

(2) The airplane may be operated in accordance with the provisions and limitations specified in an operator's FAA-approved Minimum Equipment List (MEL), provided that no more than one thrust reverser on the airplane is inoperative.

New Requirements of This AD

Modifications

(c) Within 48 months after the effective date of this AD, accomplish the requirements of paragraphs (c)(1), (c)(2), and (c)(3) of this AD. Accomplishment of the actions required by this paragraph constitutes terminating

action for the repetitive tests required by paragraph (a) of this AD.

(1) Install provisional wiring for the additional locking system on the thrust reversers, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–78–2134, Revision 3, dated March 19, 1998.

(2) Remove the thrust reverser sequencing mechanism and install a solenoid-operated shutoff valve in accordance with Boeing Service Bulletin 747–78–2052, Revision 5, dated February 22, 1996.

(3) Install an additional locking system on each thrust reverser in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–78–2152, Revision 5, dated June 14, 2001; or Revision 6, dated October 24, 2002.

Repetitive Tests

(d) Within 3,000 flight hours after accomplishment of paragraph (c) of this AD: Perform a functional test to detect discrepancies of the additional locking system on each thrust reverser in accordance with the procedures described in the Boeing 747 Airplane Maintenance Manual (AMM), Section 78–34–11, dated October 25, 1997. Prior to further flight, correct any discrepancy detected and repeat the functional test of that repair in accordance with the procedures described in the AMM. Repeat the functional tests thereafter at intervals not to exceed 3,000 flight hours.

Dispatch Limitations

(e) If, after incorporation of the modification required by paragraph (c)(3) of this AD on any airplane, it becomes necessary to install a thrust reverser assembly that does not have the additional locking system installed, dispatch of the airplane is allowed in accordance with the provisions and limitations specified in the operator's FAA-approved Master Minimum Equipment List, provided that the thrust reverser assembly that does not have the additional locking system installed is deactivated in accordance with Item 78–1, Section 2, of Boeing Document D6–33391, ''Boeing 747–100/–200/–300/SP Dispatch Deviations Procedures Guide,'' Revision 25, dated July 26, 2002. No more than one thrust reverser on any airplane may be deactivated under the provisions of this paragraph. Within 10 days after deactivation of the thrust reverser, install a thrust reverser assembly that has the additional locking system installed and reactivate the thrust reverser.

(f) If, prior to incorporation of the modification required by paragraph (c)(3) of this AD on any airplane, it becomes necessary to install a thrust reverser assembly that has the additional locking system installed, dispatch of the airplane is allowed in accordance with the provisions and limitations specified in the operator's FAA-approved Master Minimum Equipment List, provided that the thrust reverser assembly that has the additional locking system installed is deactivated in accordance with Item 78–1, Section 2, of Boeing Document D6–33391, ''Boeing 747–100/–200/–300/SP Dispatch Deviations Procedures Guide,'' Revision 25, dated July 26, 2002. No more than one thrust reverser on any airplane may be deactivated under the provisions of this paragraph. Within 10 days after deactivation of the thrust reverser, install a thrust reverser assembly that does not have the additional locking system installed and reactivate the thrust reverser.

Alternative Methods of Compliance

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

(2) Alternative methods of compliance, approved previously in accordance with paragraphs (a) and (b) of AD 95–16–02, amendment 39–9321, are approved as alternative methods of compliance with the corresponding paragraphs in this AD.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(i) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Service Bulletin 747–78–2134, Revision 3, dated March 19, 1998; Boeing Service Bulletin 747–78–2052, Revision 5, dated February 22, 1996; Boeing Service Bulletin 747–78–2152, Revision 5, dated June 14, 2001; Boeing Service Bulletin 747–78–2152, Revision 6, dated October 24, 2002; and Boeing Alert Service Bulletin 747–78A2131, dated September 15, 1994; as applicable.

(1) This incorporation by reference of Boeing Service Bulletin 747–78–2134, Revision 3, dated March 19, 1998; Boeing Service Bulletin 747–78–2052, Revision 5, dated February 22, 1996; Boeing Service Bulletin 747–78–2152, Revision 5, dated June 14, 2001; and Boeing Service Bulletin 747–78–2152, Revision 6, dated October 24, 2002; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Alert Service Bulletin 747–78A2131, dated September 15, 1994, was approved previously by the Director of the Federal Register as of September 5, 1995 (60 FR 39631, August 3, 1995).

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

Effective Date

(j) This amendment becomes effective on November 18, 2003.

Issued in Renton, Washington, on October 3, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–25700 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–21–AD; Amendment 39–13337; AD 2003–05–10R1]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF34–3A1, –3B, and –3B1 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), that applies to General Electric Company (GE) CF34–3A1, –3B, and –3B1 turbofan engines with scavenge screens part numbers (P/Ns) 4047T95P01 and 5054T86G02 installed in the B-sump oil scavenge system. That AD currently requires initial and repetitive visual inspections and cleaning of the B-sump scavenge screens until a screenless fitting is installed. This amendment requires the same initial and repetitive visual inspections and cleaning of the B-sump scavenge screens until a screenless fitting is installed. This amendment also corrects a typographical error, and introduces a less restrictive terminating action schedule. This amendment is prompted by the need to correct a typographical error and by the need to introduce a less restrictive terminating action schedule. We are issuing this AD to prevent B-sump scavenge screen blockage due to coking which could result in ignition of B-sump oil in the secondary air system, fan drive shaft separation, and uncontained engine failure.

DATES: Effective November 18, 2003. The incorporation by reference of certain publications, listed in the regulations, was approved previously by the Director of the Federal Register as of April 2, 2003 (68 FR 12806; March 18, 2003).

ADDRESSES: The service information referenced in this AD may be obtained from GE Aircraft Engines, 1000 Western

Avenue, Lynn, MA 01910; Attention: CF34 Product Support Engineering, Mail Zone: 34017; telephone (781) 594–6323; fax (781) 594–0600. This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7146; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 2003–05–10, Amendment 39–13086 (68 FR 12806, March 18, 2003), which applies to GE CF34–3A1, –3B, and –3B1 turbofan engines with scavenge screens P/Ns 4047T95P01 and 5054T86G02 installed in the B-sump oil scavenge system was published in the **Federal Register** on July 8, 2003 (68 FR 40573). That action proposed to require the same initial and repetitive visual inspections and cleaning of the B-sump scavenge screens until a screenless fitting is installed as in AD 2003–05–10. That action also proposed to correct a typographical error, and introduces a less restrictive terminating action schedule in accordance with GE Alert Service Bulletin (ASB) CF34–AL S/B 79–A0014, Revision 3, dated January 31, 2003; ASB CF34–BJ S/B 79–A0015, Revision 3, dated January 31, 2003; GE ASB CF34–AL S/B 79–A0016 and ASB CF34–BJ S/B 79–A0017, both dated June 17, 2002.

Comments

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

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing Amendment 39–13086 (68 FR 12806, March 18, 2003) and by adding a new airworthiness directive, Amendment 39–13337, to read as follows:

2003–05–10R1 General Electric Company: Amendment 39–13337. Docket No. 2001–NE–21–AD. Revises AD 2003–05–10, Amendment 39–13086.

Applicability

This airworthiness directive (AD) applies to General Electric Company (GE) CF34–3A1, –3B, and –3B1 turbofan engines with scavenge screens part numbers (P/Ns) 4047T95P01 and 5054T86G02 installed in the B-sump oil scavenge system. These engines are installed on, but not limited to, Bombardier Inc. (Canadair) Model CL–600–2A12, CL–600–2B16, and CL–600–2B19 airplanes.

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

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent B-sump scavenge screen blockage due to coking, which could result in ignition of B-sump oil in the secondary air system, fan drive shaft separation, and uncontained engine failure, do the following:

Initial Inspection and Cleaning of B-Sump Screens

(a) Perform an initial visual inspection and cleaning of scavenge screens, P/Ns 4047T95P01 and 5054T86G02, installed in the B-sump oil scavenge system, in accordance with Paragraphs 3A through 3B of the Accomplishment Instructions of GE Aircraft Engines (GE) Alert Service Bulletin (ASB) CF34–AL S/B 79–A0014, Revision 3, dated January 31, 2003; or ASB CF34–BJ S/B 79–A0015, Revision 3, dated January 31, 2003; and the following table:

INITIAL INSPECTION AND CLEANING SCHEDULE

Engine hours time-since-new (TSN) or time-since-last-shop-visit (TSLSV)	Inspect and clean
(1) Fewer than 4,000 hours TSN or fewer than 4,000 hours TSLSV if it can be confirmed that both the B-sump scavenge screens were cleaned and the B-sump and combustor frame (strut tubes) were removed from the engine and cleaned at that prior shop visit.	Before 4,000 hours TSN or TSLSV.
(2) Fewer than 1,000 hours TSLSV if it can NOT be confirmed that both the B-sump scavenge screens were cleaned and the B-sump and combustor frame (strut tubes) were removed from the engine and cleaned at that prior shop visit.	Before 1,000 hours TSLSV.

INITIAL INSPECTION AND CLEANING SCHEDULE—Continued

Engine hours time-since-new (TSN) or time-since-last-shop-visit (TSLSV)	Inspect and clean
(3) 4,000 hours or greater TSN or 4,000 hours or greater TSLSV if it can be confirmed that both the B-sump scavenge screens were cleaned and the B-sump and combustor frame (strut tubes) were removed from the engine and cleaned at that prior shop visit, or 1,000 hours or greater TSLSV if it can NOT be confirmed that both the B-sump and combustor frame (strut tubes) were removed from the engine and cleaned at that prior shop visit.	Within 500 hours time-in-service (TIS) after the effective date of this AD.

Repetitive Inspections and Cleaning

(b) Perform repetitive visual inspections and cleaning of scavenge screens, P/Ns 4047T95P01 and 5054T86G02, installed in the B-sump oil scavenge system, in accordance with Paragraphs 3A through 3B of the Accomplishment Instructions of GE ASB CF34–AL S/B 79–A0014, Revision 3, dated January 31, 2003; and ASB CF34–BJ S/B 79–A0015, Revision 3, dated January 31, 2003; and the following:

(1) At intervals not to exceed 200 hours time-since-last-inspection (TSLI), if no coke is found in screens during initial or any prior inspections, or

(2) At intervals not to exceed 100 hours TSLI, if coke is found in screens during initial or any prior inspections.

Terminating Actions

(c) Install new screenless fittings or fittings that have been reworked to remove the screens, in the B-sump oil scavenge system, in accordance with GE ASB CF34–AL S/B 79–A0016, dated June 17, 2002; or ASB CF34–BJ S/B 79–A0017, dated June 17, 2002, and the following schedule:

(1) For engines with more than 4,000 hours TSN, within 500 hours TIS after the effective date of this AD, or within 1,000 hours TSLSV, whichever occurs first.

(2) For engines with less than or equal to 4,000 hours TSN, prior to 4,500 hours TSN.

This constitutes terminating action to the inspections required in paragraph (b) of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

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

Documents That Have Been Incorporated by Reference

(f) The actions must be done in accordance with the following General Electric Company Alert Service Bulletins (ASB):

Document No.	Pages	Revision	Date
ASB CF34–AL S/B 79–A0014 Total Pages: 10	All	3	January 31, 2003.
ASB CF34–BJ S/B 79–A0015 Total Pages: 9	All	3	January 31, 2003.
ASB CF34–AL S/B 79–A0016 Total Pages: 12	All	Original	June 17, 2002.
ASB CF34–BJ S/B 79–A0017 Total Pages: 11	All	Original	June 17, 2002.

This incorporation by reference of General Electric Alert Service Bulletin (ASB) CF34–AL S/B 79–A0014, Revision 3, dated January 31, 2003; ASB CF34–BJ S/B 79–A0015, Revision 3, dated January 31, 2003; GE ASB CF34–AL S/B 79–A0016 and ASB CF34–BJ S/B 79–A0017, both dated June 17, 2002, was approved by the Director of the Federal Register on April 2, 2003, (68 FR 12086; March 18, 2003) in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from GE Aircraft Engines, 1000 Western Avenue, Lynn, MA 01910; Attention: CF34 Product Support Engineering, Mail Zone: 34017; telephone (781) 594–6323; fax (781) 594–0600. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Effective Date

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

Issued in Burlington, Massachusetts, on October 6, 2003.

Francis A. Favara,

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

[FR Doc. 03–25864 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–58–AD; Amendment 39–13335; AD 2003–21–01]

RIN 2120–AA64

Airworthiness Directives; Univair Aircraft Corporation Models Alon A–2 and A2–A; ERCO 415–C, 415–CD, 415–D, 415–E, and 415–G; Forney F–1 and F–1A; and Mooney M10 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA supersedes Airworthiness Directive (AD) 94–18–04

R1, which currently applies to all Univair Aircraft Corporation (Univair) Models Alon A–2 and A2–A; ERCO 415–C, 415–CD, 415–D, 415–E, and 415–G; Forney F–1 and F–1A; and Mooney M10 airplanes. AD 94–18–04 R1 requires installing inspection openings in the outer wing panels, inspecting (one-time) the wing outer panel structural components for corrosion, and repairing any corroded wing outer panel structural component. Several reports of corrosion in the outer wing panels of the affected airplanes prompted that AD. This AD is the result of additional reports of corrosion on airplanes in compliance with AD 94–18–04 R1. This AD makes the inspection required in AD 94–18–04 R1 repetitive. We are issuing this AD to prevent wing damage caused by a corroded wing outer panel structural component, which, if not detected and corrected, could progress to the point of structural failure.

DATES: This AD becomes effective on December 1, 2003.

The Director of the Federal Register previously approved the incorporation by reference of Univair Aircraft Corporation Service Bulletin No. 29, Revision B, dated January 2, 1995, as of March 24, 1995 (60 FR 13626, March 14, 1995).

The Director of the Federal Register approved the incorporation by reference of Univair Aircraft Corporation Mandatory Service Bulletin No. 29, Revision C, dated July 8, 1999, as of December 1, 2003.

ADDRESSES: You may get the service information identified in this AD from Univair Aircraft Corporation, 2500 Himalaya Road, Aurora, Colorado 80011, telephone: (303) 375–8882; facsimile: (303) 375–8888.

You may view the AD docket at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–58–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Office hours are 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Roger Caldwell, Aerospace Engineer, FAA, Denver Aircraft Certification Office, 26805 East 68th Avenue, Room 214, Denver, Colorado 80249–6361; telephone: (303) 342–1086; facsimile: (303) 342–1088.

SUPPLEMENTARY INFORMATION:

Discussion

Has FAA taken any action to this point? Maintenance inspection procedures did not allow for thorough inspection of the wing structure on Univair Models Alon A–2 and A2–A; ERCO 415–C, 415–CD, 415–D, 415–E, and 415–G; Forney F–1 and F–1A; and Mooney M10 airplanes. This caused us to issue AD 94–18–04, Amendment 39–9017 (59 FR 43727, August 25, 1994) to require installing inspection openings in the outer wing panels, inspecting (one-time) the wing outer panel structure for corrosion, and repairing any corrosion found.

After AD 94–18–04 was issued, Univair revised Service Bulletin No. 29 to the Revision B level. Univair Service Bulletin No. 29, Revision B, dated January 2, 1995, changed the dimension of one of the openings to position it symmetrically between two ribs; and clarified the dimensioning system utilized in placement of the inspection openings. Univair SB No. 29, Revision B, also presented further discussion of the service difficulties encountered on the referenced subject and clarified the intent of the preliminary inspection procedure that may be accomplished prior to the installation of the inspection openings.

This caused us to issue AD 94–18–04 R1, Amendment 39–9173 (60 FR 62321, March 14, 1995).

What has happened since AD 94–18–04 R1 to initiate this action? The FAA has received additional reports of corrosion damage in the wing outer panel structural components continuing to go undetected. Univair has revised Service Bulletin No. 29 to the Revision C level, dated July 8, 1999. This revision changes the one-time inspection of the wing outer panel structural components for corrosion to a repetitive inspection.

What is the potential impact if FAA took no action? This condition, if not detected and corrected, could cause damage to the wing outer panel structural component. Such damage could result in structural failure.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Univair Models Alon A–2 and A2–A; ERCO 415–C, 415–CD, 415–D, 415–E, and 415–G; Forney F–1 and F–1A, and Mooney M10. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 30, 2003 (68 FR 32437). The NPRM proposed to supersede AD 94–18–04 R1 with a new AD that would retain the actions required in AD 94–18–04 R1 and make the one-time inspection of the wing outer panel structural components for corrosion a repetitive inspection.

Comments

Was the public invited to comment? We provided the public the opportunity to participate in the development of this AD. We received no comments on the proposal or on the determination of the cost to the public.

Conclusion

What is FAA's final determination on this issue? We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

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

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

Changes to 14 CFR Part 39—Effect on the AD

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

Costs of Compliance

How many airplanes does this AD impact? We estimate that this AD affects 2,600 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish the installation of the inspection openings:

Labor cost	Parts cost	Total cost per airplane
6 workhours × $60 per hour = $360	$67	$427

We estimate the following costs to accomplish the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours × $60 per hour = $120	Not applicable	$120	$120 × 2,600 = $312,000

The FAA has no method of determining the number of repetitive inspections each owner/operator will incur over the life of each of the affected airplanes so the cost impact is based on the initial inspection.

The FAA has no method of determining the number of repairs or replacements each owner/operator will incur over the life of each of the affected airplanes based on the results of the inspections. We have no way of determining the number of airplanes that may need such repair. The extent of damage may vary on each airplane.

Compliance Time of This AD

What is the compliance time of this AD? The compliance time of this AD is ''within the next 12 calendar months after the effective date of this AD.''

Why is the compliance time presented in calendar time instead of hours time-in-service (TIS)? The unsafe condition specified by this AD is caused by corrosion. Corrosion can occur regardless of whether the airplane is in operation or is in storage. Therefore, to assure that the unsafe condition specified in this AD does not go undetected for a long period of time, the compliance is presented in calendar time instead of hours TIS.

Regulatory Findings

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

Will this AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this AD:

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''AD Docket No. 2002–CE–58–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 94–18–04 R1, Amendment 39–9173 (60 FR 62321, March 14, 1995), and by adding a new AD to read as follows:

2003–21–01 Univair Aircraft Corporation: Amendment 39–13335; Docket No. 2002–CE–58–AD; Supersedes AD 94–18–04 R1, Amendment 39–9173.

When Does This AD Become Effective?

(a) This AD becomes effective on December 1, 2003.

What Other ADs Are Affected by This Action?

(b) This AD supersedes AD 94–18–04 R1, Amendment 39–9173.

What Airplanes Are Affected by This AD?

(c) This AD affects the following airplane models and serial numbers that are certificated in any category:

Models	Serial Nos.
Alon A–2 and A2–A	All.
ERCO 415–C, 415–CD, 415–D, 415–E, and 415–G.	All.
Forney F–1 and F–1A	All.
Mooney M10	All.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of additional reports of corrosion on airplanes in compliance with AD 94–18–04 R1. The actions specified in this AD are intended to prevent wing damage caused by a corroded wing outer panel structural component, which, if not detected and corrected, could progress to the point of structural failure.

What Must I Do To Address This Problem?

(e) To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Install inspection openings in the outer wing panels and inspect the wing outer panel internal structural components for corrosion and unrepaired corrosion damage.	Within the next 12 calendar months after March 24, 1995 (the effective date of AD 94–18–04 R1), unless already accomplished.	In accordance with Univair Service Bulletin No. 29, Revision B, dated January 2, 1995, or Univair Service Bulletin No. 29, Revision C, dated July 8, 1999, and Advisory Circular 43–4A, Corrosion Control for Aircraft.
(2) If corrosion or corrosion damage is found during the inspection required in paragraph (e)(1) of this AD, repair or replace components of the wing outer panel structure.	Repair or replace prior to further flight after the inspection required in paragraph (e)(1) of this AD.	In accordance with Univair Service Bulletin No. 29, Revision B, dated January 2, 1995, or Univair Service Bulletin No. 29, Revision C, dated July 8, 1999, the applicable maintenance manual, and Advisory Circular 43–4A, Corrosion Control for Aircraft.

Actions	Compliance	Procedures
(3) Repetitively inspect the wing outer panel internal structural components for corrosion and unrepaired corrosion damage.	Initially inspect within the next 6 calendar months after December 1, 2003 (the effective date of this AD), unless the wing outer panel internal structure has been inspected for corrosion within the previous 6 calendar months immediately prior to December 1, 2003 (the effective date of this AD). Repetitively inspect thereafter at intervals not to exceed 12 calendar months after the last inspection.	In accordance with Univair Service Bulletin No. 29, Revision C, dated July 8, 1999, and Advisory Circular 43–4A, Corrosion Control for Aircraft.
(4) At any time corrosion or corrosion damage is found, repair or replace components of the wing outer panel structure.	Repair or replace prior to further flight after the inspection in which the corrosion or corrosion damage is found. Continue with the repetitive inspection requirements of this AD.	In accordance with Univair Service Bulletin No. 29, Revision B, dated January 2, 1995, or Univair Service Bulletin No. 29, Revision C, dated July 8, 1999, and Advisory Circular 43–4A, Corrosion Control for Aircraft.

Note: The compliance times specified in Univair Aircraft Corporation Service Bulletin No. 29, Revision B, dated January 2, 1995, or Univair Service Bulletin No. 29, Revision C, dated July 8, 1999, are different from those required by this AD. The compliance times in this AD take precedence over those in the service bulletin.

What About Alternative Methods of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.13.

(1) Send your request to the Manager, Denver Aircraft Certification Office (ACO). For information on any already approved alternative methods of compliance, contact Roger Caldwell, Aerospace Engineer, FAA, Denver Aircraft Certification Office, 26805 East 68th Avenue, Room 214, Denver, Colorado 80249–6361; telephone: (303) 342–1086; facsimile: (303) 342–1088.

(2) Alternative methods of compliance approved for the inspection required in AD 94–18–04 R1, which is superseded by this AD, are approved as alternative methods of compliance with this AD.

Is There Material Incorporated by Reference?

(g) You must do the actions required by this AD per Univair Aircraft Corporation Service Bulletin No. 29, Revision B, dated January 2, 1995, and Univair Service Bulletin No. 29, Revision C, dated July 8, 1999.

(1) The Director of the Federal Register approved the incorporation by reference of Univair Aircraft Corporation Mandatory Service Bulletin No. 29, Revision C, dated July 8, 1999, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may get a copy from Univair Aircraft Corporation, 2500 Himalaya Road, Aurora, Colorado 80011, telephone: (303) 375–8882; facsimile: (303) 375–8888.

(2) The Director of the Federal Register previously approved the incorporation by reference of Univair Aircraft Corporation Service Bulletin No. 29, Revision B, dated January 2, 1995, as of March 24, 1995 (60 FR 13626, March 14, 1995).

(3) You may review copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Issued in Kansas City, Missouri, on October 6, 2003.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–25699 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–SW–17–AD; Amendment 39–13330; AD 2003–20–12]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS 350B3, SA–365N, N1, AS–365N2, AS 365N3, and EC 155B Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified Eurocopter France (Eurocopter) model helicopters that requires modifying the SIREN cargo hook and inspecting the cargo hook locking catch (locking catch) for corrosion. This amendment is prompted by the discovery of internal corrosion on a Siren locking catch that may weaken the locking catch. The actions specified by this AD are intended to detect internal corrosion of the locking catch, which can cause the locking catch to return to an incomplete locking position, undetectable by the operator, and result in an unexpected cargo load release.

DATES: Effective November 18, 2003.

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

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carroll Wright, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5120, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for Eurocopter Model AS 350B3, SA–365N, N1, AS–365N2, AS 365N3, and EC 155B helicopters was published in the **Federal Register** on April 22, 2003 (68 FR 19757). That action proposed to require modifying the SIREN cargo hook and inspecting the cargo hook locking catch for corrosion.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter Model AS 350 B3, AS–365N, N1, AS 365N2, AS 365N3, and EC 155 B helicopters fitted with Siren cargo hooks, part number (P/N) AS–21–5–7. The DGAC advises that corrosion was discovered on a locking catch, which might lead to untimely load release.

Eurocopter has issued Alert Telexes No. 05.00.39, for Model AS 350B3 helicopters; No. 05.00.41, for Model AS 365N, N1, AS 365N2, and AS 365N3 helicopters; and No. 05A002, for Model EC 155B helicopters; all dated December

20, 2001, which specify an initial corrosion check, and verification of Amendment B to prevent any risk of untimely load release due to locking catch corrosion combined with in-flight vibrations. Amendment B requires marking a permanent reference line across the rotating bolt and stationary cover plate for the cargo hook, affixing a placard to the cover plate, and marking the letter ''B'' on the amendment identification plate of the release unit and on the equipment log card. The DGAC classified these alert telexes as mandatory and issued AD No. 2002–044(A), dated January 23, 2002, to ensure the continued airworthiness of these helicopters in France.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed, except changing the FAA office name and revising the cites in proposed paragraph (b) to clarify that an owner/operator (pilot) may perform all the actions required by paragraph (a). The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The action in paragraph (a) of this AD, for cargo hook, P/N AS–21–5–7, with Amendment B incorporated, may be performed by an owner/operator (pilot), and must be entered into the helicopter records showing compliance with that paragraph in accordance with 14 CFR sections 43.11 and 91.417(a)(2)(v). This AD allows a pilot to perform these actions because they involve only manipulating the manual cargo release and checking the reference line for continuity, and can be performed equally well by a pilot or a mechanic. For cargo hook, P/N AS–21–5–7, without Amendment B incorporated, a mechanic must incorporate Amendment B in accordance with the applicable alert telex.

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 AD system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

The FAA estimates that of the 60 helicopters of U.S. registry, 6 helicopters have the Siren cargo hook installed and will be affected by this AD. The FAA also estimates that it will take approximately 3 work hours per helicopter to incorporate Amendment B and .25 work hour to conduct and record the pilot check with 60 pilot checks performed per year, and that the average labor rate is $60 per work hour. Required parts to incorporate Amendment B will cost $4 for each label. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $6,504.

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 a new airworthiness directive to read as follows:

2003–20–12 Eurocopter France: Amendment 39–13330. Docket No. 2002–SW–17–AD.

Applicability: Model AS 350B3, SA–365N, N1, AS–365N2, AS 365N3, and EC 155B helicopters, with an optional Siren load release unit cargo hook, part number (P/N) AS–21–5–7, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect internal corrosion of the Siren cargo hook locking catch (locking catch), which can cause the locking catch to return to an incomplete locking position, undetectable by the operator, and result in an unexpected cargo load release, accomplish the following:

(a) For cargo hook, P/N AS–21–5–7, with Amendment B incorporated, before the first use of the cargo hook on each day that the cargo hook is used, check for corrosion on the locking catch as follows. Amendment B has been incorporated if the letter ''B'' is marked on the amendment identification plate of the release unit of the cargo hook and placard ''G'' is installed on the release unit cover plate ''D'' and reference line ''B'' is marked over the nut and cover plate as depicted in Figure 1 of this AD. The identification plate ''A'' is located on cover plate ''D'', on the opposite side of the electrical connector. See Figure 1:

BILLING CODE 4910–13–P

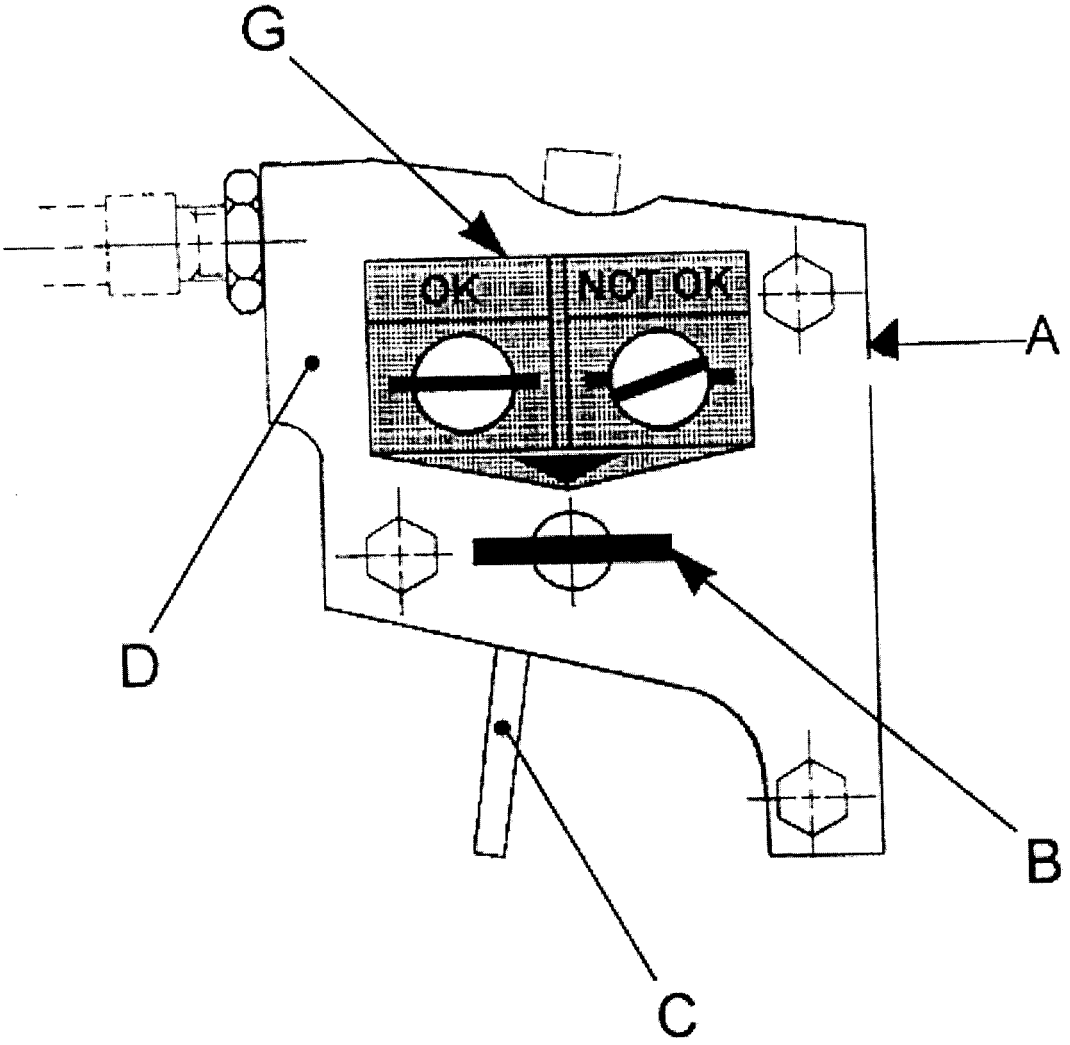

Figure 1

BILLING CODE 4910–13–C

(1) With the cargo hook installed, cycle the red manual release control lever several times over its travel range.

(2) Return the red manual release control lever to the initial position.

(3) Determine whether the section of reference line (B) marked on the bolt (A) and the section of reference line (B) marked on the cover plate (D) form a straight line.

(i) If the reference line is straight, the cargo hook is considered airworthy.

(ii) If the reference line is not straight, the cargo hook is unairworthy and may not be used.

(b) The requirements of paragraph (a) may be performed by an owner/operator (pilot) holding at least a private pilot certificate, and must be entered into the aircraft records showing compliance with that paragraph of this AD in accordance with 14 CFR sections 43.11 and 91.417(a)(2)(v).

(c) For cargo hook, P/N AS–21–5–7, without Amendment B, before the next sling load flight, incorporate Amendment B to the cargo hook in accordance with the Accomplishment Instructions, paragraphs 2.A.2.a) and 2.A.2.b), of Eurocopter Alert Telex No. 05.00.39, for Model AS 350B3 helicopters; No. 05.00.41, for Model SA–365N, N1, AS–365N2, and AS 365N3 helicopters; and No. 05A002, for Model EC 155B helicopters; all dated December 20, 2001, as applicable.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Safety Management Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Safety Management Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Safety Management Group.

(e) Special flight permits will not be issued allowing use of the cargo hook until the requirements of this AD are accomplished.

(f) The actions shall be done in accordance with Eurocopter Alert Telex No. 05.00.39, for Model AS 350B3 helicopters; No. 05.00.41, for Model SA–365N, N1, (AS–365N, N1) AS–365N2, and AS 365N3 helicopters; and No. 05A002, for Model EC 155B helicopters; all dated December 20, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 2002–044(A), dated January 23, 2002.

Issued in Fort Worth, Texas, on September 29, 2003.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 03–25593 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

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

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Lee's Summit, MO.

EFFECTIVE DATE: 0901 UTC, December 25, 2003.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on August 18, 2003 (68 FR 49345). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 25, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

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

Herman J. Lyons,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–25955 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

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

Modification of Class E Airspace; Sullivan, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATE: 0901 UTC, December 25, 2003.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on August 18, 2003 (68 FR 49348) and subsequently published a correction to the direct final rule in the **Federal Register** on September 4, 2003 (68 FR 52487). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. this direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 25, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Dated: October 1, 2003.

Herman J. Lyons, Jr.

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–25954 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15719; Airspace Docket No. 03–ACE–61]

Modification of Class E Airspace; Seward, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

DATES: 0901 UTC, December 25, 2003.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on August 12, 2003 (68 FR 47844). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 25, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on September 26, 2003.

Herman J. Lyons,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–25953 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15720; Airspace Docket No. 03–ACE–62]

Modification of Class E Airspace; Maryville, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

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

EFFECTIVE DATE: 0901 UTC, December 25, 2003.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on August 19, 2003 (68 FR 49690). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 25, 2003. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

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

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–25957 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

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

Modification of Class E Airspace; Aurora, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; correction.

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

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

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

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 03–19165, published on Tuesday, July 29, 2003, (68 FR 44454) modified Class E airspace at Aurora, MO. The modification was to replace ''Aurora Memorial Municipal Airport'' in the legal descriptions of Aurora, MO Class E airspace area with ''Jerry Summers Sr. Aurora Municipal Airport'' and to bring the legal description into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. A correction to this direct final rule; request for comments and the direct final rule; confirmation of effective date were subsequently published in the **Federal Register** on Monday, August 18, 2003, (68 FR 49350) [FR Doc. 03–21078] and Friday, September 12, 2003, (68 FR 53676) [FR Doc. 03–23300] respectively. On Friday, September 23, 2003, the National Flight Data Digest revised the name of the Aurora, MO airport from ''Jerry Summers Sr. Aurora Municipal Airport'' to ''Jerry Sumners Sr. Aurora Municipal Airport.''

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

§ 71.1 [Corrected]

On page 44455, Column 3, paragraph headed ''ACE MO E Aurora, MO,'' first, sixth and ninth lines, change ''Summers'' to read ''Sumners.''

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

Herman J. Lyons,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–25956 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION.

17 CFR Part 4

RIN 3038–AB97

Additional Registration and Other Regulatory Relief for Commodity Pool Operators and Commodity Trading Advisors; Past Performance Issues; Correction.

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules; correction.

SUMMARY: The Commodity Futures Trading Commission (Commission) published in the **Federal Register** of August 8, 2003, a document providing additional relief for certain persons excluded from the commodity pool operator (CPO) definition, providing exemptions from registration as a CPO or commodity trading adviser (CTA), and facilitating communications by CPOs and CTAs (Final Rules). This document contains corrections to the Final Rules.

DATES: Effective October 14, 2003.

FOR FURTHER INFORMATION CONTACT: Barbara S. Gold, Associate Director, or Christopher W. Cummings, Special Counsel, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, telephone numbers: (202) 418–5450 or (202) 418–5445, respectively; facsimile number: (202) 418–5528; and electronic mail: *bgold@cftc.gov* or *ccummings@cftc.gov,* respectively.

SUPPLEMENTARY INFORMATION: The Commission published in the Final Rules in the **Federal Register** of August 8, 2003 (68 FR 47221), The Final Rules affect CPOs and CTAs and persons excluded or exempted from registering as such. As published, however, the Final Rules contain errors that may be misleading and need clarification. By this release, the Commission is making typographical and technical corrections, none of which directly affect the rights and obligations of persons under the Commission's regulations.

In Rule FR Doc. 03–20094 published on August 8, 2003, make the following corrections:

§ 4.13 [Corrected]

1. On page 47231, in the second column, in § 4.13 introductory text, in the fourteenth line, delete ''and'', and in the twentieth line, before the period, insert the following text: ''; and paragraph (f) of this section specifies the effect of this section on § 4.5 of this chapter''.

§ 4.14 [Corrected]

2. On page 47233, in the third column, in § 4.14(a)(8)(i)(D), in the eighth line, after the semicolon, insert ''and''.

§ 4.31 [Corrected]

3. On page 47235, in the third column, in § 4.31(a), in the tenth line, delete ''direct'' and insert ''guide''.

Issued in Washington, DC., on October 7, 2003 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 03–25944 Filed 10–10–03; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9083]

RIN 1545–AH49

Golden Parachute Payments; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations that were published in the **Federal Register** on Monday, August 4, 2003 (68 FR 45745), relating to golden parachute payments under section 280G of the Internal Revenue Code.

EFFECTIVE DATE: This correction is effective August 4, 2003.

FOR FURTHER INFORMATION CONTACT: Erinn Madden (202) 622–6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under sections 280G of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9083) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 9083), which are the subject of FR Doc. 03–19274, is corrected as follows:

1. On page 45745, column 3, in the preamble, in the caption **DATES** is corrected to read as follows:

DATES: *Effective Date:* August 4, 2003.

Applicability Date: These regulations apply to any payment that is contingent on a change in ownership or control if the change in ownership or control occurs on or after January 1, 2004. However, taxpayers may rely on these regulations after August 4, 2003, for the treatment of any parachute payment.

2. On page 45750, column 1, in the preamble under the paragraph heading ''*Effective Date and Reliance*'', paragraph 1, line 5, the language ''on or after January 1, 2004,'' is corrected to read ''on or after January 1, 2004. However, taxpayers may rely on these regulations after August 4, 2003, for the treatment of any parachute payment.''.

3. On page 45750, columns 1 and 2, in the preamble under the paragraph heading ''*Effective Date and Reliance*'', the last line in the column 1 and first line in column 2, the language ''2002 proposed regulations until effective date of the final regulations.'' is corrected to read ''2002 proposed regulations until January 1, 2004.''.

§ 1.280G–1 [Corrected]

4. On page 45755, column 2, § 1.280G–1, paragraph (a), A–11, line 3, the language ''to receive cash, or a transfer of property'' is corrected to read ''to receive cash (including the value of accelerated vesting under Q/A–24(c), or a transfer of property.''.

5. On page 45772, column 2, § 1.280G–1, A–48, line 5, the language ''on or after January 1, 2004.'' is corrected to read ''on or after January 1, 2004. Taxpayers may rely on these regulations after August 4, 2003, for the treatment of any parachute payment.''.

Cynthia E. Grigsby,

Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 03–24913 Filed 10–10–03; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–02–026]

RIN 1625–AA09

Drawbridge Operation Regulations: Charles River, Dorchester Bay, and Saugus River, MA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard has changed the drawbridge operation regulations that govern the operation of three bridges, the Craigie Bridge, mile 1.0, across the Charles River, the William T. Morrisey Boulevard Bridge, mile 0.0, across Dorchester Bay, and the General Edwards SR1A Bridge, mile 1.7, across the Saugus River, all in Massachusetts. This final rule requires an eight-hour advance notice for openings during the time periods at night when these bridges have historically received few requests to open. This action is expected to meet the reasonable needs of navigation while relieving the bridge owner from the burden of crewing these bridges at periods when they seldom open for navigation.

DATES: This rule is effective November 13, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01–01–026) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 26, 2003, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Charles River, Dorchester Bay, and Saugus River, Massachusetts, in the **Federal Register** (68 FR 37990). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The owner of the bridges, the Metropolitan District Commission (MDC), requested a change to the operating regulations for three of their bridges, the Craigie Bridge, the William T. Morrisey Boulevard Bridge, and the General Edwards SR1A Bridge. The requested change to the drawbridge operation regulations required an eight-hour advance notice during various time periods when these bridges have historically received few requests to open.

The Coast Guard reviewed the drawbridge opening logs submitted by the bridge owner, and determined that the bridges had few requests to open during the time periods the bridge owner has requested the eight-hour advance notice requirement. This rule

change will apply to the following bridges and during the following times:

Craigie Bridge

The MDC Craigie Bridge, mile 1.0, across the Charles River has a vertical clearance of 5 feet at mean high water and 15 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.591(e). This final rule allows the bridge owner to require an eight-hour advance notice for openings midnight to 8 a.m., during April, May, October, and November.

William T. Morrisey Boulevard Bridge

The William T. Morrisey Boulevard Bridge, at mile 0.0, across Dorchester Bay has a vertical clearance of 12 feet at mean high water and 22 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.597. This final rule allows the bridge owner to require an eight-hour advance notice for bridge openings from midnight to 8 a.m., during April, May, and October.

General Edwards SR1A Bridge

The General Edwards SR1A Bridge, at mile 1.7, across the Saugus River has a vertical clearance of 27 feet at mean high water and 36 feet at mean low water in the closed position. The existing operating regulations are listed at 33 CFR 117.618(b). This final rule allows the bridge owner to require an eight-hour advance notice for bridge openings from midnight to 8 a.m., April through November.

The Coast Guard believes this final rule is reasonable because all three bridges historically have received very few requests, if any, to open during the time periods for which they will now require an eight-hour advance notice prior to opening.

Discussion of Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking and as a result, no changes have been made to this final rule.

Regulatory Evaluation

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

This conclusion is based on records showing that the bridges normally receive few requests to open during the times the advance notice will be required.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations 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 conclusion is based on records showing that the bridges normally receive few requests to open during the times the advance notice will be required.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

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

Environment

We have analyzed this final 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. It has been determined that this final rule does not significantly impact the environment.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. Section 117.591 is amended by adding a new paragraph (e)(3) to read as follows:

§ 117.591 Charles River and its tributaries.

* * * * *

(e) * * *

(3) From midnight to 8 a.m., April, May, October, and November, the draw shall open on signal after at least an eight-hour advance notice is given.

* * * * *

■ 3. Section 117.597 is revised to read as follows:

§ 117.597 Dorchester Bay.

The draw of the of the William T. Morrisey Boulevard Bridge, mile 0.0, at Boston, shall operate as follows:

(a) From 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6 p.m., Monday through Friday, except holidays, the draw need not open for the passage of vessel traffic.

(b) The draw shall open on signal from April 16 through May 31, from 8 a.m. through midnight, except as provided in paragraph (a) of this section. From midnight through 8 a.m. at least an eight-hour advance notice is required for bridge openings.

(c) The draw shall open on signal at all times from June 1 through September 30, except as provided in paragraph (a) of this section.

(d) The draw shall open on signal from October 1 through October 14, 8 a.m. through midnight, except as provided in paragraph (a) of this section. From midnight through 8 a.m. at least an eight-hour advance notice is required for bridge openings.

(e) The draw shall open on signal from October 15 through April 15, after at least a 24 hours notice is given, except as provided in paragraph (a) of this section.

■ 4. Section 117.618 is amended by revising paragraph (b) to read as follows:

§ 117.618 Saugus River.

* * * * *

(b) The draw of the General Edwards SR1A Bridge, mile 1.7, between Revere and Lynn, shall open on signal; except that, from April 1 through November 30, from midnight through 8 a.m. at least an eight-hour advance notice is required for bridge openings, and at all times from December 1 through March 31, at least an eight-hour advance notice is required for bridge openings.

* * * * *

Dated: September 30, 2003.

John L. Grenier,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 03–25891 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[CGD08–03–017]

RIN 1625–AA72

Safety Zone; Outer Continental Shelf Facility in the Gulf of Mexico in Mississippi Canyon 243

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone around a petroleum and gas production facility in Mississippi Canyon 243 of the Outer Continental Shelf in the Gulf of Mexico while the facility is being constructed and after the construction is completed. The construction site and facility need to be protected from vessels operating outside the normal shipping channels and fairways, and placing a safety zone around the construction site and facility will significantly reduce the threat of allisions, oil spills and releases of natural gas. The regulation prohibits all vessels from entering or remaining in the specified area around the construction site and facility except for the following: an attending vessel; a vessel under 100 feet in length overall not engaged in towing; or a vessel authorized by the Eighth Coast Guard District Commander.

DATES: This final rule is effective on November 13, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD08–03–017] and are available for inspection or copying at Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans, LA, 70130, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (LT) Kevin Lynn, Project Manager for Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans, LA 70130, telephone (504) 589–6271.

SUPPLEMENTARY INFORMATION:

Regulatory History

On July 7, 2003, we published a notice of proposed rulemaking (NPRM) entitled ''Safety Zone; Outer Continental Shelf Facility in the Gulf of Mexico in Mississippi Canyon 243'' in the **Federal Register** (68 FR 40229). We received one comment on the proposed rule. No public hearing was requested and none was held.

Background and Purpose

The Coast Guard is establishing a safety zone around a petroleum and gas production facility in the Gulf of Mexico: Matterhorn Tension Leg Platform A (Matterhorn TLP), Mississippi Canyon 243 (MC 243), located at position 28°44′32″ N, 88°39′32″ W. The safety zone is in effect while the facility is being constructed and after the construction is completed.

This safety zone is in the deepwater area of the Gulf of Mexico. For the purposes of this regulation it is considered to be in waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from

which the breadth of the sea is measured. Navigation in the area of the safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways. The fairways include the Gulf of Mexico South Pass Fairway, and the South Pass to Mississippi River-Gulf Outlet Channel Safety Fairway. Significant amounts of vessel traffic occur in or near the various fairways in the deepwater area.

TotalFinaElf E&P USA, Inc., hereafter referred to as TotalFinaElf requested that the Coast Guard establish a safety zone in the Gulf of Mexico around the Matterhorn TLP construction site and for the zone to remain in effect after construction is completed.

The request for the safety zone was made due to the high level of shipping activity around the site of the facility and the safety concerns for construction personnel, the personnel on board the facility after it is completed and the environment. TotalFinaElf indicated that the location, production level, and personnel levels on board the facility make it highly likely that any allision with the facility during and after construction would result in a catastrophic event. The Matterhorn TLP will be a high production petroleum and gas drilling facility, capable of producing approximately 30,000 barrels of oil per day and 50 million cubic feet of gas per day, and manned with a crew of approximately 60 people.

The Coast Guard reviewed TotalFinaElf's concerns and agreed that the risk of allision to the facility and the potential for loss of life and damage to the environment resulting from such an accident during and following the construction of Matterhorn TLP warrants the establishment of this safety zone. This regulation significantly reduces the threat of allisions, oil spills and natural gas releases, and increases the safety of life, property, and the environment in the Gulf of Mexico. This regulation is issued pursuant to 14 U.S.C. 85 and 43 U.S.C. 1333 as set out in the authority citation for 33 CFR part 147.

Discussion of Comments and Changes

We received one comment on the proposed rule. The comment addressed several issues, the first being that oil facilities should be built with safeguards to prevent oil pollution and the Coast Guard should insist on total safety for oil drilling at this location. This regulation significantly reduces the threat of allisions, oil spills and natural gas releases, and increases the safety of life, property, and the environment in the Gulf of Mexico by creating a no entry zone around the facility applicable to certain vessels (*see* **SUMMARY**). The second issue posed by the comment recommends the Coast Guard deem certain poor weather days as being unsuitable for vessel transits. This issue is not relevant to the rule and will not be discussed. The final issue raised in the comment recommends that the Coast Guard designate ''off limit'' areas to include the location at which the Matterhorn TLP is to be constructed and all other places where vessels can experience trouble due to rough weather. This issue is not relevant to the rule and will not be discussed. In consideration of this comment, the Coast Guard has made no substantial changes to the provisions of this rule.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 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 impacts on routine navigation are expected to be minimal because the safety zone will not overlap any of the safety fairways within the Gulf of Mexico.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. Since the construction site for the Matterhorn TLP is located far offshore, few privately owned fishing vessels and recreational boats/yachts operate in the area and alternate routes are available for those vessels. Use of an alternate route may cause a vessel to incur a delay of 4 to 10 minutes in arriving at their destinations depending on how fast the vessel is traveling. Therefore, the Coast Guard expects the impact of this regulation on small entities to be minimal.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and 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 offered to assist small entities in understanding this rule so they can better evaluate its effects on them and participate in the rulemaking.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of 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. Paragraph (34)(g) is applicable because this rule is establishing a safety zone that will be effective for a period greater than one week. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' (CED) are available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.829 to read as follows:

§ 147.829 Matterhorn Tension Leg Platform safety zone.

(a) *Description.* The Matterhorn Tension Leg Platform A (Matterhorn TLP), Mississippi Canyon 243 (MC 243), located at position 28°44′32″ N, 88°39′32″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone. These coordinates are based upon [NAD 83].

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: September 22, 2003.

R.F. Duncan,

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

[FR Doc. 03–25890 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 03–023]

RIN 1625–AA00

Security Zone; Suisun Bay, Concord, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone in the navigable waters of the United States adjacent to the Military Ocean Terminal Concord (MOTCO), California (formerly United States Naval Weapons Center Concord, California). In light of recent terrorist actions against the United States, the security zone is necessary to ensure the safe onloading and offloading of military equipment and to ensure the safety of the nearby public from potential subversive acts. The security zone will prohibit all persons and vessels from entering, transiting through or anchoring within a portion of the Suisun Bay surrounding the MOTCO unless authorized by the Captain of the Port (COTP) or his designated representative.

DATES: This rule is effective from 7 a.m. PDT on October 1, 2003 to 11:59 p.m. PST on October 31, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP San Francisco Bay 03–023] and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Doug Ebbers, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3073.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Additionally, 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** as the schedule and other logistical details were not known until a date fewer than 30 days prior to the start date of the military operation.

Publishing a NPRM and delaying its effective date would be contrary to the public interest since the safety and security of the people, ports, waterways, and properties of the Port Chicago and Suisun Bay areas would be jeopardized without the protection afforded by this security zone. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the protection of all cargo vessels, their crews, the public and national security.

Background and Purpose

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. In addition, the ongoing hostilities in Afghanistan and the conflict in Iraq have made it prudent for U.S. ports to be on a higher state of alert because Al-Qaeda and other organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

The 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 in 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).

In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

In this particular rulemaking, to address the aforementioned security concerns, United States Army officials have requested that the Captain of the Port, San Francisco Bay, California, establish a temporary security zone in the navigable waters of the United States surrounding the Military Ocean Terminal Concord (MOTCO), California, to safeguard vessels, cargo and crew engaged in military operations. This temporary security zone is necessary to safeguard the MOTCO terminal and the surrounding property from sabotage or other subversive acts, accidents or criminal acts. This zone is also necessary to protect military operations from compromise and interference and to specifically protect the people, ports, waterways, and properties of the Port Chicago and Suisun Bay areas.

Discussion of Rule

In this temporary rule, the Coast Guard is establishing a fixed security zone around Military Ocean Terminal Concord (MOTCO), California, encompassing the navigable waters, extending from the surface to the sea floor, bounded by the following coordinates: latitude 38°03′07″ N and longitude 122°03′00″ W; thence to latitude 38°03′15″ N and longitude 122°03′04″ W; thence to latitude 38°03′30″ N and longitude 122°02′35″ W; thence to latitude 38°03′50″ N and longitude 122°01′15″ W; thence to latitude 38°03′43″ N and longitude 122°00′28″ W; thence to latitude 38°03′41″ N and longitude 122°00′03″ W; thence to latitude 38°03′18″ N and longitude 121°59′31″ W, and along the shoreline back to the beginning point.

Vessels or persons violating this section will be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed $27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of $250,000), and in rem liability against the offending vessel. Any person who violates this section using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, will also face imprisonment up to 12 years. Vessels or persons violating this section are also subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel to the United States, a maximum criminal fine of $10,000, and imprisonment up to 10 years, and a civil penalty of not more than $25,000 for each day of a continuing violation.

The Captain of the Port will enforce this zone and may enlist the aid and cooperation of any Federal, State, county, municipal, and private agency to assist in the enforcement of the regulation. This regulation is established under the authority of 33 U.S.C. 1226 in addition to the authority contained in 50 U.S.C. 191 and 33 U.S.C. 1231.

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).

Although this regulation restricts access to portions of navigable waters, the effect of this regulation will not be significant because the zone will encompass only a small portion of the waterway for a short duration. Vessels and persons may be allowed to enter these zones on a case-by-case basis with permission of the Captain of the Port or his designated representative.

The size of the zone is the minimum necessary to provide adequate protection for MOTCO, vessels engaged in operations at MOTCO, their crews, other vessels operating in the vicinity, and the public. The entities most likely to be affected are commercial vessels transiting to or from Suisun Bay via the Port Chicago Reach section of the channel.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to anchor or transit to or from Suisun Bay via the Port Chicago Reach section of the channel. Although the security zone will occupy a section of the navigable channel (Port Chicago Reach) adjacent to the Marine Ocean Terminal Concord (MOTCO), vessels may receive authorization to transit through the zone by the Captain of the Port or his designated representative on a case-by-case basis. Additionally, vessels engaged in recreational activities, sightseeing and commercial fishing will have ample space outside of the security zone to engage in these activities. Small entities and the maritime public will be advised of this security zone via public notice to mariners.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a security zone.

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where located under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–095 to read as follows:

§ 165.T11–095 Security Zone; Navigable Waters of the United States Surrounding Military Ocean Terminal Concord (MOTCO), Concord, California.

(a) *Location.* The security zone, which will be marked by lighted buoys, will encompass the navigable waters, extending from the surface to the sea floor, surrounding the Military Ocean Terminal Concord, Concord, California, bounded by the following coordinates: latitude 38° 03′ 07″N and longitude 122° 03′ 00″ W; thence to latitude 38° 03′15″ N and longitude 122° 03′04″ W; thence to latitude 38° 03′30″ N and longitude

122° 02′35″ W; thence to latitude 38° 03′50″ N and longitude 122° 01′15″ W; thence to latitude 38° 03′43″ N and longitude 122° 00′28″ W; thence to latitude 38° 03′41″ N and longitude 122° 00′03″ W; thence to latitude 38° 03′18″ N and longitude 121° 59′31″ W, and along the shoreline back to the beginning point.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entering, transiting through or anchoring in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, San Francisco Bay, or his designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Patrol Commander on scene on VHF–FM channel 13 or 16 or the Captain of the Port at telephone number 415–399–3547 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zone by local law enforcement and the MOTCO police as necessary.

(e) *Effective Dates.* This section becomes effective at 7 a.m. PDT on October 1, 2003, and terminates at 11:59 p.m. PST on October 31, 2003.

Dated: September 25, 2003.

Gerald M. Swanson,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.

[FR Doc. 03–25893 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 253–0405a; FRL–7567–2]

Revisions to the California State Implementation Plan, El Dorado County Air Pollution Control District and Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the El Dorado County Air Pollution Control District (EDCAPCD) and Santa Barbara County Air Pollution Control District (SBCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern nitrogen oxide (NO_X) emissions from biomass boilers and from large water heaters and small boilers. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on December 15, 2003 without further notice, unless EPA receives adverse comments by November 13, 2003. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail or e-mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; *steckel.andrew@epa.gov.*

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

El Dorado County Air Pollution Control District, 2850 Fairlane Court, Building C, Placerville, CA 95667.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, Suite B–23, Goleta, CA 93117.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the date that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule number	Rule title	Adopted or amended	Submitted
EDCAPCD	232	Biomass Boilers	Amended 09/25/01	11/09/01
SBCAPCD	360	Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers.	Adopted 10/17/02	01/21/03

On January 15, 2002 and February 7, 2003, respectively, these submittals were found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

EPA proposed a limited approval and limited disapproval on May 5, 1999 (64 FR 24117) of Rule 232, Biomass Boilers (adopted on October 18, 1994, submitted on October 20, 1994). The proposed action was not finalized, but the deficiency cited concerning the lack of a compliance schedule is addressed in this current direct final action. The EDCAPCD also amended the October 18, 1994 version on January 23, 2001 and CARB submitted it to us on May 23, 2001. No action was taken on this submittal. While we can act on only the most recent submittal, we reviewed the information in this previous submittal.

C. What Are the Purposes of the Submitted Rule and Rule Revisions?

NO_X helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_X emissions.

The purpose of the revisions to EDCAPCD Rule 232 is to remedy a deficiency in the October 18, 1994 version of the rule.

The purpose of submitted SBCAPCD Rule 360 is to regulate NO_X emissions from large water heaters and small boilers.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (*see* section 110(a) of the CAA), must require Reasonably Available Control Technology (RACT) for major sources of NO_X in ozone nonattainment areas (*see* section 182(f)) and must not relax existing requirements (*see* sections 110(l) and 193). The EDCAPCD regulates a severe ozone nonattainment area. *See* 40 CFR part 81. Rule 232 must fulfill the requirements of RACT. The SBCAPCD regulates an ozone maintenance attainment area. Rule 360 must fulfill the requirements of RACT.

Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans,* U.S. EPA, 40 CFR part 51.
- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,* EPA (May 25, 1988) (the Bluebook).
- *State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990* (the ''NO_X Supplement to the General Preamble''), U.S. EPA, 57 FR 55620 (November 25, 1992).
- *Cost-Effective Nitrogen Oxides (NO_X) Reasonably Available Control Technology (RACT),* U.S. EPA Office of Air Quality Planning and Standards (March 16, 1994).
- *Guidance Document for Correcting Common VOC & Other Rule Deficiencies,* U.S. EPA Region IX (August 21, 2001) (the Little Bluebook).
- *Determination of Reasonably Available Control Technology (RACT) and Best Available Retrofit Control Technology (BARCT) for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters,* California Air Resources Board (CARB) (July 18, 1991).
- *Alternative Control Techniques Document—NO_X Emissions from Utility Boilers,* EPA–453/R–94–023 (March 1994).

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. We also believe that Rule 232 corrects the previously identified deficiency regarding the lack of a compliance schedule in the rule. The TSDs have more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by November 13, 2003, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on December 15, 2003. This will incorporate these rules into the federally-enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 15, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

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

Dated: September 3, 2003.

Wayne Nastri,

Regional Administrator, Region IX.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(296)(i)(A)(*2*) and (312)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(296) * * *

(i) * * *

(A) * * *

(2) Rule 232, adopted on October 18, 1994 and amended on September 25, 2001.

* * * * *

(312) * * *

(i) * * *

(B) Santa Barbara County Air Pollution Control District.

(*1*) Rule 360, adopted on October 17, 2002.

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[FR Doc. 03–25800 Filed 10–10–03; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY 135—200337(a); FRL–7572–9]

Approval and Promulgation of Implementation Plans for Kentucky: Source-Specific Revision for Marathon Ashland Petroleum Marine Repair Terminal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a source-specific revision to the State Implementation Plan (SIP) of the Commonwealth of Kentucky. This revision requires the Marathon Ashland Petroleum Marine Repair Terminal (MAPMRT) to implement volatile organic compound (VOC) reasonably available control technology (RACT) for its barge cleaning operation as part of a contingency measure implemented for the Huntington-Ashland 1-Hour Ozone Maintenance Area.

DATES: This direct final rule is effective December 15, 2003 without further notice, unless EPA receives adverse comment by November 13, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be submitted by mail to: Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in **SUPPLEMENTARY INFORMATION** (sections VI. B.1. through 3.).

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Phone: (404) 562–9031. E-mail: *notarianni.michele@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What Is Today's Action?

EPA is approving a source-specific SIP revision to the Kentucky SIP, submitted by the Commonwealth of Kentucky on October 7, 2001, which requires MAPMRT to implement vapor collection and control equipment with an overall efficiency of at least 90 percent for its barge cleaning operation. This revision satisfies a requirement for Kentucky to implement a contingency measure for the Huntington-Ashland 1-Hour Ozone Maintenance Area and meets EPA's VOC RACT requirements for major VOC sources. The Huntington-Ashland 1-Hour Ozone Maintenance Area consists of: Boyd County and a portion of Greenup County, Kentucky; and Cabell County and Wayne County, West Virginia. MAPMRT is located in Boyd County, Kentucky, within the maintenance area. MAPMRT is a major VOC point source because the source's barge cleaning operation has the potential to emit more than 100 tons per year of VOC.

II. Why Must Kentucky Adopt an Ozone Contingency Measure for the Huntington-Ashland Maintenance Area?

During calendar year 1998, a Huntington, West Virginia ozone monitor recorded five exceedances of the 1-hour ozone National Ambient Air Quality Standard (NAAQS) during a period when the 1-hour NAAQS was revoked by EPA. The 1-hour ozone maintenance plan for the Kentucky portion of the Huntington-Ashland maintenance area requires Kentucky to adopt one or more contingency measures within six months of a monitored violation. This six-month time period is not applicable in this case, since the initial violation occurred in 1998, during a time period in which EPA had revoked the 1-hour ozone

NAAQS. Upon reinstatement of the 1-hour NAAQS, effective October 18, 2000, EPA required violating maintenance areas to expeditiously provide plans to implement their maintenance plans to address any violations. Kentucky is fulfilling the latter requirement. A June 28, 2001, letter from the Commonwealth officially notified EPA of its implementation of an ozone contingency measure in the Kentucky portion of the Huntington-Ashland maintenance area. Currently, the area is attaining the 1-hour ozone NAAQS.

III. What Contingency Measure Was Adopted for the Area?

Kentucky utilized the contingency measure listed in the area's maintenance plan to implement ''a program to make existing controls on stationary sources more effective, or require additional emission reductions.'' Because VOC emissions from MAPMRT's barge cleaning operations were significant, MAPMRT was selected as a source where additional emission reductions may be realized. Based on year 2000 emissions data, the barge cleaning operations represent an estimated 87 percent of the source's total VOC emissions. The title V permit for MAPMRT requires the overall efficiency for capture and control of VOC emissions from barge cleaning operations to be at least 90 percent to satisfy Kentucky rule 401 KAR 50:012, ''General application''. This rule requires RACT for major VOC sources in Kentucky counties designated ozone nonattainment with the exception of marginal areas. Although the Kentucky portion of the Huntington-Ashland area is classified attainment for the 1-hour ozone NAAQS, Kentucky elected as a contingency measure to require VOC RACT for MAPMRT's barge cleaning operations. Since no EPA Control Technique Guideline (CTG) exists for this source category, Kentucky must submit the controls as a source-specific non-CTG RACT SIP revision to ensure that these controls meet RACT and are adequately enforceable.

IV. What VOC Control System Is MAPMRT Using?

Earlier than required, MAPMRT installed and is operating a vapor collection and control system for its barge cleaning operations with an overall efficiency of 90 percent. The control system will reduce the source's emissons by an estimated 0.76 tons per day and reduce VOC point source emissions for the area by an estimated 2.78 percent. MAPMRT's Barge Cleaning VOC Control Plan, required as part of its title V permit, describes its Barge Degassing Vapor Control System. This control system is consistent with those controls used at similar operations in the country (*i.e.*, Louisiana and Texas). The system uses thermal oxidation to combust vapors from the barge. The combustion products are used to produce hot water (or steam) and inert gas, which are used for input back into the system for greater combustion efficiency and into the barge for enhanced safety. EPA and Kentucky believe the system satisfies EPA's RACT requirement for major VOC sources.

V. What Is EPA's Final Action?

The EPA is approving this source-specific revision to the Kentucky SIP requiring VOC RACT for MAPMRT because it is consistent with the requirements of the Clean Air Act and EPA policy.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective December 15, 2003 without further notice unless the Agency receives adverse comments by November 13, 2003.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 15, 2003 and no further action will be taken on the proposed rule.

VI. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. The Regional Office has established an official public rulemaking file available for inspection at the Regional Office. EPA has established an official public rulemaking file for this action under KY–135–200337. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30, excluding Federal holidays.

2. Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency. Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601–1403. (502/573–3382).

3. *Electronic Access.* You may access this **Federal Register** document electronically through the Regulation.gov Web site located at *http://www.regulations.gov* where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

B. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text ''Public comment on

proposed rulemaking KY–135–200337'' in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD–ROM you submit, and in any cover letter accompanying the disk or CD–ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to *notarianni.michele@epa.gov.* Please include the text ''Public comment on proposed rulemaking KY–135–200337'' in the subject line. EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulation.gov.* Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at *http://www.regulations.gov,* then select Environmental Protection Agency at the top of the page and use the go button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD–ROM.* You may submit comments on a disk or CD–ROM that you mail to the mailing address identified in Section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: Michele Notarianni, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Please include the text ''Public comment on proposed rulemaking KY–135–200337.'' in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier.* Deliver your comments to: Michele Notarianni, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30, excluding Federal holidays.

C. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD–ROM, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD–ROM, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 15, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 1, 2003.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

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

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

Subpart S—Kentucky

■ 2. Section 52.920(d) is amended by adding a new entry at the end of the table to read as follows:

§ 52.920 Identification of plan.

* * * * *

(d) * * *

EPA—APPROVED KENTUCKY SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	**Federal Register** Notice
*	*	*	*	*
Marathon Ashland Petroleum Marine Repair Terminal.	N/A	12/22/99	10/14/03	[Insert FR page citation].

* * * * *

[FR Doc. 03–25798 Filed 10–10–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Parts 59 and 61

RIN 1660–AA14

National Flood Insurance Program (NFIP); Inspection of Insured Structures by Communities

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

ACTION: Adoption of interim final rule as final.

SUMMARY: This final rule adopts the interim final rule, published in the **Federal Register** on March 8, 2002, to amend the NFIP regulations to clarify that areas of Monroe County, Florida that incorporate on or after January 1, 1999, and become eligible for the sale of flood insurance must participate in the inspection procedure as a condition of joining the NFIP. An inspection procedure was established to help the communities of Monroe County and the Village of Islamorada verify that structures comply with the community's floodplain management ordinance and to ensure that property owners pay

flood insurance premiums to the NFIP commensurate with their flood risk.

DATES: 44 CFR 59.30(a) became effective on March 8, 2002. The amendments to Appendices (A)(4), (A)(5), and (A)(6) of 44 CFR part 61 became effective on June 6, 2002.

FOR FURTHER INFORMATION CONTACT: Don Beaton, FEMA, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (facsimile) 202–646–4327, or e-mail *donald.beaton@dhs.gov;* or Lois Forster, FEMA, Mitigation Division, (facsimile) 202–646–2577, or e-mail *lois.forster@dhs.gov.*

SUPPLEMENTARY INFORMATION: The interim final rule published on March 8, 2002, at 67 FR 10631 amended 44 CFR 59.30 and Appendices (A)(4), (A)(5), and (A)(6) of 44 CFR part 61 to clarify that areas of Monroe County, Florida that incorporate on or after January 1, 1999, and become eligible for the sale of flood insurance must participate in the inspection procedure as a condition of participating in the NFIP. An inspection procedure was established to help the communities of Monroe County and the Village of Islamorada verify that structures comply with the community's floodplain management ordinance and to ensure that property owners pay flood insurance premiums to the NFIP commensurate with their flood risk.

The closing date for the submission of comments was June 6, 2002.

Comments on the Interim Final Rule

By the close of the comment period, FEMA received no comments on the interim final rule.

Adoption as Final Rule

Accordingly, the interim final rule to amend the NFIP regulations to clarify that areas of Monroe County, Florida that incorporate on or after January 1, 1999, and become eligible for the sale of flood insurance must participate in the inspection procedures as a condition of joining the NFIP which was published at 67 FR 10631 on March 8, 2002, is adopted as a final rule without change.

National Environmental Policy Act

FEMA conducted an environmental review on the inspection procedure. You may obtain a copy of the Record of Environmental Review documenting the findings through FEMA's Web site at *www.FEMA.gov,* or by writing to FEMA at 500 C Street, SW., Washington, DC 20472, Attention: Lois Forster.

Executive Order 12898, Environmental Justice

FEMA reviewed the inspection procedure under Executive Order 12898 and determined that the inspection procedure would not have a disproportionate adverse impact on low-income populations and minority populations. FEMA also determined that this action would have some adverse effects on low-income populations because some illegal enclosures are used as full-living units and the residents would have to find replacement housing. The effect would be caused by the residents' illegal activity, not by this regulatory action. FEMA determined, further, that there would be greater adverse health and safety impact on the affected low-income populations if they stayed in these illegally built ground level enclosures. The enclosures are located in flood hazard areas below the Base Flood Elevation where there is a significant risk of flooding.

Executive Order 12866, Regulatory Planning and Review

FEMA has reviewed the inspection procedure under the provisions of Executive Order 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, Oct. 4, 1993, a significant regulatory action is subject to the Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in th[e] Executive [O]rder.

FEMA found that the final rule is neither a significant regulatory action nor an economically significant rule under the Executive Order. OMB has not reviewed this rule under the principles of Executive Order 12866.

Executive Order 13132, Federalism

Executive Order 13132, Federalism, seeks to ensure that Executive agencies consider principles of federalism when developing new policies, and requires them to consult with State and local officials when their actions may have federalism implications.

FEMA reviewed this final rule for federalism implications under Executive Order 13132 and determined that this final rule does not have federalism implications as defined in Executive Order 13132.

In addition to Monroe County, the Village of Islamorada, and the State of Florida, FEMA has consulted with the City of Marathon and will continue to consult and coordinate with the City of Marathon and any other area in Monroe County that incorporates and becomes eligible for the sale of flood insurance after January 1, 1999, that will participate in the inspection procedure.

Paperwork Reduction Act

FEMA submitted the information collection requirements to OMB for approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Under Control Number 3067–0275, OMB approved the information collection requirements. Now that FEMA is part of DHS, the Control Number is 1660–0045.

Executive Order 12778, Civil Justice Reform

This final rule meets the applicable standards of subsections 2(a) and 2(b)(2) of Executive Order 12778.

The interim final rule published on March 8, 2002 at 67 FR 10631 is adopted as final without change.

Dated: October 7, 2003.

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 03–25906 Filed 10–10–03; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 25

[IB Docket Nos. 02–34 and 02–54, FCC 03–102]

Satellite Licensing Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of August 27, 2003 (68 FR 51499), a document revising the procedures for issuing satellite licenses. Inadvertently, the effective date for §§ 25.137(d)(4), 25.164(c) through (e), and 25.165 was stated as September 11,

2003. This document stays these rules until October 27, 2003.

DATES: Effective October 14, 2003. Sections 25.137(d)(4), 25.164(c) through (e), and 25.165, published at 68 FR 51499 are stayed until October 27, 2003.

FOR FURTHER INFORMATION CONTACT: Steven Spaeth, Attorney Advisor, Satellite Division, International Bureau, telephone (202) 418–1539 or via the Internet at *steven.spaeth@fcc.gov.*

SUPPLMENTARY INFORMATION: The Commission published a document in the **Federal Register** of August 27, 2003 (68 FR 51499), adopting §§ 25.137(d)(4), 25.164(c) through (e), and 25.165, and adopting an effective date of September 11, 2003 for these provisions. This document stays these provisions until October 27, 2003.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–25740 Filed 10–10–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 25

[IB Docket 02–19; FCC 03–137]

Establishment of Policies and Service Rules for the Non-Geostationary Satellite Orbit, Fixed Satellite Service in the Ka-Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission has adopted licensing and service rules for entities to provide Non-Geostationary Satellite Orbit, Fixed Satellite Service in the KaBand frequencies, specifically the 18.8–19.3 GHz and 28.35–29.1GHz frequency bands. Upon launch, these new systems will provide a variety of data, video and telephony services in Ka-Band frequencies to U.S. consumers, for communications in the United States and around the world.

DATES: Effective October 14, 2003.

FOR FURTHER INFORMATION CONTACT: J. Mark Young, Attorney Advisor, Satellite Division, International Bureau, telephone (202) 418–0762 or via the Internet at *myoung@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in IB Docket No. 02–19, FCC 03–137, adopted June 18, 2003 and released July 9, 2003. The complete text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898 or via e-mail *qualexint@aol.com.* It is also available on the Commission's Web site at *http://www.fcc.gov*.

Summary of the Report and Order

1. The Federal Communications Commission has adopted sharing and service rules for the non-geostationary satellite orbit, fixed satellite service (NGSO FSS) in the Ka-Band frequencies. These systems will provide a variety of data, video and telephone services to U.S. consumers, for communications in the United States and around the world.

2. The Commission adopted an innovative sharing technique that can accommodate all pending applications for this service in the available frequency bands. The Commission calls this technique avoidance of in-line interference events. Under this technique, each applicant, once licensed, will be authorized to operate its system in the entire available service spectrum, so long as it avoids causing harmful interference to other NGSO FSS systems.

3. The Commission anticipates that there will be predictable instances when the space station of one NGSO FSS system and the earth station of another system are arrange in a perfect line of communication, an occurrence called an in-line interference event. The sharing technique allows and encourages the two system operators to exchange space station orbit data in order to predict and avoid these events by any mitigation means preferred. In the event the systems cannot agree on a preferred avoidance method, the Commission requires that the split the available NGSO FSS service spectrum in the Ka-Band equally between the systems involved in the event, for the duration of the event. The *Report and Order* allows the first launched NGSO FSS system to choose its preferred equal portion of the spectrum to which its space station will resort when an in-line interference event arises.

4. The *Report and Order* adopts a technical definition of an in-line interference event so that systems can coordinate their orbits in advance. The Commission adopted an Earth-surface based (topocentric) angular separation standard, with a 10-degree-avoidance angle between satellites of different networks.

5. The *Report and Order* determines the priority status of the one existing licensee from the first processing round of the Ka-Band NGSO FSS, Teledesic LLC, when it coordinates with operators licensed in this second processing round for the service.

6. The *Report and Order* adopted service rules for the NGSO FSS service, including an implementation milestones schedule. Licensees will be required to file an annual report describing the status of satellite construction and launch dates. The *Report and Order* also requires that applicants disclose orbital debris mitigation plans before licensing.

Final Regulatory Flexibility Certification

8. The Regulatory Flexibility Act of 1980, as amended (RFA),[1] requires that a regulatory flexibility analysis be prepared for notice and comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' [2] The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''smallorganization,'' and ''small governmental jurisdiction.'' [3] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[4] A small business concern is one which: (a) is independently owned and operated; (b) is not dominant in its field of operation; and (c) satisfies any additional criteria established by the Small Business Administration (SBA).[5]

9. The objective of the *Report and Order* and of this proceeding is to assign the NGSO FSS spectrum to satellite systems operators who can implement their proposals in a manner that serves the public interest. The final rules in the *Report and Order* will reduce regulatory burdens and, with minimal disruption

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[1] See 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA. Pub. L. 104–121, 110 Stat. 857 (1996)).

[2] 5 U.S.C. 605(b).

[3] *Id.* at 601(6).

[4] *Id.* at 601(3) (incorporating by reference the definition of ''small business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[5] Small Business Act, 15 U.S.C. 632

to existing FCC permittees and licensees, result in the continued development of NGSO FSS and other satellite services to the public.

10. Neither the Commission nor the U.S. Small Business Administration has developed a small business size standard specifically for NGSO FSS licensees. The appropriate size standard is therefore the SBA standard for Satellite Telecommunications, which provides that such entities are small if they have $12.5 million or less in annual revenues.[6]

11. The rules adopted in the *Report and Order* apply only to entities providing NGSO FSS. Small businesses will not have the financial ability to become NGSO FSS system operators because of the high implementation costs, including construction of satellite space stations and rocket launch, associated with satellite systems and services.[7] Since the spectrum and orbital resources available for assignment are not open to new entrants, we estimate that only the four applicants whose applications are pending will be authorized by the Commission to provide these services. None of the seven applicants is a small business because each has revenues in excess of $12.5 million annually or has parent companies or investors that have revenues in excess of $12.5 million annually.[8]

12. Therefore, we certify that the rules adopted in this *Report and Order* will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of this *Report and Order*, including this Final Regulatory Flexibility, in a report to Congress pursuant to the Congressional Review Act.[9] In addition, the *Report and Order* and this final certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**.[10]

Ordering Clauses

13. Pursuant to Sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r), this *Report and Order* is hereby ADOPTED.

14. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of the *Report and Order*, including the Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A); and shall also send a copy of this *Report and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. 605(b). A copy of this *Report and Order*, including the Final Regulatory Flexibility Certification, will be published in the **Federal Register**. *See* 5 U.S.C. 605(b).

List of Subjects 47 CFR Part 25

Satellites.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons set forth in the preamble, part 25 of title 47 of the Code of Federal Regulations is amended as follows:

PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 701–744. Interprets or applies Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

■ 2. Section 25.145 is amended by removing paragraph (f) and redesignating paragraphs (g) and (h) as (f) and (g) and by adding paragraphs (c)(3), (f)(1)(iv), (h) and (i) to read as follows:

§ 25.145 Licensing conditions for the Fixed-Satellite Service in the 20/30 GHz bands.

* * * * *

(c) * * *

(3) A description of the design and operational strategies that it will use, if any, to mitigate orbital debris. Each applicant must submit a casualty risk assessment if planned post-mission disposal involves atmospheric re-entry of the spacecraft.

* * * * *

(f) *Reporting requirements.*

* * * * *

(iv) All operators of NGSO FSS systems in the 18.8–19.3 GHz and 28.6–29.1 GHz bands shall, within 10 days after a required implementation milestone as specified in the system authorization certify to the Commission by affidavit that the milestone has been met or notify the Commission by letter that it has not been met. At its discretion, the Commission may require the submission of additional information (supported by affidavit of a person or person with knowledge thereof) to demonstrate that the milestone has been met. Failure to file a timely certification of milestones, or filing disclosure of non-compliance, will result in automatic cancellation of the authorization with no further action required on the Commission's part.

* * * * *

(h) *Replacement of Space Stations within the System License Term.* Licensees of NGSO FSS systems in the 18.8–19.3 GHz and 28.6–29.1 GHz frequency bands authorized through a blanket license pursuant to paragraph (b) of this section need not file separate applications to launch and operate technically identical replacement satellites within the term of the system authorization. However, the licensee shall certify to the Commission, at least thirty days prior to launch of such replacement(s) that:

(1) The licensee intends to launch a space station into the previously-authorized orbit that is technically identical to those authorized in its system authorization and

(2) Launch of this space station will not cause the license to exceed the total number of operating space stations authorized by the Commission.

(i) *In-Orbit Spares.* Licensees need not file separate applications to operate technically identical in-orbit spares authorized as part of the blanket license pursuant to paragraph (b) of this section. However, the licensee shall certify to the Commission, within 10 days of bringing the in-orbit spare into operation, that operation of this space station did not cause the licensee to exceed the total number of operating space stations authorized by the Commission.

■ 3. Section 25.261 is added to read as follows:

§ 25.261 Procedures for avoidance of in-line interference events for Non Geostationary Satellite Orbit (NGSO) Satellite Network Operations in the Fixed Satellite Service (FSS) Bands.

(a) *Applicable NGSO FSS Bands.* The coordination procedures in this section apply to non-Federal-Government NGSO FSS satellite networks operating in the following assigned frequency bands: The 28.6–29.1 GHz or 18.8–19.3 GHz frequency bands.

[6] 13 CFR 121.201, North American Industry Classification System (''NAICS'') code 517410.

[7] See *e.g.,* Final Analysis Communication Services, Inc., 13 FCC Rcd 6618, 6644 (1998) (non-geostationary satellite applicant estimated that ''cost of construction, launch and first-year operating costs for two satellites was approximately $6.22 million'').

[8] 13 CFR 121.201, North American Industry Classification System (''NAICS'') code 517410.

[9] See 5 U.S.C. 801(a)(1)(A).

[10] See 5 U.S.C. 605(b).

(b) *Definition of ''In-line interference events.''* For purposes of this section, an ''in-line interference event'' is defined as the interference associated with an occurrence of any physical alignment of space stations of two or more satellite networks with an operating Earth station of one of these networks in such a way that the angular separation between operational links of the two networks is less than 10° as measured at the Earth station.

(c) *Default procedure.* If no agreed coordination exists between two or more satellite networks, then the bands will be divided among the affected satellite networks involved in an in-line interference event in accordance with the following procedure:

(1) Each of n (number of) satellite networks involved in a particular in-line interference event shall select 1/n of the assigned spectrum available in each frequency band for its home base spectrum. The selection order for each satellite network shall be determined by and be in accordance with the date that the first space station in each satellite network is launched and operating;

(2) The affected space station(s) of the respective satellite networks shall only operate in the selected (1/n) spectrum associated with its satellite network, its home base spectrum, for the duration of the in-line interference event;

(3) All affected space station(s) may resume operations throughout the assigned frequency bands once the angular separation between the affected space stations in the in-line interference event is again greater than 10°.

(d) *Coordination procedure.* Any coordination procedure agreed among the affected operating satellite networks, which allows operations of the satellite networks when each network's respective space stations are within the 10 degree avoidance angle associated with an in-line interference event, shall supersede the default procedure of paragraph (c) of this section. Coordination may be effected using information relating to the space stations and the parameters of one or more typical earth stations. All parties are required to coordinate in good faith.

[FR Doc. 03–25599 Filed 10–10–03; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 02–278, FCC 03–230]

Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission temporarily stays the limitations imposed in § 64.1200(f)(3) on the duration of an ''established business relationship'' as applied to the sending of unsolicited facsimile advertisements. As a result, the 18-month limitation on the duration of the established business relationship based on purchases and transactions and the three-month limitation on applications and inquires will not apply to the transmission of facsimile advertisements pending either a decision on this issue on reconsideration or January 1, 2005, whichever is sooner, when the extension of the established business relationship to unsolicited facsimile advertisements is due to expire.

DATES: Effective October 14, 2003. The Federal Communications Commission will publish a document in the **Federal Register** when the stay is lifted to remove the note to § 64.1200(f)(3) added by this document.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Erica McMahon or Richard Smith of the Consumer & Governmental Affairs Bureau at (202) 418–2512.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order,* adopted September 26, 2003, and released October 3, 2003. Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision also ma5y be purchased from the Commission's duplicating contractor Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0531 (voice), (202) 418–7365 (TTY).

Synopsis

In this *Order,* the Commission now temporarily stays, for an interim period, the limitations imposed in § 64.1200 (f)(3) on the duration of an ''established business relationship'' as it applies to the sending of unsolicited facsimile advertisements. During this interim period, the established business relationship, as applied to unsolicited facsimile advertisements, will not expire after 18 months of the recipient's last purchase or transaction or three months after the last application or inquiry. Given that the Commission's adoption of the modified established business relationship definition in the *Report and Order,* FCC 03–153, published at 68 FR 44144 (July 25, 2003), and *Announcement* of effective date published at 68 FR 56764 (October 1, 2003), was limited to its application to telephone solicitations, the Commission believes that good cause exists to stay application of the time limitations imposed on the established business relationship in the context of facsimile advertisements until the Commission conducts a review on reconsideration. The Commission emphasizes that nothing in this *Order* impacts the conclusion in the *Order on Reconsideration,* FCC 03–208; published at 68 FR 50978, August 25, 2003, that an established business relationship constitutes sufficient permission to send a facsimile advertisement until January 1, 2005.

The Commission notes, however, that in the absence of any Commission action on this issue prior to January 1, 2005, the Commission's determination that an established business relationship will no longer be sufficient to show that an individual or business has given express permission to receive unsolicited facsimile advertisements will go into effect as required by the *Order on Reconsideration.*

The actions contained herein have not changed our Final Regulatory Flexibility Analysis (FRFA), which is set forth in the *Report and Order.* Thus, no supplemental FRFA is necessary. In addition, the action contained herein imposes no new or modified reporting and/or recordkeeping requirements or burdens on the public.

Ordering Clauses

Pursuant to sections 1–4, 227, and 303(r) of the Communications Act Of 1934, as amended, 47 U.S.C. 151–154,

227, and 303 (r); and section 1.429 of the Commission's Rules, 47 CFR 1.429, this *Order* in CG Docket No. 02–278 *is adopted* as set forth herein.

This *Order* is effective upon publication in the **Federal Register**. In light of the fact that this *Order* imposes no new obligations, the Commission find good cause, pursuant to 5 U.S.C. 553(d), to make this *Order* effective on less than thirty days' notice.

List of Subjects in 47 CFR Part 64

Telephone.

■ For the reasons set forth, amend part 64 of title 47 of the Code of Federal Regulations as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. Section 64.1200 is amended by adding the following note to paragraph (f)(3):

§ 64.1200 Delivery restrictions.

* * * * *

(f) * * *

Note to paragraph (f)(3): Paragraph 64.1200(f)(3) is stayed as of October 14, 2003, as it applies to the time limitations on facsimile advertisements. The Federal Communications Commission will publish a document in the **Federal Register** when the stay is lifted.

* * * * *

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–25842 Filed 10–10–03; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 74 and 78

[ET Docket No. 95–18; DA 03–2838]

2 GHz Suspension

AGENCY: Federal Communications Commission.

ACTION: Final rule; suspension order.

SUMMARY: This document suspends for 60 days, until November 4, 2003, the expiration date for the initial two-year mandatory negotiation period for Phase 1 of the 2 GHz band relocation plan between Mobile-Satellite Service (MSS) and Broadcast Auxiliary Service (BAS). The mandatory negotiation period will continue to remain in effect for the duration of this suspension or until otherwise modified by Commission action. The Commission retains the option to shorten or lengthen this suspension as circumstances warrant.

DATES: Effective September 6, 2003.

FOR FURTHER INFORMATION CONTACT: Gary Thayer, Office of Engineering and Technology, (202) 418–2290.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order,* ET Docket No. 95–18, DA 03–2838, adopted September 4, 2003, and released September 5, 2003. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov*. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

Summary of the Order

1. The Order effectively immediately suspends, for 60 days, until November 4, 2003, the expiration date for the initial two-year mandatory negotiation period for Phase 1 of the 2 GHz band relocation plan between Mobile-Satellite Service (MSS) and Broadcast Auxiliary Service (BAS). This mandatory negotiation period was originally adopted in the *Second Report and Order and Second Memorandum Opinion and Order (Second Report and Order)*, 65 FR 48174, August 7, 2000, in this proceeding, and later extended until September 6, 2003, in a subsequent *Order (Suspension Order)*, 67 FR 53755, August 19, 2002. The mandatory negotiation period will continue to remain in effect for the duration of this suspension or until otherwise modified by Commission action. We retain the option to shorten or lengthen this suspension as circumstances warrant.

2. This action only relates to 35 megahertz of spectrum, currently used by BAS licensees, in the 1990–2025 MHz band. In 1997, the Commission reallocated this spectrum, paired with 35 megahertz in the 2165–2200 MHz band used by Fixed Service (FS) licensees, for MSS, effective January 1, 2000. In the *Second Report and Order*, it adopted relocation procedures for incumbent licensees in these bands. The relocation plan was modeled after the Commission's earlier *Emerging Technologies* policies in ET Docket No. 92–9, and requires MSS entrants to provide comparable facilities to BAS and FS incumbents that are relocated prior to specified sunset dates. The BAS relocation plan calls for a two-phase relocation, each phase beginning with a two-year mandatory negotiation period. In the event that an agreement for relocation is not reached by the end of a particular negotiation period, the MSS licensee(s) have the option of relocating BAS incumbents involuntarily. The initial, two-year mandatory negotiation period for Phase 1 commenced upon **Federal Register** publication of the *Second Report and Order* on September 6, 2000, and was due to expire on September 6, 2002. The *Suspension Order* extended this date by one year, to September 6, 2003.

3. Recently, the Commission adopted decisions that will permit alternative uses and new allocations in portions of the 2 GHz band that had been allocated for MSS. In a *Third Report and Order, Third Notice of Proposed Rulemaking, and Second Memorandum Opinion and Order,* 68 FR 11987, March 13, 2003, in ET Docket No. 00–258, it reallocated a portion of this spectrum in order to provide for new Fixed and Mobile services, including Advanced Wireless Services (AWS). In a *Report and Order and Notice of Proposed Rulemaking* in IB Docket No. 01–185, it permitted MSS licensees to provide ancillary terrestrial component (ATC) operations in the 2 GHz MSS band. The Commission has not yet adopted any modifications to the existing BAS and FS relocation rules as may be necessary in light of these decisions.

4. In the *Suspension Order,* the Commission noted the outstanding issues in the *MSS Flexibility Notice* and *AWS Notice* proceedings relating to use of the 2 GHz MSS band and concluded that it did not appear that it would be able to act on the respective issues prior to the Phase 1 BAS mandatory negotiation deadline of September 6, 2002. It concluded that it was in the public interest to continue the negotiating period until we were able to address these relocation issues. It also found that it was prudent and in the public interest to suspend the expiration of the initial negotiation period for one year under those circumstances, rather than prejudice consideration of the relocation issues presented in the pending proceedings. The Commission further stated that it retained the option to shorten or lengthen this suspension as circumstances warranted.

5. In February of this year, the Commission decided to reallocate portions of the 2 GHz MSS band (in ET Docket No. 00–258) and modify the nature of permissible MSS use of the band (in IB Docket No. 01–185). However, it has not yet addressed the modifications to the BAS and FS relocation plan that may be necessary

because of these decisions and several outstanding Petitions for Reconsideration and Clarification. Accordingly, the considerations that led the Commission to adopt the *Suspension Order* continue to apply with respect to the scheduled September 6, 2003, expiration date for the initial Phase 1 mandatory BAS negotiation period. Specifically, we find that it is in the public interest to continue the negotiating period until we address outstanding relocation issues in the band. Also, by suspending the expiration of the initial negotiation period, we will not prejudice consideration of the relocation issues still pending. For these reasons, we suspend, effective immediately upon release of this order, expiration of the initial Phase 1, two-year mandatory BAS negotiation period for 60 days, until November 4, 2003.

6. As in the *Suspension Order,* we retain the option to shorten or lengthen this suspension as circumstances warrant. We also emphasize that the action taken herein is interim in nature and does not prejudice further action in other proceedings. For the duration of this suspension, all other aspects of the initial mandatory BAS negotiation period will continue in force and, as a consequence, BAS incumbents will not be subject to involuntary relocation by MSS licensees. For the duration of the suspension, we likewise require MSS and BAS licensees to comply with all negotiation requirements and procedures adopted in the *Second Report and Order* that are applicable to the initial BAS mandatory negotiation period.

Ordering Clauses

7. Authority for issuance of this Order is contained in sections 4(i), 5(c), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(c), 303(f), and 303(r), and Section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d). This action is taken under delegated authority, pursuant to sections 0.31(m) and 0.241(a) of the Commission's Rules, 47 CFR 0.31(m) and 0.241(a).

8. Pursuant to sections 4(i), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f), and 303(r), Section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), and sections 0.31(m) and 0.241(a) of the Commission's Rules, 47 CFR 0.31(m) and 0.241(a), the expiration date of September 6, 2002, for the initial two-year mandatory BAS negotiation period for Phase 1 set forth in the *Second Report and Order* in ET Docket No. 95–18 is hereby suspended, effective immediately upon release of this order, for 60 days until November 4, 2003.

List of Subjects in 47 CFR Parts 74 and 78

Communications equipment, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 74 and 78 to read as follows:

■ 1. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, and 554.

■ 2. Section 74.690 is amended by revising the note following paragraph (e) to read as follows:

§ 74.690 Transition of the 1990–2025 MHz band from the Broadcast Auxiliary Service to emerging technologies.

* * * * *

(e) * * *

Note to paragraph (e): FCC suspends for 60 days, until November 4, 2003, the expiration date for the initial two-year mandatory negotiation period in paragraph (e)(1) and the beginning of the involuntary relocation period in paragraph (e)(4).

■ 3. The authority citation for part 78 continues to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

■ 4. Section 78.40 is amended by revising the note following paragraph (f) to read as follows:

§ 78.40 Transition of the 1990–2025 MHz band from the Cable Television Relay Service to emerging technologies.

* * * * *

(f) * * *

Note to paragraph (f): FCC suspends for 60 days, until November 4, 2003, the expiration date for the initial two-year mandatory negotiation period in paragraph (e)(1) and the beginning of the involuntary relocation period in paragraph (f)(4).

[FR Doc. 03–25870 Filed 10–10–03; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No.: NHTSA–2003–14372]

RIN 2127–AJ01

Insurer Reporting Requirements; List of Insurers Required To File Reports

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

ACTION: Final rule.

SUMMARY: This final rule updates Appendices A, B, and C of 49 CFR part 544, insurer reporting requirements. The appendices list those passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences. An insurer included in any of these appendices must file three copies of its report for the 2000 calendar year before October 25, 2003.

DATES: This final rule becomes effective on October 14, 2003. Insurers listed in the appendices are required to submit reports on or before October 25, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of Planning and Consumer Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Ballard's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 49 U.S.C. 33112, *Insurer reports and information,* NHTSA requires certain passenger motor vehicle insurers to file an annual report with the agency. Each insurer's report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft. Under the agency's regulation, 49 CFR part 544, the following insurers are subject to the reporting requirements: (1) Those issuers of motor vehicle insurance policies whose total premiums account for 1 percent or more of the total premiums of motor vehicle insurance issued within the United States; (2) those issuers of motor vehicle insurance policies whose premiums account for 10 percent or more of total premiums written within any one state; and (3) rental and leasing companies with a fleet of 20 or more vehicles not covered by theft insurance policies issued by

insurers of motor vehicles, other than any governmental entity.

Pursuant to its statutory exemption authority, the agency exempted certain passenger motor vehicle insurers from the reporting requirements.

A. Small Insurers of Passenger Motor Vehicles

Section 33112(f)(2) provides that the agency shall exempt small insurers of passenger motor vehicles if NHTSA finds that such exemptions will not significantly affect the validity or usefulness of the information in the reports, either nationally or on a state-by-state basis. The term ''small insurer'' is defined, in section 33112(f)(1)(A) and (B), as an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including pooling arrangements established under state law or regulation for the issuance of motor vehicle insurance, account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a ''small insurer,'' but accounts for 10 percent or more of the total premiums for all motor vehicle insurance issued in a particular state, the insurer must report about its operations in that state.

In the final rule establishing the insurer reports requirement (52 FR 59; January 2, 1987), 49 CFR part 544, NHTSA exercised its exemption authority by listing each insurer subject to the reporting requirements in Appendix A. Because the number of insurers subject to the reporting requirements is smaller than the number of insurers that fall under the 1% exemption, the agency chooses to publish the shorter list of insurers subject to the reporting requirements of 49 U.S.C. 33112. In Appendix B, NHTSA lists those insurers required to report for particular states because each insurer had a 10 percent or greater market share of motor vehicle premiums in those states. In the January 1987 final rule, the agency stated that it would update Appendices A and B annually. NHTSA updates the appendices based on data voluntarily provided by insurance companies to A.M. Best,[1] which A.M. Best publishes in its *State/Line Report* each spring. The agency uses the data to determine the insurers' market shares nationally and in each state.

B. Self-Insured Rental and Leasing Companies

In addition, upon making certain determinations, NHTSA grants exemptions to self-insurers, *i.e.*, any person who has a fleet of 20 or more motor vehicles (other than any governmental entity) used for rental or lease whose vehicles are not covered by theft insurance policies issued by insurers of passenger motor vehicles (see 49 U.S.C. 33112(b)(1)). Under 49 U.S.C. 33112(e)(1) and (2), NHTSA may exempt a self-insurer from reporting, if the agency determines:

(1) The cost of preparing and furnishing such reports is excessive in relation to the size of the business of the insurer; and

(2) The insurer's report will not significantly contribute to carrying out the purposes of Chapter 331.

In a final rule published June 22, 1990 (55 FR 25606), the agency granted a class exemption to all companies that rent or lease fewer than 50,000 vehicles, because it believed that the largest companies' reports sufficiently represent the theft experience of rental and leasing companies. NHTSA concluded that smaller rental and leasing companies' reports do not significantly contribute to carrying out NHTSA's statutory obligations and that exempting such companies will relieve an unnecessary burden on them. As a result of the June 1990 final rule, the agency added Appendix C, consisting of an annually updated list of the self-insurers subject to part 544. Following the same approach as in Appendix A, Appendix C contains only the self-insurers subject to reporting, instead of the self-insurers that are exempted. NHTSA updates Appendix C based primarily on information from *Automotive Fleet Magazine and Business Travel News.*[2]

C. When a Listed Insurer Must File a Report

Under part 544, as long as an insurer is listed, it must file reports on or before October 25 of each year. Thus, any insurer listed in Appendices A, B or C must file a report by October 25, 2003, and by each succeeding October 25, absent an amendment removing the insurer's name from the appendices.

Notice of Proposed Rulemaking

1. Insurers of Passenger Motor Vehicles

On March 21, 2003, NHTSA published a notice of proposed rulemaking (NPRM) to update the list of insurers in Appendices A, B, and C required to file reports (68 FR 13887). Appendix A lists insurers that must report because each had 1 percent of the motor vehicle insurance premiums on a national basis. The list was last amended in a final rule published on July 16, 2002 (67 FR 46608). Based on the 2000 calendar year data market shares from A.M. Best, we proposed to remove Farmers Insurance Group and St. Paul Companies from Appendix A and to add Zurich/Farmers Group to Appendix A.

Each of the 19 insurers listed in Appendix A is required to file a report by October 25, 2003, setting forth the information required by part 544, for each State in which it did business in the 2000 calendar year. As long as these 19 insurers remain listed, they are required to submit a report by each subsequent October 25, for the calendar year ending slightly less than 3 years before.

Appendix B lists insurers required to report for particular States for calendar year 2000, because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. Based on the 2000 calendar year data for market shares from A.M. Best, we proposed no changes to Appendix B.

The eight insurers listed in Appendix B are required to report on their calendar year 2000 activities in every State where they had a 10 percent or greater market share. These reports must be filed by October 25, 2003, and set forth the information required by part 544. As long as these eight insurers remain listed; they would be required to submit reports on or before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

2. Rental and Leasing Companies

Appendix C lists rental and leasing companies required to file reports. Based on information in *Automotive Fleet Magazine and Business Travel News* for 2000, NHTSA proposed to remove Ford Rent-A-Car System from Appendix C and to add Thrifty Rental Car System Inc., and Ryder TRS to Appendix C. Each of the 18 companies (including franchisees and licensees) listed in Appendix C would be required to file reports for calendar year 2000 no later than October 25, 2003, and set forth the information required by part 544. As long as those 18 companies remain listed, they would be required to submit reports before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

[1] A.M. Best Company is a well recognized source of insurance company ratings and information. 49 U.S.C. 33112(i) authorizes NHTSA to consult with public and private organizations as necessary.

[2] Automotive Fleet Magazine and Business Travel News are publications that provide information on the size of fleets and market share of rental and leasing companies.

Public Comments on Final Determination

Insurers of Passenger Motor Vehicles

In the NPRM, the list of passenger motor vehicle insurers who are required to file theft loss reports contained the ''Zurich/Farmers Group,'' a newly listed insurance company. In response to the NPRM, we received two comments regarding the ''Zurich/Farmers Group'' listing. The first comment was submitted by Farmers Group, Inc. (Farmers), and the second comment was submitted by Zurich North America (Zurich).

Farmers argued that the listing should contain only ''Farmers Insurance Group'' instead of ''Zurich/Farmers Group.'' Farmers also stated that the ''Zurich/Farmers Group'' designation does not reflect the legal or economic reality of the relationship between the two separate insurance companies. Specifically, Farmers note that it is ''comprised of reciprocal insurance exchanges (which are owned by their policyholders), or the wholly owned subsidiaries of those exchanges.'' The only part of Farmers owned by Zurich is the management company for the exchanges, Farmer's Group, Inc. Besides owning this management company, Zurich also engages in providing passenger automobile insurance separately, and in competition with Farmers. According to Farmers, therefore, ''Zurich/Farmers Group'' is not an insurance company and does not own any of the subsidiary companies that write auto insurance.

Zurich similarly argued that the listing in question should contain ''Farmers Insurance Group'' instead of ''Zurich/Farmers Group.'' Specifically, Zurich described the structure of Farmers and reiterated that Zurich does not control the reciprocal insurance exchanges. Instead, Zurich owns only Farmers Group, Inc., which provides management services to all reciprocal exchanges. Zurich provides its own insurance services for passenger cars under the name of ''Zurich North America.'' Neither the reciprocal insurance exchanges, nor Farmers Group, Inc. are a part of Zurich North America. Further, Zurich has less than 1% market share for passenger car insurance, and therefore, should qualify for small insurer exception. Currently, Zurich estimates it's market share to be at 0.63%.

After reviewing both comments, the agency concluded that Farmers and Zurich are not a single insurance company, and should not be listed together as ''Zurich/Farmers Group.'' The agency agrees with both commenters' basic descriptions of their corporate structure. The agency also notes that while Zurich owns Farmers Group Inc. (which manages reciprocal exchanges), it also engages in providing their own insurance services through a separate entity that is separately licensed to provide insurance. In arriving at our decision, the agency consulted with an A.M. Best Co. insurance analyst familiar with Farmers and Zurich corporate structure, Stephan Holtzberger.[3] Mr. Holtzberger indicated support for our new position. Therefore, Appendix A will list ''Farmers Insurance Group'' instead of ''Zurich Group/Farmers.'' Zurich North America Insurance will not be listed in Appendix A because it falls short of the requisite 1% market share.

As a result of the new information received in response to the NPRM, this final rule revises the changes initially proposed to Appendix A. The agency received no comments in response to the NPRM for Appendices B and C. Accordingly, this final will reissue Appendix B without change and adopt the proposed changes to Appendix C.

Submission of Theft Loss Report

Passenger motor vehicle insurers listed in the appendices can forward their theft loss reports to the agency in several ways:

a. *Mail:* Carlita Ballard, Office of Planning and Consumer Standards, NHTSA, NVS–131, 400 Seventh Street, SW., Washington, DC 20590;

b. *E-mail: cballard@nhtsa.dot.gov;* or

c. *Fax:* (202) 493–2290.

Theft loss reports may also be submitted to the docket electronically by:

d. Logging onto the Dockets Management System Web site at *http://dms.dot.gov.* Click on ''ES Submit'' or ''Help'' to obtain instructions for filing the document electronically.

Regulatory Impacts

1. Costs and Other Impacts

This notice has not been reviewed under Executive Order 12866, Regulatory Planning and Review. NHTSA has considered the impact of this proposed rule and has determined that the action is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. This rule implements the agency's policy of ensuring that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. Only those companies that are not statutorily eligible for an exemption are required to file reports.

NHTSA does not believe that this rule, reflecting current data, affects the impacts described in the final regulatory evaluation prepared for the final rule establishing part 544 (52 FR 59; January 2, 1987). Accordingly, a separate regulatory evaluation has not been prepared for this rulemaking action. Using the Bureau of Labor Statistics Consumer Price Index for 2003 (*see http://www.bls.gov/cpi*), the cost estimates in the 1987 final regulatory evaluation were adjusted for inflation. The agency estimates that the cost of compliance is $86,100 for any insurer added to Appendix A, $34,440 for any insurer added to Appendix B, and $9,936 for any insurer added to Appendix C. In this final rule, for Appendix A, the agency will remove one company and add none; for Appendix B, the agency proposed no change; and for Appendix C, the agency removed one company and added two companies. The agency estimates that the net effect of this final rule would be a decrease of $76,164 to insurers as a group.

Interested persons may examine the 1987 final regulatory evaluation. Copies of that evaluation were placed in Docket No. T86–01; Notice 2. Any interested person may obtain a copy of this evaluation by writing to NHTSA, Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590, or by calling (202) 366–4949.

2. Paperwork Reduction Act

The information collection requirements in this final rule were submitted and approved by the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This collection of information is assigned OMB Control Number 2127–0547 (''Insurer Reporting Requirements'') and approved for use through August 31, 2003, and the agency will seek to extend the approval afterwards.

3. Regulatory Flexibility Act

The agency also considered the effects of this rulemaking under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale for the certification is that none of the companies proposed for Appendices A, B, or C is construed to be a small entity within the definition of the RFA. ''Small insurer'' is defined, in part under 49 U.S.C. 33112, as any

[3] Docket No. NHTSA–14372–4.

insurer whose premiums for all forms of motor vehicle insurance account for less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States, or any insurer whose premiums within any State, account for less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the State. This notice would exempt all insurers meeting those criteria. Any insurer too large to meet those criteria is not a small entity. In addition, in this rulemaking, the agency proposes to exempt all ''self insured rental and leasing companies'' that have fleets of fewer than 50,000 vehicles. Any self-insured rental and leasing company too large to meet that criterion is not a small entity.

4. Federalism

This action has been analyzed according to the principles and criteria contained in Executive Order 13132, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

5. Environmental Impacts

In accordance with the National Environmental Policy Act, NHTSA has considered the environmental impacts of this final rule and determined that it would not have a significant impact on the quality of the human environment.

6. Civil Justice Reform

This final rule does not have any retroactive effect, and it does not preempt any State law. 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909, and section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

7. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading, at the beginning, of this document to find this action in the Unified Agenda.

8. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the proposal clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the proposal easier to understand?

If you have any responses to these questions, you can forward them to me several ways:

a. *Mail:* Carlita Ballard, Office of Planning and Consumer Standards, NVS–131, NHTSA, 400 Seventh Street, SW., Washington, DC 20590;

b. *E-mail: cballard@nhtsa.dot.gov*; or

c. *Fax:* (202) 493–2290.

List of Subjects in 49 CFR Part 544

Crime insurance, insurance, insurance companies, motor vehicles, reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR Part 544 is amended as follows:

PART 544—[AMENDED]

■ 1. The authority citation for part 544 continues to read as follows:

Authority: 49 U.S.C. 33112; delegation of authority at 49 CFR 1.50.

■ 2. Paragraph (a) of § 544.5 is revised to read as follows:

§ 544.5 General requirements for reports.

(a) Each insurer to which this part applies shall submit a report annually before October 25, beginning on October 25, 1986. This report shall contain the information required by § 544.6 of this part for the calendar year 3 years previous to the year in which the report is filed (*e.g.*, the report due by October 25, 2003 will contain the required information for the 2000 calendar year).

* * * * *

■ 3. Appendix A to part 544 is revised to read as follows:

Appendix A—Insurers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business

Allstate Insurance Group
American Family Insurance Group
American International Group
California State Auto Association
CGU Group
CNA Insurance Companies
Erie Insurance Group
Berkshire Hathaway/GEICO Corporation Group
Great American P & C Group
Hartford Insurance Group
Liberty Mutual Insurance Companies
Metropolitan Life Auto & Home Group
Nationwide Group
Progressive Group
SAFECO Insurance Companies
State Farm Group
Travelers/Citigroup Company
USAA Group
Farmers Insurance Group

■ 4. Appendix B to part 544 will continue to read as follows:

Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States

Alfa Insurance Group (Alabama)
Arbella Mutual Insurance (Massachusetts)
Auto Club of Michigan Group (Michigan)
Commerce Group, Inc. (Massachusetts)
Kentucky Farm Bureau Group (Kentucky)
New Jersey Manufacturers Group (New Jersey)
Southern Farm Bureau Group (Arkansas, Mississippi)
Tennessee Farmers Companies (Tennessee)

■ 5. Appendix C to part 544 is revised to read as follows:

Appendix C—Motor Vehicle Rental and Leasing Companies (Including Licensees and Franchisees) Subject to the Reporting Requirements of Part 544

Alamo Rent-A-Car, Inc.
ARI (Automotive Resources International)
Associates Leasing Inc.
Avis, Rent-A-Car, Inc.
Budget Rent-A-Car Corporation
Consolidated Service Corporation
Dollar Rent-A-Car Systems, Inc.
Donlen Corporation
Enterprise Rent-A-Car
GE Capital Fleet Services
Hertz Rent-A-Car Division (subsidiary of the Hertz Corporation)
Lease Plan USA, Inc.
National Car Rental System, Inc.
PHH Vehicle Management Services
Ryder TRS [1]
Thrifty Rental Car System Inc.[1]
U-Haul International, Inc. (Subsidiary of AMERCO)
Wheels Inc.

[1] Indicates a newly listed company, which must file a report beginning with the report due October 25, 2003.

Issued on: October 6, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–25659 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 68, No. 198
Tuesday, October 14, 2003

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–252–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F.28 Mark 0070 and 0100 series airplanes. This proposal would require a one-time general visual inspection of the left and right sides of the pedestal side cover adjacent to the rudder pedal on the cockpit floor for proper installation of the attachment bracket, and corrective actions if necessary. This action is necessary to prevent restricted movement of the rudder pedal due to a loose pedestal side cover causing interference, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 13, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–252–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–252–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 Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez; Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–252–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–252–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority—The Netherlands (CAA–NL), which is the airworthiness authority for the Netherlands, notified the FAA that an unsafe condition may exist on certain Fokker Model F.28 Mark 0070 and 0100 series airplanes. The CAA–NL advises that an operator reported that a pilot's foot became stuck between the pedestal side cover and the rudder pedal during alignment of the airplane with the runway during approach. The pilot was able to free his foot and land the airplane safely. Investigation revealed at least one similar incident occurred previously. A review of the aircraft maintenance manual revealed that it does not include instructions for installing the pedestal side cover in the attachment bracket; therefore, there may be airplanes in-service with loose pedestal side covers. This condition, if not corrected, could result in restricted movement of the rudder pedal due to a loose pedestal side cover causing interference, which could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

Fokker Services B.V. has issued Fokker Service Bulletin SBF100–25–092, dated February 4, 2002, which describes procedures for a one-time visual inspection of the left and right sides of the pedestal side cover adjacent to the rudder pedal on the cockpit floor for proper installation in the attachment brackets, and corrective actions if necessary. The corrective actions include the following:

• If an attachment bracket is present on both the left and right sides of the pedestal cover, the service bulletin provides procedures for checking each bracket to make sure the side cover is installed correctly into each bracket, and if it is not installed correctly, reinstall the side cover into the bracket.

• If any attachment bracket is missing, the service bulletin provides procedures for modifying the pedestal side cover attachment as specified in Part 2 of the Accomplishment Instructions of the service bulletin. The modification includes manufacturing and installing attachment angles (brackets), modifying the pedestal side cover, installing an angle assembly, and modifying the pedestal installation cover assembly, as applicable.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA–NL classified this service bulletin as mandatory and issued Dutch airworthiness directive 2002–111, dated July 31, 2002, to ensure the continued airworthiness of these airplanes in the Netherlands.

FAA's Conclusions

These airplane models are manufactured in the Netherlands and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA–NL has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA–NL, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 76 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspections, 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 $4,940, 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 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:

Fokker Services B.V.: Docket 2002–NM–252–AD.

Applicability: Model F.28 Mark 0070 and 0100 series airplanes, having serial numbers 11244 through 11585 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent restricted movement of the rudder pedal due to a loose pedestal side cover causing interference, which could result in reduced controllability of the airplane, accomplish the following:

Inspection and Corrective Actions

(a) Within 12 months after the effective date of this AD, do a one-time general visual inspection of the left and right sides of the pedestal side cover adjacent to the rudder pedal on the cockpit floor for proper installation of the attachment brackets, in accordance with Part 1 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–25–092, dated February 4, 2002.

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

(1) If both brackets are present and the pedestal side cover is properly installed, no further action is required by this AD.

(2) If one or both brackets are missing, or the pedestal side cover is improperly installed, before further flight, accomplish all of the applicable corrective actions in accordance with Part 2 of the Accomplishment Instructions of the service bulletin.

Alternative Methods of Compliance

(b) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Note 2: The subject of this AD is addressed in Dutch airworthiness directive 2002–111, dated July 31, 2002.

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

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–25866 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–277–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Hawker 800XP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Raytheon Model Hawker 800XP airplanes. This proposal would require replacement of certain existing pitot probes with new probes. This action is necessary to prevent loss or fluctuation of indicated airspeed, which could result in seriously misleading information being provided to the flightcrew. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by November 28, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–277–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm–nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–277–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 Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Chris B. Morgan, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4154; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–277–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–277–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports of in-flight loss of airspeed indication on Raytheon Model Hawker 800XP airplanes. One report indicated that the operator reported two occurrences of the following indications while flying the airplane at 41,000 feet in the vicinity of clouds: (1) Mach trim warning, (2) autopilot disconnect, and (3) airspeed indication (lost airspeed indication was on both sides the first time, and was lost on one side with an inaccurate reading on the other side the second time).

The cause of the loss of airspeed indication has been attributed to the freezing over of pitot probes in icing conditions above the 29,000-foot parameter defined in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR part 25). The heater inside the pitot probes is not powerful enough to prevent the accumulation of ice on the probes during conditions of high moisture content and lower temperatures. As ice forms on the pitot probes, it blocks the airflow into the instruments. This condition, if not corrected, could result in loss or fluctuation of indicated airspeed, which could result in seriously misleading information being provided to the flightcrew.

Explanation of Relevant Service Information

The FAA has reviewed and approved Raytheon Service Bulletin SB 34–3412, dated March 2001, which describes procedures for replacement of certain existing pitot probes with new probes having increased heating capability. The replacement includes installing a new ammeter, two new shunts, and improved electrical wiring. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between the Service Bulletin and This Proposed AD

The service bulletin recommends accomplishing the replacement ''no later than the next 24 month inspection''; however, this proposed AD would require that the replacement be done at the next 24-month inspection, but no later than 6 months after the effective date of the AD. In developing an appropriate compliance time for this proposed AD, we have considered the degree of urgency associated with the

subject unsafe condition, in addition to the fact that maintenance schedules vary among operators, depending on the average utilization of the affected fleet and the time necessary to perform the actions. In light of these factors, we find that this compliance time represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety.

Although the Accomplishment Instructions of the service bulletin describe procedures for reporting accomplishment of the service bulletin to Raytheon Aircraft Company, this proposed AD would not require that action.

Changes to 14 CFR Part 39/Effect on the Proposed AD

On July 10, 2002, we issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's 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.

Labor Rate Increase

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 224 airplanes of the affected design in the worldwide fleet. The FAA estimates that 155 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 50 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $65 per work hour. Required parts would cost approximately $11,425 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $2,274,625, or $14,675 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 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. The manufacturer may cover the cost of replacement parts associated with this proposed AD, subject to warranty conditions. Manufacturer warranty remedies may also be available for labor costs associated with this proposed AD. As a result, the costs attributable to the proposed AD may be less than stated above.

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:

Raytheon Aircraft Company: Docket 2002–NM–277–AD.

Applicability: Model Hawker 800XP airplanes having serial number 258266 and serial numbers 258277 through 258500 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss or fluctuation of indicated airspeed, which could result in seriously misleading information being provided to the flightcrew, accomplish the following:

Replacement

(a) At the next scheduled 24-month inspection, but no later than 6 months after the effective date of this AD: Replace the existing Rosemount Aerospace 853JF pitot probes with new Rosemount Aerospace 853JF1 pitot probes (includes installing a new ammeter, two new shunts, and improved electrical writing), by doing all the actions in paragraph 3.A. of the Accomplishment Instructions of Raytheon Service Bulletin SB 34–3412, dated March 2001. Do the actions per the service bulletin.

Parts Installation

(b) As of the effective date of this AD, no person shall install a Rosemount Aerospace 853JF pitot probe, or an ammeter having P/N 2132–01–0017, on any airplane.

Alternative Methods of Compliance

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

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

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–25867 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–275–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–90–30

airplanes, that currently requires repetitive fluorescent penetrant and magnetic particle inspections to detect fatigue cracking of the main landing gear (MLG) piston, and repair if necessary. This action would expand the applicability of the existing AD to require the currently required inspections, and corrective actions if necessary, on additional airplanes and MLG piston part numbers, and would require repetitive inspections for evidence of cracking in the paint topcoat of the MLG pistons. This action also would require replacement of certain MLG shock strut piston assemblies with new or serviceable improved assemblies, which would terminate the requirements of this AD. These actions are necessary to prevent fatigue cracking of MLG pistons, which could result in failure of the pistons, and consequent damage to the airplane structure and injury to flightcrew, passengers, or ground personnel. These actions are intended to address the identified unsafe condition.

DATES: Comments must be received by November 28, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–275–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–275–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Carl Fountain, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5222; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–275–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–275–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On February 8, 2000, the FAA issued AD 2000–03–08, amendment 39–11567 (65 FR 7719, February 16, 2000), applicable to certain McDonnell Douglas Model MD–90–30 airplanes, to require repetitive fluorescent penetrant and magnetic particle inspections to detect fatigue cracking of the main landing gear (MLG) piston, and repair if necessary. That action was prompted by reports that, during towing of in-service airplanes, MLG failures occurred due to fatigue cracks. The requirements of that AD are intended to detect and correct fatigue cracking of MLG pistons, which could result in failure of the pistons, and consequent damage to the airplane structure and injury to flightcrew, passengers, or ground personnel.

In the preamble to AD 2000–03–08, we specified that the actions required by that AD were considered ''interim action'' and that the manufacturer was developing a modification to address the unsafe condition. We indicated that we might consider further rulemaking action once the modification was developed, approved, and available. The manufacturer now has developed such a modification, and we have determined that further rulemaking action is indeed necessary. This proposed AD follows from that determination.

Actions Since Issuance of Previous Rule

Since the issuance of AD 2000–03–08, we have issued AD 2002–10–03, amendment 39–12749 (67 FR 34823), which applies to certain McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), MD–88, and MD–90–30 airplanes. For Model MD–90–30 airplanes, that AD requires replacement of certain MLG shock strut piston assemblies with new or serviceable improved assemblies, according to Boeing Service Bulletin MD90–32–031, Revision 01, dated April 25, 2001. Accomplishment of that replacement will terminate the requirements of this AD, as noted in paragraph (b) of AD 2002–10–03. Therefore, we have included in paragraph (j) of this proposed AD the requirements of paragraph (a) of AD 2002–10–03 that apply to the Model MD–90–30 airplanes subject to this proposed AD. The compliance time for the replacement specified in this proposed AD (''Before the accumulation of 30,000 total landings on the MLG shock strut piston assemblies, or within 5,000 landings after June 20, 2002 (the effective date of AD 2002–10–03, amendment 39–12749), whichever occurs later'') is the same as the compliance time in paragraph (a) of AD 2002–10–03. Once this proposed AD becomes effective, we may consider further rulemaking to revise or rescind AD 2002–10–03 to remove the duplicate requirement.

Explanation of Relevant Service Information

We have reviewed and approved Boeing Service Bulletin MD90–32–012, Revision 03, dated June 29, 2001. (AD 2000–03–08 refers to Boeing Service Bulletin MD90–32–012, Revision 01, dated June 2, 1998, as the acceptable source of service information for the actions required by that AD. Also, the applicability statement of AD 2000–03–08 states that the AD applies to Model MD–90–30 airplanes as listed in Boeing Service Bulletin MD90–32–012, Revision 01). Revision 03 of the service bulletin is also effective for additional airplanes and MLG piston part numbers that were not included in Revision 01 of the service bulletin. Revision 03 describes procedures for initial fluorescent penetrant and magnetic particle inspections to detect cracking of the MLG torque link lugs; follow-on repetitive visual, fluorescent penetrant, and magnetic particle inspections for cracking of the MLG torque link lugs; and repetitive visual inspections for evidence of cracking in the paint topcoat, and, if any evidence of cracking in the paint topcoat is found, a follow-on NDT inspection of the MLG piston to determine if any cracking is present. Revision 03 of the service bulletin specifies to contact Boeing for repair instructions if any crack is found.

As explained previously in the preamble of the notice of proposed rulemaking (NPRM) for AD 2002–10–03, the FAA has reviewed and approved Boeing Service Bulletin MD90–32–031, Revision 01. That service bulletin describes procedures for replacement of the MLG shock strut piston assemblies, left and right-hand side, with new or serviceable, improved assemblies, which would eliminate the need for the repetitive inspections described above.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 2000–03–08 to continue to require repetitive fluorescent penetrant and magnetic particle inspections to detect fatigue cracking of the MLG piston, and repair if necessary. The proposed AD would expand the applicability of the existing AD to include additional airplanes and MLG piston part numbers. These actions would be required to be accomplished per Boeing Service Bulletin MD90–32–012, Revision 03, which was described previously, except as discussed below under the heading ''Differences Between Proposed AD and Service Bulletin.'' The proposed AD also would require replacement of certain MLG shock strut piston assemblies with new or serviceable improved assemblies, which would terminate the existing requirements of this proposed AD. This action would be required to be accomplished per Boeing Service Bulletin MD90–32–031, Revision 01.

Operators may note that, consistent with the provisions of Boeing Service Bulletin MD90–32–012, Revision 03, if any evidence of cracking in the paint topcoat of the MLG piston is found, the proposed AD would allow deferral, for the earlier of 7 days or 50 landings, of the follow-on NDT inspection to detect any cracking of the MLG piston. We have determined that, for this proposed AD, such a deferral would not adversely affect the continued operating safety of an affected airplane. Accomplishment of the NDT inspection for cracking of the MLG piston, and any necessary repair, within 7 days or 50 landings after evidence of cracking in the topcoat paint is found, would adequately ensure that any cracking of the MLG piston would be detected before it represents a hazard to the airplane.

Differences Between Proposed AD and Service Bulletin

Although Boeing Service Bulletin MD90–32–012, Revision 03, describes procedures for fluorescent penetrant and magnetic particle inspections, that service bulletin does not emphasize the sequence of these inspections. We find that, in each inspection cycle, it is necessary for the fluorescent penetrant inspection to precede the magnetic particle inspection. This sequencing is important because we are aware of cases in which accomplishment of a magnetic particle inspection before a fluorescent penetrant inspection interfered with the results of the fluorescent penetrant inspection. Therefore, paragraph (e) has been included in this proposed AD to clarify that, for inspections performed after the effective date of this AD, accomplishment of the fluorescent penetrant inspection must precede accomplishment of the magnetic particle inspection.

Operators should note that, although Boeing Service Bulletin MD90–32–012, Revision 03, specifies that the manufacturer may be contacted for disposition of repair conditions, this proposed AD would require repairs to be accomplished per a method approved by the FAA.

Cost Impact

There are approximately 114 Model MD–90–30 airplanes of the affected design in the worldwide fleet.

In AD 2000–03–08, we estimated that the actions in that AD applied to 15 airplanes of U.S. registry. The actions that are currently required by AD 2000–03–08 take approximately 2 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $1,950, or $130 per airplane, per inspection cycle.

The FAA estimates that 21 airplanes of U.S. registry would be affected by this new proposed AD.

The new inspections that are proposed in this AD action would take approximately 2 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $2,730, or $130 per airplane.

As explained previously, the replacement of MLG pistons that is included in this proposed AD is already required by AD 2002–10–03. Therefore, this proposed AD would add no new costs associated with that action. We restate the cost impact estimate in its entirety in this proposed AD for the convenience of affected operators:

The replacement that is included in this AD action and currently required by AD 2002–10–03 takes approximately 28 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Required parts cost approximately $263,438 per airplane. Based on these figures, the cost impact of this requirement on U.S. operators of airplanes subject to this proposed AD is estimated to be $5,570,418, or $265,258 per airplane.

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

attributable to the proposed AD may be less than stated above.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11567 (65 FR 7719, February 16, 2000), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 2001–NM–275–AD. Supersedes AD 2000–03–08, Amendment 39–11567.

Applicability: Model MD–90–30 airplanes listed in Boeing Service Bulletin MD90–32–012, Revision 03, dated June 29, 2001; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of main landing gear (MLG) pistons, which could result in failure of the pistons, and consequent damage to the airplane structure and injury to flightcrew, passengers, or ground personnel, accomplish the following:

Restatement of Requirements of AD 2000–03–08

Inspection of MLG Piston Part Number 5935347–509

(a) For airplanes listed in McDonnell Douglas Service Bulletin MD90–32–012, Revision 01, dated June 2, 1998: For MLG pistons, part number (P/N) 5935347–509, perform fluorescent penetrant and magnetic particle inspections to detect fatigue cracking of the MLG pistons, in accordance with McDonnell Douglas Service Bulletin MD90–32–012, dated May 19, 1997, or Revision 01, dated June 2, 1998; or Boeing Service Bulletin MD90–32–012, Revision 03, dated June 29, 2001; at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD. Repeat the inspections thereafter at intervals not to exceed 2,500 landings.

(1) Prior to the accumulation of 4,000 total landings; or

(2) Within 2,500 landings or 12 months after March 22, 2000 (the effective date of AD 2000–03–08, amendment 39–11567), whichever is first.

Inspection of MLG Piston Part Numbers 5935347–511 and –513

(b) For airplanes listed in McDonnell Douglas Service Bulletin MD90–32–012, Revision 01, dated June 2, 1998: For MLG pistons, P/Ns 5935347–511 and –513, within 5,000 landings after March 22, 2000, perform fluorescent penetrant and magnetic particle inspections to detect fatigue cracking of the MLG pistons, in accordance with McDonnell Douglas Service Bulletin MD90–32–012, dated May 19, 1997, or Revision 01, dated June 2, 1998; or Boeing Service Bulletin MD90–32–012, Revision 03, dated June 29, 2001. Repeat the inspections thereafter at intervals not to exceed 5,000 landings.

Repair

(c) If any crack is found during any inspection required by paragraphs (a), (b), or (f) of this AD: Repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. For a repair method to be approved by the Manager, Los Angeles ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

New Requirements of This AD

No Requirement To Submit Information

(d) Although Boeing Service Bulletin MD90–32–012, Revision 03, dated June 29, 2001, specifies to submit information to the manufacturer, this AD does not include such a requirement.

Clarification of Inspection Sequence

(e) For inspections accomplished after the effective date of this AD: Where this AD requires fluorescent penetrant and magnetic particle inspections, accomplishment of the fluorescent penetrant inspection must precede accomplishment of the magnetic particle inspection.

Inspection of MLG Piston P/Ns 5935347–1 through –509, –511, and –513; and SR09320081–3 through –13

(f) For any MLG piston having P/N 5935347–1 through –509, –511, or –513; or P/Ns SR09320081–3 through –13: Perform fluorescent penetrant and magnetic particle inspections to detect fatigue cracking of the MLG pistons, in accordance with Boeing Service Bulletin MD90–32–012, Revision 03, dated June 29, 2001. Do the initial inspections at the later of the times specified in paragraphs (f)(1) and (f)(2) of this AD, except as provided by paragraph (g) of this AD. Repeat the inspections thereafter at intervals not to exceed 5,000 landings.

(1) Prior to the accumulation of 4,000 total landings; or

(2) Within 2,500 landings or 12 months after the effective date of this AD, whichever is first.

MLG Pistons Inspected Per Paragraph (a) or (b) of This AD

(g) MLG pistons having P/N 5935347–509, -511, or -513 that have been inspected as required by paragraph (a) or (b) of this AD, as applicable, are not required to be reinspected per paragraph (f) of this AD.

Repetitive Inspections for Evidence of Cracking and Follow-on Actions

(h) During the first brake change after the effective date of this AD, perform a general visual inspection to find evidence of cracking in the paint topcoat of the MLG piston, per the Accomplishment Instructions of Boeing Service Bulletin MD90–32–012, Revision 03, dated June 29, 2001. Repeat this inspection during every brake change.

(1) If any evidence of cracking in the paint topcoat, as described in the service bulletin, is found: Within 7 days or 50 landings after the evidence is found, whichever is first, perform a non-destructive test (NDT) inspection of the MLG piston to determine if there is any cracking.

(2) If any crack is found during the NDT inspection required by paragraph (h)(1) of this AD, before further flight, repair per a method approved by the Manager, Los Angeles ACO. For a repair method to be approved by the Manager, Los Angeles ACO, as required by this paragraph, the Manager's approval letter must specifically refer to 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.''

Inspections Accomplished Per Previous Issue of Service Bulletin

(i) Inspections accomplished before the effective date of this AD per McDonnell Douglas Service Bulletin MD90–32–012, Revision 02, dated June 29, 1999, are considered acceptable for compliance with the corresponding action specified in this AD.

Replacement of MLG Shock Strut Piston Assemblies

(j) Before the accumulation of 30,000 total landings on the MLG shock strut piston assemblies, or within 5,000 landings after June 20, 2002 (the effective date of AD 2002–10–03, amendment 39–12749), whichever occurs later: Replace the MLG shock strut piston assemblies, left- and right-hand sides, with new or serviceable improved assemblies, per the Accomplishment Instructions of Boeing Service Bulletin MD90–32–031, Revision 01, dated April 25, 2001. If the MLG shock strut piston is not serialized or the number of landings on the piston cannot be conclusively determined, consider the total number of landings on the piston assembly to be equal to the total number of landings accumulated by the airplane with the highest total number of landings in the operator's fleet.

Note 2: Paragraph (a) of AD 2002–10–03, amendment 39–12749, requires the same actions as paragraph (j) of this AD.

Compliance With Requirements of Other ADs

(k) Accomplishment of the replacement required by paragraph (j) of this AD constitutes terminating action for the requirements of this AD and AD 2002–10–03, amendment 39–12749, for the Model MD–90–30 airplanes listed in Boeing Service Bulletin MD90–32–012, Revision 03, dated June 29, 2001.

Alternative Methods of Compliance

(l)(1) In accordance with 14 CFR 39.19, the Manager, Los Angeles ACO, is authorized to approve alternative methods of compliance for this AD.

(2) Alternative methods of compliance, approved previously per AD 2000–03–08, amendment 39–11567, are approved as alternative methods of compliance with paragraphs (a), (b), and (c) of this AD.

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

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–25868 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–03–096]

RIN 1625–AA09

Drawbridge Operation Regulations; Rahway River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the drawbridge operating regulations governing the operation of the Conrail Bridge, mile 2.0, across the Rahway River at Linden, New Jersey. This proposed rule would allow the bridge to be operated from a remote location. The bridge would remain in the open position at all times except for the passage of rail traffic. This rule is expected to relieve the bridge owner of the burden of crewing the bridge at all times while still providing for the reasonable needs of navigation.

DATES: Comments must reach the Coast Guard on or before December 15, 2003.

ADDRESSES: You may mail comments and related material to Commander (obr), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York, 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joe Arca, Project Officer, First Coast Guard District, (212) 668–7069.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–03–096), 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 if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background and Purpose

The Conrail Bridge has a vertical clearance of 6 feet at mean high water and 11 feet at mean low water in the closed position.

The existing drawbridge operation regulations listed at 33 CFR 117.743, require the bridge to open on signal from April 1 through November 30, from 6 a.m. to 10 p.m. At all other times, the bridge opens on signal if at least a four-hour notice is given.

The Conrail Bridge across the Rahway River is navigated predominantly by small recreational vessels April through November.

The owner of the bridge, Consolidated Rail Corporation (Conrail), requested a change to the drawbridge operation regulations that would allow the bridge owner to operate the bridge from a remote location. The bridge would be operated from the remote location by a bridge/train dispatcher located at the Conrail Dispatch Office at Mount Laurel, New Jersey. The on scene bridge tender would be eliminated by this rulemaking.

It is expected that this proposed rule, if adopted, would relieve the bridge owner of the burden of crewing the bridge at all times while still meeting the reasonable needs of navigation.

Discussion of Proposal

This proposed rule would relieve the bridge owner from the burden of crewing the bridge at all times by allowing the bridge to be operated from a remote location while still meeting the reasonable needs of navigation.

Under this proposed rule the bridge would remain in the full open position at all times and be closed only for the passage of rail traffic. The procedure for closing the Conrail Bridge to vessel

traffic to allow the passage of rail traffic across the waterway would be as follows:

All rail traffic approaching the bridge would be stopped at a safe point before crossing the bridge; a train crewmember would detrain and relocate to a good vantage point to observe the waterway both up and down stream. Any vessel traffic observed approaching the bridge would be allowed to pass through the bridge before closing; once it is determined that no vessel traffic is approaching or under the bridge, the train crewmember would then communicate by radio or telephone with the remotely located bridge/train dispatcher at the Conrail Dispatch Office, at Mount Laurel, New Jersey, requesting the bridge to be closed.

Before closing the bridge a public address system would announce that the bridge is closing, a marine traffic light system located at the bridge facing both upstream and downstream would change from flashing green to flashing red, and a horn would sound two times, pause 10 seconds, then repeat two horn blasts until the bridge is seated and locked down.

During the downward bridge span closing the bridge/train dispatcher would continually monitor the infrared sensor system to ensure that no vessel traffic is approaching or passing under the bridge. After the rail traffic has cleared the bridge, the horn would sound five times to signal that the bridge is about to open.

Based upon all the above information, the Coast Guard believes that this proposed rule is reasonable. It is expected that this rule will relieve the bridge owner from the burden of crewing the bridge at all times while still meeting the reasonable needs of navigation.

Regulatory Evaluation

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

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under the regulatory policies and procedures of DHS, is unnecessary.

This conclusion is based on the fact that the bridge would be open for vessel traffic at all times, except for the passage of rail traffic.

Small Entities

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

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

This conclusion is based on the fact that the bridge would be open for vessel traffic at all times, except for the passage of rail traffic.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have analyzed this proposed 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 proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environment documentation because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.743 is revised to read as follows:

§ 117.743 Rahway River.

The draw of the Conrail Bridge, mile 2.0, across the Rahway River, at Linden, New Jersey, shall operate as follows:

(a) The draw shall remain in the full open position at all times, and shall only be closed for the passage of rail traffic or the performance of maintenance authorized in accordance with subpart A of this part.

(b) The draw shall be remotely operated by a bridge/train dispatcher located at the Conrail Dispatch Office at Mount Laurel, New Jersey.

(c) A marine traffic light system shall be maintained at the bridge and display flashing green lights to indicate that vessels may pass through the bridge, and flashing red lights any time the bridge is not in the full open position.

(d) An infrared sensor system shall be maintained at the bridge to determine that no conflict with vessel traffic exists while the bridge is closing.

(e) Before the bridge may be closed from the remote location, an on-site train crewmember shall observe the waterway for any vessel traffic. All approaching vessels shall be allowed to pass before the bridge may close. The on-site train crewmember shall then communicate with the bridge/train dispatcher at the Conrail Dispatch Office, at Mount Laurel, either by radio or telephone, to request that the bridge be closed.

(f) While the bridge is moving from the full open to full closed position, the bridge/train dispatcher shall maintain constant surveillance of the navigational channel at the bridge using the infrared sensor system.

(g) If the infrared sensors detect a vessel or other obstruction approaching or under the bridge before the draw is fully lowered and locked, the closing sequence is stopped, automatically, and the draw is raised to its fully open position until the channel is clear.

(h) During the downward bridge closing movement, the marine traffic light system located at the bridge will change from flashing green to flashing red, the public address system will announce that the bridge will be closing, and the horn will sound two times, pause 10 seconds, then repeat two horn blasts until the bridge is seated and fully locked down.

(i) When all rail traffic has cleared the bridge, the bridge/train dispatcher will sound the horn five times to signal that the draw is about to open.

(j) In the event of a failure, or obstruction to the infrared sensor system, the bridge shall immediately be returned to the full open position until the problem is corrected.

(k) In the event of a loss of communication between the on-site personnel and the bridge/train dispatcher, the bridge shall immediately be returned to the full open position until the problem is corrected.

(l) Should the draw become inoperable from the remote site while the bridge is in the closed position, a bridge tender, maintenance personnel, or engineer shall be deployed to be on site within one hour from the time the draw becomes inoperable until the bridge can be returned to the full open position.

(m) Trains shall be controlled so that any delay in opening of the draw shall not exceed ten minutes after a train has crossed the bridge; except as provided in 33 CFR 117.31(b). However, if a train moving toward the bridge has crossed the home signal for the bridge, the train may continue across the bridge and must clear the bridge interlocks before stopping.

Dated: September 29, 2003.

John L. Grenier,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 03–25892 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 253–0405b; FRL–7567–7]

Revisions to the California State Implementation Plan, El Dorado County Air Pollution Control District and Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the El Dorado County Air Pollution Control District (EDCAPCD) and Santa Barbara County Air Pollution Control District (SBCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern nitrogen oxide (NO_X) emissions from biomass boilers and from large water heaters and small boilers. We are proposing to approve a local rule under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by November 13, 2003.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; *steckel.andrew@epa.gov.*

You can inspect a copy of the submitted rule revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see a copy of the submitted rule revisions and TSDs at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, (Mail Code 6102T), Room B–102, 1301 Constitution Avenue, NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

El Dorado County Air Pollution Control District, 2850 Fairlane Court, Building C, Placerville, CA 95667.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, Suite B–23, Goleta, CA 93117.

A copy of the rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm.* Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of local EDCAPCD Rule 232 and SBCAPCD Rule 360. In the Rules section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: September 3, 2003.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 03–25801 Filed 10–10–03; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY 135—200337(b); FRL–7573–1]

Approval and Promulgation of Implementation Plans for Kentucky: Source-Specific Revision for Marathon Ashland Petroleum Marine Repair Terminal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a source-specific revision to the State Implementation Plan (SIP) of the Commonwealth of Kentucky. This revision requires the Marathon Ashland Petroleum Marine Repair Terminal (MAPMRT) to implement volatile organic compound (VOC) reasonably available control technology (RACT) for its barge cleaning operation as part of a contingency measure implemented for the Huntington-Ashland 1-Hour Ozone Maintenance Area. In the Final Rules Section of this **Federal Register,** the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before November 13, 2003.

ADDRESSES: Comments may be submitted by mail to: Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in the direct final rule, **SUPPLEMENTARY INFORMATION** (sections VI.B.1. through 3.), which is published in the Rules Section of this **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Phone: (404) 562–9031. E-mail: *notarianni.michele@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register.**

Dated: October 1, 2003.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 03–25799 Filed 10–10–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Parts 61 and 62

RIN 1660–AA28

National Flood Insurance Program (NFIP); Assistance to Private Sector Property Insurers

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

ACTION: Proposed rule.

SUMMARY: FEMA is proposing to amend the Federal Insurance Administration, Financial Assistance/Subsidy Arrangement (''Arrangement'') and related regulations regarding issues of Federal jurisdiction and Federal law for lawsuits involving Write-Your-Own (WYO) Companies and the rules for reimbursing WYO Companies for the cost of litigation, including issues of agent negligence and the relationship of the agent to the WYO Company. Additionally, FEMA is amending procedures for companies seeking to become and ceasing to be WYO Companies.

On September 5, 2003, FEMA published an interim final rule that amends FEMA's Arrangement. The purpose of that rule was to extend the current Arrangement for 3 months to allow FEMA to make the changes proposed in this rulemaking.

DATES: FEMA invites comments on this proposed rule, which should be received on or before November 13, 2003.

ADDRESSES: Please send your comments to the Rules Docket Clerk, Office of the General Counsel, FEMA, 500 C Street, SW., Room 840, Washington, DC 20472, (facsimile) 202–646–4536, or (email) *rules@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Charles Plaxico, FEMA, 500 C Street, SW., Washington, DC 20472, (phone) 202–646–3422, (facsimile) 202–646–4327, or (email) *Charles.Plaxico@dhs.gov.*

SUPPLEMENTARY INFORMATION: Under the Arrangement, approximately 100 private sector property insurers issue flood insurance policies and adjust flood insurance claims under their own names, based on an arrangement with the Federal Insurance Administration (FIA) (44 CFR Part 62, Appendix A). The WYO insurers receive an expense allowance and remit the remaining premium to the Federal Government. The Federal Government pays WYO insurers for flood losses and pays loss adjustment expenses based on a fee schedule. Litigation costs, including court costs, attorney fees, judgments, and settlements, are paid by FIA based on submitted documentation. The Arrangement provides that under certain circumstances reimbursement for litigation costs will not be made. FEMA proposes several changes to the Arrangement and related regulations.

FEMA proposes to clarify 44 CFR 61.5 by creating a new Section f from the current text of Section e. FEMA proposes to add 44 CFR 61.5(f) to provide that agents utilized by a WYO

Company, like agents utilized by FEMA, act for the insured and are not agents of the WYO Company.

FEMA proposes to amend 44 CFR 62.22(a) to clarify that its provisions for Federal jurisdiction include WYO Companies.

FEMA proposes to amend 44 CFR 62.23(g) to recognize WYO Companies as fiscal agents of the Federal Government. This is based on section 1340(a)(1) of the National Flood Insurance Act of 1968, as amended. FEMA believes this change will clarify matters of jurisdiction and choice of law for WYO Companies. However, WYO Companies are not recognized as general agents of the Federal Government. The proposed amendment also provides that the Federal Government is not a proper party defendant in any lawsuit arising out of a WYO policy.

The remaining proposed amendments apply to Appendix A to Part 62—Federal Emergency Management Agency, Federal Insurance Administration, Financial Assistance/Subsidy Arrangement.

In Article I, FEMA proposes to amend the fifth paragraph to refer to the Federal Treasury, to clarify that WYO Companies are responsible for Federal funds. A companion proposed amendment to Article III, Section D.1, also refers to Federal funds. FEMA proposes to add two new paragraph clauses to Article I to emphasize the Federal nature of the WYO Companies' activities under the Arrangement, and support the application of Federal law in Federal Court to lawsuits arising under the Arrangement.

FEMA proposes to delete the tenth paragraph as currently drafted in Article I to clarify that policyholders and applicants are not direct beneficiaries of the Arrangement.

FEMA proposes to amend Article II, Section G to clarify the WYO Company's duty to comply with written standards, procedures, and guidance issued by FEMA or FIA.

FEMA proposes to amend Article III, Section B to delete the word ''their'' before the phrase ''insurance agents'' to be consistent with the proposed amendment to 44 CFR 61.5(e), as discussed above, that provides that the WYO agent is not the agent of the WYO Company.

FEMA proposes to amend Article III, Section D.2 to provide that failure to meet these requirements may result in no reimbursement, which is similar to a statement in the deleted Article III, Section D.3. The reference to Article IX in Article III, Section D.2 would be deleted in light of FEMA's proposed amendment of Article IX to restrict it to matters not in litigation. FEMA proposes to delete Article III, Section D.3 because its litigation documentation and notification requirements have been established by FEMA outside the Arrangement.

FEMA proposes to amend Article III, Section D.4 (now renumbered as Article III, Section D.3), concerning reimbursement for WYO Company litigation costs, to delete the reference to insurer negligence and the cross-reference to Article IX. The issue of insurer negligence for matters in litigation will be dealt with in the context of the other standards in the new Article III, Section D.3. Article IX would now only apply to insurer negligence that has not resulted in litigation. The existing ''significantly outside the scope'' standard will be left in the new Article III, Section D.3. A provision will be added relating to a pattern of errors found in operation reviews, audits, or a review after litigation has been filed.

Agent negligence would continue to be grounds for non-reimbursement of litigation costs. FEMA would continue to evaluate whether a WYO Company would be reimbursed for costs, fees, and settlement payments (when appropriate) when agent negligence is alleged against that WYO Company for which they could be held financially responsible. Where FEMA determines that there is no agent negligence, the WYO Company would be reimbursed for the litigation costs of defending itself against the possibility that it could be held financially responsible for agent negligence; where FEMA determines that there is agent negligence, the WYO Company may still be reimbursed for litigation costs for the defense of policy provisions and for its own negligence. FEMA has not changed the general rule that litigation costs are not reimbursable if they relate to actions that are significantly outside the scope of the Arrangement.

FEMA proposes to expressly recognize that a part of litigation could be ''significantly outside the scope'' of the Arrangement while part is within the scope. In such a case, reimbursement would be based on the appropriate division of responsibility, if possible. Reimbursement for legal expenses (''costs to defend such litigation'') will now be explicitly treated the same way as reimbursement for awards or judgments. A WYO Company can now petition the Federal Insurance Administrator, (''Administrator'') instead of the Standards Committee, for reconsideration of a decision not to reimburse for litigation. The Administrator could then seek the advice of the Standards Committee. There will no longer be a deadline for a decision.

FEMA proposes to amend Article III, Section E to clarify that WYO Companies must follow the refund rules established by FIA since flood insurance premiums are funds of the Federal Government.

FEMA proposes to amend Article V to clarify the procedures for a company to become, or to cease to be, a WYO Company. Companies will also be required to inform FEMA of their intent to continue in or leave the program within 30 days of the offer.

In Article V, Section C, the time during which the WYO Company can be required to continue performance while it exits the program by running off or transferring its business will be extended from 1 year to 18 months. Notice and billing cycles make the one-year limit impractical. The proposed amendment will also require a WYO Company to tell FEMA if it plans to leave the program during the Arrangement year.

FEMA proposes to amend Article V, Section C.1.a to set out the requirements when the business is to be transferred to FIA. The proposed amendment also would establish in Article V, Section C.2 the requirement for FIA approval of transfer of the business to another WYO Company.

FEMA proposes to amend Article V, Section D to formalize the possibility of non-renewal of the Arrangement by FIA for material failure of the WYO Company to comply with the Arrangement or to take corrective action required by the FIA, and to offer the alternative of permitting the transfer by sale, subject to FIA approval, as in Article V, Section C.2.

FEMA proposes to re-designate Article V, Section F (cancellation of the Arrangement resulting from an order or directive issued by a Department of Insurance) to Section E so that it immediately follows Section D (cancellation of the Arrangement by FIA) because these two sections are parallel in purpose and construction and should be placed together. This results in existing Section E being re-designated as Section F. The new Section E allows the possibility of the sale of the book of business, subject to FIA approval, similar to the proposed revision to Section D.

FEMA proposes to amend Article VII, Section C to make its provisions regarding settlement of accounts when the WYO Company's participation ends applicable to situations where the WYO Company is unable to or not permitted

to participate, as well as where the WYO Company elects not to participate. In addition, the final settlement will now be made subject to audit.

FEMA proposes to amend Article IX to address only matters not in litigation. Its provisions regarding reimbursement of the WYO Company are consistent with the new Article III, Section D.3, which addresses matters in litigation. To be consistent with Article III, Section D.3, FEMA amends the existing Article IX language, ''error or omission,'' to ''negligence.'' It provides that there will be no reimbursement for claims against the WYO Company grounded in actions ''significantly outside the scope.''

FEMA proposes to amend Article XVI to reflect the proposed changes to 44 CFR 62.23(g), as discussed above.

On September 5, 2003, FEMA published an interim final rule, 68 FR 52700, that amends the Arrangement. The purpose of that rule was to extend the current Arrangement for three months to allow FEMA to make the changes proposed in this rulemaking.

National Environmental Policy Act

This proposed rule falls within the exclusion category 44 CFR part 10.8(d)(2)(ii), which addresses the preparation, revision, and adoption of regulations, directives, manuals, and other guidance documents related to actions that qualify for categorical exclusions. Because no other extraordinary circumstances have been identified, this proposed rule will not require the preparation of either an environmental assessment or an environmental impact statement as defined by the National Environmental Policy Act.

Executive Order 12866, Regulatory Planning and Review

We have prepared and reviewed this proposed rule under the provisions of Executive Order 12866, Regulatory Planning and Review. Under Executive Order 12866, 58 FR 51735, Oct. 4, 1993, a significant regulatory action is subject to review by the Office of Management and Budget (''OMB'') and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in th[e] Executive [O]rder.

For the reasons that follow, FEMA has concluded that this proposed rule is neither a significant regulatory action nor an economically significant rule under the Executive Order. This proposed rule amends the Arrangement and related regulations to clarify issues of Federal jurisdiction and Federal law for disputes involving WYO Companies and the rules for reimbursing WYO Companies for the cost of litigation. It will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, the insurance sector, competition, or other sectors of the economy. It will create no serious inconsistency or otherwise interfere with an action taken or planned by another agency. It will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Finally, it does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

OMB has not reviewed this rule under the principles of Executive Order 12866.

Paperwork Reduction Act

This proposed rule does not contain a collection of information and is therefore not subject to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, agencies must consider the impact of their rulemakings on ''small entities'' (small businesses, small organizations and local governments). When 5 U.S.C. 553 requires an agency to publish a notice of proposed rulemaking, the Act requires a regulatory flexibility analysis for both the proposed rule and the final rule if the rulemaking could ''have a significant economic impact on a substantial number of small entities.'' The Act also provides that if a regulatory flexibility analysis is not required, the agency must certify in the rulemaking document that the rulemaking will not ''have a significant economic impact on a substantial number of small entities.''

A regulatory flexibility analysis is not required for this proposed rule because it would not have a significant economic impact on a substantial number of small entities.

Executive Order 13132, Federalism

Executive Order 13132, Federalism, dated August 4, 1999, sets forth principles and criteria to which agencies must adhere in formulating and implementing policies that have federalism implications; that is, regulations that have substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the statutory authority supporting any action that would limit the policymaking discretion of the States, and must consult with State and local officials before implementing any such action to the extent practicable.

FEMA has reviewed this proposed rule under Executive Order 13132 and concludes that the proposed rule has no federalism implications as defined by the Executive Order. FEMA has determined that the rule does not significantly affect the rights, roles, and responsibilities of States, involves no preemption of State law and does not limit State policymaking discretion.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of § 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Parts 61 and 62

Claims, Flood insurance.

Accordingly, we propose to amend 44 CFR parts 61 and 62 as follows:

PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Amend § 61.5 by revising paragraph (e) and add a new paragraph (f) to read as follows:

§ 61.5 Special terms and conditions.

* * * * *

(e) The standard flood insurance policy is authorized only under the terms and conditions established by Federal statute, the program's regulations, the Administrator's

interpretations, and the express terms of the policy itself. Any representations regarding the extent and scope of coverage which are not consistent with the National Flood Insurance Act of 1968, as amended, or the Program's regulations are void.

(f) Any duly licensed property or casualty agent selling and servicing NFIP policies acts for the insured, and does not act as agent for the Federal Government, the Federal Emergency Management Agency, the Federal Insurance Administration, the servicing agent, or the Write-Your-Own Company.

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

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

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

4. Amend § 62.22 by revising paragraph (a) to read as follows:

§ 62.22 Judicial review.

(a) Upon the disallowance by the Federal Insurance Administration, a participating Write-Your-Own Company, or the servicing agent of any claim on grounds other than failure to file a proof of loss, or upon the refusal of the claimant to accept the amount allowed upon any claim after appraisal pursuant to policy provisions, the claimant within one year after the date of mailing by the Federal Insurance Administration, the participating Write-Your-Own Company, or the servicing agent of the notice of disallowance or partial disallowance of the claim may, pursuant to 42 U.S.C. 4072, institute an action on such claim against the insurer only in the U.S. District Court for the district in which the insured property or the major portion thereof shall have been situated, without regard to the amount in controversy.

* * * * *

5. Amend § 62.23 by revising paragraph (g) to read as follows:

§ 62.23 WYO Companies authorized.

* * * * *

(g) A WYO Company shall act as a fiscal agent of the Federal Government, but not as its general agent. WYO Companies are solely responsible for their obligations to their insured under any flood insurance policies issued under agreements entered into with the Administrator, such that the Federal Government is not a proper party defendant in any lawsuit arising out of such policies.

* * * * *

6. In Appendix A to part 62, revise the *Effective Date* to read as follows:

Appendix A to Part 62—Federal Emergency Management Agency, Federal Insurance Administration, Financial Assistance/Subsidy Arrangement

* * * * *

Effective Date: January 1, 2004.

* * * * *

7. In Appendix A to part 62, revise Article I to read as follows:

Appendix A to Part 62–Federal Emergency Management Agency, Federal Insurance Administration, Financial Assistance/Subsidy Arrangement

* * * * *

Article I—Findings, Purpose, and Authority

Whereas, the Congress in its ''Finding and Declaration of Purpose'' in the National Flood Insurance Act of 1968, as amended, (''the Act'' or ''Act'') recognized the benefit of having the National Flood Insurance Program (the ''Program'' or ''NFIP'') ''carried out to the maximum extent practicable by the private insurance industry''; and

Whereas the Federal Insurance Administration (FIA) recognizes this Arrangement as coming under the provisions of section 1345 of the Act (42 U.S.C. 4081); and

Whereas, the goal of the FIA is to develop a program with the insurance industry where, over time, some risk-bearing role for the industry will evolve as intended by the Congress (section 1304 of the Act (42 U.S.C. 4011)); and

Whereas, the insurer (hereinafter the ''Company'') under this Arrangement shall charge rates established by the FIA; and

Whereas, FIA has promulgated regulations and guidance implementing the Act and the Write-Your-Own Program whereby participating private insurance companies act in a fiduciary capacity utilizing Federal funds to sell and administer the Standard Flood Insurance Policies, and has extensively regulated the participating companies' activities when selling or administering the Standard Flood Insurance Policies; and

Whereas, any litigation resulting from, related to, or arising from the Company's compliance with the written standards, procedures, and guidance issued by FEMA or FIA arises under the Act, regulations, or FIA guidance, and legal issues thereunder raise a Federal question; and

Whereas, through this Arrangement, the Federal Treasury will subsidize all flood policy claim payments by the Company; and

Whereas, this Arrangement has been developed to enable any interested qualified insurer to write flood insurance under its own name; and

Whereas, one of the primary objectives of the Program is to provide coverage to the maximum number of structures at risk and because the insurance industry has marketing access through its existing facilities not directly available to the FIA, it has been concluded that coverage will be extended to those who would not otherwise be insured under the Program; and

Whereas, flood insurance policies issued subject to this Arrangement shall be only that insurance written by the Company in its own name under prescribed policy conditions and pursuant to this Arrangement and the Act; and

Whereas, over time, the Program is designed to increase industry participation, and accordingly, reduce or eliminate Government as the principal vehicle for delivering flood insurance to the public.

Now, therefore, the parties hereto mutually undertake the following:

8. In Appendix A to part 62, revise Article II, section G to read as follows:

Article II—Undertaking of the Company

* * * * *

G. Compliance with Agency Standard and Guidelines.

1. The Company shall comply with written standards, procedures, and guidance issued by FEMA or FIA relating to the NFIP and applicable to the Company.

2. The Company shall market flood insurance policies in a manner consistent with marketing guidelines established by FIA.

9. In Appendix A to part 62 amend Article III to revise the second paragraph of section B; revise section D; and add a sentence to the end of section E to read as follows:

Article III—Loss Costs, Expenses, Expense Reimbursement, and Premium Refunds

* * * * *

B. * * *

* * * * *

The Company may retain fifteen percent (15%) of the Company's written premium on the policies covered by this Arrangement as the commission allowance to meet commissions or

salaries of insurance agents, brokers, or other entities producing qualified flood insurance applications and other related expenses.

* * * * *

D. Loss Payments.

1. Loss payments under policies of flood insurance shall be made by the Company from Federal funds retained in the bank account(s) established under Article II, section E and, if such funds are depleted, from Federal funds derived by drawing against the Letter of Credit established pursuant to Article IV.

2. Loss payments include payments as a result of litigation that arises under the scope of this Arrangement, and the Authorities set forth herein. All such loss payments and related expenses must meet the documentation requirements of the Financial Control Plan and of this Arrangement, and the Company must comply with the litigation documentation and notification requirements established by FEMA. Failure to meet these requirements may result in the Administrator's decision not to provide reimbursement.

3. Limitation on Litigation Costs.

a. Following receipt of notice of such litigation, the FEMA Office of the General Counsel (''OGC'') shall review the information submitted. If the FEMA OGC finds that the litigation is grounded in actions by the Company that are significantly outside the scope of this Arrangement, and/or involves issues of agent negligence, then the FEMA OGC shall make a recommendation to the Administrator regarding whether all or part of the litigation is significantly outside the scope of the Arrangement.

b. If the Administrator makes a determination that an Operation Review or audit conducted pursuant to the WYO Financial Control Plan, 44 CFR part 62, appendix B, or an audit conducted by the Department of Homeland Security Office of Inspector General, or a review of the Company's business after a lawsuit has been filed against the Company reveals that the Company has a pattern of errors, and an error of that type has resulted in litigation, that litigation will be considered significantly outside the scope of the Arrangement.

c. In the event the Administrator agrees with the determination of the FEMA OGC under Article III, section D.3.a, or makes the determination regarding a pattern of errors under Article III, section D.3.b, the Company will be notified in writing within thirty (30) days of the Administrator's decision that any award or judgment for damages and any costs to defend such litigation will not be recognized under Article III as a reimbursable loss cost, expense or expense reimbursement.

d. In the event a question arises whether only part of a litigation is reimbursable, the FEMA OGC shall make a recommendation to the Administrator about the appropriate division of responsibility, if possible.

e. In the event that the Company wishes to petition for reconsideration of the determination that it will not be reimbursed for any part of the award or judgment or any part of the costs expended to defend such litigation made under Article III, section D.3.a–d, it may do so by mailing, within thirty (30) days of the notice that reimbursement will not be made, a written petition to the Administrator, who may request the advice of the WYO Standards Committee established under the WYO Financial Control Plan. The WYO Standards Committee will consider the request at its next regularly scheduled meeting or at a special meeting called for that purpose by the Chairman and issue a written recommendation to the Administrator. The Administrator's final determination, after advisement from the Standards Committee (if sought), will be made in writing to the Company.

E. * * * As fiscal agent, the Company shall not refund any premium to applicants or policyholders in any manner other than as specified in the NFIP's ''Flood Insurance Manual'' since flood insurance premiums are funds of the Federal Government.

10. In Appendix A to part 62, revise Article V to read as follows:

Article V—Commencement and Termination

A. The initial period of this Arrangement is from January 1, 2004 through September 30, 2004. Thereafter the Arrangement will be effective on an annual basis for the period October 1 through September 30. The FIA shall provide financial assistance only for policy applications and endorsements accepted by the Company during this period pursuant to the Program's effective date, underwriting and eligibility rules.

B. Each year, the FIA shall publish in the **Federal Register** and make available to the Company the terms for subscription or re-subscription to this Financial Assistance/Subsidy Arrangement. The Company shall notify the FIA of its intent to re-subscribe or not re-subscribe within thirty days of publication.

C. In order to assure uninterrupted service to policyholders, the Company shall promptly notify the FIA in the event the Company elects not to participate in the Program during the Arrangement year. If so notified, or if the FIA chooses not to renew the Company's participation, the FIA, at its option, may require the continued performance of all or selected elements of this Arrangement for the period required for orderly transfer or cessation of business and settlement of accounts, not to exceed 18 months, and may either require Article V.C.1 or allow Article V.C.2:

1. The delivery to the FIA of:

a. A plan for the orderly transfer to the FIA of any continuing responsibilities in administering the policies issued by the Company under the Program including provisions for coordination assistance; and

b. All data received, produced, and maintained through the life of the Company's participation in the Program, including certain data, as determined by FIA, in a standard format and medium; and

c. All claims and policy files, including those pertaining to receipts and disbursements that have occurred during the life of each policy. In the event of a transfer of the services provided, the Company shall provide the FIA with a report showing, on a policy basis, any amounts due from or payable to insureds, agents, brokers, and others as of the transition date; and

d. All funds in its possession with respect to any policies transferred to FIA for administration and the unearned expenses retained by the Company.

2. Submission of plans for the renewal of the business by another WYO Company or Companies or the submission of detailed plans for another WYO Company to assume responsibility for the Company's NFIP policies. Such plans shall assure uninterrupted service to policyholders and shall be accompanied by a formal request for FIA approval of such transfers.

D. Financial assistance under this Arrangement may be canceled by the FIA in its entirety upon thirty (30) days written notice to the Company by certified mail stating one of the following reasons for such cancellation: (i) Fraud or misrepresentation by the Company subsequent to the inception of the Arrangement; or (ii) Nonpayment to the FIA of any amount due the FIA; or (iii) Material failure to comply with the requirements of this Arrangement or with the written standards, procedures, or guidance issued by FEMA or FIA relating to the NFIP and applicable to the Company. Under these specific

conditions, the FIA may require the transfer of administrative responsibilities and the transfer of data and records as provided in Article V, section C.1.a through d. If transfer is required, the unearned expenses retained by the Company shall be remitted to the FIA. In such event, the Government will assume all obligations and liabilities owed to policyholders under such policies, arising before and after the date of transfer. The FIA, at its option, may alternatively consider proposals and plans for the assumption of responsibilities by another WYO Company as provided in Article V, section C.2.

E. In the event that the Company is unable or otherwise fails to carry out its obligations under this Arrangement by reason of any order or directive duly issued by the Department of Insurance of any jurisdiction to which the Company is subject, the Company agrees to transfer, and the Government will accept, any and all WYO policies issued by the Company and in force as of the date of such inability or failure to perform. In such event the Government will assume all obligations and liabilities within the scope of the Arrangement owed to policyholders arising before and after the date of transfer, and the Company will immediately transfer to the Government all needed records and data and all funds in its possession with respect to all such policies transferred and the unearned expenses retained by the Company. The FIA, at its option, may alternatively consider proposals for the assumption of responsibilities by another WYO Company as provided by Article V, section C.2.

F. In the event the Act is amended, or repealed, or expires, or if the FIA is otherwise without authority to continue the Program, financial assistance under this Arrangement may be canceled for any new or renewal business, but the Arrangement shall continue for policies in force that shall be allowed to run their term under the Arrangement.

11. In Appendix A, part 62, revise Article VII section C. to read as follows:

Article VII—Cash Management and Accounting

* * * * *

C. In the event the Company elects not to participate in the Program in this or any subsequent fiscal year, or is otherwise unable or not permitted to participate, the Company and FIA shall make a provisional settlement of all amounts due or owing within three months of the expiration or termination of this Arrangement. This settlement shall include net premiums collected, funds drawn on the Letter of Credit, and reserves for outstanding claims. The Company and FIA agree to make a final settlement, subject to audit, of accounts for all obligations arising from this Arrangement within 18 months of its expiration or termination, except for contingent liabilities that shall be listed by the Company. At the time of final settlement, the balance, if any, due the FIA or the Company shall be remitted by the other immediately and the operating year under this Arrangement shall be closed.

12. In Appendix A to part 62, revise the first paragraph of Article IX to read as follows:

Article IX—Errors and Omissions

In the event of negligence by the Company that has not resulted in litigation but has resulted in a claim against the Company, FEMA will not consider reimbursement of the Company for costs incurred due to that negligence unless the Company takes all reasonable actions to rectify the negligence and to mitigate any such costs as soon as possible after discovery of the negligence. Further, (i) if the claim against the Company is grounded in actions significantly outside the scope of this Arrangement, (ii) if there is negligence by the agent, or (iii) if there is an error that is the type of error for which there has been a determination by the Administrator of a pattern of errors as described in Article III, section D.3.b, FEMA will not reimburse any costs incurred due to that negligence or error. The Company will be notified in writing within thirty (30) days of a decision not to reimburse. In the event the Company wishes to petition for reconsideration of the decision not to reimburse, the procedure in Article III, section D.3.e shall apply.

* * * * *

13. In Appendix A to part 62, revise Article XVI to read as follows:

Article XVI—Relationship Between the Parties (Federal Government and Company) and the Insured

Inasmuch as the Federal Government is a guarantor hereunder, the primary relationship between the Company and the Federal Government is one of a fiduciary nature, *i.e.*, to assure that any taxpayer funds are accounted for and appropriately expended. The Company is a fiscal agent of the Federal Government, but is not a general agent of the Federal Government. The Company is solely responsible for its obligations to its insured under any policy issued pursuant hereto, such that the Federal Government is not a proper party to any lawsuit arising out of such policies.

Dated: October 7, 2003.

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 03–25905 Filed 10–10–03; 8:45 am]

BILLING CODE 6718–03–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 030917233–3233–01; I.D. 082703A]

RIN 0648–AP50

Fisheries of the Gulf of Mexico; Coastal Migratory Pelagic Resources; Stock Status Determination Criteria

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

ACTION: Proposed rule; request for comments.

SUMMARY: In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), NMFS proposes to incorporate into the FMP biomass-based stock status determination criteria consistent with the requirements of the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens Act). Criteria to be incorporated include maximum sustainable yield (MSY), optimum yield (OY), minimum stock size threshold (MSST) and maximum fishing mortality threshold (MFMT) for king and Spanish mackerel and cobia stocks under the jurisdiction of the Gulf of Mexico Fishery Management Council (Council).

DATES: Written comments must be received on or before November 13, 2003.

ADDRESSES: Written comments on the proposed rule should be mailed to Dr. Steve Branstetter, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments may also be sent via fax to 727–522–5583. Comments will not be accepted if submitted via e-mail or Internet.

Requests for copies of the regulatory amendment, which includes an

Environmental Assessment, a Regulatory Flexibility Act Analysis (RFAA), and a Regulatory Impact Review (RIR), should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway North, Suite 1000, Tampa, FL 33619–2266, telephone: 813–228–2815, fax: 813–225–7015, e-mail: *gulfcouncil@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Steve Branstetter, telephone: 727–570–5796, fax: 727–570–5583, e-mail: *Steve.Branstetter@noaa.gov*.

SUPPLEMENTARY INFORMATION: The fisheries for coastal migratory pelagic (CMP) resources are regulated under the FMP. The FMP was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils and was approved by NMFS and implemented by regulations at 50 CFR part 622.

In accordance with the FMP's framework procedure, the Council has submitted to the Regional Administrator, Southeast Region, NMFS, a regulatory amendment containing recommendations for changes in designations of stock status criteria for Gulf migratory groups of king and Spanish mackerel and for a Gulf migratory group of cobia (to be designated via subsequent plan amendment). The most recent scientific evidence indicates that the cobia stock is comprised of separate migratory groups in the Gulf of Mexico and Atlantic. However, the FMP identifies only a single cobia stock. The establishment of separate migratory groups of cobia will require that the FMP be amended. Therefore, implementation of the stock status criteria for a Gulf migratory group of cobia would be deferred pending the development of an amendment to the FMP.

Section 303 of the Magnuson-Stevens Act requires that the regional fishery management councils: (1) assess the condition of managed stocks, (2) specify within their fishery management plans objective and measurable criteria for identifying when the stocks are overfished and when overfishing is occurring (referred to by NMFS as stock status determination criteria), and (3) amend their fishery management plans to include measures to rebuild overfished stocks and maintain them at healthy levels capable of producing MSY. NMFS' national standard guidelines (NSGs) direct the councils to meet these statutory requirements by incorporating into each FMP estimates of certain biomass-based parameters for each stock, including a designation of the stock biomass that will produce MSY (BMSY).

On November 17, 1999, NMFS notified the Council that it had partially approved the Council's Generic Sustainable Fisheries Act Amendment. In that notification, NMFS approved the designation and definition of an MFMT for CMP fish stocks managed under the jurisdiction of the Council, but disapproved the proposed designations of MSY, OY, and MSST because they were not biomass-based, as recommended by the NSGs. Since that time, NMFS has worked cooperatively with the Council to develop acceptable stock status criteria for the Gulf migratory groups of those CMP stocks.

Accordingly, this proposed rule would establish biomass-based reference points, as identified in the table below, for MSY, OY, and MSST, and would amend the existing designations of MFMT for Gulf migratory group king mackerel, Gulf migratory group Spanish mackerel, and a (to be designated) Gulf migratory group of cobia.

	Gulf group king mackerel	Gulf group Spanish mackerel	Gulf group cobia[1]
MSY[2]	yield at $F_{30\%SPR}$ (currently 10.7 million lb or 4.85 million kg).	yield @ $F_{30\%SPR}$(currently 8.7 million lb or 3.95 million kg).	yield @ F_{msy}(currently 1.49 million lb or 0.676 million kg)
OY	yield at F_{OY} = 0.85*F_{MSY} (currently 10.2 million lb or 4.63 million kg).	yield at F_{OY} = 0.75 *F_{MSY} (currently 8.3 million lb or 3.76 million kg).	yield @ F_{OY} =0.75*F_{MSY} (currently 1.45 million lb or 0.658 million kg)
MFMT	$F_{30\%SPR}$ = F_{MSY}	$F_{30\%SPR}$ = F_{MSY}	F_{MSY}
MSST [3]	(1–M)*B_{MSY} or 80% of B_{MSY}	(1–M)*B_{MSY} or 70% of B_{MSY}	(1–M)*B_{MSY} or 70% of B_{MSY}
overfished	50% probability $F_{current}$ > F_{MSY}	50% probability $F_{current}$ > F_{MSY}	50% probability $F_{current}$ > F_{MSY}
overfishing	50% probability $B_{current}$ < MSST	50% probability $B_{current}$ < MSST	50% probability $B_{current}$ < MSST

[1] Implementation deferred pending formal designation of a Gulf migratory group of cobia through an amendment to the FMP.
[2] F = fishing mortality rate; SPR refers to spawning potential ratio
[3] M, or natural mortality, is estimated at 0.20 for king mackerel, and 0.30 for both Spanish mackerel and cobia. $B_{current}$ represents the current estimates of stock biomass; B_{MSY} represents the estimated stock biomass required to produce MSY

NMFS invites public comment on these proposed parameters. Comments received by November 13, 2003 will be considered by NMFS in its decision to approve or disapprove the action identified in this proposed rule. Comments received after that date will not be considered by NMFS in this decision. NMFS decision will be based on determinations regarding the consistency of the proposed provisions with the FMP, the Magnuson-Stevens Act, and other applicable law, as well as the consideration of comments received during the comment period on this proposed rule. Approved population parameters would be considered legitimate measures of the FMP, but would not appear in codified text.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The basis for this determination is summarized as follows.

The Magnuson-Stevens Act provides the statutory basis for the proposed rule. The proposed rule would establish benchmarks and status criteria for Gulf migratory groups of king and Spanish mackerel, and a pending designation of a Gulf migratory group of cobia. The establishment of these stock status criteria would allow more accurate assessments regarding the health of these fish stocks, prevent overfishing, and provide optimum benefits to the fisheries and the public. No projected reporting, record keeping or other compliance requirements are proposed. No duplicative, overlapping or conflicting Federal rules have been identified.

In the Gulf area, 1,440 commercial vessels have permits to fish for king mackerel. These vessel owners have a median net (taxable) income of $3,670. These vessels operate in multiple fisheries and are not, therefore, totally dependent upon sales of coastal migratory pelagic species. There are 113 for-hire vessels that only have a permit for coastal migratory pelagic species, and 1,403 for-hire vessels that possess both reef fish and coastal migratory pelagic permits. Most of the for-hire craft are traditional charter boats, and fishing for coastal migratory pelagic species comprises only a portion of their total effort and revenues. The median

gross fishing revenue was approximately $20,000, with a median value for net income of $4,000. Thus, all the commercial and for-hire harvesting units are classified as small entities. Since the proposed rule would apply to all entities participating in the coastal migratory pelagic fishery and all entities are classified as small entities, the proposed rule would apply to a substantial number of small entities.

The criteria used to determine significant impact include disproportionality and profitability. As described earlier, all the affected entities are classified as small entities so the issue of disproportionate impacts does not arise. Further, since there are no implementing regulations associated with the proposed rule, there would be no direct effects on current fishery participation, effort, harvests, or other use of the resource. All current entities can continue to participate in the fishery in the manner in which they currently operate. Therefore, all current harvests, costs, and profits would remain unchanged. Any adverse effects on small entities that participate in the fishery would only occur in the future, should stock conditions change, requiring a need to adjust fishery regulations to achieve the benchmarks established by this proposed rule. The likelihood of this occurring in either the near or distant future is unknown and cannot be determined. Further, the resultant impact of these future regulations cannot be predicted since the magnitude of required change is unknown, as is the method that would be selected to achieve the required change. These impacts, however, would be determined should such change be required.

In summary, while the proposed rule would apply to a substantial number of small entities, these entities would not be affected in a significant way since status quo fishing practices are allowed to continue. The proposed rule would establish targets/goals that current and future management actions would attempt to achieve/attain. However, at this time, no changes in existing harvest restrictions are proposed. Future changes to harvesting restrictions would be evaluated for their impacts when they are proposed. Therefore, the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities and, thus, an initial regulatory flexibility analysis was not required.

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

Dated: October 8, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 03–25924 Filed 10–10–03; 8:45 am]

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Notices

Federal Register

Vol. 68, No. 198

Tuesday, October 14, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 8, 2003

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Office for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Pamela__Beverly__OIRA__Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Foreign Agricultural Service

Title: Pub. L. 480, Title I Financing and Record Keeping.

OMB Control Number: 0551–0005.

Summary of Collection: The Foreign Agricultural Service (FAS) is responsible for administering Public Law 480, Title I agreements, as amended. This regulation provides for the financing of sales of U.S. agricultural commodities to recipients of foreign countries or private entities. In accordance with the law, an agreement providing for long-term credit financing is first negotiated with the recipient through diplomatic channels. After an agreement has been signed, the recipient applies to FAS for authorization to purchase each commodity provided in the agreement. At least 75 percent of the gross tonnage of commodities purchased under Title I must be shipped on privately owned U.S. flag commercial vessels to the extent such vessels are available at fair and reasonable rates. If ocean transportation is required to a country where there is no U.S. flag vessel coverage, a foreign vessel will be used at its prevailing rate. The recipient must send the pertinent terms of all proposed ocean freight contracts, regardless of whether any portion of the ocean freight is financed by CCC, to FAS for review and approval before the vessel is contracted.

Need and Use of the Information: FAS will collect information to insure that (1) suppliers keep accurate records on Title I transactions; (2) suppliers permit access to authorized USDA representatives (such as auditors and investigators); and, (3) suppliers retain records for three years after final payment. FAS will review and evaluate the information to ensure that there are no potential conflicts of interests and ensure that the sales price is within the prevailing range of export market prices. Without the information, FAS could not ensure program compliance.

Description of Respondents: Business or other for-profit.

Number of Respondents: 25.

Frequency of Responses: Recordkeeping; Reporting; On occasion.

Total Burden Hours: 47.

Farm Service Agency

Title: Agricultural Foreign Investment Disclosure Act Report.

OMB Control Number: 0560–0097.

Summary of Collection: The Agricultural Foreign Investment Disclosure Act (AFIDA) requires foreign investors to report to the U.S. Department of Agriculture (USDA) in a timely manner all held, acquired, or transferred U.S. agricultural land. The Secretary of Agriculture has delegated authority for the collection of this information to the Farm Service Agency (FSA). Foreign investors may obtain form FSA–153, AFIDA Report, from their local FSA county office or from the FSA Internet site. Investors are required to file report within 90 days of the acquisition, transfer, or change in the use of their land.

Need and Use of the Information: The information collected from the AFIDA Reports is used to monitor the effect of foreign investment upon family farms and rural communities and in the preparation of a voluntary report to Congress and the President. Congress reviews the report and decides if regulatory action is necessary to limit the amount of foreign investment in U.S. agricultural land. If this information was not collected, USDA could not effectively monitor foreign investment and the impact of such holdings upon family farms and rural communities.

Description of Respondents: Business or other for-profit; Individuals or households; Farms.

Number of Respondents: 4,375.

Frequency of Responses: Reporting: on occasion.

Total Burden Hours: 904.

Farm Service Agency

Title: Farm storage Facility Loan Program.

OMB Control Number: 0560–0204.

Summary of Collection: 7 CFR 1436 authorizes the Farm Service Agency (FSA) to administer the Commodity Credit Corporation (CCC) Farm Storage Facility Loan Program (FSFLP). The regulations provide terms and conditions in which CCC may provide low-cost financing for producers to build or upgrade on-farm storage and handling facilities. Producers requesting loans must provide information regarding the need for farm storage capacity and the storage facility they

propose to construct. The information is needed to determine if the farmer has a need for the proposed capacity and the proposed structure.

Need and Use of the Information: FSA will collect information from producers to establish eligibility for the program and to determine that the structure proposed is not in conflict with local land use laws. The information is needed by CCC to make loans to farmers who have a bona fide storage need and to make loans that will be repaid on time. If the information is not collected, the producer may not receive the full benefits of the program.

Description of Respondents: Farms; Individuals or households; Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 2,000.

Frequency of Responses: Reporting: Other (once).

Total Burden Hours: 3,985.

Animal and Plant Health Inspection Service

Title: Specimen Submission.

OMB Control Number: 0579–0090.

Summary of Collection: Under the authority of Title 21, U.S.C., the Secretary of Agriculture is permitted to prevent, control and eliminate domestic diseases such as tuberculosis, as well as to take actions to prevent and to manage exotic diseases such as hog cholera, African swine fever, and other foreign diseases. The National Veterinary Services Laboratories cannot accomplish disease prevention without the existence of an effective disease surveillance program, which includes disease testing. Information is collected on each animal specimen submitted for analysis by the Animal and Plant Health Inspection Service (APHIS) using form VS 10–4, ''Specimen Submission''.

Need and Use of the Information: The form VS 10–4 used by State or Federal veterinarians documents the collections and submissions of specimens for laboratory analysis. In addition, the form identifies the individual animal from which the specimen is taken as well as the animal's herd or flock; the type of specimen submitted, and the purpose of submitting the specimen. Without the information contained on this form, personnel at the National Veterinary Services laboratories would have no way of identifying or processing the specimens sent to them for analysis.

Description of Respondents: State, Local or Tribal Government; Farms.

Number of Respondents: 12,000.

Frequency of Responses: Reporting: on occasion.

Total Burden Hours: 9,000.

Animal and Plant Health Inspection Service

Title: TB in Cattle and Bison, State Designations: California.

OMB Control Number: 0579–0220.

Summary of Collection: Under the authority of Title 21, U.S.C., the Secretary of Agriculture is permitted to prevent, control and eliminate domestic diseases such as tuberculosis, as well as to take actions to prevent and to manage exotic diseases such as foot-and-mouth, rinderpest, and other foreign diseases. Disease prevention is the most effective method for maintaining a healthy animal population and enhancing the ability of U.S. producers to compete in the global market of animal and animal product trade. An interim rule was published to remove California from the list of accredited free States and add it to the list of modified accredited advanced States. This action is to help prevent the spread of tuberculosis from California to other areas of the United States. Cattle moving interstate from California will need to be officially identified via premises of origin identification (ear tags).

Needs and Use of the Information: Certain herd owners in California moving their cattle interstate will need to affix ear tags to these animals prior to movement. The ear tags will identify the animal to its herd of origin, and will be useful to the Animal and Plant Health Inspection Service in the event that a trace-back investigation must be conducted. Without the information, it would be impossible to effectively monitor the interstate movement of cattle from California or to conduct a successful trace-back investigation if any animal is diagnosed with tuberculosis following interstate movement.

Description of Respondents: Farms; Individuals or households.

Number Respondents: 600.

Frequency of Responses: Reporting: On Occasion.

Total Burden Hours: 960.

Animal and Plant Health Inspection Service

Title: TB in Cattle and Bison, State Designations: New Mexico.

OMB Control Number: 0579–0229.

Summary of Collection: Bovine tuberculosis is a contagious, infectious, and communicable disease caused by Mycobacterium bovis. It affects cattle, bison, deer, elk, goats, and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts, causes weight loss and general debilitation, and can be fatal. Recently, two tuberculosis-infected herds were detected in New Mexico; an interim rule was published to remove New Mexico from the list of accredited-free State to the list of modified accredited advanced states. The Animal and Plant Health Inspection Service (APHIS) took this action to help prevent the spread of bovine tuberculosis from New Mexico to other areas of the United States. Authority for engaging in disease containment activities associated with tuberculosis is contained in Part 77 of Title 9, CFR.

Need and Use of the Information: Certain herd owners in New Mexico moving their cattle interstate will need to affix ear tags to these animals prior to movement. The ear tags will identify the animal to its herd of origin and will be useful to APHIS in the event that a trace-back investigation must be conducted. Without the information, it would be impossible to effectively monitor the interstate movement of cattle or bison from New Mexico or to conduct a successful trace-back investigation if any animal is diagnosed with tuberculosis following interstate movement.

Description of Respondents: Farms; Individuals or households; Federal Government.

Number of Respondents: 375

Frequency of Responses: Reporting: On occasion

Total Burden Hours: 600.

Food Safety and Inspection Service

Title: Pathogen Reduction and Hazard Analysis and Critical Control Point (HACCP) Requirements.

OMB Control Number: 0583–0103.

Summary of Collection: The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 mandate that the Food Safety and Inspection Service (FSIS) protect the public by ensuring the meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. FSIS has begun to build the principle of prevention into its inspection program and requires regulated establishments to prepare operating plans and continuously report performance against the plans.

Need and Use of the Information: Information will be collected from establishments as proof that standard operating plans have been developed. Additionally, information must be reported and pertinent records maintained on the occurrence and numbers of pathogenic microorganisms on meat and poultry products. FSIS will use this information during the inspection process to determine

whether an establishment should change its operating procedures so that the public's health is protected.

Description of Respondents: Business or other for-profit.

Number of Respondents: 8,114.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Other (daily).

Total Burden Hours: 7,463,679.

Food and Nutrition Service

Title: Worksheet for Food Stamp Program Quality Control Reviews.

OMB Control Number: 0584–0074.

Summary of Collection: State agencies are required to perform Quality Control Reviews for the Food Stamp Program in conjunction with section 16 of the Food Stamp Act of 1977. The food stamp worksheet (FNS–380) provides a systematic means of aiding the State agency's quality control reviewer in analyzing household case record; planning and carrying out the field investigations; and gathering, comparing, analyzing and evaluating the review data. Relevant information from the case record, and documentation about individual cases is recorded on the FNS–380.

Need and Use of the Information: The Food and Nutrition Service (FNS) will use the information from the FNS–380 to record identifying information about the household and to also document and evaluate each step of the field investigation process to determine eligibility and payment amounts under FNS' approved State agency practices.

Description of Respondents: State, Local, or Tribal Government; Federal Government; individuals or households.

Number of Respondents: 53.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Annually.

Total Burden Hours: 519,679.

Forest Service

Title: Youth Conservation Corps Application & Medical History Forms.

OMB Control Number: 0596–0084.

Summary of Collection: Under Pub. L. 93–408, the Youth Conservation Corps Act (YCC), the Forest Service provides seasonal employment for eligible youth 15 to 18 years old. As part of this effort, the Forest Service collects information from applicants to evaluate their eligibility for employment with the agency through the program. Each eligible youth, who wish to apply and be considered for employment in the YCC program must submit an application form (FS 1800–18). This is a seasonal program requiring new submission by applicants each year. Selected participants must complete the medical history form and their parent or guardian must sign. This is necessary to certify the youth's physical fitness to serve in the YCC program.

Need and Use of the Information: All candidates interested in participating in the YCC program must complete an application. Those applicants, selected at random, complete the form FS 1800–3, Youth Conservation Corps Medical History, which provides information needed to determine certification of suitability, any special medical or medication needs, and a file record to protect both the Federal Government and individuals. If not used, the government's liability risk is high, special needs of one individual may not be known, or the screening of an applicant's physical suitability would be greatly inhibited.

Description of Respondents: Individuals or households.

Number of Respondents: 18,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 6,000.

Forest Service

Title: Agreement to Initiate (ATI) and Exchange Agreement (EA)

OMB Control Number: 0596–0105.

Summary of Collection: Land exchanges are an important tool to consolidate landownership for purposes of more efficient management; to secure important Forest Plan objectives of resource management, enhancement, development, and protection; and to fulfill other public needs such as acquiring lands important for such resources as fisheries habitat, wild and scenic rivers, wildlife habitat, and wilderness. A land exchange is where the United States has identified either federal land or federal interest in land available for exchange and a non-Federal party has identified either private land or private interest in land they are interested in exchanging. The primary authorities used to perform land exchanges involving National Forest Systems lands include the General Exchange Act, the Weeks Act, the Federal Land Policy and Management Act and the Federal Land Exchange Facilitation Act.

Need and use of the Information: The Forest Service (FS) will collect information by phone, in face-to-face meetings, or by mail. FS will also collect information such as the identification of the non-Federal land exchange parties; the description of the lands and interests to be exchanged, such as roads; the identification of all reserve and outstanding interests, such as roads, minerals, and easements; and all other terms and conditions necessary to complete exchange. To not collect the information would mean the land exchange was dropped.

Description of Respondents: Business or other for-profit; Individuals or households; State, Local or Tribal Government.

Number of Respondents: 100.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 200.

National Agricultural Statistics Service

Title: Honey Survey.

OMB Control Number: 0535–0153.

Summary of Collection: The National Agricultural Statistics Service (NASS) primary function is to prepare and issue State and national estimates of crop and livestock production. General authority for these data collection activities is granted under U.S. Code Title 7, section 2204. Domestic honeybees are critical to the pollination of U.S. crops, especially fruits and vegetables. Africanized bees, parasites, diseases, and pesticides threaten the survival of bees. Programs are provided by federal, State and local governments to assist in the survival of bees and to encourage beekeepers to maintain bee colonies

Need and Use of the Information: NASS will collect information on the number of colonies, honey production, stocks, and prices. The survey will provide data needed by the Department and other government agencies to administer programs and to set trade quotas and tariffs. Without the information, the agricultural industry would not be aware of changes at the State and national level.

Description of Respondents: Farms.

Number of Respondents: 7,041.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 1,096.

Rural Business Service

Title: Intermediary Re-lending Program.

OMB Control Number: 0570–0021.

Summary or Collection: The objective of the Intermediary Relending Program (IRP) is to improve community facilities and employment opportunities and increase economic activities in rural areas by financing business facilities and community development. This purpose is achieved through loans made by the Rural Business-Cooperative Service (RBS) to intermediaries that establish programs for the purpose of providing loans to ultimate recipients for business facilities and community development. The Food Security Act of 1985 provides USDA with the authority to make loans to nonprofit entities who will in turn provide financial assistance

to rural businesses to improve business, industry and employment opportunities as well as provide a diversification of the economy in rural areas.

Need and Use of the Information: The information requested is necessary for RBS to process applications in a responsible manner, make prudent credit and program decisions, and effectively monitor the intermediaries' activities to protect the Government's financial interest and ensure that funds obtained from the Government are used appropriately. Various forms are used to identify the intermediary, describe the intermediary's experience and expertise, describe how the intermediary will operate its revolving loan fund, provide for debt instruments, loan agreements, security, and other material necessary for prudent credit decisions and reasonable program monitoring.

Description of Respondents: Not-for-profit institutions; Individuals or households; Business or other for-profit.

Number of Respondents: 160.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 16,930.

Rural Business-Cooperative Service

Title: University Value-Added Research Grant.

OMB Control Number: 0570–0046.

Summary of Collection: The Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) authorizes the Secretary of the Department of Agriculture to use $300,000 to support research at a university concerning the effects of projects for value-added agricultural commodities or products on agricultural producers and the commodity markets. The Rural Business-Cooperative Service (RBS) will administer this grant. RBS will collect information from applicants who must be an accredited university. The university may contract with other parties to contribute expertise or proprietary data that would not otherwise be available to the research effort.

Need and Use of the Information: RBS will use the information to confirm that an applicant meets the eligibility requirements and that the research proposals are consistent with the purposes set forth in the statute. The information is also used to make a competitive evaluation and rank the proposals in order to determine the grant award. Information considered by the reviewers in ranking the proposals are (1) the nature of the proposed research, (2) qualifications of the researchers, (3) work plan and research budget and (4) measures to evaluate the effectiveness of value-added projects.

Description of Respondents: Business or other for-profit.

Number of Respondents: 15.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Quarterly; Semi-annually.

Total Burden Hours: 479.

Rural Utilities Service

Title: 7 CFR Part 1721, Extensions of Payments of Principal and Interest.

OMB Control Number: 0572–0123.

Summary of Collection: Rural Utilities Service (RUS) is revising procedures and conditions under which borrowers may request extensions of the payment of principal and interest. RUS electric program provides loans and loan guarantees to borrowers at interest rates and on terms that are more favorable than those generally available from the private sector. As a result of obtaining federal financing, RUS borrowers receive economic benefits that exceed any direct economic costs associated with complying with (RUS) regulations and requirements. The authority, as amended, for these extensions is contained in Section 12 of the Rural Electrification Act of 1936, and section 236 of the ''Disaster Relief Act of 1970.''

Need and Use of the Information: The collection of information occurs only when the borrower requests an extension of principal and interest. Eligible purchases include financial hardship energy resource conservation loans, renewable energy project, and contributions-in-aid of construction. The collections are made to provide needed benefits to borrowers while also maintaining the integrity of RUS loans and their repayment of taxpayer's monies.

Description of Respondents: Not for-profit institutions.

Number of Respondents: 94.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 816.

Rural Utilities Service

Title: 7 CFR Part 1738, Rural Broadband Access.

OMB Control Number: 0572–0130.

Summary of Collection: The Rural Utilities Service (RUS) amended its regulation in order to establish the Rural Broadband Access Loan and Loan Guarantee Program. Title VI, Rural Broadband Access, amended The Rural Electrification Act of 1936 (RE Act), to provide loans and loan guarantees to fund the cost of construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural communities in State and territories of the United States. The regulation prescribes the types of loans available, facilities financed and eligible applicants, as well as minimum credit support requirements considered for a loan. In addition, Title VI of the RE Act requires that Rural Utilities Service (RUS) make or guarantee a loan only if there is reasonable assurance that the loan, together with all outstanding loans and obligations of the borrower, will be repaid in full within the time agreed.

Need and Use of the Information: RUS will collect information to determine whether an applicant's eligibility to borrow from RUS under the terms of the RE Act and that the applicant complies with statutory, regulatory and administrative eligibility requirements for loan assistance. RUS will use the information to determine that the Government's security for loans made are reasonable adequate and that the loans will be repaid within the time agreed.

Description of Respondents: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 300.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 28,475.

Farm Service Agency

Title: Noninsured Crop Disaster Assistance Program.

OMB Control Number: 0560–0175.

Summary of Collection: The collection of crop planting and production data is necessary for the Commodity Credit Corporation (CCC) to calculate the producer's approved yield on the basis of actual production history. Information collection relative to the occurrence of crop damage or loss production and application for Noninsured Crop Disaster Assistance Program (NAP) is necessary for CCC to accept and consider a request for assistance under NAP and to facilitate eligibility determinations. NAP provides eligible producers of eligible crops with protection to the catastrophic risk protection plan of crop insurance. It helps reduce production risks faced by producers of crops for which Federal crop insurance is not available. It also reduces financial losses that occur when natural disasters cause a catastrophic loss of production or prevented planting of an eligible crop. The Farm Service Agency (FSA) will collect information using several forms.

Need and Use of the Information: FSA will collect the producer's name, address identification number, farm and tract, acreage, ownership, location, crop history, planted acreage, production, yield, share, etc. The information will be used to identify eligible NAP

participants, acreage and location, crop and commodities. If information is not collected, FSA will not be able to identify and determine eligible participants and crops being planted or produced, or provide assistance to agricultural producers who as a result of natural disaster have suffered catastrophic losses of agricultural crops or commodities.

Description of Respondents: Individuals or household; Business or other for-profit; Not-for-profit institutions; Farms; State, local or tribal government.

Number of Respondents: 291,500.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Weekly; Monthly; Other (bi-weekly and bi-monthly); Third party disclosure.

Total Burden Hours: 2,143,562.

Agricultural Research Service

Title: Peer Review Related Forms for the Office of Scientific Quality Review.

OMB Control Number: 0518–0028.

Summary of Collection: The Office of Scientific Quality Review (OSQR) is an organizational unit of the Agricultural Research Service (ARS) reporting to the Associate Administrator with primary responsibility for planning and facilitating high quality scientific and technical peer review of all agency prospective research project plans. The Research Title of the 1998 Farm Bill, Pub. L. 105–185 section 103(d), set forth new requirements for peer reviews of ARS research projects. ARS must obtain panel peer reviews of each research project at least once every five years.

Need and Use of the Information: ARS will collect the following information: Confidentiality agreement, panelist information, peer review of an ARS research project, critique of ARS research project, panelist expense report, and panelist invoice. The information is used to manage the travel and stipend payments to panel reviewers and provide well-organized feedback to ARS's researchers about their projects. If information were not collected, ARS would not meet the administrative or legislative requirements of the Peer Review Process as mandated by Public Law 105–185.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; Individuals or households; Farms; Federal Government; State, local or tribal government.

Number of Respondents: 135.

Frequency of Responses: Reporting: Quarterly; Weekly; Annually.

Total Burden Hours: 3,407.

Rural Housing Service

Title: 7 CFR 1956–C, Debt Settlement—Community and Business Programs.

OMB Control Number: 0575–0124.

Summary of Collection: Rural Housing Service (RHS) is a credit agencies for agricultural and rural development for the United States Department of Agriculture and offers supervised credit to develop improve and operate family farms, modest housing, essential community facilities, and business and industry across rural America. 7 CFR 1956–C, Debt Settlement—Community and Business Programs provides policies and procedures as well as a mechanism for debt settlement in connection with Community Facilities loans and grants, Water and Waste Disposal loans, direct Business and Industry loans, Indian Tribal Land Acquisition loans and Irrigation and Drainage. The debt settlement program provides the delinquent client with an equitable tool for the compromise, adjustment, cancellation, or charge-off of a debt owed to the Agency.

Need and Use of the Information: The field offices will collect information from applicants, borrowers consultants, lenders, and attorneys to determine eligibility, financial capacity and derive an equitable resolution. This information collected is similar to that required by a commercial lender in similar circumstances. Failure to collect the information could result in improper servicing of these loans.

Description of Respondents: Not for profit institutions; Individuals, Households; Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 15.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 813.

Rural Business—Cooperative Service

Title: CFG 1942–G, ''Rural business Enterprise Grants and Television Demonstration Grants''.

OMB Control Number: 0570–0022.

Summary of Collection: Section 310B of the Consolidated Farm and Rural Development Act authorizes Rural Business Enterprise Grants to facilitate the development of small and emerging private businesses, industry and related employment for improving the economy in rural communities. Television Demonstration Grants (TDG) are available to statewide, private nonprofit, public television systems to provide information on agriculture and other issues of importance to farmers and other rural residents. This regulation, 7 CFR Part 1942–G, Rural Business-Cooperative Service (RBS) that covers the administration of this program including eligibility requirements and evaluation criteria to make funding selection decisions.

Need and Use of the Information: RBS will use this information to determine (1) eligibility; (2) the specific purposes for which grant funds will be utilized; (3) time frames or dates by which actions surrounding the use of funds will be accomplished; (4) who will be carrying out the purposes for which the grant is made; (5) project priority; (6) applicants experience in administering a rural economic development program; (7) employment improvement; and (8) mitigation of economic distress of a community through the creation or salvation of jobs or emergency situations. If the information were not collected, RBS would not be able to determine the eligibility of applicant(s) for the authorized purposes. Collecting this information infrequently would have an advertise effect on the Agency's ability to administer the grant program.

Description of Respondents: Individuals or households; Farms; Business or other for profit; Federal Government.

Number of Respondents: 720.

Frequency of Responses: Record-keeping; Reporting: Monthly; On Occasion; Quarterly.

Total Burden Hours: 22,395.

Animal and Plant Health Inspection Service

Title: Tuberculosis Testing for Imported Cattle.

OMB Control Number: 0579–0224.

Summary of Collection: Under the authority of Title 21, U.S.C., the Secretary of Agriculture is permitted to prevent, control and eliminate domestic diseases such as tuberculosis, as well as to take actions to prevent and to manage exotic diseases such as foot-and-mouth, rinderpest, and other foreign diseases. Disease prevention is the most effective method for maintaining a healthy animal population and enhancing the ability of U.S. producers to compete in the global market of animal and animal product trade. The Animal and Plant Health Inspection Service (APHIS) published an interim rule that added additional requirements concerning the importation of certain cattle into the United States. APHIS will collect information using form VS 17–129, ''Application for Import or In Transit Permit.''

Need and Use of the Information: APHIS will collect information from the permit application regarding the type, number, and identification of the

animals to be exported to the United States, as well as information concerning the origin, intended date and location of arrival, routes of travel, and destination of the animals. APHIS will also collect information that certified that the herd in which the cattle was born and raised has tested TB-negative to a whole herd test. Failure to collect this information would make it impossible for APHIS to effectively evaluate the TB risks associated with cattle importation from Mexico, thereby increasing the likelihood that healthy cattle and bison throughout the United states will be exposed to tuberculosis.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 100.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 15,000.

Food Safety and Inspection Service

Title: Registration Requirements.

OMB Control Number: 0583–NEW.

Summary of Collection: This information collection requests new burden hours for regulatory reporting requirements associated with the registration of meat brokers, poultry products brokers, renders, animal food manufactures, wholesalers, warehousemen, and persons that engage in the business of buying, selling, transporting in commerce, or importing, any dead, dying, disabled, or diseased livestock or poultry, or parts of the carcasses of livestock or poultry that have died otherwise than by slaughter. The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) FSIS will collect information using FSIS Form 5020–1, ''Registration of Meat and Poultry Handlers''.

Need and Use of the Information: FSIS will collect information using FSIS 5020–1, ensuring that all meat and poultry establishments produce safe, wholesome, and unadulterated product, and properly labeled and packaged. If the information were not collected, it would reduce the effectiveness of the meat and poultry inspection program.

Description of Respondents: Business or other for-profit.

Number of Respondents: 9,125.

Frequency of Responses: Recordkeeping; Reporting: Other (Once).

Total Burden Hours: 1,521.

Sondra Blakey,

Departmental Information Collection Clearance Officer.

[FR Doc. 03–25880 Filed 10–10–03; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–093–1]

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 commercial transportation of equines to slaughtering facilities.

DATES: We will consider all comments that we receive on or before December 15, 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. 03–093–1, 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. 03–093–1. 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. 03–093–1'' 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 commercial transportation of equines to slaughtering facilities, contact Dr. Tim Cordes, Senior Staff Veterinarian, National Center for Animal Health Programs, Certification and Control Team, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737–1231; (301) 734–3279. 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: Commercial Transport of Equines to Slaughter.

OMB Number: 0579–0160.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Federal Agriculture Improvement and Reform Act of 1996 (''the Farm Bill''), Congress gave responsibility to the Secretary of Agriculture to regulate the commercial transportation within the United States of equines for slaughter. Sections 901–905 of the Farm Bill (7 U.S.C. 1901 note) authorized the Secretary to issue guidelines for the regulation of commercial transportation of equines for slaughter by persons regularly engaged in that activity within the United States. To fulfill this responsibility, the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture established regulations in title 9, part 98, of the Code of Federal Regulations.

The minimum standards cover, among other things, the food, water, and rest provided to such equines. The regulations require the owner/shipper of the equines to take certain actions in loading and transporting the equines and to certify that the commercial transportation meets certain requirements. Our regulations prohibit the commercial transportation to slaughter facilities of equines considered to be unfit for travel and the use of electric prods on such animals in commercial transportation to slaughter. The use of double-deck trailers for commercial transportation of equines to slaughtering facilities may not be used after December 7, 2006.

These regulations require the use of two information collection activities: (1) The preparation of an owner-shipper certificate for each equine transported to slaughter and (2) the collection of business information from any individual or other entity found to be transporting horses to a slaughtering facility.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

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 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 information collection, 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 information collection 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 0.052471 hours per response.

Respondents: Owners and shippers of slaughter horses and owners/operators of slaughtering facilities.

Estimated annual number of respondents: 200.

Estimated annual number of responses per respondent: 401.

Estimated annual number of responses: 80,100.

Estimated total annual burden on respondents: 4,203 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 8th day of October, 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–25883 Filed 10–10–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Province Advisory Committee will meet in Newport, OR, October 23, 2003. The theme of the meeting is Introduction/Overview/Business Planning. The agenda includes: Payments to Counties Update, Monitoring Trip Update, Coho Recovery Plan, PAC Subcommittee Presentation, BLM/Forest Service Settlement Agreement, Public Comment and Round Robin.

DATES: The meeting will be held October 23, 2003, beginning at 9 a.m.

ADDRESSES: The meeting will be held at the La Quinta Inn and Suites, 45 SE 32nd Street, Newport, OR.

FOR FURTHER INFORMATION CONTACT: Joni Quarnstrom, Public Affairs Specialist, Siuslaw National Forest, 541–750–7075, or write to Siuslaw National Forest Supervisor, P.O. Box 1148, Corvallis, OR 97339.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Council Discussion is limited to Forest Service/BLM staff and Council Members. Lunch will be on your own. A public input session will be at 2:30 p.m. for fifteen minutes. The meeting is expected to adjourn around 3:30 p.m.

Dated: October 7, 2003.

Carl Frounfelker,

Wildlife Biologist.

[FR Doc. 03–25863 Filed 10–10–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Procedures Involving Hydropower Licensing on National Forest System Lands

AGENCY: Forest Service, USDA.

ACTION: Notice of issuance of agency directive.

SUMMARY: The Forest Service is issuing an amendment to Forest Service Manual (FSM) chapter 2770 to guide its employees regarding certain procedures for hydropower licensing on National Forest System lands. The amendment addresses internal agency procedures and provides for increased efficiency in processing hydropower applications for licensing. The amendment also clarifies the roles of the Forest Service and the Federal Energy Regulatory Commission (FERC) in licensing hydropower projects affecting National Forest System lands and resources. The procedures established in the amendment streamline the application process, but they do not limit or preclude the opportunity for interested parties and the general public to be involved during the analysis for project-specific licensing by FERC.

DATES: This amendment is effective October 14, 2003.

ADDRESSES: This amendment (Amendment No. 2700–2003–2) is available electronically from the Forest Service via the World Wide Web/Internet at *http://www.fs.fed.us/im/directives.* Single paper copies of the amendment are also available by contacting Robert Cunningham, Lands Staff (Mail Stop 1124), Forest Service, 1400 Independence Avenue, SW., Washington, DC 20250–1124, telephone: (202) 205–2494.

FOR FURTHER INFORMATION CONTACT: Robert Cunningham, Lands Staff (202) 205–2494.

Dated: October 7, 2003.

Dale N. Bosworth,

Chief.

[FR Doc. 03–25923 Filed 10–10–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Finding of No Significant Impact for Upper Salt Creek 10–A Rehabilitation, Lancaster County, NE

Introduction

The Upper Salt Creek 10–A Rehabilitation is a federally assisted action authorized for planning under Pub. L. 83–566, the Watershed Protection and Flood Prevention Act as amended by Section 313 of Pub. L. 106–472 The Small Watershed Rehabilitation Amendments of 2000. An environmental assessment was undertaken in conjunction with the development of the watershed plan. This assessment was conducted in consultation with local, State, and Federal agencies as well as with interested organizations and individuals. Data developed during the assessment are available for public review at the following location: U.S. Department of Agriculture, Natural Resources Conservation Service, Federal Building, Room 152, 100 Centennial Mall North, Lincoln, Nebraska 68508–3866.

Recommended Action

Proposed is the rehabilitation of one floodwater retarding structure, Upper Salt Creek 10–A on an unnamed tributary of Hickman Branch. The Upper Salt Creek 10–A structure controls the drainage of 2,052 acres.

Effect of Recommended Action

Rehabilitation of the structure will meet state dam safety requirements and prolong the life of the structure and pool for 100 years. The permanent pool will not change in size but the temporary flood pool will increase from 86 acres to 117 acres. Ten acres will be converted from cropland to a grassed auxiliary spillway.

Sediment delivery to downstream areas will continue to be held back. Recreation will still be available on and around the pool and structure.

Significant cultural resources identified during implementation will be avoided or otherwise preserved in place to the fullest practical extent. If significant cultural resources cannot be avoided or preserved, pertinent information will be recovered before construction. If there is a significant cultural resource discovery during construction, appropriate notice will be made by NRCS to the State Historic Preservation Officer and the National Park Service. Consultation and coordination have been and will continue to be used to ensure the provisions of Section 106 Pub. L. 89–665 have been met and to include provisions of Pub. L. 89–523, as amended by Pub. L. 93–291. NRCS will take action as prescribed in NRCS GM 420, Part 401, to protect or recover any significant cultural resources discovered during construction.

No threatened or endangered species in the watershed will be adversely affected by the project.

No significant adverse environmental impacts will result from installations except for temporary draining of the pool and minor inconveniences to local residents during construction.

Alternatives

Four alternatives were analyzed in this plan.

No Action alternative, the structure is breached by the sponsor in approximately four years. The structure will continue to be out of compliance with state dam safety regulations until it is breached. Flood protection provided by the structure would end and increased flooding and associated problems would increase. Recreational opportunities provided by the structure, pool and surrounding area which are owned by the state Game and Parks would be virtually eliminated.

Decommissioning alternative, the structure would be removed and would therefore not be out of compliance with the state dam safety regulations. Flood protection provided by the structure would end and increased flooding and associated problems would increase. Recreational opportunities provided by the structure, pool and surrounding area which are owned by the state Game and Parks would be virtually eliminated.

Home Relocation alternative, the structure would be rehabilitated to current Low Hazard Criteria and the downstream homes in the breach area would be removed. The structure would then be in compliance with state dam safety regulations and flood protection and recreational opportunities would continue to be provided by the structure, pool and surrounding area.

Rehabilitation to High Hazard Criteria alternative, the structure would be rehabilitated to current High Hazard Criteria and would be brought into compliance with state dam safety regulations for high hazard structures. Flood protection and recreational opportunities would continue to be provided by the structure, pool and surrounding area.

Consultation-Public Participation

The Lower Platte South Natural Resources District submitted an application for assistance January 2001. The request was a result of local concern and interest in addressing dam safety and flood protection.

A scoping meeting was held June 6, 2002 involving interdisciplinary efforts. Nebraska Game and Parks Commission, Lancaster County Roads, Lower Platte South Natural Resources District, Nebraska Department of Natural Resources, Resource Conservation and Development, University of Nebraska Extension Service, and local residents were in attendance.

The environmental assessment was transmitted to all participating and interested agencies, groups, and individuals for review and comment in July 2003. Public meetings were held throughout the planning process to keep all interested parties informed of the study progress and to obtain public input to the plan and environmental evaluation.

Agency consultation and public participation to date have shown no unresolved conflicts with the implementation of the selected plan.

Conclusion

The Environmental Assessment summarized above indicates that this Federal action will not cause significant local, regional or national impacts on the environment. Therefore, based on the above findings, I have determined that an environmental impact statement for the Upper Salt Creek 10–A Rehabilitation is not required.

Dated:

Stephen K. Chick,

State Conservationist.

[FR Doc. 03–25857 Filed 10–10–03; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Public Meeting With All Interested Parties To Comment on the Activities of the Resource Conservation and Development Program.

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) will hold a meeting to solicit comments on the activities of the Resource Conservation and Development Program (RC&D). Section 2504 of the Farm Security and Rural Investment Act of 2002 (P.L. 107–171) requires that the Secretary of Agriculture, in consultation with the National Association of Resource Conservation and Development Councils (NAR&DC), evaluate the RC&D Program to determine whether it is effectively meeting the needs of, and purposes identified by, States, units of Government, Indian Tribes, non-profit organizations, and councils participating in, or served by the program. The Secretary of Agriculture, acting through NRCS, will conduct this evaluation, and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation, together with any recommendations of the Secretary for continuing, terminating, or modifying the program, by June 30, 2005.

As part of this evaluation, NRCS is conducting public meetings with all interested parties to solicit comments on the activities of the program. Comments will be solicited on, and should be limited to, the following topics: (1) RC&D Program effectiveness in meeting the needs of the States, units of Government, Indian Tribes, non-profit organizations and RC&D councils served by the program; (2) RC&D Program effectiveness in developing community leadership conservation; (3) RC&D Program elements that best serve regional conservation and development needs; and (4) RC&D Program elements that can be strengthened to better serve

regional conservation and development needs. The first of six planned meetings is scheduled for October 25, 2003, in Plymouth, Massachusetts. Subsequent meeting dates and locations will be announced at a later date.

EFFECTIVE DATES: The meeting will be held October 25, 2003, from 10:15 a.m. to 12:15 p.m. It will be held at The John Carver Inn, 25 Summer Street, Plymouth, Massachusetts 02360–3438. Written comments may also be submitted, no later than November 15, 2003 to: Terry D'Addio, National RC&D Program Manager, Natural Resources Conservation Service, 14th & Independence Ave., SW., Room 6013, South Building, Washington, DC, 20250.

FOR FURTHER INFORMATION, CONTACT: Terry D'Addio, Natural Resources Conservation Service, (202) 720–0557; fax: (202) 690–0639; e-mail: *terry.d'addio@usda.gov*.

Signed in Washington, DC, on October 1, 2003.

Bruce I. Knight,

Chief, Natural Resources Conservation Service.

[FR Doc. 03–25858 Filed 10–10–03; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1304]

Expansion of Foreign-Trade Zone 31 Granite City, IL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Tri-City Regional Port District, grantee of Foreign-Trade Zone 31, submitted an application to the Board for authority to expand FTZ 31 to include three sites at the Gateway Commerce Center in Madison County (Site 5—2,254 acres), River's Edge Industrial Park in Granite City (Site 6—458 acres), and MidAmerica Airport in St. Clair County (Site 7—3,851 acres), Illinois, and to formally delete Site 2 from the zone project, within/adjacent to the St. Louis, Missouri, Customs port of entry (FTZ Docket 16–2003; filed 3/14/03);

Whereas, notice inviting public comment was given in the **Federal Register** (68 FR 14191, 3/24/03) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 31 is approved, subject to the Act and the Board's regulations, including Section 400.28, and further subject to the Board's standard 2,000-acre activation limit for the overall zone project.

Signed at Washington, DC, this 3rd day of October, 2003.

James J. Jochum,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 03–25909 Filed 10–10–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–822]

Stainless Steel Sheet and Strip in Coils From Mexico; Antidumping Duty Administrative Review; Extension of Time Limit

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the 2001–2002 administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Mexico. This review covers one manufacturer/exporter of the subject merchandise to the United States, ThyssenKrupp Mexinox S.A. de C.V., and the period July 1, 2001 through June 30, 2002.

EFFECTIVE DATE: October 14, 2003.

FOR FURTHER INFORMATION CONTACT: Deborah Scott at (202) 482–2657 or Robert James at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On August 7, 2003, we published the preliminary results of the administrative review of stainless steel sheet and strip in coils from Mexico for the period July 1, 2001 through June 30, 2002. *See Stainless Steel Sheet and Strip in Coils from Mexico; Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 47043 (August 7, 2003). Pursuant to the time limits for administrative reviews set forth in section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Tariff Act), currently the final results of this administrative review are due on December 5, 2003. It is not practicable to complete this review within the normal statutory time limit due to a number of significant case issues, such as level of trade, the calculation of general and administrative expenses and interest expenses for cost of production and constructed value, and the inclusion of certain affiliated sales in the margin calculation. Making a determination with respect to these issues requires considerable scrutiny of respondent's questionnaire and supplemental questionnaire responses. Thus, it is not practicable to complete this review within the normal statutory time limit. Therefore, the Department is extending the time limit for completion of the final results until February 3, 2004 in accordance with section 751(a)(3)(A) of the Tariff Act.

Dated: October 7, 2003.

Richard O. Weible,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–25910 Filed 10–10–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100603H]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad Hoc Groundfish Trawl Individual Quota Committee (TIQC) will hold a working meeting which is open to the public.

DATES: The TIQC working meeting will begin Tuesday, October 28, 2003 at 8:30 a.m. and may go into the evening until business for the day is completed. The meeting will reconvene from 8 a.m. and continue until business for the day is complete on Wednesday, October 29, 2003.

ADDRESSES: The meetings will be held at: Embassy Suites Hotel, 7900 NE 82nd Avenue, Portland, OR 97220; (503)460–3000.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Seger, Staff Officer (Economist), telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the TIQC working meeting is to begin development of alternatives for an individual quota program to cover limited entry trawl landings in the West Coast groundfish fishery. Committee charge, decision rules, and the purpose, need and objectives for an individual quota program will also be addressed.

Although nonemergency issues not contained in this announcement may come before the TICQ for discussion, during this meeting those issues may not be the subject of a TICQ recommendation for a final Council action that results in Council recommendation to NOAA fisheries. Recommendations for such final action by the Council will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the GMT's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: October 7, 2003.

Richard W. Surdi,

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

[FR Doc. 03–25928 Filed 10–10–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100703B]

Endangered Species; File No. 1448

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

ACTION: Receipt of application

SUMMARY: Notice is hereby given that the Northeast Fisheries Science Center, National Marine Fisheries Service, 166 Water Street, Woods Hole, MA 02543–1097, has applied in due form for a permit to take loggerhead (*Caretta caretta*), leatherback (*Dermochelys coriacea*), Kemp's ridley (Lepidochelys kempii), green (*Chelonia mydas*), and hawksbill (*Eretmochelys imbricata*) sea turtles for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before November 13, 2003.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

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

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978) 281–9200; fax (978) 281–9371.

FOR FURTHER INFORMATION CONTACT: Patrick Opay, (301) 713–1401 or Sarah Wilkin, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of 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).

The applicant proposes to conduct biological sampling of sea turtles incidentally taken in commercial fisheries in state waters and the Exclusive Economic Zone in the northwest Atlantic Ocean. The primary objectives of the proposed research are to determine the size and composition of populations of sea turtles found in the commercial fishing areas and to establish individual identities of turtles which will permit subsequent determination of growth rates, possible stock origins and movement patterns. The research will contribute to the understanding of the pelagic ecology of these species, permit more complete models of their population dynamics, and allow more reliable assessments of commercial fishery impacts.

The researchers will sample turtles which have already been taken in legally operating commercial fisheries operating from the Gulf of Maine through North Carolina. The applicant proposes to photograph, measure, scan for PIT tags, biopsy sample, flipper tag and transport 300 loggerhead, 85 leatherback, 10 Kemp's ridley, 10 green, and 10 hawksbill sea turtles annually. The applicant is requesting a 5 year permit. No mortalities are expected as a result of this research.

Written comments or requests for a public hearing on this application 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.

Dated: October 8, 2003.

Jill Lewandowski,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–25925 Filed 10–10–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.093003A]

Marine Mammals; File No. 699–1720

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. Kathryn Ono, Department of Biological Sciences, University of New England, 11 Hills Beach Road, Biddeford, Maine, 04005 has been issued a permit to take (*Phoca vitulina concolor*), gray seals (*Halichoerus grypus*), harp seals (*Phoca groenlandica*) and hooded seals (*Cystophora cristata*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

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

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978) 281–9200; fax (978) 281–9371.

FOR FURTHER INFORMATION CONTACT: Sarah Wilkin or Jennifer Jefferies, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On July 29, 2003, notice was published in the **Federal Register** (68 FR 44526) that a

request for a scientific research permit to take ''the species identified above'' had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The purpose of the research is to assess the health of the Northeast Atlantic harbor seal population residing along the coast of Maine. The permit authorizes the applicant to take up to 200 harbor seals annually by capture, and physically restrain and sample 20 young of the year pups. Morphometric measurements, samples of blood, feces, and skin biopsies will be taken, and flipper tags attached. Annually, up to 10 pups will have satellite tags attached to allow movement tracking and behavioral analysis. Accidental mortality of 2 harbor seals annually is authorized. Accidental capture and immediate release of 5 gray seals, 3 harp seals, and 3 hooded seals annually is also authorized. Additionally, Level B Harassment (disturbance of animals on haul-outs) is authorized for 400 harbor seals, 5 grey seals, 3 harp seals and 3 hooded seals annually. The research will study movement and migration patterns for young of the year pups. The movements, disease load, survival and behavior of wild-caught pups will be compared with rehabilitated pups from the same population and cohort to determine baseline ''normal'' behavior. The Permit will expire September 30, 2008.

Dated: October 2, 2003.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–25927 Filed 10–10–03; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2 p.m., Tuesday, October 21, 2003.

PLACE: 1155 21st. St., NW., Washington, DC, Room 1012.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 03–25971 Filed 10–8–03; 4:10 am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed Learn and Serve America Progress Report for all 2003 grantees. Copies of the information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by December 15, 2003.

ADDRESSES: Send comments to the Corporation for National and Community Service, Attention Mr. Mark Abbott, Associate Director for Grants Management, Learn and Serve America, 1201 New York Avenue, NW., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: Mark W. Abbott at (202) 606–5000, ext 120 or by e-mail at *mabbott@cns.gov.*

SUPPLEMENTARY INFORMATION:

The Corporation is seeking comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and,
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Background

Currently, Learn and Serve America collects progress reports twice per grant cycle. The progress reports are used to evaluate grantees progress towards meeting performance measures and to help evaluate grantees' Continuation Applications for second and third year funding requests. This year all grantees will be strongly encouraged to file progress reports on eGrants, the Corporation's web-based grant management system.

Current Action

The Corporation is seeking public comment for approval of the twice yearly program Progress Report.

Type of Review: New information collection.

AGENCY: Corporation for National and Community Service.

Title: Learn and Serve America Progress Report.

OMB Number: None.

Agency Number: None.

Affected Public: Current LSA Grantees.

Total Respondents: 134.

Frequency: Twice per year.

Average Time Per Response: 2 hours.

Estimated Total Burden Hours: 536 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 7, 2003.

Amy B. Cohen,

Director, Learn and Serve America.

[FR Doc. 03–25947 Filed 10–10–03; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

President's Information Technology Advisory Committee (PITAC)

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of meeting.

SUMMARY: This PITAC meeting will focus on the US government investment in information technology and networking and some specific applications including medicine and security. A final agenda will be posted on the PITAC Web site (*http://www.itrd.gov/pitac/index.html*) approximately two weeks before the meeting.

DATES: Friday, November 12, 2003, 11:30 a.m. to 2:30 p.m.

ADDRESSES: Noesis-Inc., 4100 North Fairfax Drive, Suite 800, Arlington, VA.

SUPPLEMENTARY INFORMATION: Members of the public are invited to attend and participate by: (1) Submitting written statements to the organizers and; (2) giving a brief (three minutes or less) oral statement during the 30 minute public comment period on the meeting agenda. The meeting will be held on-line via the Internet using Webex. Participants may attend the meeting in person at the designated site. Ten remote on-line places have also been designated for public participants who wish to join the meeting via the Internet. Individuals wishing to participate on-line must call the National Coordination Office for Information Technology Research and Development to register and be invited to the meeting.

FOR FURTHER INFORMATION CONTACT: The ITRD office at 703–292–4873 or by e-mail at *pitac@itrd.gov*.

Dated: October 6, 2003.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–25848 Filed 10–10–03; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Inspector General; Privacy Act of 1974; System of Records

AGENCY: Inspector General, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Office of the Inspector General, DoD is proposing to add a system of records to its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. In addition, the OIG DoD is deleting a system of records.

DATES: This proposed action is effective without further notice on November 13, 2003 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to Office of the Inspector General, Department of Defense, 400 Army Navy Drive, Room 223, Arlington, VA 22202–4704.

FOR FURTHER INFORMATION CONTACT: Mr. Darryl R. Aaron at (703) 604–9785.

SUPPLEMENTARY INFORMATION: The Inspector General, DoD, systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on September 23, 2003, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: September 30, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion
CIG–10

SYSTEM NAME:

Validation of Credentials of DoD Contractors' Employees (February 22, 1993, 58 FR 10213).

Reason: This system of records is being deleted because the OIG no longer maintains credentials on a ''DoD contractor'' employee.

CIG–22

SYSTEM NAME:

OIG DoD Badge and Credentials.

SYSTEM LOCATION:

Office of Security, Office of the Chief of Staff, Office of the Inspector General of the Department of Defense, 400 Army Navy Drive, Arlington, VA 22202–4704.

Office of the Deputy Inspector General for Investigations, Defense Criminal Investigative Service, Office of the Inspector General, Department of Defense, 400 Army Navy Drive, Arlington, VA 22202–4704.

Policy and Programs, Office of the Deputy Inspector General for Inspections and Policy, Office of the Inspector General of the Department of Defense, 400 Army Navy Drive, Arlington, VA 22202–4704.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are granted/issued a OIG DoD badge and/or credential, to include all accredited OIG DoD Special Agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing personal information consisting of an individual's name, Social Security Number, letters of authorization to issue badge and/or credential, badge and credential receipts, badge listing, badge and/or credential inspection reports, and badge and/or credential number assigned to OIG DoD employee and/or Special Agent.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, (Pub.L. 95–452), as amended (5 U.S.C. Appendix); 18 U.S.C. 499, Military naval or official passes; 18 U.S.C. 506, Seals of the department or agencies; 18 U.S.C. 701, Official badges, identification cards, other insignia; 10 U.S.C. 133, Secretary of Defense; DoD Directive 5106.1, Inspector General of the Department of Defense; OIG DoD DCIS Special Agents Manual; OIG Instruction 1000.1, Employee Identification Program; and E.O. 9397 (SSN).

PURPOSE(S):

To issue and control the badge and/or credential assigned to an OIG DoD employee and/or Special Agent. Used only by OIG DoD to identify specifically to which individual each badge and/or credential is assigned, to provide for orderly update of badge and/or credentials and to ensure turn in of badge and/or credentials whenever accreditation is terminated.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' set forth at the beginning of the OIG's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folder and on electronic storage media.

RETRIEVABILITY:

Retrieved by individual's name.

SAFEGUARDS:

Paper and electronic records are stored in locked filing cabinets and stored in a limited access area. Building is lock and guarded during non-duty hours. Only those individuals with a need-to-know access the records. Access to computer records are password protected.

RETENTION AND DISPOSAL:

Paper records and computer disks are to be retained until completion of the overall validation process and data analysis, and then destroyed. When badge and credentials are turned in, records are destroyed 3 months after turn in.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Security, Office of the Chief of Staff, Office of the Inspector General of the Department of Defense, 400 Army Navy Drive, Arlington, VA 22202–4704.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address a written request to the Chief, Freedom of Information Act/Privacy Act Office, 400 Army Navy Drive, Arlington, VA 22202–4704.

Written request should contain the individual's full name, current address, telephone number, and the request must be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system of records should address a written request to the Chief, Freedom of Information Act/Privacy Act Office, 400 Army Navy Drive, Arlington, VA 22202–4704.

Written request should contain the individual's full name, current address, telephone number, and the request must be signed.

CONTESTING RECORD PROCEDURES:

The OIG's rules for accessing records and for contesting contents and appealing initial agency determinations are published in 32 CFR part 312 or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from individual, personnel records and issued badge and credentials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 03–25851 Filed 10–10–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

United States Marine Corps; Privacy Act of 1974; System of Records

AGENCY: United States Marine Corps, DoD.

ACTION: Notice to add a records system.

SUMMARY: The U.S. Marine Corps is adding a system of records notice from its inventory of records systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: The addition will be effective on (insert date thirty days after date published in the **Federal Register**) unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Headquarters, U.S. Marine Corps, FOIA/PA Section (CMC-ARSE), 2 Navy Annex, Room 1005, Washington, DC 20380–1775.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy D. Ross at (703) 614–4008.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps' records system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 1, 2003, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: October 6, 2003.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

M01754–4

SYSTEM NAME:

Marine For Life Program.

SYSTEM LOCATION:

Primary Location: Marine For Life Program, Headquarters, U.S. Marine Corps, Manpower and Reserve Affairs Department, Reserve Affairs Division, 3280 Russell Road, Quantico, VA 22134–5103.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Honorably discharged Marines seeking assistance transitioning to civilian life.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, rank/grade, Social Security Number, date of birth, home of record, current address/contact information, duty status, component code, sex, security investigation date/type, separation document code, education, enlistment contract details (EAS, ECC, EOS), training information to include military occupational specialties, and related data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., Chapter 58, Benefits and services for members being separated or recently separated; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).

PURPOSE(S):

To provide transition assistance and sponsorship for Marines who honorably leave active service and return to civilian life. Information will also be used to monitor the type and quality of services provided to transitioning Marines.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Marine Corps' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are stored on computer hard drives and computer disks.

RETRIEVABILITY:

Information is retrieved by the transitioning Marine's name and/or Social Security Number.

SAFEGUARDS:

Computer facilities are located in restricted areas accessible only by authorized persons who are properly screened, cleared, and trained. Database records are password protected. Access is restricted to the transitioning Marine (record subject) and to authorized Agency personnel who have established an official need-to-know. Based on user profiles, there are different levels of access. No one, other than Marine For Life personnel, has access to any information not ''unlocked'' by the record subject. All users can see ''unlocked'' information. Full access to information maintained in the database is available only to authorized Agency personnel with established official need-to-know.

RETENTION AND DISPOSAL:

Records are maintained while the transitioning Marine is in service and for a period of 11 months after separation.

SYSTEM MANAGER(S) AND ADDRESS:

Branch Head, Marine For Life Program, Headquarters, U.S. Marine Corps, Manpower and Reserve Affairs Department, Reserve Affairs Division, 3280 Russell Road, Quantico, VA 22134–5103.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should either log onto the web database at *http://www.marineforlife.com* or address written inquiries to Branch Head, Marine For Life Program, Headquarters, U.S. Marine Corps, Manpower and Reserve Affairs Department, Reserve Affairs Division, 3280 Russell Road, Quantico, VA 22134–5103.

Written requests must be signed and contain the transitioning Marine's full name and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should either log onto the web database at *http://www.marineforlife.com* or address written inquiries to Branch Head, Marine For Life Program, Headquarters, U.S. Marine Corps, Manpower and Reserve Affairs Department, Reserve Affairs Division, 3280 Russell Road, Quantico, VA 22134–5103.

Written requests must be signed and contain the transitioning Marine's full name and Social Security Number.

CONTESTING RECORD PROCEDURES:

The USMC rules for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; Marine Corps Order P5211.2; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Transitioning Marines and the Marine Corps Total Force System database.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 03–25854 Filed 10–10–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to add a record system.

SUMMARY: The Department of the Air Force proposes to add a system of records notice to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The actions will be effective on November 13, 2003 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force FOIA/Privacy Manager, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne P. Rollins at (703) 601–4043.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 522a(r) of the Privacy Act of 1974, as amended, was submitted on September 23, 2003, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: September 30, 2003.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F065 AF A

SYSTEM NAME:

Time and Attendance Feeder Records.

SYSTEM LOCATION:

Organizational elements of the Department of the Air Force, and headquarters of Combatant Commands for which Air Force is executive agent. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel assigned to the Air Force and Combatant Commands under the auspices of the Department of the Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Time and attendance data and labor distribution data that includes name, Social Security Number, work location, job order number, task orders, leave accrual data, occupational series, grade, pay period identification, time card certification information, special pay categories, work schedule, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force and E.O. 9397 (SSN).

PURPOSE(S):

To track time and attendance and labor distribution data for management and manpower decision support and for financial purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in computers and on computer output products.

RETRIEVABILITY:

Retrieved by name, Employee Identification Number or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software

RETENTION AND DISPOSAL:

Destroy reports generated at preparing activities when no longer needed. Destroy Individual Attendance and Overtime records after GAO audit or when 6 years old, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officers at Air Force organizations, offices, or functions to which the individual is assigned. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the commanding officer of their organization. Official mailing addresses are published as an appendix to the Air Force's compilation of records notices.

Inquiries should contain the individual's full name, home address, Social Security Number or Employee Identification Number, organization, pay period, and must be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the commanding officer of their organization. Official mailing addresses are published as an appendix to the Air Force's compilation of records notices.

Inquiries should contain the individual's full name, home address, Social Security Number or Employee Identification Number, organization, pay period, and must be signed.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; time sheets; and work schedules.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 03–25852 Filed 10–10–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Air Force is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

In addition, a portion of the Preamble to the Air Force Compilation of systems of records notices is being amended as identified below.

DATES: This proposed action will be effective without further notice on November 13, 2003 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Manager, Office of the Chief Information Officer, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 601–4043.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: October 6, 2003.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

* * * * *

United States Air Force

How Systems of Records Are Arranged

In the Air Force, records are grouped by subject series. Each series has records about a specific activity or function to which a subject title and number is given. Systems of records are grouped in the same way. For example, a system of records on personnel security clearances may be found in ''Security—31,'' and one about Judge Advocate Personnel Records in ''Law—51''. These numbers are part of the system identification, which precede the notices. They look like this: F031 AF SF A or F051 AFJA C. The letter ''F'' means Air Force. The first three digits (031 and 051) show that the records pertain to Security and Law respectively. The letters that follow indicate to whom the system applies and/or the Office of Primary Responsibility (OPR). For example, in system F031 AF SF A, AF indicates that this is an Air Force-wide system, with SF denoting Security Forces as the OPR. The last alpha designation is for internal management control. In the records system F051 AFJA C, (without a space between the AF and JA) indicates this is a Judge Advocate General System and applies to the office of The Judge Advocate General only.

A ''DoD'' in the identifier means that the Air Force system is a DoD-wide system of records and applies to all DoD Components.

Using the Index Guide

The systems of records maintained by the Air Force are contained within the subject series that are listed below.

This list identifies each series in the order in which it appears in this issuance. Use the list to identify subject areas of interest. Having done so, use the series number (for example 031 for Security) to locate the systems of records grouping in which you are interested.

System Identification Series—Subject Series

Flying Operations—011
Operations—010
Maintenance—021
Supply—023
Transportation—024
Security—031
Civil Engineering—032
Communications and Information—033
Services—034
Public Affairs—035
Personnel—036
Manpower and Organization—038
Medical—044
Law—051
Chaplain—052
Scientific/Research Development—061

Financial Management—065
Special Investigations—071
Command Policy—090
Safety—091

* * * * *

F031 AF SP E

SYSTEM NAME:

Security Forces Management Information System (SFMIS) (August 29, 2003, 68 FR 51998).

CHANGES:

System identifier:

Delete entry and replace with 'F031 AF SF B'.

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Destroy offenses reportable under Brady, Lautenberg, or involving sex offender registration 99 years after entry into the SFMIS database; Class A offenses and military offenses of confinement of more than 1 year or death is adjudged by court-martial 5 years from entry into database or term of confinement whichever is later; Class B offenses 3 years after entry into database or term of confinement, whichever is later; military offenses other than those disposed of by Article 15/ Administrative Sanction 3 years after entry into database; offenses disposed of by Article 15/Adminstrative Sanction 6 months after entry into database; and records on acquittals, set aside actions and unfounded allegations immediately after action is completed.'

* * * * *

F031 AF SF B

SYSTEM NAME:

Security Forces Management Information System (SFMIS).

SYSTEM LOCATION:

DISA MegaCenter, Building 857, 401 E. Drive, Maxwell Air Force Base-Gunter Annex, AL 36114–3001; security forces units at all levels can access the system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in incidents and accidents occurring on Air Force (AF) installations, or reportable incidents occurring off base, including all active duty military personnel, reserve and guard; DoD civilians and other civilians; and retirees, who may be victims, witnesses, complainants, offenders, suspects, drivers; individuals who have had tickets issued on base, or had their license suspended or revoked; those persons barred from the installation; and persons possessing a licensed firearm.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data on individuals (victims, witnesses, complainants, offenders, suspects, and drivers) involved in incidents may include, but is not limited to, name; Social Security Number; date of birth; place of birth; home address and phone; alias; race; ethnicity; sex; marital status; identifying marks (tattoos, scars, etc.); height; weight; eye and hair color; date, location, nature and details of the incident/offense to include whether alcohol, drugs and/or weapons were involved; driver's license information; tickets issued; vehicle information; suspension/revocation or barment records; whether bias against any particular group was involved; if offense involved sexual harassment; actions taken by military commanders (*e.g.*, administrative and/or non-judicial measures, to include sanctions imposed); referral actions; court-martial results and punishments imposed; confinement information, to include location of correctional facility, gang/ cult affiliation if applicable; and release/ parole/clemency eligibility dates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; DoD Directive 7730.47, Defense Incident Based Reporting System (DIBRS); Air Force Instruction 31–203, Security Forces Management Information System; 18 U.S.C. 922 note, Brady Handgun Violence Prevention Act; 28 U.S.C. 534 note, Uniform Federal Crime Reporting Act; 42 U.S.C. 10601 *et seq.*, Victims Rights and Restitution Act of 1990; and E.O. 9397 (SSN).

PURPOSE(S):

Serves as a repository of criminal and specified other non-criminal incidents used to satisfy statutory and regulatory reporting requirements, specifically to provide crime statistics required by the Department of Justice (DoJ) under the Uniform Federal Crime Reporting Act; to provide personal information required by the DoJ under the Brady Handgun Violence Prevention Act; and statistical information required by DoD under the Victim's Rights and Restitution Act; and to enhance AF's capability to analyze trends and to respond to executive, legislative, and oversight requests for statistical crime data relating to criminal and other high-interest incidents.

Security Forces commanders will use criminal/statistical data for local law enforcement purposes. The system generates reports for use by the Air Force Security Forces at all levels of command, provides security forces commanders the ability to view criminal statistics and apply whatever actions are necessary for enforcement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Justice for criminal reporting purposes and as required by the Brady Handgun Violence Prevention Act.

To courts and state, local, and foreign law enforcement agencies for valid judicial proceedings.

To victims and witnesses to comply with the Victim and Witness Assistance Program, the Sexual Assault Prevention and Response Program, and the Victims' Rights and Restitution Act of 1990.

The DoD ''Blanket Routine Uses'' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computers and computer output products; some paper reports are generated.

RETRIEVABILITY:

Records are retrieved by name or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties, and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in computer storage devices which are protected by computer system software.

RETENTION AND DISPOSAL:

Destroy offenses reportable under Brady, Lautenberg, or involving sex offender registration 99 years after entry into the SFMIS database; Class A offenses and military offenses of confinement of more than 1 year or death is adjudged by court-martial 5 years from entry into database or term of confinement whichever is later; Class B offenses 3 years after entry into database or term of confinement, whichever is later; military offenses other than those disposed of by Article

15/Administrative Sanction 3 years after entry into database; offenses disposed of by Article 15/Adminstrative Sanction 6 months after entry into database; and records on acquittals, set aside actions and unfounded allegations immediately after action is completed.

SYSTEM MANAGER(S) AND ADDRESS:

Reports and Analysis Program Manager, Police Services Branch, Headquarters Air Force Security Forces Center (HQ AFSFC/SFOP), 1517 Billy Mitchell Boulevard, Lackland Air Force Base, TX 78236–0119.

NOTIFICATION PROCEDURE:

Individuals seeking to access records about themselves contained in the system should address written requests to their servicing Security Forces Administrative Reports Section (SFAR) or visit the system manager at HQ Air Force Security Forces Center, Police Services Branch (HQ AFSFC/SFOP), 1517 Billy Mitchell Boulevard, Lackland Air Force Base, TX 78236–0119.

Individuals must identify themselves by full name, rank, home address, Social Security Number and present a military ID, valid driver's license, or some other form of identification when appearing in person.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in the system should address written requests to their servicing Security Forces Administrative Reports Section (SFAR) or visit the system manager at HQ Air Force Security Forces Center, Police Services Branch (HQ AFSFC/SFOP), 1517 Billy Mitchell Boulevard, Lackland Air Force Base, TX 78236–0119.

Individuals must identify themselves by full name, rank, home address, and Social Security Number.

CONTESTING RECORDS PROCEDURES:

The Air Force rules for accessing records, for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from individuals; DoD and civilian law enforcement authorities, security flight personnel, desk sergeants, operations personnel, staff judge advocates, courts-martial, correctional institutions and facilities, and administrative reports branch personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency, which performs as its principle function any activity pertaining to the enforcement of criminal laws.

An exemption rule for this exemption has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 806b. For additional information contact the system manager.

[FR Doc. 03–25853 Filed 10–10–03; 8:45 am]

BILLING CODE 5001–08–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7573–7]

Request for Applications for Essential Use Exemptions to the Production and Import Phaseout of Ozone Depleting Substances Under the Montreal Protocol for the Years 2005 and 2006

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Through this action, the Environmental Protection Agency (EPA) is requesting applications for essential use allowances for calendar years 2005 and 2006. Essential use allowances provide exemptions to the production and import phaseout of ozone-depleting substances and must be authorized by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. The U.S. Government will use the applications received in response to this notice as the basis for its nomination of essential use allowances at the Sixteenth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (the Protocol), to be held in 2004.

DATES: Applications for essential use exemptions must be submitted to EPA no later than November 13, 2003 in order for the U.S. Government to complete its review and to submit nominations to the United Nations Environment Programme and the Protocol Parties in a timely manner.

ADDRESSES: Send two copies of application materials to: Scott Monroe, Global Programs Division (6205J), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. (For applications sent via courier service, use the following direct mailing address: 1310 L Street, NW, Washington, DC 20005.) *Confidentiality:* Application materials that are confidential should be submitted under separate cover and be clearly identified as ''trade secret,'' ''proprietary,'' or ''company confidential.'' Information covered by a claim of business confidentiality will be disclosed only to authorized government personnel. Please note that data will be presented in aggregate form by the United States as part of the nomination to the Parties. If no claim of confidentiality accompanies the information when it is received by EPA, the information may be made available to the public by EPA without further notice to the company (40 CFR 2.203).

FOR FURTHER INFORMATION CONTACT: Scott Monroe at the above address, or by telephone at (202) 343–9712, by fax at (202) 343–2337, or by e-mail at *monroe.scott@epa.gov*. General information may be obtained from EPA's stratospheric protection Web site at *http://www.epa.gov/ozone*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background on the Essential Use Nomination Process
II. Information Required for Essential Use Applications for Production or Importation of Class I Substances in 2005 and 2006

I. Background—The Essential Use Nomination Process

As described in previous **Federal Register** (FR) documents,[1] the Parties to the Protocol agreed during the Fourth Meeting in Copenhagen on November 23–25, 1992, to accelerate the phaseout schedules for Class I ozone-depleting substances. Specifically, the Parties agreed that non-Article 5 Parties (that is, developed countries) would phase out the production and consumption of halons by January 1, 1994, and the production and consumption of other class I substances (under 40 CFR part 82, subpart A), except methyl bromide, by January 1, 1996. The Parties also reached decisions and adopted resolutions on a variety of other matters, including the criteria to be used for allowing ''essential use'' exemptions from the phaseout of production and importation of controlled substances. Decision IV/25 of the Fourth Meeting of the Parties details the specific criteria and review process for granting essential use exemptions.

Decision IV/25 states that ''* * * a use of a controlled substance should qualify as ''essential'' only if: (i) it is necessary for the health, safety or is

[1] 58 FR 29410, May 20, 1993; 59 FR 52544, October 18, 1994; 60 FR 54349, October 23, 1995; 61 FR 51110, 0 30, 1996, 62 FR 51655, October 2, 1997; 63 FR 42629, August 10, 1998; 64 FR 50083, September 15, 1999; 65 FR 65377, November 1, 2000; and 200166 FR 56102, November 6, 2001.

critical for the functioning of society (encompassing cultural and intellectual aspects); and (ii) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health.'' In addition, the Parties agreed ''that production and consumption, if any, of a controlled substance, for essential uses should be permitted only if: (i) all economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and (ii) the controlled substance is not available in sufficient quantity and quality from the existing stocks of banked or recycled controlled substances * * *.'' Decision XII/2 taken at the thirteenth meeting of the Parties states that any CFC metered dose inhaler (MDI) product approved after December 31, 2000, is nonessential unless the product meets the criteria in Decision IV/25 paragraph 1(a).

The first step in obtaining essential use allowances is for the user to consider whether the use of the controlled substance meets the criteria of Decision IV/25. If the essential use request is for an MDI product, that product must also meet the criteria of Decision XII/2. The user should then send a completed application in order to notify EPA of the candidate use and provide information for U.S. government agencies and the Protocol Parties to evaluate that use according to the criteria under the Protocol.

Upon receipt of the essential use exemption application, EPA reviews the information provided and works with other interested Federal agencies to determine whether it meets the essential use criteria and warrants being nominated by the United States for an exemption. In the case of multiple exemption requests for a single use such as for MDIs, EPA aggregates exemption requests received from individual entities into a single U.S. request. An important part of the EPA review of requests for CFCs for MDIs is to determine that the aggregate request for a particular future year adequately reflects the total market need for CFC MDIs and expected availability of CFC substitutes by that point in time. If the sum of individual requests does not account for such factors, the U.S. government may adjust the aggregate request to better reflect true market needs.

Nominations submitted by the United States and other Parties are forwarded from the United Nations Ozone Secretariat to the Montreal Protocol's Technical and Economic Assessment Panel (TEAP) and its Technical Options Committees (TOCs), which review the submissions and make recommendations to the Protocol Parties for essential use exemptions. Those recommendations are then considered by the Parties at their annual meeting for final decision. If the Parties declare a specified use of a controlled substance as essential, and issue the necessary exemption from the production and consumption phaseout, EPA may propose regulatory changes to reflect the decisions by the Parties, but only to the extent such action is consistent with the Clean Air Act (CAA or Act). Applicants should be aware that essential use exemptions granted to the United States under the Protocol in recent years have been limited to chlorofluorocarbons (CFCs) for metered dose inhalers (MDIs) to treat asthma and chronic obstructive pulmonary disease, and methyl chloroform for use in manufacturing solid rocket motors.

The timing of this process is such that in any given year the Parties review nominations for essential use exemptions from the production and consumption phaseout intended for the following year and subsequent years. This means that, if nominated, applications submitted in response to today's notice for an exemption in 2005 and 2006 will be considered by the Parties in 2004 for final action.

The quantities of controlled ODSs that are requested in response to this notice, if approved by the Parties to the Montreal Protocol in 2004, will then be allocated as essential use allowances (EUAs) to the specific U.S. companies through notice and comment rulemaking. EUAs for the year 2005 will be allocated to U.S. companies at the end of 2004, and EUAs for the year 2006 will be made at the end of 2005.

II. Information Required for Essential Use Applications for Production or Importation of Class I Substances in 2005 and 2006

Through this action, EPA requests applications for essential use exemptions for all class I substances, except methyl bromide, for calendar years 2005 and 2006. This notice is the last opportunity to submit new or revised applications for 2005. This notice is also the first opportunity to submit requests for 2006. Companies will have an opportunity to submit new, supplemental, or amended applications for 2006 next year. All requests for exemptions submitted to EPA must present information as prescribed in the current version of the TEAP ''Handbook on Essential Use Nominations'' (or ''handbook''), which was published in June 2001. The handbook is available electronically on the Web at *http://www.teap.org*, or at *http://www.epa.gov/ozone*.

In brief, the TEAP Handbook states that applicants must present information on:

- Role of use in society;
- Alternatives to use;
- Steps to minimize use;
- Steps to minimize emissions;
- Recycling and stockpiling;
- Quantity of controlled substances requested; and
- Approval date and indications (for MDIs).

First, in order to obtain complete information from essential use applicants for CFC MDIs, EPA requires that parties (such as the International Pharmaceutical Aerosol Consortium) who request CFCs for multiple pharmaceutical companies make clear the amount of CFCs requested for each member company. Second, all essential use applications for CFCs must provide a breakdown of the quantity of CFCs necessary for each MDI product to be produced. This detailed breakdown of EUAs will allow EPA and the Food and Drug Administration to make informed decisions on the amount of CFC to be nominated by the U.S. Government for the years 2005 and 2006. Third, all new drug application (NDA) holders for CFC MDI products produced in the United States must submit a complete application for essential use allowances either on their own or in conjunction with their contract filler. In the case where a contract filler produces a portion of an NDA holder's CFC MDIs, the contract filler and the NDA holder must determine the total amount of CFCs necessary to produce the NDA holder's entire product line of CFC MDIs. The NDA holder must provide an estimate of how the CFCs would be split between the contract filler and the NDA holder in the allocation year. This estimate will be used only as a basis for determining the nomination amount, and may be adjusted prior to allocation of EUAs. Since the U.S. Government cannot forward incomplete or inadequate nominations to the Ozone Secretariat, it is important for applicants to provide all information requested in the Handbook, including the information specified in the supplemental research and development form (page 45).

The accounting framework matrix in the handbook entitled ''Table IV: Reporting Accounting Framework for Essential Uses Other Than Laboratory and Analytical'' requests data for the year 2003 on the amount of ODS exempted for an essential use, the amount acquired by production, the

amount acquired by import, the amount on hand at the start of the year, the amount available for use in 2003, the amount used for the essential use, the quantity contained in exported products, the amount destroyed, and the amount on hand at the end of 2003. Because all data necessary for applicants to complete Table IV will not be available until after January 1, 2004, companies should not include this chart with their EUA applications in response to this action. EPA plans to send a letter to each essential use applicant requesting the information in Table IV in the first 2 weeks of January 2004. Companies will have only fourteen days in which to respond to this letter, because EPA must compile companies' responses to complete the U.S. CFC Accounting Framework for submission to the Parties to the Montreal Protocol by the end of January.

EPA anticipates that the Parties' review of MDI essential use requests will focus extensively on the United States' progress in developing alternatives to CFC MDIs, including education programs to inform patients and health care providers of the CFC phaseout and the transition to alternatives. Accordingly, applicants are strongly advised to present detailed information on these points, including the scope and cost of such efforts and the medical and patient organizations involved in the work. Applicants should submit their exemption requests to EPA as noted in the **ADDRESSES** section at the beginning of today's document.

Dated: October 6, 2003.

Jeffrey R. Holmstead,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 03–25914 Filed 10–10–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7573–5]

Gulf of Mexico Program Citizens Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act (Pub. L. 92–463), EPA gives notice of a meeting of the Gulf of Mexico Program (GMP) Citizens Advisory Committee (CAC).

DATES: The meeting will be held on Tuesday, November 4, 2003, 12 p.m. to 5 p.m., and on Wednesday, November 5, 2003, from 8:30 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn on the Beach, 5002 Seawall Boulevard, Galveston, Texas 77551. (409–740–3581).

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Mail Code EPA/GMPO, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: Agenda items include: GMP's Role in Implementation of the Hypoxia Action Plan, GMP Outreach and Education, Citizen's Role in Gulf Guardian Awards Process, CAC Strategic Planning FY 2004–2005.

The meeting is open to the public.

Dated: October 6, 2003.

Gloria D. Car,

Designated Federal Officer.

[FR Doc. 03–25937 Filed 10–10–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7574–3]

Meeting on Papers Addressing Scientific Issues in the Risk Assessment of Metals

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: Today the U.S. Environmental Protection Agency (EPA) announces an October 28, 2003, public meeting on five draft scientific white papers on metals risk assessment. Development of the papers was led by Eastern Research Group Inc., a contractor to EPA. The notice of availability of these papers for review and comment was published in an earlier **Federal Register** Notice (68 FR 55051, September 22, 2003). Consistent with EPA's commitment to provide opportunities for external input, the Agency now announces a public meeting to gather further feedback on the draft papers. In order to assist in compiling comments on the issue papers, the Agency asks that commenters address questions posed in the September 22, 2003, **Federal Register** Notice. These questions are reprinted below under **SUPPLEMENTARY INFORMATION**. ERG, the EPA contractor who lead the development of the issue papers, is organizing and convening the meeting.

DATES: The public meeting will be held Tuesday, October 28, 2003, from 9:30 a.m. to 5 p.m. Eastern Standard Time. Participants wishing to attend are asked to register with ERG by October 21, 2003.

ADDRESSES: The public meeting will be held at the Hotel Washington, 515 15th Street at Pennsylvania Avenue, NW., Washington, DC 20004. You may register online at *https://www.ergweb.com/projects/metalreg/index.html.* You may also register by calling ERG at (781) 674–7374. Space is limited and reservations will be accepted on a first-come, first-served basis. Please let ERG know if you plan to make comments at the meeting.

EPA has established an official public docket for comments under Docket Identification Number OAR–2003–0192. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. Comments may be submitted and reviewed on-line at *http://www.epa.gov/edocket* as detailed in the earlier **Federal Register** Notice (68 FR 55051, September 22, 2003) entitled ''Papers Addressing Scientific Issues in the Risk Assessment of Metals''.

FOR FURTHER INFORMATION CONTACT: For meeting information, registration, and logistics, contact ERG, 110 Hartwell Avenue, Lexington, Massachusetts 02421; telephone: (781) 674–7374; facsimile: (781) 674–2906.

For technical information on the white papers, contact Dr. William P. Wood, Executive Director, Risk Assessment Forum, National Center for Environmental Assessment, Office of Research and Development; telephone: (202) 564–3361; facsimile: (202) 565–0062; or email: *risk.forum@epa.gov.*

SUPPLEMENTARY INFORMATION:

Presentations: Members of the public who are interested in making a short presentation on scientific issues at the meeting are requested to indicate this interest at the time of registration. EPA would appreciate provision of a short summary of the presentation, which should be no more than one page. Please provide this summary in written and electronic format upon arrival at the meeting. Presentations should be no more than 20 minutes in duration, subject to the number of presentations registered. Because EPA is seeking a variety of opinions, the facilitator will ensure that there is a balance of time allotted. Presenters please note that ERG may record the meeting proceedings to support their developing a meeting summary report. Resources ERG uses in the development of the report will remain the property of ERG. EPA will make the summary report available on-line through the Risk Assessment Forum's Web site, *http://cfpub.epa.gov/ncea/raf/.*

Comments: Comments presented during the meeting should be submitted to Edocket. In addition, please submit one unbound original set of comments with pages numbered consecutively at the meeting. For attachments, provide an index and number pages consecutively with the comments. Because all comments received will be placed in Edocket, commentors should not submit personal information (such as medical data or home address), Confidential Business Information, or information protected by copyright.

SUPPLEMENTARY INFORMATION: During their September 2002 review of the Agency's draft action plan for the development of a metals framework, the EPA Science Advisory Board emphasized the importance of engaging the outside community so as to contribute to the knowledge base the Agency would draw from in developing guidance on the risk assessment of metals. As part of the effort to engage stakeholders and the scientific community and to build on existing experience, the Agency commissioned ERG to organize external experts to lead the development of scientific papers on issues and state-of-the-art approaches to metals risk assessment. (Some individual EPA experts contributed specific discussions on topic(s) for which he or she has scientific expertise or knowledge of current Agency practice.)

On September 22, 2003, EPA published a **Federal Register** Notice announcing the availability of, and opportunity to comment on, five draft scientific white papers titled: (1) Issue Paper on the Environmental Chemistry of Metals, (2) Issue Paper on Metal Exposure Assessment, (3) Issue Paper on the Ecological Effects of Metals, (4) Issue Paper on the Human Health Effects of Metals, and (5) Issue Paper on the Bioavailability and Bioaccumulation of Metals. The draft issue papers are available primarily via the Internet on the Risk Assessment Forum's web page at *http://cfpub.epa.gov/ncea/raf/recordisplay.cfm?deid=59052.* Comments will be received on the draft papers until November 7, 2003.

The public meeting will provide further opportunity for the Agency to receive stakeholder input. EPA is particularly interested in the public's perspectives on the following:

1. For the purpose of deriving general principles that can be applied in the assessment of metals, do the issue papers provide an appropriate level of detail?

2. Are there additional chemical, biological and physical processes that should be considered for metals assessment? If so, please describe and provide references.

3. Are you aware of any models, approaches or methods not considered in the reports that, if implemented, would substantially reduce uncertainty in the Agency's metal assessments? If so, which ones are ready for application now (or in the next few years), and which types of assessments would benefit most from their application (*e.g.*, hazard ranking/characterization, national, or site-specific assessments)?

4. What other suggestions do you have to improve the utility of these papers as the Agency develops a metals assessment framework?

The purpose of this meeting is for EPA to receive additional scientific comment from the public on the issue papers. Therefore, although EPA staff will be present, EPA will not evaluate or respond to comments at the meeting. Likewise, EPA is not soliciting comments on past Agency actions.

The views expressed in the draft papers are those of the authors and do not necessarily reflect the views or policies of the EPA. For this reason, disposition of scientific comments received on these papers will be made at the author's or author team's discretion. The material contained in the papers may be used in total, or in part, as source material for the Agency's framework for metals risk assessment and EPA's evaluation of this material will therefore include consideration of the Assessment Factors recently published by EPA for use in evaluating the quality of scientific and technical information.

Dated: October 7, 2003.

Peter W. Preuss,

Director, National Center for Environmental Assessment.

[FR Doc. 03–25935 Filed 10–10–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0342; FRL–7331–4]

Pesticide Program Dialogue Committee and PPDC Registration Review Work Group; Notice of Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Pesticide Program Dialogue Committee (PPDC) will hold a public meeting on October 29 and 30, 2003. An agenda is being developed and will be posted on EPA's website. Agenda topics will include a report from the PPDC's Registration Review Work Group; endangered species; non-governmental stewardship activities; pesticide budget/fees and output efficiencies; certification and training; and follow-up to issues discussed at the April 2003 PPDC meeting. In addition, the PPDC Registration Review Work Group will hold two separate public meetings on the following dates: October 17 and October 28, 2003. Agendas for the PPDC Registration Review Work Group meetings will also be posted on EPA's website.

DATES: The PPDC meeting will be held on Wednesday, October 29, 2003, from 9 a.m. to 5:30 p.m., and Thursday, October 30, 2003, from 9 a.m. to 1 p.m.

The PPDC Registration Review Work Group will hold a public meeting on Friday, October 17, 2003, from 8:30 a.m. to 5 p.m., and on Tuesday, October 28, 2003, from 9 a.m. to 5 p.m.

ADDRESSES: The PPDC meeting will be held at the National Rural Electric Cooperative Association (NRECA) Conference Center, 4301 Wilson Boulevard, Arlington, VA. The telephone number to the NRECA Conference Center is (703) 907–5500. The NRECA Conference Center is located adjacent to the Ballston Metro Station and about a 15 minute taxi ride from Ronald Reagan Washington National Airport.

The PPDC Registration Review Work Group meeting on October 17, 2003, will be held at EPA's Offices at 1921 Jefferson Davis Highway, Crystal Mall #2, Room 1110 (the Fishbowl), Arlington, VA. The PPDC Registration Review Work Group meeting on October 28, 2003, will be held at the Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA. The telephone number to the Hyatt Regency Crystal City is (703) 413–6873.

FOR FURTHER INFORMATION CONTACT: Margie Fehrenbach, Office of Pesticide Programs, Mail code 7501C, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 703–308–4775; fax number: 703–308–4776; e-mail address: *Fehrenbach.Margie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general; however, persons may be interested who work in agricultural settings or persons who are concerned about implementation of the Federal

Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); and the amendments to both of these major pesticide laws by the Food Quality Protection Act (FQPA) of 1996. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**. Potentially affected entities may include but are not limited to: Agricultural workers and farmers; pesticide industry and trade associations; environmental, consumer and farmworker groups; pesticide users and growers; pest consultants; State, local and Tribal governments; academia; public health organizations; food processors; and the public. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0342. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An agenda for the PPDC meeting is being developed and will be posted on EPA's website at *www.epa.gov/pesticides/ppdc*. Agendas for the PPDC Registration Review Work Group meetings will also be posted on EPA's website at *www.epa.gov/pesticides/ppdc*.

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.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background

The Office of Pesticide Programs is entrusted with the responsibility of ensuring the safety of the American food supply, the protection and education of those who apply or are exposed to pesticides occupationally or through use of products from unreasonable risk, and general protection of the environment and special ecosystems from potential risks posed by pesticides.

PPDC was established under the Federal Advisory Committee Act (FACA), Public Law 92–463 in September 1995, for a 2–year term and renewed every 2 years since that time. EPA is seeking to renew the current PPDC Charter, which expires in November 2003, for another 2–year term. PPDC provides advice and recommendations to the Office of Pesticide Programs on a broad range of pesticide regulatory, policy and program implementation issues that are associated with evaluating and reducing risks from use of pesticides. The following sectors are represented on the PPDC: Pesticide industry and trade associations; environmental/public interest and consumer groups; farm worker organizations; pesticide user, grower, and commodity groups; Federal and State/local/Tribal governments; the general public; academia; and public health organizations.

Copies of the PPDC Charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request.

List of Subjects

Environmental protection, Agricultural workers, Agriculture, Chemicals, Foods, Pesticides, Pests, Public health, Risk assessment, Tolerance reassessment.

Dated: October 9, 2003.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. 03–25984 Filed 10–9–03; 10:10 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7574–2]

Integrated Risk Information System (IRIS); Administrative Changes

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice; administrative changes in the Integrated Risk Information System hotline and records center.

SUMMARY: IRIS is an EPA data base that contains EPA scientific consensus positions on human health effects that may result from chronic exposure to chemical substances in the environment. In this action, EPA is announcing an upcoming change to the location and phone number of EPA's contractor-operated IRIS hotline and publically-accessible records center.

DATES: On or about October 17, 2003.

ADDRESSES: The new address of the IRIS Hotline and records center will be IRIS Hotline, (Mail Code 28221T) EPA-West Building, 1301 Constitution Avenue, NW, Washington DC 20005.

FOR FURTHER INFORMATION CONTACT: For information on this administrative change, contact Rick Johnson, IRIS staff, National Center for Environmental Assessment (mail code 8601D), Office of Research and Development, U.S. Environmental Protection Agency, Washington, DC 20460, or call (202) 564–3291, or send electronic mail inquiries to *johnson.rickc@epa.gov*. For information on the IRIS program, contact Amy Mills, Program Director, National Center for Environmental Assessment (mail code 8601D), Office of Research and Development, U.S. Environmental Protection Agency, Washington, DC 20460, or call (202) 564–3204, or send electronic mail inquiries to *mills.amy@epa.gov*.

SUPPLEMENTARY INFORMATION:

Background

IRIS is an EPA data base containing Agency consensus scientific positions on potential adverse human health effects that may result from chronic (or lifetime) exposure to chemical substances found in the environment. IRIS currently provides information on health effects associated with more than 500 chemical substances. EPA has provided outreach to facilitate the use

and understanding of the data base. These efforts include a telephone hotline which provides answers to public inquiries about access to IRIS, the content of specific IRIS health assessments, and risk assessment methodologies. EPA also operates a reading room where the public may, by appointment, view background files supporting IRIS assessments. Further, EPA provides IRIS on the Internet for public access at *http://www.epa.gov/iris.*

Today's Action

EPA is moving the hotline function and reading room to the Agency's combined docket facility, the EPA Docket Center. The hotline will be accessed via a new phone number and fax number. The hotline email address will remain as *Hotline.IRIS@epamail.epa.gov.* The reading room address, hotline phone and fax changes will be shown on the IRIS Web site no later than October 15, 2003.

Dated: October 7, 2003.

Peter W. Preuss,

Director, National Center for Environmental Assessment.

[FR Doc. 03–25936 Filed 10–10–03; 8:45 am]

BILLING CODE 6560–50–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Amendment to Sunshine Act Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on October 7, 2003 (68 FR 57894) of the regular meeting of the Farm Credit Administration Board (Board) scheduled for October 9, 2003. This notice is to amend the agenda by removing the item from the closed session of that meeting.

FOR FURTHER INFORMATION CONTACT: Jeanette C. Brinkley, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board were open to the public (limited space available), and parts of this meeting were closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The agenda for October 9, 2003, is amended by removing the following item from the closed session as follows:

Closed Session*

Reports

- East Carolina Farm Credit, ACA Class A Cumulative Preferred Stock

Dated: October 9, 2003.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 03–26089 Filed 10–9–03; 3:29 pm]

BILLING CODE 6705–01–P

*Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(4), (8) and (9).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 4:30 p.m. on Tuesday, October 7, 2003, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate, enforcement, resolution, and supervisory activities.

In calling the meeting, the Board determined, on motion of Director James E. Gilleran (Director, Office of Thrift Supervision), seconded by Vice Chairman John M. Reich, concurred in by Mr. E. Wayne Rushton, acting in the place and stead of Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550 Seventeenth Street, NW., Washington, DC.

Dated: October 8, 2003.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 03–26025 Filed 10–9–03; 11:33 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 7, 2003.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Wintrust Financial Corporation, Lake Forest, Illinois; to acquire 100 percent of the voting shares of Beverly Bank & Trust Company, National Association, Chicago, Illinois (in organization).

Board of Governors of the Federal Reserve System, October 8, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–25900 Filed 10–10–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

[Docket No. OP–1164]

Federal Reserve Bank Currency Recirculation Policy

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comment; notice.

SUMMARY: The Board is requesting comment on proposed changes to its cash services policy to reduce depository institutions' overuse of Federal Reserve Bank cash processing services, which will affect approximately 100 institutions with large cash businesses. The Board proposes revising its policy by adding two elements: (1) A custodial inventory program that provides an incentive to depository institutions to hold currency in their vaults to meet customers' demand, and (2) a fee to depository institutions that deposit currency to and order currency from Reserve Banks within the same week instead of recirculating currency deposited with them among their customers. The Board has authorized Reserve Banks to conduct a proof-of-concept program during 2004 to provide information about the proposed custodial inventory program.

EFFECTIVE DATE: Comments must be received by January 15, 2004.

ADDRESSES: Comments should refer to Docket No. OP–1164 and may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. However, because paper mail in the Washington area and at the Board of Governors is subject to delay, please consider submitting your comments by e-mail to *regs.comments@federalreserve.gov*, or faxing them to the Office of the Secretary at 202/452–3819 or 202/452–3102. Members of the public may inspect comments in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. on weekdays pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

Comments on the collections of information under the Paperwork Reduction Act should be sent to the Secretary, with copies of such comments sent to the Office of Management and Budget, Paperwork Reduction Project (7100—to be obtained), Washington, DC, 20503.

FOR FURTHER INFORMATION CONTACT: Eugenie E. Foster, Project Leader (202/736–5603), or Michael Lambert, Manager (202/452–3376), Cash Section, Division of Reserve Bank Operations and Payment Systems; for the hearing impaired only: Telecommunications Device for the Deaf, Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

1. Background

The Federal Reserve Banks (Reserve Banks) supply genuine (new and fit) currency and coin to depository institutions throughout the nation to meet the public's cash demand. Historically, Reserve Banks have removed unfit notes from circulation and served as intermediaries among depository institutions, accepting deposits from those with a surplus of fit notes and providing currency to those with a shortfall.[1] Depository institutions, in turn, have acted as intermediaries among their customers, recirculating currency from merchant customers, for example, to meet the cash demands of households and other customers.

These traditional patterns have been changing as depository institutions have used fewer fit notes deposited by customers to fill other customers' orders. Today, depository institutions often order currency directly from Reserve Banks to fill their customers' orders and deposit notes received from their customers directly with Reserve Banks. A number of depository institutions, for example, have reorganized their businesses to distribute currency to ATMs separately from currency distributed to large retail customers or to the institution's branches. Each of these depository institutions' business lines withdraws currency from Reserve Banks without first exhausting currency that its other business lines may accumulate from customer deposits within the same geographic area.

Further, actions taken by many depository institutions to reduce their required reserves may have permitted them to reduce their holdings of vault cash.[2] Depository institutions with vault cash in excess of that needed to satisfy reserve requirements have an incentive to economize on holdings of currency in their vaults, particularly by increasing the size and frequency of their deposits of currency to and orders of currency from Reserve Banks.[3]

Reserve Banks' order and deposit activity during 2002 indicates that deposits of nearly 6.7 billion $5 through $20 notes were followed or preceded by orders of the same denomination by the same institution in the same business week.[4] This pattern suggests that some depository institutions are relying on Reserve Banks to recirculate a substantial amount of currency within the depository institutions' own organizations and that this currency makes up a significant portion of their cash deposits to Reserve Banks. Further, this activity is primarily concentrated in 100 depository institutions with large cash businesses. Underpinning depository institutions' decisions to use—and overuse—Reserve Bank cash processing services is the fact that Reserve Banks offer basic currency processing services without charge.

2. Current Policy

Reserve Banks' Operating Circular 2, Cash Services, states:

> If you deposit fit currency with us, you may not order currency of the same denomination within five business days prior to or following the deposit of that denomination. This practice, known as ''cross-shipping,'' is not permitted at the depositing office level. When practicable, cross-shipping should be minimized or eliminated at the depositing institution level.[5]

This policy has proven ineffective in reducing or preventing cross-shipping for several reasons. The direction to depository institutions to minimize cross-shipping at the institution level (instead of the branch or business-unit level) ''when practicable'' does not provide sufficient guidance to depository institutions or Reserve Banks with respect to the circumstances under which cross-shipping should not occur. More fundamentally, the only tool Reserve Banks currently have to enforce

[1] Fit notes are of acceptable quality for circulation, whereas unfit notes are unacceptable. For example, unfit notes are often soiled, torn, or defaced. New notes are previously uncirculated notes that Reserve Banks issue.

[2] Depository institutions can satisfy their reserve requirements with vault cash, or with reserve balances held at a Reserve Bank either directly or through a pass-through correspondent. Since the mid-1990s, however, many depository institutions have sharply reduced their reserve requirements by sweeping balances held by retail customers in deposit accounts that are reservable into deposit accounts that are not reservable. For some institutions, the reduction in required reserves left them with more vault cash than necessary to meet requirements.

[3] Vault cash holdings do not earn interest. If an institution deposits currency with a Reserve Bank, it receives credit to its account at the Federal Reserve. The depository institution can then earn a positive return on those funds by lending them to another institution, such as in the federal funds market.

[4] This amounts to 35 percent of notes deposited in these denominations, or 20 percent of total deposits in 2002.

[5] Federal Reserve Operating Circular 2, January 2, 1998, section 3.3. *http://www.frbservices.org/Cash/index.cfm*.

the policy is to deny currency services to depository institutions that do not comply with the operating circular requirement. Denial of service would be highly disruptive to the businesses of both the depository institutions and their customers. In addition, Reserve Banks have not had systematic tools for monitoring the quality of specific currency deposits, making the process of identifying cross-shipping cumbersome and costly.

3. Proposed Recirculation Policy

The Board believes that to minimize the societal cost of providing currency to the public, depository institutions should resume their traditional role of supplying fit currency from their customers' deposits to meet other customers' needs before turning to Reserve Banks to obtain currency. To provide incentives for depository institutions to adopt the least costly means of recirculating currency to their customers, the Board proposes to implement a policy that has two inter-related components: a custodial inventory program and a fee that would be assessed on deposits of cross-shipped currency.

Custodial Inventory Program

One reason that depository institutions engage in cross-shipping is to avoid incurring opportunity costs of holding currency, which earns no interest income. To mitigate these costs associated with holding currency long enough to facilitate its recirculation, the Board proposes to allow the depository institutions to transfer into custodial inventories $5, $10, and $20 notes that they might otherwise cross-ship. A custodial inventory is currency owned by a Reserve Bank but located within a depository institution's secured facility and segregated from the depository institution's currency. To be eligible to hold a custodial inventory under the proposed program, a depository institution must be capable of, and commit to, recirculating substantial amounts of currency in the $5 through $20 denominations in order to justify the administrative costs and the risks to Reserve Banks of allowing depository institutions to hold Reserve Bank currency in their vaults. Under the custodial inventory program, depository institutions could move to Reserve Banks' accounts currency that is temporarily surplus but that the institutions expect to pay to customers within the same business week. The Board understands that custodial inventories may facilitate smoother use of depository institutions' processing equipment by allowing them to store peak-day deposits of unprocessed currency for handling later in the week. Custodial inventories also may allow depository institutions to avoid the costs of preparing and transporting their temporarily surplus currency to and from Reserve Bank cash offices. For years, central banks in some other G–10 countries have used custodial inventory programs to increase recirculation by depository institutions.

While the Board intends for the custodial inventory program to provide an incentive to depository institutions to avoid cross-shipping, institutions should continue to maintain on their own books sufficient currency inventories to meet normal currency operations and contingency needs. Depository institutions could transfer to a custodial inventory no more than 25 percent of the value of their total holdings in the $5 through $20 denominations. In addition, any institution that uses a custodial inventory to circumvent the intent of the recirculation policy, for example, by alternating the weeks in which it orders and deposits currency to a Reserve Bank, would lose its eligibility to participate in the program.

Custodial Inventory Proof-of-Concept Program

Before undertaking a permanent custodial inventory program, the Board has authorized Reserve Banks to implement during 2004 a one-year proof-of-concept program. The purpose of the proof-of-concept program is to allow Reserve Banks to evaluate how custodial inventories influence depository institutions' patterns of depositing and withdrawing currency, while allowing depository institutions to assess the costs and benefits of participating in the program. Reserve Banks also need to evaluate more fully the costs as well as the operational risks and risk management procedures for the custodial inventory program before undertaking a permanent program. Reserve Banks would select approximately 15 proof-of-concept sites from depository institution applications. Throughout the proof-of-concept program, Reserve Banks would monitor the order and deposit activity of participating institutions to determine whether they have recirculated more currency within their organizations than they did before the establishment of the custodial inventory.

Reserve Banks will select proof-of-concept sites from a cross-section of depository institutions that are high volume users of Reserve Bank cash services. At a minimum, proof-of-concept program participants must demonstrate that they will recirculate at least 200 bundles of currency per week in a Reserve Bank zone or sub-zone.[6] An institution that currently cross-ships at least 200 bundles of currency per week in a zone or sub-zone would meet the recirculation threshold for a custodial inventory proof-of-concept. Alternatively, an institution could meet the threshold for a proof-of-concept site by providing deposit and payment records demonstrating that it recirculates at least 200 bundles of currency weekly among its customers. After reviewing the results of the proof-of-concept program, Reserve Banks will determine the minimum bundles of currency a depository institution must recirculate weekly to qualify for a custodial inventory. Thereafter, Reserve Banks would review annually the minimum bundles required to support a custodial inventory.

The Board will review and use the results of the proof-of concept program to develop an inventory cap formula for determining the amounts of currency that depository institutions may transfer to Reserve Bank books. Each proof-of-concept custodial inventory will be subject to an inventory cap of either (1) 25 percent of average closing balances of currency during the previous week at that location (including both depository institution and Reserve Bank balances) in the $5 through $20 denominations, or (2) 25 percent of average daily closing balances of currency for the four previous same days of the week in the $5 through $20 denominations at that location.[7] Reserve Banks will test both formulas to enable the Board to determine the inventory cap percentage that allows the proper balance between providing an incentive to depository institutions to recirculate and limiting the transfer of inventory to Reserve Bank accounts. The Reserve Banks will also evaluate whether one inventory cap better promotes efficiency and administrative convenience for the

[6] A bundle of currency is a standard package of 1,000 notes. A zone is the area to which a Reserve Bank office provides currency services. Under this proposed policy, Reserve Banks may establish sub-zones for large metropolitan areas at a significant distance from the nearest Reserve Bank office. Deposits and orders by institutions with branches and vaults in a sub-zone would be assessed cross-shipping fees separately from the institutions' activities in the rest of the zone.

[7] For example, under alternative 1, a depository institution that had daily balances averaging $100 million during the previous week would be subject to an inventory cap of $25 million. Under alternative 2, Monday's cap would be based on the average of the previous four Mondays, Tuesday's cap would be based on the average of the previous four Tuesdays, and so forth.

depository institutions and Reserve Banks.

Reserve Banks will select proof-of-concept program participants to include depository institutions that:

(1) Deposit more than they order, order more than they deposit, and deposit and order in roughly balanced amounts;

(2) Are located a range of distances from the nearest Reserve Bank office;

(3) Serve differently sized markets; and

(4) Use a range of currency processing equipment and engage in a variety of currency handling practices, including, for example, outsourced or consortium arrangements.

The Board will begin to evaluate the results of the proof-of-concept program after six months of operation and will measure the success of the program to the extent that:

(1) Proof-of-concept participants significantly reduce cross-shipping or recirculate significant amounts of currency within the Reserve Bank zone or sub-zone in which the proof-of-concept site is located; and

(2) Deposits received from proof-of-concept participants contain a higher proportion of unfit notes than the average for all deposits in the same denominations in the Reserve Bank zone or sub-zone in which the proof-of-concept site is located.

Based on the public comments and the results of the proof-of-concept program, the Board will determine whether to implement a permanent custodial inventory program. If a program is implemented, proof-of-concept participants will have the opportunity to continue operating custodial inventories consistent with the final requirements.

Proof-of concept applications and the custodial inventory contract will be accessible through the Federal Reserve System Financial Services Web site, *http://www.frbservices.org*, beginning on January 29, 2004. Reserve Banks expect to accept applications between January 29, 2004, and March 15, 2004, for proof-of-concept sites located in the areas currently served by the following Federal Reserve offices: Boston; Charlotte; Chicago; Cleveland; Denver; Detroit; East Rutherford; Houston; Kansas City; Los Angeles; Miami; Minneapolis; Nashville; Oklahoma City; Philadelphia; San Francisco; Seattle; and St. Louis.

Recirculation Fee

Because the Board expects that custodial inventories alone will not substantially reduce cross-shipping, it proposes to establish a recirculation fee to provide further incentive for depository institutions to recirculate currency. Based on current levels of Reserve Bank costs, the fee would be $5 to $6 per bundle of cross-shipped currency. Depository institutions would pay the fee when they deposit fit currency and order the same denomination within the same business week in a Reserve Bank zone or sub-zone. The fee would not be assessed on deposits of unfit or surplus fit currency, where surplus is defined as currency that is not needed by the depository institution within the business week of its deposit. The fee also would not be assessed on deposits of $50 and $100 notes because these notes are a relatively minor component of cross-shipped currency and, more importantly, because of the risk that depository institutions might recirculate high-denomination counterfeit notes. The Reserve Banks estimate that the recirculation fee would affect approximately 100 of the Reserve Banks' largest cash customers.

The Board proposes initially to exclude one-dollar notes from the recirculation policy. Because of the relatively low incidence of counterfeiting and the low value of one-dollar notes, depository institutions handle them differently from higher denominations in various ways that minimize costs. The incremental costs to depository institutions of sorting and recirculating fit one-dollar notes instead of ordering them from Reserve Banks would likely be greater than the costs for higher denomination notes. Reserve Banks are working with the banking industry with the goal of achieving net savings comparable to those that Reserve Banks could realize by including one-dollar notes in the recirculation policy. If this collaborative effort fails to yield comparable savings to those achieved by Reserve Banks through implementation of this policy within two years of the effective date of the permanent custodial inventory program, the Board proposes to apply the recirculation policy to one-dollar notes.

The Board proposes to set the recirculation fee to recover Reserve Banks' costs that vary with the quantity of currency that they process. The recirculation fee would not be subject to the pricing requirements of the Monetary Control Act (MCA). The MCA applies to currency and coin services such as transportation and coin wrapping, but not to services ''of a governmental nature, such as the disbursement and receipt of new or fit coin and currency.'' [8] The Board determined, in the development of its pricing principles, that ''currency and coin processing (paying, receiving, and verifying both coin and currency, and issuing, processing, canceling, and destroying currency) are governmental functions and would not be considered priced services subject to MCA.'' [9] The proposed recirculation fee is not for priced cash services subject to MCA; rather, it is a recovery of costs intended to encourage private-sector behavioral changes that would lower the overall societal costs of cash processing and distribution by curtailing overuse of a free governmental service.

De minimis Exemption

The Board proposes to exempt *de minimis* levels of cross-shipped currency from the recirculation fee. Depository institutions would not pay a recirculation fee for the first 1,000 bundles of currency cross-shipped in a zone or sub-zone each quarter for three reasons.[10] First, the exemption would compensate for minor differences between currency fitness determinations made by depository institutions and Reserve Banks in processing these notes.[11] Second, the exemption would limit the effect of the policy on institutions whose small scale of currency operations may not justify investments in sorting equipment. Third, the exemption would allow depository institutions experiencing unanticipated swings in customer demand to order or deposit currency without incurring a fee. The proposed exemption would not have a material effect on Reserve Bank processing volumes, but would reduce or eliminate the cost of the policy for a large number of depository institutions.

A Reserve Bank would apply the *de minimis* exemption to currency that a depository institution cross-ships in a zone or sub-zone during each quarter. Depository institutions could not transfer a *de minimis* exemption from one zone or sub-zone to another. All or part of an exemption that a depository institution did not use during a quarter would expire at the end of that quarter. Reserve Banks would apply the exemption against depository

[8] 126 Cong. Rec. S3168 (March 27, 1980) (statement of Senator Proxmire).

[9] 45 FR 56893, September 4, 1980.

[10] Reserve Banks will review the level of the *de minimis* exemption annually. The 1,000-bundle exemption excludes one-dollar notes.

[11] Because Reserve Banks would assess the recirculation fee for all fit notes deposited above the *de minimis* exemption, depository institutions would have an incentive to ensure that their fitness determinations are comparable to those of Reserve Banks.

institutions' total volumes of cross-shipped currency, not against each individual denomination.

Cost Analysis of the Recirculation Policy

During 2002, Reserve Banks processed 34.2 billion notes, with total costs of approximately $342 million. This number includes 19.4 billion $5 through $20 notes, 6.7 billion of which depository institutions cross-shipped. Curtailing current cross-shipping and its expected future growth would reduce Reserve Banks' expenses by enabling them to scale down currency processing operations and delay future capital investments in equipment and facilities. The Board estimates that by implementing the proposed recirculation policy, Reserve Banks could avoid currency processing costs of up to $35 million per year based on 2002 expense data.[12]

Custodial Inventory Program

Reserve Banks would incur approximately $400,000 per year in operating costs to administer the proposed custodial inventory program, including auditing the custodial inventories, managing the overall program, and amortizing an investment to develop software to monitor Reserve Bank currency in custodial inventories. The Reserve Banks estimate that during the first year of the program their costs would total approximately $600,000 because of one-time charges for training and site evaluations.

The Board believes that depository institutions also may incur some additional costs in operating a custodial inventory. For example, depository institutions may have to modify their facilities to segregate Reserve Bank currency or to enhance their physical security, perhaps by installing surveillance equipment. They may also have to enhance physical- and procedural-access controls and engage in additional sorting and other handling of the notes held in a custodial inventory.

Recirculation Fee

Most of the depository institutions with the largest cash operations have reported that, whether or not the Board adopts this recirculation policy, by 2006 they will use medium- or high-speed sorting equipment to process much of the currency deposited to Reserve Banks. Most of these depository institutions would need only inexpensive modifications to their processing equipment to recover fit currency for recirculation. The Board estimates that the total annual incremental expense would be approximately $2 million for all institutions using automated equipment to identify notes that are fit to recirculate.[13]

With the recirculation fee at $5 to $6 per bundle of cross-shipped currency, the Board projects that depository institutions would incur up to $18 million in fees annually where it is not economical for them to install currency fitness sorting equipment.[14] Instead of paying a recirculation fee to cross-ship this currency, however, the Board would expect depository institutions to explore lower-cost alternatives, such as having tellers manually sort currency at the point of receipt, paying currency to customers without fitness sorting when a range in the quality of notes is acceptable to customers, or obtaining currency processing services from other local institutions or armored carriers able to offer pricing that reflects economies of scale.[15] The Board would expect, therefore, that altogether depository institutions would incur total costs of approximately $20 million annually for recirculating most of the $5 through $20 denomination notes they currently cross-ship.

Conclusion

The Board projects that the societal benefits of implementing the recirculation fee would outweigh the societal costs by up to $15 million per year.[16] For the most part, the benefits would accrue from avoided operating expenses at Reserve Banks. Greater recirculation by depository institutions would reduce the growth of Reserve Bank currency receipts and processing, and delay expansion of publicly owned and operated currency-processing infrastructure. Depository institutions may incur increased costs if they elect to participate in the custodial inventory program, take actions to avoid paying fees, or choose to pay fees. Any costs incurred by depository institutions are estimated to be significantly smaller than the costs that Reserve Banks will avoid if the institutions reduce or cease cross-shipping currency.

Phased Implementation

The Board proposes to implement the recirculation policy in phases. If the Board approves implementation of the custodial inventory program following the proof-of-concept program, the first phase will expand the program to all eligible participants. In the second phase, which will begin approximately one year after the effective date of the permanent custodial inventory program, Reserve Banks will begin assessing the cross-shipping fee.[17] In the third phase, which will begin two years after the effective date of the permanent custodial inventory program, the Board would extend the recirculation policy to one-dollar notes if the Reserve Banks' net savings from collaborating with depository institutions is not comparable to those resulting from the implementation of this policy for $5 through $20 notes.

5. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (PRA)[18], the Board reviewed the proposed rule under the authority delegated to it by the Office of Management and Budget (OMB). The proposed rule contains requirements that are subject to the PRA and required to obtain a benefit. The respondents/recordkeepers are for-profit financial institutions. The Board may not conduct or sponsor, nor is an organization required to respond to, this information collection unless it displays a currently valid OMB control number. The Board will obtain an OMB control number.

In 2003, the Board authorized Reserve Banks to implement a one-year proof-of-concept program starting in 2004. The proof-of-concept program would allow Reserve Banks to evaluate how custodial inventories influence depository institutions' patterns of depositing and withdrawing currency, while allowing

[12] This estimate includes costs that vary with the volume of currency processed, including labor, materials, and equipment. The amount by which Reserve Banks are able to reduce costs would depend on the actual decline in volumes because of this proposed policy. This decline would depend on the extent to which: (1) Depository institutions elect to pay the fee instead of recirculating; (2) depository institutions take full advantage of the *de minimis* exemption; and (3) depository institutions alter their handling of denominations not covered by the proposed policy.

[13] The Board assumes that depository institutions that use or acquire medium- or high-speed sorting equipment would use it to process all but one-dollar notes for quality. This estimate also assumes that under the proposed policy those depository institutions would process most of the $5 through $20 notes that they deposited with Reserve Banks during 2002.

[14] This is the total estimated recirculation fee that depository institutions would incur if they cross-shipped 50 percent of $5 through $20 notes.

[15] Depository institutions indicate that their customers are willing to accept a wider range in the quality of $5 notes than for the higher denominations.

[16] The incremental costs to Reserve Banks to implement the recirculation fee will be minimal—primarily costs associated with amortizing a $600 thousand software development investment that will allow Reserve Banks to track cross-shipping systematically.

[17] If the Board decides not to implement the custodial inventory program, it will implement the recirculation fee one year after termination of the proof-of-concept program.

[18] 44 U.S.C. 3506; 5 CFR 1320 Appendix A.1.

depository institutions to assess the value of participating in the program. To initiate the proof-of-concept program, Reserve Banks would select 15 depository institution sites from applications submitted via the Internet. The Board estimates that it would take a depository institution, on average, 12 hours (ranging from 8 and 16 hours) to complete and submit an application. The application would request information such as: A description of the vault and vault security; contact person information; prior year's loss history for the proposed vault; volume, amount, and daily averages of vault holdings; personal computer availability and Internet access; and certification of insurance coverage. After being accepted into the proof-of-concept program, depository institutions would be required to use an Internet-based inventory tracking system that would take each institution approximately 15 minutes per day (excluding weekends and holidays) to track cash inventory.

The Board would begin to evaluate the results of the proof-of-concept program after six months of operation. Based on the public comments and the results of the proof-of-concept, the Board would determine whether to implement a permanent custodial inventory program.

If the Board implements a permanent program, the 15 proof-of-concept participants would have the opportunity to continue operating custodial inventories, and Reserve Banks would select up to 135 additional sites. These new participants would be required to submit an application and, if accepted into the program, use the Internet-based inventory system.

The Board will review and, if needed, revise the following burden estimates after the first six months of the proof-of-concept program:

(1) *Number of proof-of-concept program sites:* 15.

(2) *Number of custodial inventory sites:* 150.

(3) *Response time:* 12 hours per application submitted; 15 minutes per day for inventory tracking; estimated total annual burden: 11,175 hours.

The Board requests comment on how many depository institutions will complete and submit the application to partake in the proof-of-concept program or the custodial inventory program, including:

(1) Whether the proposed collection of information is necessary for the proper performance of the Board and Reserve Banks' functions; including whether the information has practical utility;

(2) The accuracy of the Board's estimate of the burden of the proposed information collection, including the cost of compliance;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

6. Comments

The Board requests comments on all aspects of the proposed recirculation policy as described below, on the benefits and drawbacks of implementing it, and, in particular, on the following questions:

(1) How effective will the proposed custodial inventory program and the recirculation fee be in reducing or eliminating cross-shipping? What are the major benefits and drawbacks of custodial inventories and the recirculation fee?

(2) Are there effective alternate approaches that the Board should consider to increase depository institutions' recirculation of currency?

(3) Are there factors not described in this notice that would affect a depository institution's decision to pay a recirculation fee or undertake greater recirculation of currency within its organization? What are the benefits and drawbacks of allowing a *de minimis* exemption of 1,000 bundles of currency per depository institution per quarter for a zone or sub-zone? Is there an alternative approach to administering the *de minimis* exemption that would address identified drawbacks and still achieve the intended objectives of reducing the burden of complying on depository institutions with small currency operations while ensuring that most cross-shipping activity is governed by the policy?

(4) Under what circumstances would it be reasonable and practical for depository institutions to adopt lower-cost alternatives to the recirculation fee, such as having tellers manually sort currency at the point of receipt, paying currency to customers without fitness sorting when a range in the quality of notes is acceptable to customers, or obtaining currency processing services from other local institutions or armored carriers able to offer prices that reflect economies of scale?

(5) Are there alternative approaches that could be used to improve the efficiency of handling one-dollar notes other than applying the cross-shipping fee? What savings would an institution expect to realize from these alternative approaches?

(6) What costs would a depository institution anticipate incurring for operating a custodial inventory? How should Reserve Banks calculate the cap on the amount of currency that a depository institution may deposit in a custodial inventory? How many bundles of currency should Reserve Banks require a depository institution to recirculate per week to qualify for a custodial inventory?

(7) What would be the effects of the program, if any, on depository institutions' customers, on armored carriers, or on other parties?

7. Proposed Federal Reserve Cash Recirculation Policy

The Board proposes the following policy to promote depository institution recirculation of currency.

Policy

Reserve Banks' role in the distribution of currency is to make available to depository institutions a supply of genuine (new and fit) currency sufficient to meet the public's cash demand. Reserve Banks remove unfit notes from circulation and act as intermediaries between depository institutions, accepting notes from those that have a surplus and providing currency to those with a shortfall. Depository institutions act as intermediaries to recirculate fit currency among their customers. Cross-shipping occurs when an institution deposits fit currency and orders currency of the same denomination, above the *de minimis* exemption, within the same week, in a Reserve Bank zone or sub-zone.

Custodial Inventory Program

The Board proposes to establish a custodial inventory program to promote currency recirculation by reducing depository institutions' opportunity costs for holding currency. Participants in the custodial inventory program would hold, in their vaults, currency on the books of the Reserve Banks that they otherwise might have shipped to, and then ordered from, Reserve Banks during a business week. This program would include the following elements.

(1) Only depository institutions are eligible to participate in the custodial inventory program; however, depository institutions that outsource their currency vault(s) to a third party would also be eligible.

(2) A depository institution must be able to recirculate among its customers a substantial volume of eligible denominations of currency in the zone

or sub-zone of a proposed custodial inventory site. If the Board approves implementation of a permanent custodial inventory program, Reserve Banks will determine the minimum bundles of currency that depository institutions must be able to recirculate on a weekly basis to qualify for the custodial inventory program. Thereafter, Reserve Banks will review annually the minimum bundles required for depository institution participation in the custodial inventory program.

(3) Depository institutions may deposit into custodial inventories notes that they sort by denomination, count, and package in bundles. Depository institutions may deposit notes of any denomination that is subject to the recirculation fee.

(4) Depository institutions may deposit currency into or withdraw currency from custodial inventories at any time during the local Reserve Bank's business day.

(5) Depository institutions may maintain currency in custodial inventories on the Reserve Bank's books during fitness sorting or re-packaging.

(6) After reviewing the results of the proof-of-concept program, the Board will establish the inventory cap for currency that depository institutions may deposit into custodial inventories.

(7) Depository institutions that operate custodial inventories may continue to order currency from and deposit currency to Reserve Banks, which will monitor the activity for cross-shipping.

(8) Reserve Banks will require depository institutions to account for custodial inventory transactions via a Reserve Bank-provided, Internet-based accounting and inventory tracking system, to allow both Reserve Banks and the depository institutions to monitor the Reserve Bank-owned currency.

(9) Depository institutions that operate custodial inventories must agree to requirements that mitigate the risks that Reserve Banks incur by allowing the institutions to hold their currency. These measures include the following:

(a) A depository institution that operates a custodial inventory must indemnify the Reserve Bank against theft or loss of Reserve Bank currency. As provided in Reserve Banks' Operating Circular 1, *Account Relationships*, any such obligation is secured by all of the institution's assets in the possession of, or maintained with, any Reserve Bank, including its Federal Reserve account.

(b) Potential custodial inventory sites must comply with Reserve Bank physical security guidelines for vaults, access control, and camera coverage.

(c) Depository institutions proposing potential custodial inventory sites must agree to operate their facilities in accordance with Reserve Bank guidelines for access and control.

(d) Depository institutions that operate custodial inventories must segregate Reserve Bank currency from other currency.

(e) Depository institutions that operate custodial inventories must allow full access to Reserve Banks, the Board, the General Accounting Office, and their agents for unannounced audits of Reserve Bank currency.

(f) To qualify for a custodial inventory, a depository institution must be financially sound, as determined by its administrative Reserve Bank.

(10) Any depository institution that uses a custodial inventory to circumvent the intent of the recirculation policy will lose its eligibility to participate in the program.

Recirculation Fee

(1) *Fee*. Reserve Banks will charge depository institutions a recirculation fee to recover currency processing costs for every 1,000 fit notes that a depository institution cross-ships, above a *de minimis* exemption. A Reserve Bank will assess a recirculation fee if a depository institution deposits fit currency and orders the same denomination within the same business week, within a Reserve Bank zone or sub-zone. This policy does not apply to $50 and $100 notes.[19] Based on current costs, Reserve Banks project that the recirculation fee will be in the $5 to $6 range for every 1,000 notes of currency that a depository institution cross-ships. Reserve Banks will announce the amount in the quarter before implementing the fee.

(2) *Recirculation fee components*. The recirculation fee will be based on those Reserve Bank costs that vary with the quantity of currency processed. Such costs include personnel, materials, and equipment. The fee will not include overhead costs such as facilities, legal, business development, audit, and protection services that Reserve Banks incur to meet their central bank cash services responsibilities.

(3) *Recirculation fee de minimis exemption.* Reserve Banks will allocate recirculation *de minimis* exemptions to depository institutions for each zone or sub-zone where they do business. Reserve Banks will apply the exemptions to depository institutions' total cross-shipped volume; exemptions will not be denomination specific. *De minimis* exemptions may not be transferred from one zone or sub-zone to another. Unused *de minimis* exemptions will expire at the end of each quarter. Initially, the *de minimis* exemption would be 1,000 bundles per quarter. Reserve Banks will review the level of the *de minimis* exemption annually.

(4) *One-dollar notes*. Initially, Reserve Banks will not assess a recirculation fee for one-dollar notes. Reserve Banks will work with the banking industry to achieve, within two years of the effective date of the permanent custodial inventory program, Reserve Bank net savings comparable to those that could be realized by including one-dollar notes in the policy. Reserve Banks will review one-dollar recirculation annually for the duration of the collaborative program. If this collaborative effort fails to yield savings comparable to those achieved by Reserve Banks through implementing this policy to the $5 through $20 denominations, the Board will include one-dollar notes under the recirculation policy.

(5) *Reserve Bank zones and monitoring*. Reserve Banks will monitor currency orders and deposits for all endpoints of depository institutions in each Reserve Bank office service area (''zone'') for recirculation. Reserve Bank zones with large metropolitan areas located at a significant distance from a Reserve Bank office may be divided into smaller service areas (''sub-zones''). Reserve Banks will monitor together endpoints located in and near a sub-zone under the recirculation policy. Reserve Banks will monitor endpoints in other parts of a zone as a group separate from the endpoints in the sub-zone. Customers may choose the zone or sub-zone in which to include border endpoints. The criteria for establishing sub-zones balance the size of a metropolitan area against its distance from the Reserve Bank office. The table below outlines proposed sub-zone criteria, as well as the cities that would currently qualify. Reserve Banks will review sub-zone criteria annually.

[19] Initially, Reserve Banks will also not assess a recirculation fee for one-dollar notes.

TABLE 1.—RESERVE BANK SUB-ZONES

	Distance from reserve bank office	Metropolitan statistical area (MSA)	Population [20]
MSAs > 1000 miles from RB with population > 250,000.	2,387	Honolulu, HI	876,156
	1,448	Anchorage, AK	260,283
MSAs > 250 miles & with population > 500,000	275	Las Vegas, NV	1,563,282
	270	Albuquerque, NM	712,738
	270	Sarasota—Bradenton, Orlando, Tampa, FL	4,630,517
	278	McAllen—Edinburg—Mission, TX	569,463
	260	Charleston, SC	549,033
MSAs > 125 miles & with population > 1,000,000	125	San Diego, CA	2,813,833
	168	Raleigh—Durham—Chapel Hill, NC	1,187,941
	156	Grand Rapids, MI	1,088,514
MSAs > 100 miles & with population >1,500,000	114	Indianapolis, IN	1,607,486
	111	Columbus, OH	1,540,157

[20] Census Bureau Ranking Tables for Metropolitan Areas: Population in 2000, and Population Change from 1990 to 2000, number PHC–T–3.*http://www.census.gov/population/www/cen2000/tablist.html*.

(6) *Weekly monitoring*. Reserve Banks will monitor depository institutions' order and deposit activity weekly for cross-shipping (Monday through Friday). If a depository institution circumvents the recirculation policy, for example, by alternating the weeks in which it orders and deposits currency, Reserve Banks will apply the recirculation fee to fit notes in such deposits.

(7) *Monthly reports*. Beginning February 2004, each Reserve Bank will make available to any depository institution, upon request, a monthly report showing that institution's order and deposit activity, and an estimate of recirculation fees in each Reserve Bank zone and sub-zone where it does business in that district.

(8) *Zone quarterly average fitness rate*. To calculate an institution's recirculation fee for a zone or sub-zone, Reserve Banks will determine the number of fit notes deposited as a percentage of total notes deposited during each quarter. Reserve Banks will then apply this quarterly average fitness rate by zone or sub-zone to an institution's deposits during the following quarter to determine how much currency it cross-shipped.[21]

(9) *Fitness criteria*. By December 31, 2003, Reserve Banks will provide fitness sorting guidelines and equipment calibration standards.

[21] For example, if an institution's deposits in a zone or sub-zone included 80 percent fit currency during the period January through March, the Reserve Bank would apply an 80 percent zone or sub-zone quarterly average fitness rate to deposits from that depository institution during the April through June period. The Reserve Bank would apply the depository institution's zone or sub-zone quarterly average fitness rate for second-quarter deposits of each denomination in determining the recirculation fee for its third-quarter deposits, and so forth.

By order of the Board of Governors of the Federal Reserve System, October 7, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–25901 Filed 10–10–03; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 002 3000]

America Online, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 23, 2003.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Michael Ostheimer or Heather Hippsley, FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2699 or 326–3285.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC home page (for September 23, 2003), on the World Wide Web, at *http://www.ftc.gov/os/2003/09/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with

section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from America Online, Inc. (''AOL'') and its wholly owned subsidiary, CompuServe Interactive Services, Inc. (''CompuServe'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns the respondents' Internet access services. According to the FTC complaint, most subscribers to AOL's Internet service who wanted to cancel their service called AOL's customer service department. The responsibilities of AOL's customer service representatives included trying to retain subscribers who requested cancellation of their Internet service. The complaint alleges that AOL failed to implement appropriate measures to ensure that all customers' requests for cancellation were properly executed and that as a result, in numerous instances, subscribers who requested cancellation were not cancelled and continued to be charged monthly service fees. According to the complaint, this constituted an unfair business practice.

The complaint further alleges that AOL and CompuServe developed the ''CompuServe $400 Rebate program'' whereby consumers received a $400 cash rebate toward the purchase of an eligible computer, if they contracted for three years of CompuServe Internet service. In connection with the rebate program, respondents promised to provide rebate checks within 8–10 weeks, and in some cases, 45 days. According to the complaint, after receiving rebate requests in conformance with the offer, respondents extended the time period in which they would deliver the rebates without consumers agreeing to this extension of time and failed to deliver the rebates to consumers within the promised time period. According to the complaint, this constituted an unfair business practice.

The proposed consent order contains provisions designed to prevent AOL and CompuServe from engaging in similar acts and practices in the future. Specifically, Parts I and II address the cancellation of any Internet or online service, or any other product or service sold by means of a continuity program. Part I of the proposed order requires respondents to establish and maintain appropriate measures for ensuring that consumers' requests for cancellation of any such service or continuity program are promptly processed and that billing will cease prior to the next billing cycle.

Part II.A. of the proposed order prohibits respondents from continuing to charge any subscriber who has requested cancellation of any covered service or continuity program, even if the subscriber is recorded as having agreed to continue to be a subscriber, unless respondents first obtain the subscriber's express informed consent. For the subscriber's consent to be deemed ''informed,'' the respondents must clearly and conspicuously disclose, before the subscriber consents, certain specified information, including a description of the pricing plan to which the subscriber is agreeing.

Part II.B. requires that respondents send a confirmation notice to any subscriber who has requested cancellation of any Internet or online service and who is recorded as having agreed to continue to be a subscriber. The notices are to be sent by first class mail in envelopes with ''IMPORTANT: Confirmation of continued service'' printed on the front. The notices confirm that consumers have agreed to continue their service, inform them of the terms of their continued service, and give them the opportunity to send back a cancellation request form, if they do not wish to continue their service. Part II.C. requires that respondents cancel the service of any subscriber who returns the cancellation request form.

Part II.D. provides that respondents refund fees to certain subscribers who return the cancellation request form. Subscribers are to be given refunds if they return the form within thirty days of the mailing of the confirmation notice and do not use the service for any significant period of time after they were recorded as having agreed to continue as subscribers.

Part II.E. requires that respondents send a confirmation notice to any subscriber who has requested cancellation of any continuity program other than Internet or online service and who is recorded as having agreed to continue to be a subscriber. If the subscriber has an active Internet or online service account with respondents, the notice can be sent by e-mail. Otherwise, it is to be sent by first class mail. Part II.F. requires that respondents provide a method through which subscribers who are notified pursuant to Part II.E. are able to cancel via telephone or U.S. mail.

Part III addresses the delayed rebates allegation and applies to respondents' offering of a rebate in connection with Internet or online service. Part III.A. prohibits the respondents from making any representation about the time in which any such rebate will be mailed, or otherwise provided to purchasers, unless they have a reasonable basis for the representation at the time it is made. Part III.B. prohibits respondents from failing to provide any such rebate within the time specified or, if no time is specified, within thirty days.

Parts IV through VII of the proposed order are reporting and compliance provisions. Part VIII is a provision ''sunsetting'' the order after twenty years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–25902 Filed 10–10–03; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 031 0064]

Koninklijke DSM N.V., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 23, 2003.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159-H, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed in the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: Jeffrey Perry, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326–2331.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 23, 2003), on the World Wide Web, at ''*http://www.ftc.gov/os/2003/09/index.htm.*'' A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW, Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Orders To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from DSM N.V. (''DSM'') and Roche Holding AG (and its ultimate parent entity) (''Roche'') which is designed to remedy the anticompetitive effects of the acquisition of Roche's Vitamins and Fine Chemicals division (''RV&FC'') by DSM. Under the terms of the Consent Agreement, the companies would be required to divest DSM's phytase business to BASF AG (''BASF''). The divestiture will take place no later than ten business days from the date on which DSM closes its proposed acquisition of RV&FC.

The proposed Consent Agreement has been placed on the public record for thirty days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement or make final the Decision and Order (''Order'').

Pursuant to a Share and Asset Purchase Agreement dated February 10, 2003, and amendments thereto, DSM proposes to acquire certain voting securities and assets from Roche Holding AG that together constitute Roche's Vitamins and Fine Chemicals division in a transaction valued at approximately $1.9 billion. The Commission's Complaint alleges that the proposed acquisition, if consummated, would constitute a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the worldwide market for the research, development, manufacture, and sale of the feed enzyme phytase. The proposed Consent Agreement will remedy the alleged violations by replacing the competition in the phytase market that would otherwise have been eliminated by the proposed acquisition.

Phytase is an enzyme added to poultry and swine feed to promote the digestibility of phosphorous and other nutrients that are vital to efficient livestock production. Without the addition of phytase, monogastric (*i.e.* single-stomach) animals like pigs and chickens lack the ability to digest much of the phosphorous contained in animal feed. The phosphorous that is unavailable for digestion simply passes through the livestock undigested and is ultimately excreted in the manure. By ''unlocking'' this phosphorous for digestion, phytase has the dual benefit of ensuring that the animals receive the benefit of these vital nutrients, while at the same time reducing the environmental impact caused by runoff from livestock production. Given its unique advantages, as well as the significant cost savings associated with using phytase, it is highly unlikely that phytase customers would switch to any other method of supplementing phosphorous in animal feed, even if the prices of phytase were to increase significantly.

The worldwide market for phytase is highly concentrated. DSM, together with its alliance partner, BASF, pioneered the phytase market in 1996, and today remains the largest supplier of phytase in the world, with 2002 sales of approximately $80 million. Roche, with its alliance partner Novozymes, is the only significant competitor to the DSM/BASF alliance, with 2002 phytase sales of approximately $59 million. Together, these two competing alliances dominate the phytase market, controlling over 90% of the $150 million worldwide market for phytase.

The proposed acquisition would have a significant adverse effect on competition in the worldwide market for phytase. Prior to this acquisition, the DSM/BASF and Novozymes/Roche alliances competed vigorously for sales in the growing phytase market, resulting in substantial price discounting for phytase customers. Each alliance also invested significant resources in research and development efforts designed to improve its own products, in order to keep pace with similar investments being made by the other alliance. The proposed acquisition would link these two, previously independent, alliances, enabling them to coordinate their actions and eliminate the head-to-head competition between the only two significant competitors in the worldwide phytase market. In doing so, the proposed acquisition would allow DSM to exercise market power, thereby increasing the likelihood that phytase customers would be forced to pay higher prices and that innovation and product quality in this market would suffer.

Entry into the phytase market is difficult, time consuming, and ultimately unlikely to deter or counteract the competitive effects likely to result from the acquisition. Any company attempting to enter the phytase market faces serious obstacles in developing a phytase enzyme that does not infringe the various patents held by the market incumbents. This development process alone generally takes three to ten years, even for an experienced enzyme producer. In addition, the FDA approval process in the United States can take at least one to two years, and regulatory approval in Europe generally takes even longer. There are significant economies of scale associated with phytase production, and because sales in the United States and Europe each account for a significant portion of the total phytase market, it is

difficult, or impossible, for a potential entrant to achieve viable scale until approvals are obtained in those two jurisdictions. Finally, the process of convincing customers to switch to a new, untested, phytase enzyme is a difficult and lengthy one, often requiring customer validation testing that can take up to two additional years.

The proposed Consent Agreement effectively remedies the acquisition's anticompetitive effects in the worldwide market for phytase by requiring DSM to divest its phytase business to BASF no later than ten business days after DSM closes its proposed acquisition of RV&FC. This business consists of, among other things, phytase related intellectual property, phytase scientific and regulatory material, phytase manufacturing technology, books and records, and other assets used in the research, development, manufacturing, marketing and sale of phytase. BASF is well-positioned to take over these assets and become an independent competitor in the phytase market. As DSM's phytase alliance partner, BASF already has primary responsibility for marketing and selling the phytase enzyme produced by DSM, and customers already associate this product with BASF, not DSM. Further, BASF already has intimate knowledge of DSM's research, development, and manufacturing efforts related to phytase, and is well-positioned to take over these responsibilities. Finally, BASF poses no separate competitive concern as an acquirer of the phytase assets. For these reasons, the Commission is satisfied that BASF is a well-qualified purchaser of the divested assets.

The proposed Consent Agreement contains several provisions designed to ensure that the divestiture is successful. In order to reduce or eliminate any delay in pending research projects, the Consent Agreement requires that DSM provide technical assistance with ongoing research projects at BASF's request for a period of six months while these projects are being transferred to BASF. The Consent Agreement further requires DSM to contract manufacture phytase, at BASF's request, for up to two years. This provision is designed to eliminate any delay or interruption in BASF's ability to serve customers in the phytase market. In addition, the Consent Agreement requires DSM to provide BASF with the opportunity to enter into employment contracts with certain key employees, and requires DSM to provide certain employees with financial incentives to accept employment with BASF. For a period of one year, the Consent Agreement also prohibits DSM from hiring any BASF employee with responsibilities related to phytase. Finally, the Consent Agreement establishes firewalls designed to prevent information relating to the DSM/BASF phytase business from flowing to the Novozymes/Roche alliance.

To preserve the full economic viability, marketability, and independence of the phytase assets pending divestiture, the Consent Agreement includes an Order to Hold Separate and Maintain Assets. This Order contains a number of provisions designed to ensure that the viability and competitiveness of the divested assets are not diminished prior to divestiture. Pursuant to this Order, the Commission has appointed KPMG, LLP as Interim Monitor to oversee the asset transfer and to ensure that DSM is expeditiously complying with its obligations under the Consent Agreement. The KPMG team is headed by John Ellison, who has over 30 years of experience in auditing and investigative work, and has acted as Monitor in several other divestitures for the European Commission. Mr. Ellison is supported by knowledgeable personnel, including a leading technical expert in the field of enzymes.

In order to ensure that the Commission remains informed about the status of the pending divestiture, and about efforts being made to accomplish the divestiture, the Consent Agreement requires DSM to submit a status report to the Commission within thirty days after the Order becomes final, and every thirty days thereafter until DSM has fully complied with the Commission's Order.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Consent Agreement or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–25903 Filed 10–10–03; 8:45 am]

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FEDERAL TRADE COMMISSION

[File No. 021 0242]

Surgical Specialists of Yakima, P.L.L.C., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 24, 2003.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed in the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: Joseph Lipinsky, FTC, Northwest Regional Office, 915 Second Avenue, Suite 2896, Seattle, WA 98174, (206) 220–4473.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 24, 2003), on the World Wide Web, at *http://www.ftc.gov/os/2003/09/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft

Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with Surgical Specialists of Yakima, P.L.L.C. (SSY), and two general surgery groups—Cascade Surgical Partners, Inc., P.S. (CSP) and Yakima Surgical Associates, Inc., P.S. (YSA)—that are members of SSY. The agreement settles charges that these parties violated section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by orchestrating and implementing agreements among members of SSY to fix prices and other terms on which they would deal with health plans, agreements enforced by SSY's members' refusal to deal with such purchasers except on collectively-determined terms. The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by any Respondent that said Respondent violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

The Complaint

The allegations of the complaint are summarized below.

SSY was organized in 1996 by several independent medical practices. Those medical practices, which became ''members'' of SSY, were and are separate and independent in all material respects, are not subject to the control of SSY, have not unified their economic interests and incentives through SSY, and are not significantly integrated (either clinically or financially). SSY's activities on behalf of its members constitute the combined action of those members, and not unilateral action by SSY. SSY presently has 24 physician members that practice in five specialties, ENT, OB/GYN, Ophthalmology, Plastic Surgery, and General Surgery. SSY represents 90 percent of all physicians practicing general surgery in and around Yakima, Washington, which is located in south-central Washington.

According to the complaint, SSY members refuse to negotiate or contract with health plans on an individual basis. Instead, all negotiations are conducted by SSY, and SSY's members accept only those contracts deemed acceptable by SSY. In accordance with this model, Respondents have orchestrated collective agreements on fees and other terms of dealing with health plans, have carried out collective negotiations with several health plans, and have refused and threatened to refuse to deal with health plans who resisted Respondents' desired terms.

The complaint alleges that Respondents have succeeded in forcing health plans to raise fees paid to SSY members and thereby raised the cost of medical care in the Yakima area. As a result of the challenged actions of Respondents, SSY members receive the highest fees for surgical services in Washington. By orchestrating agreements among SSY members to deal only on collectively-determined price and other terms, Respondents have violated section 5 of the FTC Act.

The Proposed Consent Order

The proposed order is designed to remedy the illegal conduct charged in the complaint and prevent its recurrence. It is similar to many previous consent orders that the Commission has issued to settle charges that physician groups engaged in unlawful agreements to raise fees they receive from health plans, but with one additional provision. In addition to the core prohibitions, the proposed order in this matter requires that SSY revoke the membership of either CSP or YSA. Such structural relief is not routinely imposed but is necessary in this case to reduce SSY's market power in general surgery.

The proposed order's specific provisions are as follows:

Paragraph II.A prohibits the Respondents from entering into or facilitating any agreement between or among any physicians: (1) To negotiate with payors on any physician's behalf; (2) to deal, to refuse to deal, or to threaten to refuse to deal with payors; (3) regarding the terms of dealing with any payor; or (4) not to deal individually with any payor, or to deal with any payor only through an arrangement involving the Respondent SSY.

Other parts of Paragraph II reinforce these general prohibitions. Paragraph II.B prohibits the Respondents from facilitating exchanges of information between physicians concerning whether, or on what terms, to deal with a payor. Paragraph II.C bars attempts to engage in any action prohibited by Paragraph II.A or II.B; and Paragraph II.D proscribes inducing anyone to engage in any action prohibited by Paragraphs II.A through II.C.

As in other orders addressing providers' collective bargaining with health care purchasers, certain kinds of agreements are excluded from the general bar on joint negotiations. Respondents would not be precluded from engaging in conduct that is reasonably necessary to form or participate in legitimate joint contracting arrangements among competing physicians, whether a ''qualified risk-sharing joint arrangement'' or a ''qualified clinically-integrated joint arrangement.''

As defined in the proposed order, a ''qualified risk-sharing joint arrangement'' possesses two key characteristics. First, all physician participants must share substantial financial risk through the arrangement, such that the arrangement creates incentives for the physician participants jointly to control costs and improve quality by managing the provision of services. Second, any agreement concerning reimbursement or other terms or conditions of dealing must be reasonably necessary to obtain significant efficiencies through the joint arrangement.

A ''qualified clinically-integrated joint arrangement'' on the other hand, need not involve any sharing of financial risk. Instead, as defined in the proposed order, physician participants must participate in active and ongoing programs to evaluate and modify their clinical practice patterns in order to control costs and ensure the quality of services provided, and the arrangement must create a high degree of interdependence and cooperation among physicians. As with qualified risk sharing arrangements, any agreement concerning price or other terms of dealing must be reasonably necessary to achieve the efficiency goals of the joint arrangement.

Paragraph IV, which applies only to SSY, solves the market power issue by requiring SSY to revoke the membership of either CSP or YSA. It also requires

SSY to distribute the complaint and order to all physicians who have participated in SSY, and to payors that negotiated or indicated an interest in negotiating contracts with SSY, and requires SSY to terminate, at any payor's request and without penalty, its current contracts with respect to providing physician services. Finally, SSY is prohibited from readmitting any physician from the revoked entity for five years and from readmitting the revoked entity for 10 years.

Paragraph V, which applies only to CSP and YSA, requires them to distribute the complaint and order to all physicians who have participated in their activities and to any physicians who become involved with either CSP or YSA in the future.

Paragraphs III, VI, and VII of the proposed order impose various obligations on Respondents to report or provide access to information to the Commission to facilitate monitoring Respondents' compliance with the order.

The proposed order will expire in 20 years.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–25904 Filed 10–10–03; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Guide to Community Preventive Services (GCPS) Task Force Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Task Force on Community Preventive Services.

Times and Dates: 8:30 a.m.–6 p.m., October 22, 2003. 8:30 a.m.–3:15 p.m., October 23, 2003.

Place: The Turner Conference Center, 1615 Clifton Road, NE., Atlanta, Georgia 30329, telephone (404) 712–6000.

Status: Open to the public, limited only by the space available.

Purpose: The mission of the Task Force is to develop and publish a Guide to Community Preventive Services, which is based on the best available scientific evidence and current expertise regarding essential public health services and what works in the delivery of those services.

Matters To Be Discussed: Agenda items include: Briefings on administrative information; strategic planning; evaluations; economic reviews of collaborative care interventions; school-based programs for tobacco use prevention; designated driver programs & school-based education for motor vehicle occupant injury prevention; community programs for obesity prevention & control; approaches to reviews on HIV prevention and folate supplementation; and promoting cancer screening.

Agenda items are subject to change as priorities dictate.

Contact Person or Additional Information: Peter Briss, M.D., M.P.H., Acting Chief, Community Guide Branch, Division of Prevention Research and Analytic Methods, Epidemiology Program Office, CDC, 4770 Buford Highway, M/S K–73, Atlanta, Georgia, telephone 770/488–8189.

Persons interested in reserving a space for this meeting should call 770/488–8189 by close of business on October 17, 2003.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: October 8, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–25981 Filed 10–10–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request Proposed Projects:

Title: State Self-Assessment Review and Report.

OMB No. 0970–0223.

Description: The information to be collected from states includes statistics on specific criteria. This information is to be provided in the form of a report submitted annually to the Secretary of the U.S. Department of Health and Human Services. It is required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as a substitute for process audits and will be used to determine if states are complying with specified child support requirements.

Respondents; State Child Support Enforcement Agencies or the Department/Agency/Bureau responsible for Child Support Enforcement in each state.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Report	54	1	3,866	208,764
Estimated Total Annual Burden Hours:				208,764

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *rsargis@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the

agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 6, 2003.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 03–25885 Filed 10–10–03; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Evaluation of the Early Head Start Fatherhood Demonstration.

OMB No.: 0970–0239.

Description: The Administration on Children, Youth and Families (ACYF), in partnership with the Office of Child Support Enforcement (OCSE), funded 21 Early Head Start grantees in 2001 to develop and implement creative practices to increase the involvement of fathers in their Early Head Start program and in the lives of their children. ACYF subsequently commissioned a study to identify promising practices emerging through the first two years of the demonstration. The study involved site visits to participating programs, a survey of demonstration staff, and collection of father participation data from the demonstration programs. ACYF recently commissioned a follow-up study to investigate programs' efforts to sustain meaningful fatherhood initiatives after the demonstration grant funding ends. This submission requests approval to conduct site visits to a subset of approximately 9 programs as well as a second survey of staff and collection of father participation data from all 21 demonstration programs.

Respondents: To reduce the burden on demonstration staff, the survey will be configured in four versions. The Director Version will be completed by the Early Head Start program directors. The Father coordinator Version will be completed by the staff member responsible for father activities. The Family Specialist Version will be completed by the staff member who works most closely with the Early Head Start families in the home. The Teacher Version will be completed by the staff member working with families of children participating in the Early Head Start child care programs. Program staff will also be asked to submit data on participating fathers. For each child enrolled in the Early Head Start program, the site will be asked to complete a short ''Father/Father Figure Information Form.'' To avoid duplication of individual-level data, the programs are requested to provide extracts of information on the children and fathers in the program from their current management information systems whenever possible. The staff survey and father data instruments will be the same as those used in the Phase I study under the current OMB clearance no. 0970–0239. Site visit protocols used in the Phase I evaluation will also modified and shortened to address only those issues that are relevant to the research questions proposed in Phase II, focusing primarily on changes in program practices and new strategies for sustaining fatherhood initiatives.

Respondents: Early Head Start directors, fatherhood program coordinators, family specialists, teachers, and fathers and mothers of Early Head Start children.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Site Visit Interviews and Focus Groups	243	1	1.0	243.0
Director Version of Survey	19	1	.5	9.5
Father Coordinator Version of Survey	19	1	.5	9.5
Family Specialist Version of Survey	19	1	.4	7.6
Teacher Version of Survey	17	1	.4	6.8
Father/Father Figure Information Forms	21	[1] 81	.16	272.1
Estimated Total Annual Burden Hours				548.5

[1] Average number per site.

SUPPLEMENTARY INFORMATION: copies of the proposed collection may be obtained by writing to the Administration for children and Families, Office of Administration, Office of Information Services, 370 L'Enfant promenade, SW., Washington, DC 20447, ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *rsargis@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Attn: Desk Officer for ACF, E-mail addresses: *lauren-wittenberg@omb.eop.gov.*

Dated: October 6, 2003.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 03–25886 Filed 10–10–03; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0229]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; 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

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Guidance for Industry on Continuous Marketing Applications: Pilot 2—Scientific Feedback and Interactions During Development of Fast Track Products Under PDUFA'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen Nelson, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 9, 2003 (68 FR 53174) , the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0518. The approval expires on March 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets.*

Dated: October 6, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–25845 Filed 10–10–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0314]

Agency Information Collection Activities; Submission for the Office of Management and Budget Review; Comment Request; Food Labeling; Notification Procedures for Statements on Dietary Supplements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by November 13, 2003.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Food Labeling; Notification Procedures for Statements on Dietary Supplements—21 CFR Part 101.93 (OMB Control Number 0910–0331)—Extension

Section 403(r)(6) of the Federal Food, Drugs, and Cosmetics Act (the act) (21 U.S.C. 343(r)(6)) requires that the agency be notified by manufacturers, packers, and distributors of dietary supplements that they are marketing a dietary supplement product that bears on its label or in its labeling a statement provided for in section 403(r)(6) of the act. Section 403(r)(6) of the act requires that the agency be notified, with a submission about such statements, no later than 30 days after the first marketing of the dietary supplement. Information that is required in the submission includes the following: (1) The name and address of the manufacturer, packer, or distributor of the dietary supplement product; (2) the text of the statement that is being made; (3) the name of the dietary ingredient or supplement that is the subject of the statement; (4) the name of the dietary supplement (including the brand name); and (5) the signature of a responsible individual who can certify the accuracy of the information presented, who must certify that the information contained in the notice is complete and accurate, and that the notifying firm has substantiation that the statement is truthful and not misleading.

The agency established § 101.93 (21 CFR 101.93) as the procedural regulation for this program. Section 101.93 provides details of the procedures associated with the submission and identifies the information that must be included in order to meet the requirements of section 403 of the act.

Description of Respondents: Businesses or other forprofit organizations.

In the **Federal Register** of July 23, 2003 (68 FR 43533), FDA published a 60-day notice requesting public comment on the information collection provisions. One firm submitted a comment stating that it believed that the burden of making the required submission could be slightly reduced by enabling the electronic submission of the required information, perhaps submitted through the Agency's Web

site. The comment also suggested that FDA consider amending its information requirements to provide that an electronic submission include a notifier-assigned reference number.

The Center for Food Safety and Applied Nutrition (CFSAN) is working with other FDA units toward developing the necessary technology infrastructure, namely a public key infrastructure (PKI)-capable system, to enable it to accept these submissions electronically in the future. The requirement for a PKI-capable system for these notifications derives, in part, from the certification requirement in § 101.93(a)(3) and the significant legal consequences attendant to it. CFSAN lacks a PKI-capable system, but is working with other FDA units toward putting it in place. In the meantime, the agency believes that other forms of electronic submission that the agency might be able to accept present unacceptable risks that provide a basis to not accept these submissions electronically until an acceptable infrastructure is in place.

With respect to the comment's request that FDA provide for the notifier to include a reference number in its submission, as we develop and implement an electronic submission system, we intend to consider what changes, if any, in the information required to be submitted is needed to ensure that the notification requirements and process meet the agency's needs and those of the regulated industry.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	Numeber of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
101.93	2,500	1	2,500	.75	1,875

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The agency believes that there will be minimal burden on the industry to generate information to meet the requirements of section 403 of the act in submitting information regarding section 403(r)(6) of the act statements on labels or in labeling of dietary supplements. The agency is requesting only information that is immediately available to the manufacturer, packer, or distributor of the dietary supplement that bears such a statement on its label or in its labeling. This estimate is based on the average number of notification submissions received by the agency in the preceding 12 months.

Dated: October 6, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–25846 Filed 10–10–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee for Reproductive Health Drugs; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Advisory Committee for Reproductive Health Drugs.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 15, 2003, from 8 a.m. to 5 p.m.

Location: The Hilton, Grand Ballroom, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Jayne E. Peterson, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12537. Please call the Information Line for up-to-date information on this meeting. When available, background materials for this meeting will be posted 1 business day prior to the meeting on the FDA Web site at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm.* (Click on the year 2003 and scroll down to Advisory Committee for Reproductive Health Drugs.)

Agenda: The committee will discuss the public health issues, including the safety and potential clinical benefit, associated with combining folic acid and an oral contraceptive into a single combination product.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by October 31, 2003. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 31, 2003, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation. Submissions received by October 31, 2003, will be distributed to the committee. All submissions will be made available to the public at the meeting location on the day of the committee meeting.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Jayne Peterson at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 7, 2003.

Peter J. Pitts,

Associate Commissioner for External Relations.

[FR Doc. 03–25844 Filed 10–10–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0429]

Prescription Drug User Fee Act III Five-Year Plan; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of an internal planning document entitled the ''PDUFA III Five-Year Plan'' (the plan). The plan to achieve PDUFA (Prescription Drug User Fee Act) III goals for the drug review process takes into account changes in the law under PDUFA III and projects revenue and spending in fiscal year (FY) 2003 through FY 2007.

DATES: Submit written or electronic comments on the plan at any time. These comments will be considered as the agency makes annual adjustments to the plan each fiscal year.

ADDRESSES: Submit written requests for single copies of this plan to the Office of Management and Systems, Attn: Frank Claunts (see **FOR FURTHER INFORMATION CONTACT**). Send a self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the plan 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 plan.

FOR FURTHER INFORMATION CONTACT: Frank Claunts, Office of Management and Systems (HF–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4427.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of an internal planning document entitled ''PDUFA III Five-Year Plan.'' PDUFA was amended and extended through the year 2007 by the Prescription Drug User Fee Amendments of 2002 (PDUFA III). PDUFA III authorizes appropriations and fees that will provide FDA with resources to sustain the drug review staff developed through FY 2002 and to achieve the even more stringent new goals through FY 2007.

The plan begins with a statement of purpose, provides background information on PDUFA along with a summary of the new goals, and the plan documents the 10 major assumptions on which it is based. The plan summarizes individual plans of agency components with major PDUFA responsibilities and also provides a consolidated agency summary. The plan to achieve PDUFA III goals for the drug review process is based on projected revenue and spending projections through FY 2007. Appendix A of the plan is entitled the ''PDUFA III Information Technology Five-Year Plan.''

We (FDA) are making this plan available to interested individuals. We welcome comments, and we will consider all comments in the future as annual adjustments are made to the plan.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The plan and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Copies of this document are available on the Internet at *http://www.fda.gov/oc/pdufa3/2003plan/default.htm*.

Dated: October 7, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–25965 Filed 10–8–03; 4:06 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Proposed Project: National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Regulations and Forms (OMB No. 0915–0126)—Revision

The National Practitioner Data Bank (NPDB) was established through Title IV of Pub. L. 99–660, the Health Care Quality Improvement Act of 1986, as amended. Final regulations governing the NPDB are codified at 45 CFR part 60. Responsibility for NPDB implementation and operation resides in the Bureau of Health Professions, Health Resources and Services Administration, U.S. Department of Health and Human Services (DHHS). The NPDB began operation on September 1, 1990.

The intent of Title IV of Pub. L. 99–660 is to improve the quality of health care by encouraging hospitals, State licensing boards, professional societies, and other entities providing health care services, to identify and discipline those who engage in unprofessional behavior; and to restrict the ability of incompetent physicians, dentists, and other health care practitioners to move from State to State without disclosure of the practitioner's previous damaging or incompetent performance.

The NPDB acts primarily as a flagging system; its principal purpose is to facilitate comprehensive review of practitioners' professional credentials and background. Information on medical malpractice payments, adverse licensure actions, adverse clinical privileging actions, adverse professional society actions, and Medicare/Medicaid exclusions is collected from, and disseminated to, eligible entities. It is intended that NPDB information should be considered with other relevant information in evaluating a practitioner's credentials.

This request is for a revision of reporting and querying forms previously approved on April 30, 2002. The reporting forms and the request for information forms (query forms) must be accessed, completed, and submitted to the NPDB electronically through the NPDB Web site at *http://www.npdb-hipdb.com*. All reporting and querying is performed through this secure Web site. Due to overlap in requirements for the Healthcare Integrity and Protection Data Bank (HIPDB), some of the NPDB's burden has been subsumed under the HIPDB.

Estimates of burden are as follows:

Regulation citation	No. of respondents	Frequency of responses	Hours per response	Total burden hours
60.6(a) Errors & Omissions	303	5	15 min.	[1]385
60.6(b) Revisions to Actions	115	1.1	30 min.	64
60.7(b) Medical Malpractice Payment Report	485	39	45 min.	14,236
60.8(b) Adverse Action Reports—State Boards	[2]0	0	0	0
60.9(a)3 Adverse Action Clinical Privileges & Professional Society	686	1.5	45 min.	785
Requests for Hearings by Entities	1	1	480 min.	8
60.10(a)(1) Queries by Hospital-Practitioner Applications	6,000	37.3	5 min.	18,615
60.10(a)(2) Queries by Hospitals-Two Yr. Cycle	6,000	149	5 min.	74,461
60.11(a)(1) Disclosure to Hospitals	[3]0	0	0	0
60.11(a)(2) Disclosure to Practitioners (Self Query)	[4]0	0	0	0
60.11(a)(3) Disclosure to Licensure Boards	80	225	5 min.	1,499
60.11(a)(4) Queries by Non-Hospital Health Care Entities	4,938	437	5 min.	179,673
60.11(a)(5) Queries by Plaintiffs' Attorneys	5	5	30 min.	3.0
60.11(a)(6) Queries by Non-Hospital Health Care Entities-Peer Review	[5]0	0	0	0
60.11(a)(7) Requests by Researchers for Aggregated Data	100	1	30 min.	50
60.14(b) Practitioner Places a Report in Disputed Status	666	1	5 min.	55
60.14(b) Practitioner Statement	2,563	1	45 min.	1,922
60.14(b) Practitioner Requests for Secretarial Review	117	1	480 min.	936
60.3 Entity Registration-Initial	500	1	60 min.	500
60.3 Entity Registration-Update	643	1	5 min.	54
60.11(a) Authorized Agent Designation-Initial	500	1	15 min.	125
60.11(a) Authorized Agent-Update	86	1	5 min.	7
60.12(c) Account Discrepancy Report	300	1	15 min.	75
60.12(c) Electronic Funds Transfer Authorization	363	1	15 min.	91
60.3 Entity Reactivation	100	1	60 min.	100
Total				293,644

[1] Estimates in this column that fall below or above a full hour are rounded to the nearest hour.
[2] Included in estimate for reporting adverse licensure actions to the HIPDB in 45 CFR part 61.
[3] Included in estimates for 60.10(a)(1).
[4] Included in estimate for self queries to the HIPDB in 45 CFR part 61.
[5] Included in estimate for hospital queries under 60.11(a)(4).

Send comments to Susan Queen, Ph.D., HRSA Reports Clearance Officer, Room 16C–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, (301) 443–1129. Written comments should be received within 60 days of this notice.

Dated: October 3, 2003.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 03–25843 Filed 10–10–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG 2003–16251]

Collection of Information under Review by Office of Management and Budget (OMB): OMB Control Number 1625–0086

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of one Information Collection Request (ICR). The ICR concerns Great Lakes Pilotage. Before submitting the ICR to OMB, the Coast Guard is inviting comments on it.

DATES: Comments must reach the Coast Guard on or before December 15, 2003.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG 2003-16251] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

(3) By fax to the Facility at (202) 493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov*.

(5) Electronically through Federal eRule Portal: *http://www.regulations.gov*.

The Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov*, and also from Commandant (G–CIM–2), U.S.

Coast Guard Headquarters, room 6106 (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; or Andrea M. Jenkins, Program Manager, U.S. Department of Transportation, (202) 366–0271, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this request for comment by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov*, and they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see DOT's paragraph on the ''Privacy Act'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG–2003–16251], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. They may lead us to change the estimated ''information'' burden.

Viewing comments and documents: To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 [65 FR 19477], or you may visit *http://dms.dot.gov*.

Request for Comments

The Coast Guard encourages interested persons to submit comments. Persons submitting comments should include their names and addresses, identify this document [USCG 2003–16251], and give the reasons for the comments. Please submit all comments and attachments in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped self-addressed postcards or envelopes.

Information Collection Request

Title: Great Lakes Pilotage.

OMB Control Number: 1625–0086.

Summary: The Great Lakes Pilotage Act of 1960 authorizes the Director to prescribe a uniform system of accounts and to perform audits and inspections of associations of pilots on the Great Lakes. The specific information sought from respondents is that discussed in 33 CFR Parts 404–407.

Need: The Director of the Office of Great Lakes Pilotage uses the information collected by the Office to carry out financial oversight of the associations and to set rates for pilotage.

Respondents: Associations of pilots on the Great Lakes.

Frequency: Monthly.

Burden: The estimated burden is 18 hours a year.

Dated: September 30, 2003.

Clifford I. Pearson,

Director of Information and Technology.

[FR Doc. 03–25898 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4817–N–17]

Notice of Proposed Information Collection for Public Comment—HOPE VI Grant Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* December 15, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 4249, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–0614, extension 4128. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

The HOPE VI forms are used by the Department to collect information from Public Housing Agencies (PHAs) as part of the HOPE VI grant the application process.

There are several forms used by the Department, each of which serve a different information collection purpose. The title, purpose, and estimated time it will take applicants to complete each form is described in the section below.

This Notice also lists the following information:

Title of Proposal: Information Collection for the HOPE VI Grant Program .

OMB Control Number: 2577–0208.

Description of the need for the information and proposed use: In order for the Department to ensure that applicants meet particular eligibility criteria and possess the capacity to operate federally-funded activities, the Department relies on information provided by applicants through forms. The Department also tracks grant progress and reviews financial characteristics of planned grant expenditures. It relies on information provided by grantees through forms.

Some of the below listed forms are used by the Department in the rating and ranking process. This process is conducted to evaluate applications from PHAs. The forms capture additional information from applicants that cannot be easily conveyed by other segments of the HOPE VI application. For example, questions that require narrative responses would not easily convey budget information.

Budget and financial forms and an interest-based reporting system are used by the Department in administering the grants.

Agency form numbers, if applicable:

• Form HUD–52860–A, ''HOPE VI Application Data Form'' is part of the HOPE VI Revitalization NOFA and collects numerical information about the applicant's proposed HOPE VI Revitalization Plan. Estimated reporting time: 80 hours.

• Form HUD 52825–A, ''HOPE VI Budget'' collects information concerning a HOPE VI Revitalization grantee's request for HUD approval of the grant budget and spending authorization. Estimated reporting time: 3 hours.

• Form HUD–53001–A, ''Actual HOPE VI Cost Certificate'' collects information at closeout about the propriety of expenditures throughout the HOPE VI grant period. Estimated reporting time: 2 hours.

• Form HUD-NEW NUMBER, ''Revitalization Application Checklist/ Table of Contents'' provides a checklist to assist applicants ensure that they have submitted all required forms and documentation. Estimated reporting time: Fifteen minutes.

• Form HUD–NEW NUMBER, ''TDC/ Grant Limitations Worksheet'' collects information on whether the amount of requested public housing funds is within HUD allowances.

• Form HUD–NEW NUMBER, ''Physical Development Resources'' collects information about the amount of leverage development funds in a HOPE VI Revitalization Plan. Estimated reporting time: 4 hours.

• Form HUD–NEW NUMBER, ''Community and Supportive Services Resources'' collects information about the amount of leverage Community and Supportive Services funds in a HOPE VI Revitalization Plan. Estimated reporting time: 4 hours.

• Form HUD–NEW NUMBER, ''Anticipatory Resources'' collects information about the amount of expenditures made in anticipation of the applicant receiving a HOPE VI Revitalization grant. Estimated reporting time: 2 hours.

• Form HUD–NEW NUMBER, ''Collateral Investment Resources'' collects information about the amount of planned expenditures by other entities that will have an impact on the HOPE VI Revitalization Plan area. Estimated reporting time: 2 hours.

• Form HUD–NEW NUMBER, ''Resident Training and Public Meeting Certification'' collects information about resident meeting pertaining to the HOPE VI Revitalization Plan. Estimated reporting time: 30 minutes.

• Form HUD–NEW NUMBER, ''Project Readiness'' collects information about activities necessary before HOPE VI development begins. Estimated reporting time: 30 minutes.

• Form HUD–52774, ''HOPE VI Relocation Plan Guide'' is a format to assist PHAs in reporting information to HUD concerning HOPE VI related relocation. Estimated reporting time: 20 hours.

• Form HUD–NEW NUMBER, ''HOPE VI Community and Supportive Services Workplan'' is a format to assist PHAs in reporting information to HUD concerning their HOPE VI Community and Supportive Services program. Estimated reporting time: 20 hours.

• Form HUD–NEW NUMBER, ''HOPE VI Neighborhood Networks Fact Sheet'' asks PHA applicants to specify organization type, total number of public and assisted housing residents they will be serving and the types of services they will be providing. Estimated reporting time: 5 hours.

• Form HUD–NEW NUMBER, ''HOPE VI Demolition Application Checklist'' provides a checklist to assist applicants ensure that they have submitted all required forms and documentation. Estimated reporting time: Fifteen minutes.

• Form HUD–NEW NUMBER, ''HOPE VI Neighborhood Networks Application Checklist'' provides a checklist to assist applicants ensure that they have submitted all required forms and documentation. Estimated reporting time; Fifteen minutes.

Members of affected public: Public Housing Authorities.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: For HOPE VI Revitalization NOFA, 80 respondents, annually, 180 hours; 14,400 annual burden hours.

The HOPE VI Revitalization NOFA includes the following forms:

• Form HUD–52860–A, ''HOPE VI Application Data Form'' 80 respondents, annually, 80 hours; 1,600 annual burden hours.

• Form HUD–52825–A, ''HOPE VI Budget'' 80 respondents, annually, 3 hours; 240 annual burden hours.

• Form HUD–53001–A, ''Actual HOPE VI Cost Certificate'' respondents, annually, 2 hours; 160 annual burden hours.

• Form HUD–NEW NUMBER, ''Revitalization Application Checklist/ Table of Contents'' 80 respondents, annually, fifteen minutes, 20 annual burden hours.

• Form HUD–NEW NUMBER, ''TDC/ Grant Limitations Worksheet'' 80 respondents, annually, 1 hour; 80 annual burden hours.

• Form HUD–NEW NUMBER, ''Physical Development Resources'' 80 respondents, annually, 4 hours; 360 annual burden hours.

• Form HUD–NEW NUMBER, ''Community and Supportive Services Resources'' 80 respondents, annually, 4 hours; 360 annual burden hours.

• Form HUD–NEW NUMBER, ''Anticipatory Resources'' 80 respondents, annually, 2 hours; 160 annual burden hours.

• Form HUD–NEW NUMBER, ''Collateral Investment Resources'' 80 respondents, annually, 2 hours; 160 annual burden hours.

• Form HUD–NEW NUMBER, ''Resident Training and Public Meeting Certification'' 80 respondents, annually, thirty minutes; 40 annual burden hours.

• Form HUD–NEW NUMBER, ''Project Readiness'' 80 respondents, annually, thirty minutes; 40 annual burden hours.

For HOPE VI Demolition NOFA, 140 respondents, annually, 10 hours; 1,400 annual burden hours.

The HOPE VI Demolition NOFA includes the following form:

• Form HUD–NEW NUMBER, ''HOPE VI Demolition Application Checklist'' 140 respondents, annually, fifteen minutes; 35 annual burden hours.

For HOPE VI Neighborhood Networks NOFA, 30 respondents, annually, 20 hours; 600 annual burden hours.

The HOPE VI Neighborhood Networks NOFA NOFA includes the following forms:

• Form HUD–NEW NUMBER, ''HOPE VI Neighborhood Networks Fact Sheet'' 30 respondents, annually, 5 hours; 150 annual burden hours.

• Form HUD–NEW NUMBER, ''HOPE VI Neighborhood Networks Application Checklist'' 30 respondents, annually, fifteen minutes; 7.5 annual burden hours.

For form HUD–52774, ''HOPE VI Relocation Plan Guide'' 200 respondents, once per five year grant, 1,000 annual burden hours.

For form HUD–NEW NUMBER, ''Hope VI Community and Supportive Services Workplan'' 200 respondents, once per five year grant, 1,000 annual burden hours.

For form HUD 52825–A, ''HOPE VI Budget'' as used for grant administration, 200 respondents, semi-annually, 3 hours; 1,200 annual burden hours.

For HOPE VI Quarterly Progress Report, a non-form, internet-based information collection system, 200 respondents, four times a year, 4,000 annual burden hours.

Status of the proposed information collection: Revision of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 03–25855 Filed 10–10–03; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1430–BJ] ES–051990, Group 26, Illinois

Notice of Filing of Plat of Survey; Illinois

The Bureau of Land Management (BLM) will officially file the plat of the survey of the Locks and Dam No. 27 easement acquisition boundary as described in the U.S. Army Corps of Engineers tract descriptions E–1 and B–165 in Township 4 North, Range 9 West, Third Principal Meridian, Illinois, accepted on September 5, 2003, in the Eastern States Office, Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

The survey was requested by the U.S. Army Corps of Engineers.

All inquiries or protests concerning the technical aspects of the survey must be submitted in writing to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to the date of the official filing.

We will place a copy of the plat we described in the open files. Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: September 5, 2003.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 03–25861 Filed 10–10–03; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF JUSTICE

Justice Management Division; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review; Certification of Identity.

The Department of Justice, Justice Management Division, has submitted the following information collection request to the Office of Management and Budget for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until December 15, 2003.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Patricia D. Harris, FOIA/PA Coordinator, Mail Management Services, Facilities and Administrative Services Staff, Justice Management Division, United States Department of Justice, 10th and Pennsylvania Ave., NW, Washington, DC 20530, or via facsimile (301) 436–1036.

Overview of this Collection:

(1) *The type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Certification of Identity.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form:* DOJ–361. Facilities and Administrative Services Staff, Justice Management Division, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals. The information collection will be used by the Department to identify individuals requesting certain records under the Privacy Act. Without this form an individual cannot obtain the information requested.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 55,478 respondents at ½ hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 27,739 annual burden hours.

FOR FURTHER INFORMATION CONTACT: Brenda E. Dyer, Department Deputy Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: October 3, 2003.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 03–25963 Filed 10–10–03; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Advanced Explosives Destruction Techniques (AEDT) Training Course Follow-up Evaluation Form.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 68, Number 110, page 34419 on June 9, 2003, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 13, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Advanced Explosives Destruction Techniques (AEDT) Training Course Follow-up Evaluation Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Other: none. Abstract: The information collected on the survey will provide ATF with data on how the training participants have transferred the knowledge and skills learned to their jobs. The Kirkpatrick 4–Level Model is used to evaluate ATF training programs.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 354 respondents, who will complete the survey within approximately 12 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are 71 estimated total burden hours associated with this collection.

FOR FURTHER INFORMATION CONTACT: Ms. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW, Washington, DC 20530.

Dated: October 7, 2003.

Brenda E. Dyer,

Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 03–25961 Filed 10–10–03; 8:45 am]

BILLING CODE 4410–FB–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Commerce in Firearms and Ammunition—Annual Inventory of Firearms.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until December 15, 2003. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Larry White, Firearms Programs Division, Room 7400, 650 Massachusetts Avenue, NW., Washington, DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Commerce in Firearms and Ammunition—Annual Inventory of Firearms.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None. The regulations require Federal Firearms Licensees to conduct an annual inventory of their firearms and clarify who is responsible for reporting firearms that are lost or stolen in transit. The collection of

information is contained in 27 CFR 178.39a and 178.130.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 100,293 respondents will keep firearms records that will take approximately 1 minute to record.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are 15,483 estimated annual total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Deputy Clearance Officer, Policy and Planning Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: October 8, 2003.

Brenda E. Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 03–25962 Filed 10–10–03; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Biotechnology Research and Development Corporation (''BRDC'')

Notice is hereby given that, on September 23, 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''), Biotechnology Research and Development Corporation (''BRDC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. 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, PIC International PLC, San Francisco, CA has changed its name to Sygen International PLC; and American Home Products Corporation, Parsippany, NJ has changed its name to Wyeth. Also, Schering-Plough Animal Health Corporation, Madison, NJ; Baxcare Health Corporation, Round Lake, Il; Maxygen, Inc., Santa Clara, CA; and Alexion Pharmaceuticals, Inc., New Haven, CT are no longer parties to BRDC.

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 BRDC intends to file additional written notification disclosing all changes in membership.

On April 13, 1988, BRDC filed its original notification 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 May 12, 1988 (53 FR 16919).

The last notification was filed with the Department on August 1, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on September 25, 2001 (66 FR 49042).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 03–25874 Filed 10–10–03; 8:45 am]

BILLING CODE 4140–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Hot Metal Gas Forming Joint Venture (''HMGF'')

Notice is hereby given that, on September 15, 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''), Hot Metal Gas Forming Joint Venture (''HMGF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. 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, Center for Automotive Research, Ann Arbor, MI has been added as a party to this venture. Also, Altarum Institute, Ann Arbor, MI has been dropped as a party to this venture.

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 Hot Metal Gas Forming Joint Venture (''HMGF'') intends to file additional written notification disclosing all changes in membership.

On December 21, 1998, Hot Metal Gas Forming Joint Venture (''HMGF'') filed its original notification 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 February 18, 1999 (64 FR 8124).

The last notification was filed with the Department on July 19, 2002. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 13, 2002 (67 FR 52744).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 03–25875 Filed 10–10–03; 8:45 am]

BILLING CODE 4420–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Interchangeable Virtual Instruments Foundation, Inc.

Notice is hereby given that, on September 22, 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''), Interchangeable Virtual Instruments Foundation, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. 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, Systems & Electronics, Inc., St. Louis, MO has been added as a party to this venture.

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 Interchangeable Virtual Instruments Foundation, Inc. intends to file additional written notification disclosing all changes in membership.

On May 29, 2001, Interchangeable Virtual Instruments Foundation, Inc. filed its original notification 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 July 30, 2001 (66 FR 39336).

The last notification was filed with the Department on June 30, 2003. A notice was published in the **Federal Register** pursuant to Section 6(b) of the act on July 23, 2003 (68 FR 43552).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 03–25872 Filed 10–10–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on September 22, 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''), PXI Systems Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. 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, Exacq Technologies, Inc., Indianapolis, IN; Santec Corporation, Aichi, JAPAN; and Spectrum GmbH, Siek, GERMANY have been added as parties to this venture. Also, Ines GmbH, Bad Breisig, GERMANY; and Analogic Data Conversion Products, Wakefield, MA have been dropped as parties to this venture.

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 PXI Systems Alliance, Inc. intends to file additional written notification disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification 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 March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on June 30, 2003. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on July 23, 2003 (68 FR 43552).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 03–25873 Filed 10–10–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute: Diesel Aftertreatment Sensitivity to Lubricants (DASL) and Non-Thermal Catalyst Deactivation (N–TCD)

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''), Southwest Research Institute: Diesel Aftertreatment Sensitivity to Lubricants (DASL) and Non-Thermal Catalyst Deactivation (N–TCD) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its project status. 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, the period of performance has been extended to March 18, 2004.

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 Southwest Research Institute: Diesel Aftertreatment Sensitivity to Lubricants (DASL) and Non-Thermal Catalyst Deactivation (N–TCD) intends to file additional written notification disclosing all changes in membership.

On July 2, 2002, Southwest Research Institute: Diesel Aftertreatment Sensitivity to Lubricants (DASL) and Non-Thermal Catalyst Deactivation (N–TCD) filed its original notification 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 August 9, 2002 (67 FR 51869).

Dorothy B. Fountain,

Director of Operations, Antitrust Division.

[FR Doc. 03–25871 Filed 10–10–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Emergency Notice of Information Collection Under Review: Subgrant Award Report (STOP Violence Against Women Formula Grant Program) and Subgrant Award Report Instructions.

The Department of Justice, Office of Justice Programs, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by October 17, 2003. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulation Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Comments are encouraged and will be accepted for 60 days until December 15, 2003.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Cathy Poston, Attorney/Advisor, Office on Violence Against Women, Office of Justice Programs, Department of Justice, 810 7th Street, NW, Washington DC 20531, or facsimile (202) 305–2589.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Reinstatement with change of a previously approved collection for which approval has expired.

(2) *The title of the form/collection:* Subgrant Award Report (STOP Violence Against women Formula Grant Program) and Subgrant Award Report Instructions.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: none. Office on Violence Against Women, Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: the affected public includes the 56 STOP state and administrators (from 50 states, the District of Columbia and five territories and commonwealths (Guan, Puerto Rico, American Samoa, Virgin Islands, Northern Marina Islands)) and their subgrantees. The STOP Violence Against Women Formula Grant was authorized through the Violence Against Women Act of 1994 (VAWA) and reauthorized and amended by the Violence Against Women Act of 2000 (VAWA 2000). Its purpose is to promote a coordinated, multi-disciplinary approach to improving the criminal justice system's response to violence against women. The STOP Formula Grant Program envisions a partnership among law enforcement, prosecution, courts, and victim advocacy organizations to enhance victim safety and hold offenders accountable for their crimes of violence against women. The Department of Justice's Office on Violence Against Women administers the STOP Formula Grant Program funds which must be distributed by STOP state administrators according to a statutory formula (as amended by VAWA 2000).

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: It is estimated that it will take the 56 respondents (STOP administrators) approximately one hour to complete an annual progress report. It is estimated that it will take approximately one hour for roughly 2500 subgrantees to complete the relevant portion of the annual progress report. The Annual Progress Report for the STOP Formula Grant Program is divided into sections that pertain to the different types of activities that grantees may engage in and the different types of grantees that receive funds, *i.e.* law enforcement agencies, prosecutors' offices, courts, victim services agencies, etc.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total annual public burden associated with this application is 2,556 hours.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: October 3, 2003.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 03–25964 Filed 10–10–03; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Prohibited Transaction Exemption 2003–30; [Exemption Application No. D–11101] et al.; Grant of Individual Exemptions; Fifth Third Bank

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

Fifth Third Bank, Located in Grand Rapids, Michigan

[Prohibited Transaction Exemption 2003–30; Exemption Application No. D–11101]

Exemption

Section I—Exemption for Receipt of Fees

Effective on or after April 2, 2001, the restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply, to: the receipt of fees by Fifth Third Bank, a Michigan banking corporation, and its affiliates (Fifth Third), from the Kent Funds prior to October 26, 2001 or from the Fifth Third Funds on or after October 26, 2001 (the Funds), open-end investment companies registered under the Investment Company Act of 1940 (the 1940 Act), for acting as an investment adviser for the Funds, as well as for acting as administrator, custodian, accountant, transfer agent, and provider of other services to the Funds (including brokerage services in the future) which are not advisory services (collectively referred to as ''Secondary Services'' as defined in Section III(h) below), in connection with the purchase and sale of shares of the Funds by certain employee benefit plans and individual retirement accounts (the Plans) for which Fifth Third serves as fiduciary with investment discretion; provided that the conditions set forth in Section II are met.

Section II—Conditions

(a) No sales commissions, redemption fees, or other fees are paid by the Plans in connection with the purchase or sale of shares of the Funds.

(b) The price paid or received by a Plan for shares in the Funds is the net asset value per share, as defined in Section III(e), at the time of the transaction, and is the same price that would have been paid or received for the shares by any other investor at that time.

(c) Fifth Third, including any officer or director of Fifth Third, does not purchase or sell shares of the Funds from or to any Plan.

(d) Each Plan receives a credit, through a cash rebate that will be accrued daily and, if the Plan so elects, will be automatically invested in shares of the money market funds selected by the Plan, of such Plan's proportionate share of all fees charged to the Funds by Fifth Third for investment advisory services, including any investment advisory fee paid to third-party subadvisors, not later than two business days (or, prior to the date this final exemption is published in the **Federal Register**, one business day) after receipt of such fees by Fifth Third. The crediting of all investment advisory fees to the Plans by Fifth Third is audited by an independent accounting firm on at least an annual basis to verify the proper crediting of the fees to each Plan.

(e) The combined total of all fees received by Fifth Third for the provision of services to a Plan, and in connection with the provision of services to the Funds in which the Plan may invest, is not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of ERISA.

(f) Fifth Third does not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions.

(g) The Plans are not employee benefit plans sponsored or maintained by Fifth Third.

(h) A second fiduciary acting for the Plan, who is independent of and unrelated to Fifth Third (the Second Fiduciary), receives, in advance of any initial investment by the Plan in a Fund, full and detailed written disclosure of information concerning the Fund, including, but not limited to:

(1) A current prospectus for each Fund in which a Plan is considering investing;

(2) A statement describing the fees for investment advisory or similar services and any Secondary Services and all other fees to be charged to or paid by the Plan and by the Fund, including the nature and extent of any differential between the rates of such fees;

(3) The reasons why Fifth Third may consider such investment to be appropriate for the Plan;

(4) A statement describing whether there are any limitations applicable to Fifth Third with respect to which assets of the Plan may be invested in the Fund, and, if so, the nature of such limitations; and

(5) Upon the request of the Second Fiduciary, a copy of the proposed exemption and/or a copy of the final exemption once such documents are published in the **Federal Register**.

(i) After consideration of the information described in paragraph (h) above, the Second Fiduciary authorizes in writing the investment of assets of the Plan in each particular Fund, the fees to be paid by such Fund to Fifth Third (including fees for investment advisory services), and the cash rebate to the Plan of fees received by Fifth Third from the Fund for investment advisory services.

(j) All authorizations made by a Second Fiduciary regarding investments in a Fund and the fees paid to Fifth Third (including fees for investment advisory services) are subject to an annual reauthorization wherein any such prior authorization referred to in paragraph (i) above shall be terminable at will by the Plan, without penalty to the Plan, upon receipt by Fifth Third of written notice of termination. A form expressly providing an election to terminate the authorization described in paragraph (i) above (the ''Termination Form'') with instructions on the use of the form must be provided to the Second Fiduciary at least annually. However, if the Termination Form has been provided to the Second Fiduciary pursuant to paragraph (k) or paragraph (l) below, then the Termination Form need not be provided again for an annual reauthorization pursuant to this paragraph unless at least six months have elapsed since the form was provided in connection with the additional service or fee increase. The instructions for the Termination Form must include the following information:

(1) The authorization is terminable at will by the Plan, without penalty to the Plan, upon receipt by Fifth Third's investment services group of written notice from the Second Fiduciary; and

(2) Failure to return the Termination Form will result in continued authorization of Fifth Third to engage in the transactions described above on behalf of the Plan.

(k) The Second Fiduciary of each Plan invested in a particular Fund receives full written disclosure, in a statement separate from the Fund prospectus, of any proposed increases in the rates of fees charged by Fifth Third to the Fund for Secondary Services at least 30 days prior to the implementation of such increase in fees. The disclosure will be accompanied by a copy of the Termination Form, with instructions as described in paragraph (j) above. The Second Fiduciary will also receive full written disclosure, prior to the effective date, in a Fund prospectus or otherwise, of any increases in the rates of fees charged by Fifth Third to the Fund for investment advisory services even though such fees will be rebated as required by paragraph (d) above.

(l) In the event that Fifth Third provides an additional Secondary Service to a Fund for which a fee is charged or there is an increase in the amount of fees paid by the Fund to Fifth Third for any Secondary Services resulting from a decrease in the number of services performed by Fifth Third for such fees in connection with a previously authorized Secondary Service, Fifth Third will, at least 30 days in advance of the implementation of such additional service or effective fee increase, provide written notice to the Second Fiduciary explaining the nature and the amount of such services or of the effective increase in fees of the affected Fund. Such notice shall be accompanied by the Termination Form.

(m) On an annual basis, Fifth Third provides the Second Fiduciary of a Plan investing in the Fund with:

(1) A copy of the current prospectus for the Fund and, upon such Second Fiduciary's request, a copy of the Statement of Additional Information for such Fund which contains a description of all fees paid by the Fund to Fifth Third (including fees for investment advisory services);

(2) A copy of the annual financial disclosure report of the Fund in which such Plan is invested, which includes information about the Fund portfolios as well as audit findings of an independent auditor, within 60 days of the preparation of the report;

(3) Oral or written responses to inquiries of the Second Fiduciary as they arise; and

(4) With respect to each of the Funds in which a Plan invests, in the event such Fund places brokerage transactions with Fifth Third, a statement specifying:

(i) The total (expressed in dollars) of brokerage commissions of each Fund's investment portfolio that are paid to Fifth Third by such Fund;

(ii) The total (expressed in dollars) of brokerage commissions of each Fund's investment portfolio that are paid by such Fund to brokerage firms unrelated to Fifth Third;

(iii) The average brokerage commissions per share (expressed as cents per share) paid to Fifth Third by each investment portfolio of a Fund; and

(iv) The average brokerage commissions per share (expressed as cents per share) paid by each investment portfolio of a Fund to brokerage firms unrelated to Fifth Third.

(o) All dealings between the Plans and the Fund are on a basis no less favorable to the Plans than dealings with other shareholders of the Fund.

(p) Fifth Third maintains for a period of six years the records necessary to enable the persons described in paragraph (q) below to determine whether the conditions of this exemption have been met, except that: (i) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Fifth Third, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest other than Fifth Third shall be subject to the civil penalty that may be assessed under section 502(i) of ERISA or to the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained or not available for examination as required by paragraph (q) below.

(q)(1) Except as provided in paragraph (p) above and notwithstanding any provisions of section 504 (a)(2) and (b) of ERISA, the records referred to in paragraph (p) above are unconditionally available at their customary location for examination during normal business hours by:

(i) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service;

(ii) Any fiduciary of a Plan who has authority to acquire or dispose of shares of the Funds owned by the Plans, or any duly authorized employee or representative of such fiduciary; and

(iii) Any participant or beneficiary of a Plan or duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraph (1) (ii) and (iii) above shall be authorized to examine trade secrets of Fifth Third, commercial or financial information which is privileged or confidential, or records that are unrelated to the Plan(s) that the fiduciary serves or under which the participant or beneficiary is entitled to receive benefits.

(r) Within sixty (60) days of [insert the date of publication in the **Federal Register** of the notice granting this exemption], Fifth Third will file Form 5330 with the Internal Revenue Service and pay the excise taxes applicable under section 4975(a) of the Code in connection with the error in processing rebates of investment advisory fees during the period beginning October 26, 2001 and ending on March 1, 2003.

Section III—Definitions

For purposes of this exemption:

(a) ''*Fifth Third*'' means Fifth Third Bank, a Michigan banking corporation, and any affiliate thereof (as affiliate is defined below in paragraph (b) of this section).

(b) An affiliate of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) ''*Control*'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) ''*Fund*'' or ''*Funds*'' means the Kent Funds prior to October 26, 2001, the Fifth Third Funds on and after October 26, 2001, and each separate investment portfolio thereof, or any other diversified open-end investment company registered under the 1940 Act for which Fifth Third serves as investment advisor and may also serve (or may in the future serve) as administrator, custodian, accountant, or transfer agent, or provide some other Secondary Service (as defined in paragraph (h) below) which has been approved by the Funds.

(e) ''*Net asset value*'' means the amount for purposes of pricing all purchases and sales, calculated by dividing the value of all securities, determined by a method as set forth in a Fund's prospectus and statement of additional information, and other assets belonging to the Fund or portfolio of the Fund, less the liabilities charged to each such portfolio or Fund, by the number of outstanding shares.

(f) ''*Relative*'' means a relative as that term is defined in section 3(15) of ERISA (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) ''*Second Fiduciary*'' means a fiduciary of a Plan who is independent of and unrelated to Fifth Third. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to Fifth Third if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with Fifth Third;

(2) Such fiduciary, or any officer, director, partner, employee, or relative of the fiduciary is an officer, director, partner, or employee of Fifth Third (or is a relative of such persons); or

(3) Such fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

If an officer, director, partner, or employee of Fifth Third (or relative of such persons), is a director of such Second Fiduciary, and if he or she abstains from participation in (i) the choice of the Plan's investment advisor, (ii) the approval of such purchase or sale between the Plan and a Fund, and (iii) the approval of any change in fees charged to or paid by the Plan in connection with any of the transactions described in Section II above, then subparagraph (2) above shall not apply.

(h) ''*Secondary Service*'' means a service other than an investment management, investment advisory, or similar service that is (or will in the future be) provided by Fifth Third to a Fund, including (but not limited to) brokerage services, custodian services, transfer and dividend disbursing agent services, administrator or sub-administrator services, accounting services, and shareholder servicing agent services.

(i) ''*Termination Form*'' means the form supplied to the Second Fiduciary that expressly provides an election to the Second Fiduciary to terminate on behalf of a Plan the authorization described in paragraph (i) of Section II above. Such Termination Form may be used at will by the Second Fiduciary to terminate an authorization without penalty to the Plan and to notify Fifth Third in writing to effect a termination by selling the shares of the Fund held by the Plan requesting such termination within one business day following receipt by Fifth Third of the form; provided that if, due to circumstances beyond the control of Fifth Third, the sale cannot be executed within one business day, Fifth Third shall have one additional business day to complete such sale.

EFFECTIVE DATE: This exemption is effective generally as of April 2, 2001. Effective on or after October 14, 2003, Fifth Third shall credit a Plan the cash rebate of such Plan's share of fees charged to the Funds by Fifth Third for investment advisory services not later

than two business days after receipt of such fees by Fifth Third as provided in Section II(d) of the exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 24, 2003 at 68 FR 37539 (the Proposed Exemption).

Written Comment

The Department received one written comment and no requests for a public hearing. In a letter dated August 5, 2003, Fifth Third (the Applicant) requested a clarification with regard to the ''Summary of Facts and Representations'' (the Summary) in the Proposed Exemption. Although the term ''Fifth Third'' as defined in the proposed exemption itself includes Fifth Third Bank, a Michigan banking corporation, and its affiliates, the Applicant believed that the definition of the same term in item 1 of the Summary did not include the Fifth Third Bank affiliates. The Department notes that the term ''Fifth Third'' does include Fifth Third Bank, a Michigan banking corporation, and its affiliates in both the proposed exemption and the Summary of the Proposed Exemption.

After giving full consideration to the entire record, including the written comment noted above, the Department has decided to grant the exemption.

For information regarding the comment and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–11101) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy McColough of the Department, telephone (202) 693–8561. This is not a toll-free number.

RBC Dain Rauscher, Inc. (RBC–DR) Located in Minneapolis, Minnesota

[Prohibited Transaction Exemption 2003–31; Exemption Application No. D–11189]

Exemption

I. Transactions

A. Effective for transactions occurring on or after April 18, 2003, the restrictions of section 406(a) and 407(a) of the Employee Retirement Income Security Act of 1974, as amended (the Act), and the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1986, as amended (the Code), by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the following transactions involving Issuers and Securities evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of Securities in the initial issuance of Securities between the Sponsor or Underwriter and an employee benefit plan when the Sponsor, Servicer, Trustee or Insurer of an Issuer, the Underwriter of the Securities representing an interest in the Issuer, or an Obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of Securities by a plan in the secondary market for such Securities; and

(3) The continued holding of Securities acquired by a plan pursuant to subsection I.A. (1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 of the Act for the acquisition or holding of a Security on behalf of an Excluded Plan, by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[1]

B. Effective for transactions occurring on or after April 18, 2003, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of Securities in the initial issuance of Securities between the Sponsor or Underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the Securities is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the Issuer, or (b) an affiliate or a person described in (a); if

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of Securities in connection with the initial issuance of the Securities, at least 50 percent of each class of Securities in which plans have invested is acquired by persons independent of the members of the Restricted Group, and at least 50 percent of the aggregate interest in the Issuer is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of Securities does not exceed 25 percent of all of the Securities of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the Securities, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in Securities representing an interest in a Issuer containing assets sold or serviced by the same entity.[2] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in an Issuer if it is merely a Subservicer of that Issuer;

(2) The direct or indirect acquisition or disposition of Securities by a plan in the secondary market for such Securities, provided that conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of Securities acquired by a plan pursuant to subsection I.B. (1) or (2).

C. Effective for transactions occurring on or after April 18, 2003, the restrictions of sections 406(a), 406(b) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975 (c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of an Issuer, including the use of any Eligible Swap transaction; or the defeasance of a mortgage obligation held as an asset of the Issuer through the substitution of a new mortgage obligation in a commercial mortgage-backed Designated Transaction, provided:

(1) Such transactions are carried out in accordance with the terms of a binding Pooling and Servicing Agreement;

(2) The Pooling and Servicing Agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they

[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 of the Act for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

purchase Securities issued by the Issuer; [3] and

(3) The defeasance of a mortgage obligation and the substitution of a new mortgage obligation in a commercial mortgage-backed Designated Transaction meet the terms and conditions for such defeasance and substitution as are described in the prospectus or private placement memorandum for such Securities, which terms and conditions have been approved by a Rating Agency and does not result in the Securities receiving a lower credit rating from the Rating Agency than the current rating of the Securities.

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by the Servicer of the Issuer from a person other than the Trustee or Sponsor, unless such fee constitutes a ''Qualified Administrative Fee.''

D. Effective for transactions occurring on or after April 18, 2003, the restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of Securities.

Section II—General Conditions

A. The relief provided under section I is available only if the following conditions are met:

(1) The acquisition of Securities by a plan is on terms (including the Security price) that are at least as favorable to the plan as such terms would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the Securities are not subordinated to the rights and interests evidenced by other Securities of the same Issuer, unless the Securities are issued in a Designated Transaction;

(3) The Securities acquired by the plan have received a rating from Rating Agency at the time of such acquisition that is in one of the three (or in the case of Designated Transactions, four) highest generic rating categories.

(4) The Trustee is not an Affiliate of any member of the Restricted Group, other than an Underwriter. For purposes of this requirement:

(a) the Trustee shall not be considered to be an Affiliate of a Servicer solely because the Trustee has succeeded to the rights and responsibilities of the Servicer pursuant to the terms of a Pooling and Servicing Agreement providing for such succession upon the occurrence of one or more events of default by the Servicer; and

(b) subsection II.A.(4) will be deemed satisfied notwithstanding a Servicer becoming an Affiliate of the Trustee as a result of a merger or acquisition involving the Trustee, such Servicer and/or their Affiliates which occurs after the initial issuance of the Securities provided that:

(i) Such Servicer ceases to be an Affiliate of the Trustee no later than six months after the date such Servicer became an Affiliate of the Trustee; and

(ii) Such Servicer did not breach any of its obligations under the Pooling and Servicing Agreement, unless such breach was immaterial and timely cured in accordance with the terms of such agreement, during the period from the closing date of such merger or acquisition transaction through the date the Servicer ceased to be an Affiliate of the Trustee;

(5) The sum of all payments made to and retained by the Underwriters in connection with the distribution or placement of Securities represents not more than Reasonable Compensation for underwriting or placing the Securities; the sum of all payments made to and retained by the Sponsor pursuant to the assignment of obligations (or interests therein) to the Issuer represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the Servicer represents not more than Reasonable Compensation for the Servicer's services under the Pooling and Servicing Agreement and reimbursement of the Servicer's reasonable expenses in connection therewith;

(6) The plan investing in such Securities is an ''accredited investor'' as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission (SEC) under the Securities Act of 1933; and

(7) In the event that the obligations used to fund an Issuer have not all been transferred to the Issuer on the Closing Date, additional obligations as specified in subsection III.B.(1) may be transferred to the Issuer during the Pre-Funding Period in exchange for amounts credited to the Pre-Funding Account, provided that:

(a) The Pre-Funding Limit is not exceeded;

(b) All such additional obligations meet the same terms and conditions for eligibility as the original obligations used to create the Issuer (as described in the prospectus or private placement memorandum and/or Pooling and Servicing Agreement for such Securities), which terms and conditions have been approved by a Rating Agency. Notwithstanding the foregoing, the terms and conditions for determining the eligibility of an obligation may be changed if such changes receive prior approval either by a majority vote of the outstanding securityholders or by a Rating Agency;

(c) The transfer of such additional obligations to the Issuer during the Pre-Funding Period does not result in the Securities receiving a lower credit rating from a Rating Agency, upon termination of the Pre-Funding Period than the rating that was obtained at the time of the initial issuance of the Securities by the Issuer;

(d) The weighted average annual percentage interest rate (the average interest rate) for all of the obligations in the Issuer at the end of the Pre-Funding Period will not be more than 100 basis points lower than the average interest rate for the obligations which were transferred to the Issuer on the Closing Date;

(e) In order to ensure that the characteristics of the receivables actually acquired during the Pre-Funding Period are substantially similar to those which were acquired as of the Closing Date, the characteristics of the additional obligations will either be monitored by a credit support provider or other insurance provider which is independent of the Sponsor or an independent accountant retained by the Sponsor will provide the Sponsor with a letter (with copies provided to the Rating Agency, the Underwriter and the Trustee) stating whether or not the characteristics of the additional obligations conform to the characteristics of such obligations described in the prospectus, private placement memorandum and/or Pooling and Servicing Agreement. In preparing such letter, the independent accountant

[3] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the Securities were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

will use the same type of procedures as were applicable to the obligations which were transferred on the Closing Date;

(f) The Pre-Funding Period shall be described in the prospectus or private placement memorandum provided to investing plans; and

(g) The Trustee of the Trust (or any agent with which the Trustee contracts to provide Trust services) will be a substantial financial institution or trust company experienced in trust activities and familiar with its duties, responsibilities, and liabilities as a fiduciary under the Act. The Trustee, as the legal owner of the obligations in the Trust or the holder of a security interest in the obligations held by the Issuer, will enforce all the rights created in favor of securityholders of such Issuer, including employee benefit plans subject to the Act;

(8) In order to insure that the assets of the Issuer may not be reached by creditors of the Sponsor in the event of bankruptcy or other insolvency of the Sponsor:

(a) The legal documents establishing the Issuer will contain:

(i) Restrictions on the Issuer's ability to borrow money or issue debt other than in connection with the securitization;

(ii) Restrictions on the Issuer merging with another entity, reorganizing, liquidating or selling assets (other than in connection with the securitization);

(iii) Restrictions limiting the authorized activities of the Issuer to activities relating to the securitization;

(iv) If the Issuer is not a Trust, provisions for the election of at least one independent director/partner/member whose affirmative consent is required before a voluntary bankruptcy petition can be filed by the Issuer; and

(v) If the Issuer is not a Trust, requirements that each independent director/partner/member must be an individual that does not have a significant interest in, or other relationships with, the Sponsor or any of its Affiliates;

(b) The Pooling and Servicing Agreement and/or other agreements establishing the contractual relationships between the parties to the securitization transaction will contain covenants prohibiting all parties thereto from filing an involuntary bankruptcy petition against the Issuer or initiating any other form of insolvency proceeding until after the Securities have been paid; and

(c) Prior to the issuance by the Issuer of any Securities, a legal opinion is received which states that either:

(i) A ''true sale'' of the assets being transferred to the Issuer by the Sponsor has occurred and that such transfer is not being made pursuant to a financing of the assets by the Sponsor; or

(ii) In the event of insolvency or receivership of the Sponsor, the assets transferred to the Issuer will not be part of the estate of the Sponsor;

(9) If a particular class of Securities held by any plan involves a Ratings Dependent or Non-Ratings Dependent Swap entered into by the Issuer, then each particular swap transaction relating to such Securities:

(a) Shall be an Eligible Swap;

(b) Shall be with an Eligible Swap Counterparty;

(c) In the case of a Ratings Dependent Swap, shall provide that if the credit rating of the counterparty is withdrawn or reduced by any Rating Agency below a level specified by the Rating Agency, the Servicer (as agent for the Trustee) shall, within the period specified under the Pooling and Servicing Agreement:

(i) Obtain a replacement swap agreement with an Eligible Swap Counterparty which is acceptable to the Rating Agency and the terms of which are substantially the same as the current swap agreement (at which time the earlier swap agreement shall terminate); or

(ii) Cause the swap counterparty to establish any collateralization or other arrangement satisfactory to the Rating Agency such that the then current rating by the Rating Agency of the particular class of Securities will not be withdrawn or reduced.

In the event that the Servicer fails to meet its obligations under this subsection II.A.(9)(c), plan securityholders will be notified in the immediately following Trustee's periodic report which is provided to securityholders, and sixty days after the receipt of such report, the exemptive relief provided under section I.C. will prospectively cease to be applicable to any class of Securities held by a plan which involves such Ratings Dependent Swap; provided that in no event will such plan securityholders be notified any later than the end of the second month that begins after the date on which such failure occurs.

(d) In the case of a Non-Ratings Dependent Swap, shall provide that, if the credit rating of the counterparty is withdrawn or reduced below the lowest level specified in section III.GG., the Servicer (as agent for the Trustee) shall within a specified period after such rating withdrawal or reduction:

(i) Obtain a replacement swap agreement with an Eligible Swap Counterparty, the terms of which are substantially the same as the current swap agreement (at which time the earlier swap agreement shall terminate); or

(ii) Cause the swap counterparty to post collateral with the Trustee in an amount equal to all payments owed by the counterparty if the swap transaction were terminated; or

(iii) Terminate the swap agreement in accordance with its terms; and

(e) Shall not require the Issuer to make any termination payments to the counterparty (other than a currently scheduled payment under the swap agreement) except from Excess Spread or other amounts that would otherwise be payable to the Servicer or the Sponsor;

(10) Any class of Securities, to which one or more swap agreements entered into by the Issuer applies, may be acquired or held in reliance upon this Underwriter Exemption only by Qualified Plan Investors; and

(11) Prior to the issuance of any debt securities, a legal opinion is received which states that the debt holders have a perfected security interest in the Issuer's assets.

B. Neither any Underwriter, Sponsor, Trustee, Servicer, Insurer, nor any Obligor, unless it or any of its Affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire Securities, shall be denied the relief provided under Part I, if the provision in subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such Securities, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of Securities, the Trustee obtains a representation of each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's Securities) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in section II.A.(6).

Section III—Definitions

For purposes of this exemption:

A. ''Security'' means:

(1) A pass-through certificate or trust certificate that represents a beneficial ownership interest in the assets of an Issuer which is a Trust and which entitles the holder to pass-through payments of principal, interest, and/or

other payments made with respect to the assets of such Trust; or

(2) A Security which is denominated as a debt instrument that is issued by and is an obligation of an Issuer; with respect to which the Underwriter is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

B. ''Issuer'' means an investment pool, the corpus or assets of which are held in trust (including a grantor or owner Trust) or whose assets are held by a partnership, special purpose corporation or limited liability company (which Issuer may be a Real Estate Mortgage Investment Conduit (REMIC) or a Financial Asset Securitization Investment Trust (FASIT) within the meaning of section 860D(a) or section 860L, respectively, of the Code); and the corpus or assets of which consist solely of:

(1) (a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association); and/or

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, Qualified Equipment Notes Secured by Leases); and/or

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and/or commercial real property (including obligations secured by leasehold interests on residential or commercial real property); and/or

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or Qualified Motor Vehicle Leases; and/or

(e) Guaranteed governmental mortgage pool certificates, as defined in 29 CFR 2510.3–101(1)(2) [4] and/or

(f) Fractional undivided interests in any of the obligations described in clauses (a)-(e) of this subsection B.(1); [5]

Notwithstanding the foregoing, residential and home equity loan receivables issued in Designated Transactions may be less than fully secured, provided that (i) The rights and interests evidenced by the Securities issued in such Designated Transactions are not subordinated to the rights and interests evidenced by Securities of the same Issuer; (ii) such Securities acquired by the plan have received a rating from a Rating Agency at the time of such acquisition that is in one of the two highest generic rating categories; and (iii) any obligation included in the corpus or assets of the Issuer must be secured by collateral whose fair market value on the Closing Date of the Designated Transaction is at least equal to 80% of the sum of: (I) the outstanding principal balance due under the obligation which is held by the Issuer and (II) the outstanding principal balance(s) of any other obligation(s) of higher priority (whether or not held by the Issuer) which are secured by the same collateral.

(2) Property which had secured any of the obligations described in subsection III.B.(1);

(3) (a) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to be made to securityholders; and/or

(b) Cash or investments made therewith which are credited to an account to provide payments to securityholders pursuant to any Eligible Swap Agreement meeting the conditions of subsection I.A.(9) or pursuant to any Eligible Yield Supplement Agreement, and/or

(c) Cash transferred to the Issuer on the Closing Date and permitted investments made therewith which:

(i) Are credited to a Pre-Funding Account established to purchase additional obligations with respect to which the conditions set forth in clauses (a)–(g) of subsection II.A.(7) are met; and/or

(ii) are credited to a Capitalized Interest Account; and

(iii) are held by the Issuer for a period ending no later than the first distribution date to securityholders occurring after the end of the Pre-Funding Period.

For purposes of this clause (c) of subsection III.B.(3), the term *''permitted investments''* means investments which are either (i) direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by, the United States or any agency or instrumentality thereof, provided that such obligations are backed by the full faith and credit of the United States, or (ii) have been rated (or the Obligor has been rated) in one of the three highest generic rating categories by a Rating Agency; are described in the Pooling and Servicing Agreement; and are permitted by the Rating Agency.

(4) Rights of the Trustee under the Pooling and Servicing Agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship, Eligible Yield Supplement Agreements, Eligible Swap Agreements meeting the conditions of subsection II.A.(9) or other credit support arrangements with respect to any obligations described in section III.B.(1).

Notwithstanding the foregoing, the term ''Issuer'' does not include any investment pool unless: (i) The assets of the type described in paragraphs (a)–(f) of subsection III.B.(1) which are contained in the investment pool have been included in other investment pools, (ii) Securities evidencing interests in such other investment pools have been rated in one of the three (or in the case of Designated Transactions, four) highest generic rating categories by a Rating Agency for at least one year prior to the plan's acquisition of Securities pursuant to this exemption, and (iii) Securities evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of Securities pursuant to this exemption.

C. ''*Underwriter*'' means:

(1) RBC–DR;

(2) any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such investment banking firm; and

(3) any member of an underwriting syndicate or selling group of which such firm or person described in subsections III.C.(1) or (2) above is a manager or co-manager with respect to the Securities.

D. ''*Sponsor*'' means the entity that organizes an Issuer by depositing obligations therein in exchange for Securities.

E. ''*Master Servicer*'' means the entity that is a party to the Pooling and Servicing Agreement relating to assets of the Issuer and is fully responsible for servicing, directly or through Subservicers, the assets of the Issuer.

F. ''*Subservicer*'' means an entity which, under the supervision of and on behalf of the Master Servicer, services

[4] In Advisory Opinion 99–05A (Feb. 22, 1999), the Department expressed its view that mortgage pool certificates guaranteed and issued by the Federal Agricultural Mortgage Corporation (''Farmer Mac'') meet the definition of a guaranteed governmental mortgage pool certificate as defined in 29 CFR 2510.3–101(i)(2).

[5] It is the Department's view that the definition of ''Issuer'' contained in section III.B. includes a two-tier structure under which Securities issued by the first Issuer, which contains a pool of receivables described above, are transferred to a second Issuer which issues Securities that are sold to plans. However, the Department is of the further view that, since the exemption generally provides relief for the direct or indirect acquisition or disposition of Securities that are not subordinated, no relief would be available if the Securities held by the second Issuer were subordinated to the rights and interests evidenced by other Securities issued by the first Issuer, unless such Securities were issued in a Designated Transaction.

loans contained in the Issuer, but is not a party to the Pooling and Servicing Agreement.

G. ''*Servicer*'' means any entity which services loans contained in the Issuer, including the Master Servicer and any Subservicer.

H. ''*Trust*'' means an Issuer which is a trust (including an owner trust, grantor trust or a REMIC or FASIT which is organized as a Trust.

I. ''*Trustee*'' means the trustee of any Trust which issues Securities and also includes an Indenture Trustee. ''Indenture Trustee'' means the Trustee appointed under the indenture pursuant to which the subject Securities are issued, the rights of holders of the Securities are set forth and a security interest in the Trust assets in favor of the holders of the Securities is created. The Trustee or the Indenture Trustee is also a party to or beneficiary of all the documents and instruments transferred to the Trust, and as such, has both the authority to, and the responsibility for, enforcing all the rights created thereby in favor of holders of the Securities, including those rights arising in the event of default by the servicer.

J. ''*Insurer*'' means the insurer or guarantor of, or provider of other credit support for, an Issuer. Notwithstanding the foregoing, a person is not an Insurer solely because it holds securities representing an interest in an Issuer which are of a class subordinated to Securities representing an interest in the same Issuer.

K. ''*Obligor*'' means any person, other than the Insurer, that is obligated to make payments with respect to any obligation or receivable included in the Issuer. Where an Issuer contains Qualified Motor Vehicle Leases or Qualified Equipment Notes secured by Leases, ''Obligor'' shall also include any owner of property subject to any Lease included in the Issuer, or subject to any Lease securing an obligation included in the Issuer.

L. ''*Excluded Plan*'' means any plan with respect to which any member of the Restricted Group is a ''plan sponsor'' within the meaning of section 3(16)(B) of the Act.

M. ''*Restricted Group*'' with respect to a class of Securities means:

(1) Each Underwriter;

(2) Each Insurer;

(3) The Sponsor;

(4) The Trustee;

(5) Each Servicer;

(6) Any Obligor with respect to obligations or receivables included in the Issuer constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the Issuer, determined on the date of the initial issuance of Securities by the Issuer;

(7) Each counterparty in an Eligible Swap Agreement; or

(8) Any Affiliate of a person described in (1)–(7) above.

N. ''*Affiliate*'' of another person includes:

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

O. ''*Control*'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

P. A person will be ''independent'' of another person only if:

(1) Such person is not an Affiliate of that other person; and

(2) The other person, or an Affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to assets of such person.

Q. ''*Sale*'' includes the entrance into a Forward Delivery Commitment, provided:

(1) The terms of the Forward Delivery Commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's-length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the Forward Delivery Commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

R. ''*Forward Delivery Commitment*'' means a contact for the purchase or sale of one or more Securities to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the Securities) and optional contracts (which give one party the right but not the obligation to deliver Securities to, or demand delivery of Securities from, the other party).

S. ''*Reasonable Compensation*'' has the same meaning as that term is defined in 29 CFR 2550.408c–2.

T. ''*Qualified Administrative Fee*'' means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the Obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The Servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the Pooling and Servicing Agreement; and

(4) The amount paid to investors in the Issuer will not be reduced by the amount of any such fee waived by the Servicer.

U. ''*Qualified Equipment Note Secured by a Lease*'' means an equipment note:

(1) which is secured by equipment which is leased;

(2) which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(3) with respect to which the Issuer's security interest in the equipment is at least as protective of the rights of the Issuer as would be the case if the equipment note were secured only by the equipment and not the lease.

V. ''*Qualified Motor Vehicle Lease*'' means a lease of a motor vehicle where:

(1) the Issuer owns or holds a security interest in the lease;

(2) the Issuer owns or holds a security interest in the leased motor vehicle; and

(3) the Issuer's security interest in the leased motor vehicle is at least as protective of the Issuer's rights as the Issuer would receive under a motor vehicle installment loan contract.

W. ''*Pooling and Servicing Agreement*'' means the agreement or agreements among a Sponsor, a Servicer and the Trustee establishing a Trust. ''Pooling and Servicing Agreement'' also includes the indenture entered into by the Issuer and the Indenture Trustee.

X. ''*Rating Agency*'' means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., Moody's Investors Service, Inc., Fitch, Inc. or any successors thereto.

Y. ''*Capitalized Interest Account*'' means an Issuer account (i) which is established to compensate securityholders for shortfalls, if any, between investment earnings on the Pre-Funding Account and the pass-through rate payable under the Securities; and (ii) which meets the requirements of clause (c) of subsection III.B.(3).

Z. ''*Closing Date*'' means the date the Issuer is formed, the Securities are first issued and the Issuer's assets (other than those additional obligations which are to be funded from the Pre-Funding Account pursuant to subsection III.A.(7)) are transferred to the Issuer.

AA. ''*Pre-Funding Account*'' means an Issuer account (i) which is established to purchase additional obligations, which obligations meet the conditions set forth in clauses (a)–(g) of subsection II.A.(7); and (ii) which meets the requirements of clause (c) of subsection III.B.(3).

BB. ''*Pre-Funding Limit*'' means a percentage or ratio of the amount allocated to the Pre-Funding Account, as compared to the total principal amount of the Securities being offered which is less than or equal to 25 percent.

CC. ''*Pre-Funding Period*'' means the period commencing on the Closing Date and ending no later than the earliest to occur of (i) the date the amount on deposit in the Pre-Funding Account is less than the minimum dollar amount specified in the Pooling and Servicing Agreement; (ii) the date on which an event of default occurs under the Pooling and Servicing Agreement; or (iii) the date which is the later of three months or 90 days after the Closing Date.

DD. ''*Designated Transaction*'' means a securitization transaction in which the assets of the Issuer consist of secured consumer receivables, secured credit instruments or secured obligations that bear interest or are purchased at a discount and are: (i) Motor vehicle, home equity and/or manufactured housing consumer receivables; and/or (ii) motor vehicle credit instruments in transactions by or between business entities; and/or (iii) single-family residential, multi-family residential, home equity, manufactured housing and/or commercial mortgage obligations that are secured by single-family residential, multi-family residential, commercial real property or leasehold interests therein. For purposes of this section III.CC., the collateral securing motor vehicle consumer receivables or motor vehicle credit instruments may include motor vehicles and/or Qualified Motor Vehicle Leases.

EE. ''*Ratings Dependent Swap*'' means an interest rate swap, or (if purchased by or on behalf of the Issuer) an interest rate cap contract, that is part of the structure of a class of Securities where the rating assigned by the Rating Agency to any class of Securities held by any plan is dependent on the terms and conditions of the swap and the rating of the counterparty, and if such Security rating is not dependent on the existence of the swap and rating of the counterparty, such swap or cap shall be referred to as a ''Non-Ratings Dependent Swap''. With respect to a Non-Ratings Dependent Swap, each Rating Agency rating the Securities must confirm, as of the date of issuance of the Securities by the Issuer, that entering into an Eligible Swap with such counterparty will not affect the rating of the Securities.

FF. ''*Eligible Swap*'' means a Ratings Dependent or Non-Ratings Dependent Swap:

(1) Which is denominated in U.S. dollars;

(2) Pursuant to which the Issuer pays or receives, on or immediately prior to the respective payment or distribution date for the class of Securities to which the swap relates, a fixed rate of interest, or a floating rate of interest based on a publicly available index (*e.g.*, the London Interbank Offered Rate (LIBOR) or the U.S. Federal Reserve's Cost of Funds Index (COFI)), with the Issuer receiving such payments on at least a quarterly basis and obligated to make separate payments no more frequently than the counterparty, with all simultaneous payments being netted;

(3) Which has a notional amount that does not exceed either: (i) The principal balance of the class of Securities to which the swap relates, or (ii) the portion of the principal balance of such class represented solely by those types of corpus or assets of the Issuer referred to in subsections III.B.(1), (2) and (3);

(4) Which is not leveraged (*i.e.*, payments are based on the applicable notional amount, the day count fractions, the fixed or floating rates designated in subsection III.EE.(2), and the difference between the products thereof, calculated on a one to one ratio and not on a multiplier of such difference);

(5) Which has a final termination date that is either the earlier of the date on which the Issuer terminates or the related class of securities is fully repaid; and

(6) Which does not incorporate any provision which could cause a unilateral alteration in any provision described in subsections III.EE.(1) through (4) without the consent of the Trustee.

GG. ''*Eligible Swap Counterparty*'' means a bank or other financial institution which has a rating, at the date of issuance of the Securities by the Issuer, which is in one of the three highest long-term credit rating categories, or one of the two highest short-term credit rating categories, utilized by at least one of the Rating Agencies rating the Securities; provided that, if a swap Counterparty is relying on its short-term rating to establish eligibility under the Underwriter Exemption, such swap Counterparty must either have a long-term rating in one of the three highest long-term rating categories or not have a long-term rating from the applicable Rating Agency, and provided further that if the class of Securities with which the swap is associated has a final maturity date of more than one year from the date of issuance of the Securities, and such swap is a Ratings Dependent Swap, the swap Counterparty is required by the terms of the swap agreement to establish any collateralization or other arrangement satisfactory to the Rating Agencies in the event of a ratings downgrade of the swap Counterparty.

HH. ''*Qualified Plan Investor*'' means a plan investor or group of plan investors on whose behalf the decision to purchase Securities is made by an appropriate independent fiduciary that is qualified to analyze and understand the terms and conditions of any swap transaction used by the Issuer and the effect such swap would have upon the credit ratings of the Securities. For purposes of the Underwriter Exemption, such a fiduciary is either:

(1) A ''qualified professional asset manager'' (QPAM),[6] as defined under Part V(a) of PTE 84–14, 49 FR 9494, 9506 (March 13, 1984);

(2) An ''in-house asset manager'' (INHAM),[7] as defined under Part IV(a) of PTE 96–23, 61 FR 15975, 15982 (April 10, 1996); or

(3) A plan fiduciary with total assets under management of at least $100 million at the time of the acquisition of such Securities.

II. ''*Excess Spread*'' means, as of any day funds are distributed from the Issuer, the amount by which the interest allocated to Securities exceeds the amount necessary to pay interest to securityholders, servicing fees and expenses.

JJ. ''*Eligible Yield Supplement Agreement*'' means any yield supplement agreement, similar yield maintenance arrangement or, if purchased by or on behalf of the Issuer, an interest rate cap contract to supplement the interest rates otherwise

[6] PTE 84–14 provides a class exemption for transactions between a party in interest with respect to an employee benefit plan and an investment fund (including either a single customer or pooled separate account) in which the plan has an interest, and which is managed by a QPAM, provided certain conditions are met. QPAMs (*e.g.*, banks, insurance companies, registered investment advisers with total client assets under management in excess of $50 million) are considered to be experienced investment managers for plan investors that are aware of their fiduciary duties under ERISA.

[7] PTE 96–23 permits various transactions involving employee benefit plans whose assets are managed by an INHAM, an entity which is generally a subsidiary of an employer sponsoring the plan which is a registered investment adviser with management and control of total assets attributable to plans maintained by the employer and its affiliates which are in excess of $50 million.

payable on obligations described in subsection III.B.(1). Such an agreement or arrangement may involve a notional principal contract provided that:

(1) It is denominated in U.S. dollars;

(2) The Issuer receives on, or immediately prior to the respective payment date for the Securities covered by such agreement or arrangement, a fixed rate of interest or a floating rate of interest based on a publicly available index (*e.g.*, LIBOR or COFI), with the Issuer receiving such payments on at least a quarterly basis;

(3) It is not ''leveraged'' as described in subsection III.EE.(4);

(4) It does not incorporate any provision which would cause a unilateral alteration in any provision described in subsections III.II.(1)–(3) without the consent of the Trustee;

(5) It is entered into by the Issuer with an Eligible Swap Counterparty; and

(6) It has a notional amount that does not exceed either:

(i) The principal balance of the class of Securities to which such agreement or arrangement relates, or (ii) the portion of the principal balance of such class represented solely by those types of corpus or assets of the Issuer referred to in subsections III.B.(1), (2) and (3).

The Department notes that this exemption is included within the meaning of the term ''Underwriter Exemption'' as it is defined in section V(h) of Prohibited Transaction Exemption 95–60 (60 FR 35925, July 12, 1995), the Class Exemption for Certain Transactions Involving Insurance Company General Accounts at (*see* 60 FR 35932).

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on August 15, 2003 at 68 FR 49304.

EFFECTIVE DATE: This exemption is effective for all transactions described herein which occurred on or after April 18, 2003.

FOR FURTHER INFORMATION CONTACT: Gary Lefkowitz of the Department, telephone (202) 693–8546. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 8th day of October, 2003.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, Department of Labor.

[FR Doc. 03–25911 Filed 10–10–03; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Lodgian, Inc. 401(k) Plan and Trust Agreement (the Plan) Exemption Application No. D–11180

AGENCY: Employee Benefits Security Administration, Department of Labor (the Department).

ACTION: Notice of technical correction.

On September 29, 2003, the Department published in the **Federal Register** (68 FR 56013) a notice of a proposed exemption (the Notice) which would apply, effective December 3, 2002, to (1) the past acquisition and holding by the Plan of certain warrants (the Warrant(s)) issued by the employer, Lodgian, Inc. (Lodgian), a party in interest with respect to the Plan, which would permit the purchase of new common stock (New Lodgian Stock); (2) the cancellation payment (the Cancellation Payment) by Lodgian to the Plan in exchange for the Warrants (i) at the election of active participants (ii) at the election of the terminated vested participants whose vested interests exceed $5,000, or (iii) in accordance with the procedures for the automatic cash out of the value of Warrants held in the accounts of terminated vested participants whose vested interests are $5,000 or less, for an amount that represents the highest value of the Warrants determined by an independent, qualified, appraiser between December 31, 2002 and the date of the individual election; (3) the sale of the Warrants from Plan participants to Lodgian to cash out active and terminated vested participants; and (4) the potential exercise of the Warrants into the New Lodgian Stock.

On page 56015 of the Notice, the first sentence of Representation 8 states the following: Lodgian's obligation to purchase the Warrants is effective at a time when the New Lodgian Stock price is greater than the Warrant exercise price; the Department notes that this sentence is inaccurate and should be deleted, and hereby amends the proposal to incorporate such change.

On page 56016 of the Notice, paragraph (j) of Representation 9 states the following:

(j) Lodgian is required to purchase the Warrants upon request by a Plan participant provided that on the day of the request the price of the New Lodgian Stock is greater than the exercise price of the Warrants;

The Department notes that paragraph (j) of Representation 9 should be corrected to read as follows:

(j) Lodgian is required to purchase the Warrants upon request by a Plan participant provided that on the day of the request the price of the New Lodgian Stock is less than the exercise price of the Warrants; The Department hereby amends the proposal to incorporate such change.

FOR FURTHER INFORMATION CONTACT: Mr. Khalif Ford of the Department at (202) 693–8540. (This is not a toll-free number.)

Signed at Washington, DC this 8th day of October, 2003.

Ivan L. Strasfeld,

Director of Exemption, Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 03–25912 Filed 10–10–03; 8:45 am]

BILLING CODE 4520–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health: Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the Federal Advisory Council on Occupational Safety and Health (FACOSH), established under Section 1–5 of Executive Order 12196 on February 6, 1980, published in the **Federal Register**, February 27, 1980 (45 FR 1279).

FACOSH will meet on October 29, 2003 starting at 1:30 p.m., in Room N–3437 A/B/C of the Department of Labor Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210. The meeting will adjourn at approximately 4:30 p.m., and will be open to the public. All persons wishing to attend this meeting must exhibit photo identification to security personnel upon entering the building.

Agenda items will include:
1. Call to Order
2. Old Business
   - Update on Federal Recordkeeping proposed change
   - SHARE '04 Initiative
   - Report on 58th Annual Federal Safety and Health Awards Ceremony and Training
   - Young Workers Initiative
3. New Business
   - Emergency Preparedness for Employees with Disabilities
4. Adjournment

Written data, views, or comments may be submitted, preferably with 20 copies, to the Office of Federal Agency Programs at the address provided below. All such submissions received by October 22, 2003 will be provided to the Federal Advisory Council members and will be included in the meeting record. Anyone wishing to make an oral presentation should notify the Office of Federal Agency Programs by the close of business on October 24, 2003. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Persons who request the opportunity to address the Federal Advisory Council may be allowed to speak, as time permits, at the discretion of the Chairperson. Individuals with disabilities who need special accommodations and wish to attend the meeting should contact Thomas Marple at the address indicated below.

For additional information, please contact Thomas K. Marple, Director, Director Office of Federal Agency Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3622, 200 Constitution Avenue, NW., Washington, DC 20210, telephone number (202) 693–2122. An official record of the meeting will be available for public inspection at the Office of Federal Agency Programs.

Signed at Washington, DC, this 7th day of October 2003.

John L. Henshaw,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 03–25907 Filed 10–10–03; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket Nos. NRTL4–93]

Underwriters Laboratories Inc., Applications for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the application of Underwriters Laboratories Inc. for expansion of its recognition as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of these applications.

DATES: You may submit comments in response to this notice, or any request for extension of the time to comment, by (1) regular mail, (2) express or overnight delivery service, (3) hand delivery, (4) messenger service, or (5) FAX transmission (facsimile). Because of security-related problems there may be a significant delay in the receipt of comments by regular mail. Comments (or any request for extension of the time to comment) must be submitted by the following dates:

Regular mail and express delivery service: Your comments must be postmarked by October 29, 2003.

Hand delivery and messenger service: Your comments must be received in the OSHA Docket Office by October 29, 2003. OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m.

Facsimile and electronic transmission: Your comments must be sent by October 29, 2003.

ADDRESSES: *Regular mail, express delivery, hand-delivery, and messenger service:* You must submit three copies of your comments and attachments to the OSHA Docket Office, Docket NRTL4–93, Room N–2625, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, DC 20210. Please contact the OSHA Docket Office at (202) 693–2350 for information about security procedures concerning the delivery of materials by express delivery, hand delivery and messenger service.

Facsimile: If your comments, including any attachments, are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648. You must include the docket number of this notice, Docket NRTL4–93, in your comments.

Internet access to comments and submissions: OSHA will place comments and submissions in response to this notice on the OSHA Web page *http://www.osha.gov.* Accordingly, OSHA cautions you about submitting information of a personal nature (*e.g.*, social security number, date of birth). There may be a lag time between when comments and submissions are received and when they are placed on the Web page. Please contact the OSHA Docket Office at (202) 693–2350 for information about materials not available through the OSHA Web page and for assistance in using the Web page to locate docket submissions. Comments and submissions will also be available for inspection and copying at the OSHA Docket Office at the address above.

Extension of Comment Period: Submit requests for extensions concerning this notice to: Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3653, 200 Constitution Avenue, NW., Washington, DC 20210. Or fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Roy Resnick, Office of Technical Programs and Coordination Activities, NRTL Program, Room N3653 at the address shown immediately above for the program, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Application

The Occupational Safety and Health Administration (OSHA) hereby gives notice that Underwriters Laboratories Inc. (UL) has applied for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL). UL's expansion request covers the use of additional test standards. OSHA's

current scope of recognition for UL may be found in the following informational Web page: *http://www.osha-slc.gov/dts/otpca/nrtl/ul.html.*

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products ''properly certified'' by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition or for expansion or renewal of this recognition following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. We maintain an informational Web page for each NRTL, which details its scope of recognition. These pages can be accessed from our Web site at *http://www.osha-slc.gov/dts/otpca/nrtl/index.html.*

The most recent notice published by OSHA for UL's recognition covered an expansion of recognition, which became effective on March 25, 2003 (68 FR 14432).

The current addresses of the UL facilities (sites) recognized by OSHA are:

Underwriters Laboratories Inc., 333 Pfingsten Road, Northbrook, Illinois 60062.

Underwriters Laboratories Inc., 1285 Walt Whitman Road, Melville, Long Island, New York 11747.

Underwriters Laboratories Inc., 1655 Scott Boulevard, Santa Clara, California 95050.

Underwriters Laboratories Inc., 12 Laboratory Drive, P.O. Box 13995, Research Triangle Park, North Carolina 27709.

Underwriters Laboratories Inc., 2600 N.W. Lake Road, Camas, Washington, 98607.

UL International Limited, Veristrong Industrial Centre, Block B, 14th Floor, 34 Au Pui Wan Street, Fo Tan Sha Tin, New Territories, Hong Kong.

UL International Services, Ltd., Taiwan Branch, 4th Floor, 260 Da-Yeh Road, Pei Tou District Taipei City, Taiwan.

UL International Demko A/S, Lyskaer 8, P.O. Box 514, DK–2730, Herlev, Denmark.

Underwriters Laboratory International (U.K.) Ltd., Wonersh House, The Guildway, Old Portsmouth Road Guildford, Surrey GU3 1LR, United Kingdom.

Underwriters Laboratory International Italia S.r.l., Via Archimede 42, 1–20041 Agrate Brianza, Milan, Italy Testing facility: Z.I. Predda Niedda st. 18, I–07100, Sassari, Italy.

Underwriters Laboratories of Canada, 7 Crouse Road, Scarborough, Ontario, Canada MIR 3A9.

UL Japan Co., Ltd., Shimbashi Ekimae Bldg.—1 Gohkan, 4th floor, Room 402, 2–20–15 Shimbashi Minato Ku, Tokyo 105–0004, Japan.

UL Korea, Ltd., #805, Manhattan Building 36–2, Yeoui-dong, Yeoungdeungpo-gu, Seoul 150–010, Korea.

UL International Germany GmbH, Frankfurter Strasse 229, D–63263 Neu-Isenburg, Germany.

UL International (Netherlands) B.V., Landjuweel 52, NL–3905 PH Veenendaal, Netherlands.

General Background on the Application.

UL has submitted an application, dated November 18, 2002 (*see* Exhibit 30), to expand its recognition to include 41 additional test standards. The NRTL Program staff has determined that ten of these standards cannot be included in the expansion because they are not ''appropriate test standards'' within the meaning of 29 CFR 1910.7(c), while an additional twelve of the standards requested are already included in UL's scope. The staff makes similar determinations in processing expansion requests from any NRTL. Therefore, OSHA would approve 19 test standards for the expansion, which are listed below. Through no fault of UL, the application has been delayed in processing. UL seeks recognition for testing and certification of products for demonstration of conformance to the following test standards:

UL 441 Standard for Gas Vents.

UL 508A Industrial Control Panels.

UL 515 Electrical Resistance Heat Tracing for Commercial and Industrial Applications.

UL 568 Nonmetallic Cable Tray Systems.

UL 943B Appliance Leakage-Current Interrupters.

UL 1004A Fire Pump Motors.

UL 1285 Pipe and Couplings, Polyvinyl Chloride (PVC) for Underground Fire Service.

UL 1713 Pressure Pipe and Coupling, Glass Fiber-Reinforced, for Underground Fire Service.

UL 2129 Standard for Safety for Halocarbon Clean Agent Fire Extinguishers.

UL 2305 Exhibition Display Units, Fabrication and Installation.

UL 2351 Spray Nozzles for Fire-Protection Service.

UL 2388 Flexible Lighting Products.

UL 3111–2–31 Hand-Held Probe Assemblies for Electrical Measurement and Test.

UL 60335–2–8 Household and Similar Electrical Appliances, Part 2: Particular Requirements for Electric Shavers, Hair Clippers, and Similar Appliances.

UL 61010A–2–010 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Equipment for the Heating of Materials.

UL 61010A–2–041 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Autoclaves Using Steam for the Treatment of Medical Materials for Laboratory Processes.

UL 61010A–2–042 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Autoclaves and Sterilizers Using Toxic Gas for the Treatment of Medical Materials, and for Laboratory Processes.

UL 61010A–2–051 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Equipment Mixing and Stirring.

UL 61010A–2–061 Electrical Equipment for Laboratory Use; Part 2: Particular Requirements for Laboratory Atomic Spectrometers with Thermal Atomization and Ionization.

The designations and titles of the above test standards were current at the time of the preparation of this notice.

OSHA's recognition of UL, or any NRTL, for a particular test standard is limited to equipment or materials (*i.e.*, products) for which OSHA standards require third party testing and certification before use in the workplace. Consequently, an NRTL's scope of recognition excludes any product(s) that fall within the scope of a test standard, but for which OSHA standards do not require NRTL testing and certification.

Many of the test standards listed above are approved as American

National Standards by the American National Standards Institute (ANSI). However, for convenience in compiling the list, we show the designation of the standards developing organization (*e.g.*, UL 441) for the standard, as opposed to the ANSI designation (*e.g.*, ANSI/UL 441). Under our procedures, an NRTL recognized for an ANSI-approved test standard may use either the latest proprietary or ANSI version of that standard, regardless of which version appears in the list of test standards found on OSHA's informational Web page for the NRTL. Contact ''NSSN'' (*http://www.nssn.org*), an organization partially sponsored by ANSI, to find out whether a standard is currently ANSI-approved.

Preliminary Finding on the Application

UL has submitted an acceptable request for expansion of its recognition as an NRTL. In connection with this request, OSHA did not believe it necessary to perform an on-site review of UL's NRTL testing facilities. However, following a review of the application file and other pertinent documents, the NRTL Program staff has concluded that OSHA should grant to UL the expansion of recognition as an NRTL to use the additional test standards listed above (*see* Exhibit 31). The staff, therefore, recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon the recommendation of the staff, the Agency has made a preliminary finding that Underwriters Laboratories Inc. can meet the requirements, as prescribed by 29 CFR 1910.7, for the expansion of recognition. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comments, in sufficient detail, as to whether UL has met the requirements of 29 CFR 1910.7 for expansion of its recognition as a Nationally Recognized Testing Laboratory. Your comment should consist of pertinent written documents and exhibits. To consider a comment, OSHA must receive it at the address provided above (*see* **ADDRESSES**), no later than the last date for comments (*see* **DATES** above). Should you need more time to comment, OSHA must receive your written request for extension at the address provided above no later than the last date for comments. You must include your reason(s) for any request for extension. OSHA will limit any extension to 30 days, unless the requester justifies a longer period. We may deny a request for extension if it is frivolous or otherwise unwarranted. You may obtain or review copies of UL's request, the recommendation on the expansion, and all submitted comments, as received, by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. You should refer to Docket No. NRTL4–93, the permanent record of public information on UL's recognition.

The NRTL Program staff will review all timely comments and, after resolution of issues raised by these comments, will recommend whether to grant UL's expansion request. The Agency will make the final decision on granting the expansion and, in making this decision, may undertake other proceedings that are prescribed in Appendix A to 29 CFR Section 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

Signed at Washington, DC this 7th day of October, 2003.

John L. Henshaw,

Assistant Secretary.

[FR Doc. 03–25908 Filed 10–10–03; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–131)]

NASA Advisory Council, Biological and Physical Research Advisory Committee Meeting, Life Sciences Advisory Subcommittee Meeting.

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: The NASA Biological and Physical Research Advisory Committee announces a meeting of the Life Sciences Advisory Subcommittee Meeting (LSAS).

DATES: Wednesday, October 22, 2003, from 8:30 a.m. until 5 p.m.

ADDRESSES: NASA Headquarters, 300 E Street, SW., MIC–6A, Room 6H46, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. David Tomko, Code UB, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–0220.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the meeting room. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee. Foreign nationals will be escorted at all times. To expedite admittance, attendees can provide identifying information in advance by contacting Dr. David Tomko at (202) 358–0220 or via e-mail at *dtomko@hq.nasa.gov.*

The agenda for the meeting is as follows:

—Welcome Remarks from Chair
—Action Status from Last Meeting
—Bioastronautics Research Division Update
—Status Report on International Space Station Non-Governmental Organization
—Report on Station and Shuttle Utilization Reinvention Team
—Discussion of LSAS Responsibilities
—Working Lunch—Science Talk ''Understanding Group Behavior of Space Explorers''
—Remarks from the Office of Biological and Physical Research Associate Administrator
—Findings and Recommendations

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–25913 Filed 10–10–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Mathematical and Physical Sciences (#66).

Date/Time: November 5, 2003 12–6 PM, November 6, 2003 8–6 PM, November 7, 2003 8 AM–3 PM.

Place: 4201 Wilson Boulevard, Arlington, VA 22230, Room 375.

Type of Meeting: Open.

Contact Person: Dr. Morris L. Aizenman, Senior Science Associate, Directorate for Mathematical and Physical Sciences, Room 1005, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 292–8807.

Purpose of Meeting: To provide advice and recommendations concerning NSF science and education activities within the Directorate for Mathematical and Physical Sciences.

Agenda: November 5: Briefing to new MPSAC members. November 6–7: Briefing on current status of Directorate; Meeting with members of the Education and Human Resources Directorate Advisory Committee; Meeting of MPSAC with Divisions within MPS Directorate; Review of the Committee of Visitors Report on the Office of Multidisciplinary Activities; Long-Range Planning.

Summary Minutes: May be obtained from the contact person listed above.

Dated: October 7, 2003.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 03–25833 Filed 10–10–03; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

NSF–NASA Astronomy & Astrophysics Advisory Committee (13883); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following:

NAME: NSF–NASA—Astronomy & Astrophysics Advisory Committee.

DATE AND TIME: November 3, 2003, 11 a.m.–3 p.m.

PLACE: National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230, by telecom.

TYPE OF MEETING: Open.

CONTACT PERSON: Dr. G. Wayne Van Citters, Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–4908.

PURPOSE OF MEETING: To provide advice and recommendations to the National Science Foundation (NSF) and the National Aeronautics and Space Administration (NASA) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the two agencies.

AGENDA: To hear presentations of current programming by representatives from NSF and NASA; to discuss current and potential areas of cooperation between the two agencies; to formulate recommendations for continued and new areas of cooperation and mechanisms for achieving them.

Dated: October 7, 2003.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 03–25834 Filed 10–10–03; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Social, Behavioral and Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

NAME: Advisory Committee for Social, Behavioral, and Economic Sciences (#1171).

DATE AND TIME: November 6, 2003 8:30AM–5 p.m., November 7, 2003 8:30AM–12:30 p.m.

PLACE: Holiday Inn Arlington, Ballston and Clarendon Rooms, 4610 North Fairfax Drive, Arlington, VA 22203.

TYPE OF MEETING: Open.

CONTACT PERSON: Dr. Sally Kane, Senior Advisor, ACSBE, Directorate for Social, Behavioral, and Economic Sciences, National Science Foundation, 4201 Wilson Boulevard, Room 905, Arlington, VA 22230, 703–292–8741.

SUMMARY MINUTES: May be obtained from contact person listed above.

PURPOSE OF MEETING: To provide advice and recommendations to the National Science Foundation on major goals and policies pertaining to Social, Behavioral and Economic Sciences Directorate programs and activities.

AGENDA: Discussion on issues, role and future direction of the Directorate for Social, Behavioral, and Economic Sciences.

Dated: October 7, 2003.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 03–25835 Filed 10–10–03; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Pub. L. 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Pub. L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from, September 19, 2003, through October 2, 2003. The last biweekly notice was published on September 30, 2003 (68 FR 56340).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission

take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By November 13, 2003, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North,

Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: July 14, 2003.

Description of amendment request: The proposed change involves the extension from 1 hour to 24 hours of the completion time (CT) for Condition B of Technical Specification (TS) 3.5.1, which defines requirements for accumulators. Accumulators are part of the emergency core cooling system and consist of tanks partially filled with borated water and pressurized with nitrogen gas. The contents of the tank are discharged to the reactor coolant system if, as during a loss-of-coolant accident, the coolant pressure decreases to below the accumulator pressure. Condition B of TS 3.5.1 specifies a CT to restore an accumulator to operable status when it has been declared inoperable for a reason other than the boron concentration of the water in the accumulator not being within the required range. This change was proposed by the Westinghouse Owners Group participants in the Technical Specification Task Force (TSTF) and is designated TSTF–370. TSTF–370 is supported by NRC-approved topical report WCAP–15049–A, ''Risk-Informed Evaluation of an Extension to Accumulator Completion Times,'' submitted on May 18, 1999. The NRC staff issued a notice of opportunity for comment in the **Federal Register** on July 15, 2002 (67 FR 46542), on possible amendments concerning TSTF–370, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on March 12, 2003 (68 FR 11880). The licensee affirmed the applicability of the following NSHC determination in its application dated July 14, 2003.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The basis for the accumulator limiting condition for operation (LCO), as discussed in Bases Section 3.5.1, is to ensure that a sufficient volume of borated water will be immediately forced into the core through each of the cold legs in the event the RCS pressure falls below the pressure of the accumulators, thereby providing the initial cooling mechanism during large RCS pipe ruptures. As described in Section 9.2 of WCAP–15049–A, the proposed change will allow plant operation with an inoperable accumulator for up to 24 hours, instead of 1 hour, before the plant would be required to begin shutting down. The impact of the increase in the accumulator CT on core damage frequency for all the cases evaluated in WCAP–15049–A is within the acceptance limit of 1.0E–06/yr for a total plant core damage frequency (CDF) less than 1.0E–03/yr. The incremental conditional core damage probabilities calculated in WCAP–15049–A for the accumulator CT increase meet the criterion of 5E–07 in Regulatory Guides (RG) 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis,'' and 1.177, ''An Approach for Plant-Specific, Risk-Informed Decisionmaking: Technical Specifications,'' for all cases except those that are based on design basis success criteria. As indicated in WCAP–15049–A, design basis accumulator success criteria are not considered necessary to mitigate large break loss-of-coolant accident (LOCA) events, and were only included in the WCAP–15049–A evaluation as a worst case data point. In addition, WCAP–15049–A states that the NRC has indicated that an incremental conditional core damage frequency (ICCDP) greater than 5E–07 does not necessarily mean the change is unacceptable.

The proposed technical specification change does not involve any hardware changes nor does it affect the probability of any event initiators. There will be no change to normal plant operating parameters, engineered safety feature (ESF) actuation setpoints, accident mitigation capabilities, accident analysis assumptions or inputs.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of the proposed change. As described in Section 9.1 of the WCAP–15049–A evaluation, the plant design will not be changed with this proposed technical specification CT increase. All safety systems still function in the same manner and there is no additional reliance on additional systems or procedures. The proposed accumulator CT increase has a very small impact on core damage frequency. The WCAP–15049–A evaluation demonstrates that the small increase in risk due to increasing the CT for an inoperable accumulator is within the acceptance criteria provided in RGs 1.174 and 1.177. No new accidents or transients can be introduced with the requested change and the likelihood of an accident or transient is not impacted.

The malfunction of safety related equipment, assumed to be operable in the accident analyses, would not be caused as a result of the proposed technical specification change. No new failure mode has been created and no new equipment performance burdens are imposed.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change does not involve a significant reduction in a margin of safety. There will be no change to the departure from nucleate boiling ratio (DNBR) correlation limit, the design DNBR limits, or the safety analysis DNBR limits.

The basis for the accumulator LCO, as discussed in Bases Section 3.5.1, is to ensure that a sufficient volume of borated water will be immediately forced into the core through each of the cold legs in the event the RCS pressure falls below the pressure of the accumulators, thereby providing the initial cooling mechanism during large RCS pipe ruptures. As described in Section 9.2 of WCAP–15049–A, the proposed change will allow plant operation with an inoperable accumulator for up to 24 hours, instead of 1 hour, before the plant would be required to begin shutting down. The impact of this on plant risk was evaluated and found to be very small. That is, increasing the time the accumulators will be unavailable to respond to a large LOCA event, assuming accumulators are needed to mitigate the design basis event, has a very small impact on plant risk. Since the frequency of a design basis large LOCA (a large LOCA with loss of offsite power) would be significantly lower than the large LOCA frequency of the WCAP–15049–A evaluation, the impact of increasing the accumulator CT from 1 hour to 24 hours on plant risk due to a design basis large LOCA would be significantly less than the plant risk increase presented in the WCAP–15049–A evaluation.

Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn , Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006.

NRC Section Chief: John A. Nakoski.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: October 16, 2001; as supplemented by letters dated May 20, September 12, and November 21, 2002; and January 27, and September 22, 2003.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) to incorporate changes resulting from the use of an alternate source term (AST) and the implementation of several plant modifications. Publication of the Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing for the October 16, 2001, submittal appeared in the **Federal Register** on January 22, 2002, (67 FR 2922). The September 22, 2003, submittal contained a revised No Significant Hazards Consideration Determination. The September 22, 2003, submittal includes (1) Implementing the AST for accident analysis as described in Regulatory Guide 1.183; (2) relaxing the TS for the penetration room ventilation system (PRVS) and the spent fuel pool ventilation system (SFPVS) because these systems are no longer credited for control room and offsite doses; (3) revising the control room ventilation system (CRVS) to allow for a one-time completion extension to support implementation of the control room intake/booster fan modification; (4) lowering the reactor building leakage rate from 0.25 weight percent per day to 0.20 weight percent per day; (5) revising the ventilation filter testing program radioactive methyl iodide removal acceptance criterion for PRVS, SFPVS, and CRVS booster fan trains; and (6) adoption of TS Task Force (TSTF)–51.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed amendment will not involve a significant increase in the probability of consequences of an accident previously evaluated.

The AST [alternate source term] and those plant systems affected by implementing the proposed changes to the TS [technical specifications] are not assumed to initiate design basis accidents. The AST does not affect the design or operations of the facility. Rather, the AST is used to evaluate the consequences of a postulated accident. The implementation of the AST has been evaluated in the revisions to the analysis of the design basis accident for ONS [Oconee Nuclear Station]. Based on the results of these analyses, it has been demonstrated that, with the requested changes, the dose consequences of these events meet the acceptance criteria of 10 CFR 50.67 and RG [Regulatory Guide] 1.183. Therefore, the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The AST and those plant systems affected by implementing the proposed changes to the TS are not assumed to initiate design basis accidents. The systems affected by the changes are used to mitigate the consequences of an accident that has already occurred. The proposed TS changes and modifications do not significantly affect the mitigative function of these systems. Consequently, these systems do not alter the nature of events postulated in the Safety Analysis Report nor do they introduce any unique precursor mechanisms. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed amendment will not involve a significant reduction in the margin of safety.

The implementation of the AST, proposed changes to the TS and implementation of the proposed modifications have been evaluated in the revisions to the analysis of the consequences of the design basis accidents for the ONS. Based on the results of these analyses, it has been demonstrated that with the requested changes the dose consequences of these events meet the acceptance criteria of 10 CFR 50.67 and following the provisions of RG 1.183. Thus, the proposed amendment will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Anne W. Cottington, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20005.

NRC Section Chief: John A. Nakoski.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station (DNPS), Units 2 and 3, Grundy County, Illinois

Date of amendment request: July 29, 2003.

Description of amendment request: The proposed amendments would allow the licensee to modify technical specifications (TS) to be consistent with Technical Specification Task Force (TSTF) Traveler TSTF–360, Revision 1, ''DC Electrical Rewrite,'' and to implement new actions for inoperable battery chargers, modify certain actions and surveillance requirements, relocate certain surveillance requirements to a licensee controlled program, and create an administrative program for battery monitoring and maintenance to be referenced in the TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes restructure the Technical Specifications (TS) for the direct current (DC) electrical power system. The proposed changes add actions to specifically address battery charger inoperability. This change will rely upon the capability of providing the battery charger function by an alternate means (*e.g.*, a 125 volts direct current (VDC) portable battery charger or a 250 VDC portable battery charger) to justify the proposed Completion Times. The DC electrical power system, including associated battery chargers, is not an initiator to any accident sequence analyzed in the Updated Final Safety Analysis Report (UFSAR). Operation in accordance with the proposed TS ensures that the DC electrical power system is capable of performing its function as described in the UFSAR. Therefore, the mitigative functions supported by the DC electrical power system will continue to provide the protection assumed by the analysis.

The relocation of preventive maintenance surveillance, and certain operating limits and actions, to a newly-created licensee controlled Battery Monitoring and Maintenance Program will not challenge the ability of the DC electrical power system to perform its design function. Appropriate monitoring and maintenance, consistent with industry standards, will continue to be performed. In addition, the DC electrical power system is within the scope of 10 CFR 50.65, ''Requirements for monitoring the effectiveness of maintenance at nuclear power plants,'' which will ensure the control of maintenance activities associated with the DC electrical power system. The integrity of fission product barriers, plant configuration,

and operating procedures as described in the UFSAR will not be affected by the proposed changes. Therefore, the consequences of previously analyzed accidents will not increase by implementing these changes.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes involve restructuring the TS for the DC electrical power system. This change will rely upon the capability of providing the battery charger function by an alternate means (*e.g.*, a swing charger or a portable battery charger) to justify the proposed Completion Times when a normal battery charger is inoperable. The DC electrical power system, including associated battery chargers, is not an initiator to any accident sequence analyzed in the UFSAR. Rather, the DC electrical power system is used to supply equipment used to mitigate an accident.

The 125 VDC portable battery charger will be utilized as a common spare to feed the Division I or Division 2 125 VDC bus of Unit 2 or Unit 3. For the 250 VDC system, a full capacity swing charger is available for use between the units, and can be aligned to any one of the 250 VDC batteries. In addition, the 250 VDC portable battery charger can be utilized as a common spare to feed the 250 VDC safety related batteries of Unit 2 or Unit 3. This portable charger is identical to the existing chargers and is non-safety related. The output of the portable charger will be capable of being connected to any one of the Class IE DC buses for Division I or Division 2 of Unit 2 or Unit 3. Allowing the use of a portable spare and swing battery chargers will increase the reliability of the DC electrical power system. The mitigative functions supported by the DC electrical power system will continue to provide the protection assumed by the safety analyses described in the UFSAR. Therefore, there are no new types of failures that could be created by a failure of the portable battery charger. As such, no new or different kind of accident or transient is expected by these changes.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed changes will not adversely affect operation of plant equipment. These changes will not result in a change to the setpoints at which protective actions are initiated. Sufficient DC capacity to support operation of mitigation equipment is ensured. The changes associated with the new Battery Maintenance and Monitoring Program will ensure that the station batteries are maintained in a highly reliable manner. The use of a portable battery charger will increase the reliability of the DC system during periods of normal battery charger inoperability. The equipment fed by the DC electrical sources will continue to provide adequate power to safety related loads in accordance with analysis assumptions. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Senior Counsel, Nuclear; Exelon Generation Company LLC; 4300 Winfield Road; Warrenville, IL 60555.

NRC Section Chief: Anthony J. Mendiola.

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of application for amendments: July 14, 2003.

Description of amendment request: The proposed change is requested to support application of an alternative source term methodology, with the exception that Technical Information Document 14844, ''Calculation of Distance Factors for Power and Test Reactor Sites,'' will continue to be used as the radiation dose basis for equipment qualification.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The implementation of alternative source term (AST) assumptions has been evaluated in revisions to the analyses of the following limiting design basis accidents (DBAs) at Peach Bottom Atomic Power Station (PBAPS):

- Loss-of-Coolant Accident,
- Main Steam Line Break Accident,
- Fuel Handling Accident, and
- Control Rod Drop Accident.

Based upon the results of these analyses, it has been demonstrated that, with the requested changes, the dose consequences of these limiting events are within the regulatory guidance provided by the NRC for use with the AST. This guidance is presented in 10 CFR 50.67 and associated Regulatory Guide 1.183, and Standard Review Plan Section 15.0.1. The Alternative Source Term is an input to calculations used to evaluate the consequences of an accident, and does not by itself affect the plant response, or the actual pathway of the radiation released from the fuel. It does however, better represent the physical characteristics of the release, so that appropriate mitigation techniques may be applied. Therefore, the consequences of an accident previously evaluated are not significantly increased.

The equipment affected by the proposed changes is mitigative in nature, and relied upon after an accident has been initiated. Application of the Alternative Source Term (AST) does not involve any physical changes to the plant design. While the operation of various systems do change as a result of these proposed changes, these systems are not accident initiators. Application of the AST is not an initiator of a design basis accident. The proposed changes to the Technical Specifications (TS), while they revise certain performance requirements, do not involve any physical modifications to the plant. As a result, the proposed changes do not affect any of the parameters or conditions that could contribute to the initiation of any accidents. As such, removal of operability requirements during the specified conditions will not significantly increase the probability of occurrence for an accident previously analyzed. Since design basis accident initiators are not being altered by adoption of the Alternative Source Term analyses, the probability of an accident previously evaluated is not affected.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not involve a physical alteration of the plant (no new or different type of equipment will be installed and there are no physical modifications to existing equipment associated with the proposed changes). Similarly, it does not physically change any structures, systems or components involved in the mitigation of any accidents, thus, no new initiators or precursors of a new or different kind of accident are created. New equipment or personnel failure modes that might initiate a new type of accident are not created as a result of the proposed amendment.

As such the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Safety margins and analytical conservatisms have been evaluated and have been found acceptable. The analyzed events have been carefully selected and margin has been retained to ensure that the analyses adequately bound postulated event scenarios. The dose consequences due to design basis accidents comply with the requirements of 10 CFR 50.67 and the guidance of Regulatory Guide 1.183.

The proposed amendment is associated with the implementation of a new licensing basis for PBAPS Design Basis Accidents (DBAs). Approval of the change from the

original source term to a new source term taken from Regulatory Guide 1.183 is being requested. The results of the accident analyses, revised in support of the proposed license amendment, are subject to revised acceptance criteria. The analyses have been performed using conservative methodologies, as specified in Regulatory Guide 1.183. Safety margins have been evaluated and analytical conservatism has been utilized to ensure that the analyses adequately bound the postulated limiting event scenario. The dose consequences of these DBAs remain within the acceptance criteria presented in 10 CFR 50.67, ''Accident Source Term'', and Regulatory Guide 1.183.

The proposed changes continue to ensure that the doses at the exclusion area boundary (EAB) and low population zone boundary (LPZ), as well as the Control Room, are within corresponding regulatory limits.

Therefore, operation of PBAPS in accordance with the proposed changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for Licensee: Mr. Edward Cullen, Vice President and General Counsel, Exelon Generation Company, LLC, 2301 Market Street, S23–1, Philadelphia, PA 19101.

NRC Section Chief: James W. Clifford.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: September 12, 2003.

Description of amendment request: The proposed amendment is for relaxation of the heater acceptance criteria contained in Surveillance Requirement (SR) 4.6.6.1d.5, SR 4.7.6.1d.3, and SR 4.7.7d.4 for the shield building ventilation, control room ventilation, and controlled ventilation area systems, respectively. These SRs are performed to verify that heat dissipated by the heaters is within a given band. The requested change is to increase the upper limit of the acceptance criteria from rated capacity plus 5 percent (%) to rated capacity plus 10%. No change is proposed for the lower limit of the band of rated capacity minus 10%.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The relaxation of the SR acceptance criteria to increase the operating band does not alter the way plant equipment is designed or operated. The ESF [engineered safety feature] filtration unit heating coils will continue to reduce the humidity of the incoming air to 70% relative humidity or below. In addition, the air temperature will continue to be controlled such that additional iodine will not be released into the environment. Thus, the charcoal adsorber will continue to meet its design basis and its efficiency will not be adversely affected. The effect of the higher heat dissipation has also been evaluated and the ignition temperature of the charcoal adsorbers is not approached with flow through the systems. In addition, the impact of the new acceptance criterion was determined not to impact the loading or fuel consumption of the emergency diesel generators.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The relaxation of the SR acceptance criteria to increase the operating band does not alter the way plant equipment is designed, operated, or tested. No possibility for a new or different accident or failure mode is introduced by modifying the SR acceptance criteria. The proposed change does not affect the functional capability of safety-related equipment.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The ESF filtration unit heating coils will continue to reduce the humidity of the incoming air to 70% relative humidity or below. Thus, the efficiency of the charcoal adsorber will not be adversely affected. In addition, the impact of the new acceptance criterion was determined not to impact the loading or fuel consumption of the emergency diesel generators. Therefore, the systems have the same capabilities to mitigate accidents as they had prior to the SR acceptance criteria change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: N. S. Reynolds, Esquire, Winston & Strawn 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment requests: August 27, 2003.

Brief description of amendments: The proposed change allows entry into a mode or other specified condition in the applicability of a technical specification (TS), while in a condition statement and the associated required actions of the TS, provided the licensee performs a risk assessment and manages risk consistent with the program in place for complying with the requirements of 10 CFR 50.65(a)(4). Limiting Condition for Operation (LCO) 3.0.4 exceptions in individual TS would be eliminated, and Surveillance Requirement (SR) 3.0.4 revised to reflect the LCO 3.0.4 allowance.

This change was proposed by the industry's Technical Specification Task Force (TSTF) and is designated TSTF–359. The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 2, 2002 (67 FR 50475), on possible amendments concerning TSTF–359, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on April 4, 2003 (68 FR 16579). The licensee affirmed the applicability of the following NSHC determination in its application dated August 27, 2003.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS. Being in a TS condition and the associated required actions is not an initiator of any accident previously evaluated. Therefore, the probability of an accident previously evaluated is not significantly increased. The consequences of an accident while relying on required actions as allowed

by proposed LCO 3.0.4, are no different than the consequences of an accident while entering and relying on the required actions while starting in a condition of applicability of the TS. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Entering into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS. The TS allow operation of the plant without the full complement of equipment through the conditions for not meeting the TS LCO. The risk associated with this allowance is managed by the imposition of required actions that must be performed within the prescribed completion times. The net effect of being in a TS condition on the margin of safety is not considered significant. The proposed change does not alter the required actions or completion times of the TS. The proposed change allows TS conditions to be entered, and the associated required actions and completion times to be used in new circumstances. This use is predicated upon the licensee's performance of a risk assessment and the management of plant risk. The change also eliminates current allowances for utilizing required actions and completion times in similar circumstances, without assessing and managing risk. The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: L. Raghavan.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: August 25, 2003.

Description of amendment request: The proposed license amendment request would revise Technical Specification (TS) 3.5.1 to incorporate TS Task Force 318 for one Low Pressure Coolant Injection (LPCI) pump inoperable in each of the two Emergency Core Cooling Systems (ECCS) divisions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change does not affect the LPCI subsystem design or function. The change to TS 3.5.1 Condition A with one LPCI pump inoperable in both subsystems is more reliable than the current configuration allowed by Condition A. The current TS actions require entry into shutdown LCO [Limiting Condition for Operation] 3.0.3 for this condition. In addition, for an event that does not impact LPCI availability the change provides for more injection flow than the current TS 3.5.1 Condition A LPCI pump configuration. Review of Updated Safety Analysis Report Section XIV–6.0 ''Analysis of Design Basis Accidents'' confirms that the LPCI mode of the Residual Heat Removal system is not assumed to be the initiator of any previously analyzed event.

Based on the above, NPPD concludes that the proposed TS change to TS 3.5.1 Condition A does not significantly increase the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve a physical change to the plant, add any new equipment or require any existing equipment to be operated in a manner different from the present system design.

Based on the above, NPPD concludes that the proposed TS change to TS 3.5.1 Condition A does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in the margin of safety?

The proposed TS change will not reduce the margin of safety. The proposed configuration of one LPCI pump in each LPCI subsystem represents a more reliable configuration. The current TS actions require entry into shutdown LCO 3.0.3 for this condition. In addition, for an event that does not impact LPCI availability the change provides for more injection flow than the current [LCO] requirement which only allows two LPCI pumps in one ECCS subsystem to be inoperable for seven days.

Based on the above, NPPD concludes that the proposed TS change to TS 3.5.1 Condition A does not involve a significant reduction in the margin of safety.

From the above discussions, NPPD concludes that the proposed amendment involves no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John R. McPhail, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Section Chief: Robert A. Gramm.

Nuclear Management Company, LLC, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: September 18, 2003.

Description of amendment request: The proposed amendment would revise the limiting condition for operation (LCO) and the associated surveillance requirements of Technical Specification 3.4.1, ''[Primary Coolant System] PCS Pressure, Temperature, and Flow Departure from Nucleate Boiling (DNB) Limits,'' to reflect relocation of the DNB limits from the TSs to the Core Operating Limits Report (COLR). These DNB limits are for pressurizer pressure, PCS cold leg temperature, and PCS total flow rate. The proposed amendment would also revise paragraph a of TS 5.6.5, ''Core Operating Limits Report (COLR),'' to reflect the addition of ''DNB Limits'' to the COLR. In addition, LCO 3.4.1 would be added to items 16 and 17 in TS 5.6.5b, which lists the documents approved by the NRC for the analytical methods for which the licensee is to use the latest revisions to determine the core operating limits.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed amendment relocates the primary coolant system (PCS) departure from nucleate boiling (DNB) limits to the core operating limits report (COLR) and does not involve any change to the PCS DNB limits themselves. The proposed amendment does not involve operation of any required structures, systems, or components (SSCs) in a manner or configuration different from those previously recognized or evaluated. The Nuclear Regulatory Commission (NRC) has approved all the analytical methods described in Technical Specification (TS) section 5.6.5, ''Core Operating Limits Report (COLR).'' Relocation of the PCS DNB limits to the COLR will maintain existing operating fuel cycle analysis requirements. Any future revisions to the safety analyses that require prior NRC approval are identified per the 10 CFR 50.59 review process.

Therefore, the probability of an accident previously evaluated will not be increased by the proposed change.

The consequences of an accident previously evaluated will not be increased since the reactor is still protected from violating the PCS DNB parameters used in the safety analysis for Palisades Nuclear Plant.

Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment to relocate the PCS DNB limits to the COLR would not change or add a system function. The proposed amendment does not involve operation of any required SSCs in a manner or configuration different from those previously recognized or evaluated. No new failure mechanisms will be introduced by the proposed change.

Therefore, this proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment to relocate the PCS DNB limits to the COLR will continue to assure that the acceptance criteria established in the safety analysis will be met. The safety analyses of normal operating conditions and anticipated operational occurrences assume initial conditions within the normal steady state envelope. The limits placed on DNB related parameters ensure that these parameters, when appropriate measurement uncertainties are applied, will not be less conservative than those assumed in the safety analyses and thereby provide assurance that the minimum departure from nucleate boiling ratio (DNBR) will meet the required criteria for each of the analyzed transients. The proposed amendment does not change the existing PCS DNB limits. Any future revisions to the safety analyses that require prior NRC approval are identified per the 10 CFR 50.59 review process.

Therefore, the proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Arunas T. Udrys, Esquire, Consumers Energy Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Section Chief: L. Raghavan.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment requests: September 15, 2003.

Description of amendment requests: In Technical Specification (TS) 2.0, ''Safety Limits (SLs),'' Reactor Core SL 2.1.1.2, the proposed change would replace the peak linear heat rate SL with a peak fuel centerline temperature SL. This change is requested so SL 2.1.1.2 adequately conforms to 10 CFR 50.36(c)(1)(ii)(A), which requires that Limiting Safety System Settings prevent a Safety Limit from being exceeded.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not require any physical change to any plant systems, structures, or components nor does it require any change in systems or plant operations. The proposed change does not require any change in safety analysis methods or results. The change to establish the PFCT [Peak Fuel Centerline Temperature] as the SL is consistent with the Standard Review Plan (SRP) and the SONGS Units 2 and 3 licensing basis for ensuring that the fuel design limits are met. Operations and analysis will continue to be in compliance with NRC regulations.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The SONGS Units 2 and 3 Updated Final Safety Analysis Report (UFSAR) Chapter 15 accident analysis for Anticipated Operational Occurrences (AOOs) where the peak linear heat rate may exceed the existing Safety Limit of 21 KW/ft is the Control Element Assembly (CEA) Withdrawal at subcritical and low power startup conditions.

The accident analyses indicate that the peak linear heat rate may exceed the Limiting Safety System Setpoint of 21 KW/ft during Control Element Assembly Withdrawal Events at Subcritical and Hot Zero Power conditions. The analyses for these AOOs indicate that the PFCT is not approached or exceeded. The existing analyses remain unchanged and do not affect any accident initiators that would create a new accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not require any change in accident analysis methods or results. Therefore, by changing the SL from PLHR [Peak Linear Heat Rate] to Peak Fuel Centerline Temperature, the margin as established in the current license basis remains unchanged.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Section Chief: Stephen Dembek.

South Carolina Electric & Gas Company (SCE&G), South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station (VCSNS), Unit No. 1, Fairfield County, South Carolina

Date of amendment request: July 29, 2003.

Description of amendment request: The proposed change will revise Surveillance Requirement 4.0.5 to reflect the deletion of Subsections IWP and IWV from Section XI of the 2000 Addenda of American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. This change will also result in revising the Technical Specification (TS) Bases for 4.0.5, 3/4.4.2 and 3/4.4.6 to reflect the applicability of the Code for Operation and Maintenance of Nuclear Power Plants (OM Code) to inservice testing activities. TS 4.0.5 is also being revised as recommended by NUREG–1492, ''Guidelines for Inservice Testing at Nuclear Power Plants,'' April 1995.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change to TS 4.0.5 reflects NRC approval of the ASME Code [2000 Adenda], in 10CFR50.55a, for the conduct of Inservice Testing (IST). The current TS references use of ASME Section XI for this testing, which will no longer be applicable for the third IST interval. The adoption of an NRC approved test code, as required by 10CFR50.55a(f)(4)(ii) will not increase the probability of an accident previously evaluated. Testing is performed to ensure the operational readiness of pumps and valves to perform their safety functions.

The probability or consequences of accidents previously evaluated in the VCSNS FSAR [Final Safety Analysis Report] are unaffected by this proposed change because there is no change to any equipment response or accident mitigation scenario. There are no additional challenges to fission product barrier integrity. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change involves the adoption of an NRC approved Inservice Testing Code for the conduct of Operating License mandated testing. The adoption of the new Code is required to satisfy 10CFR50.55a(f)(4)(ii). The new Code enhances plant safety by requiring the bi-directional testing of check valves and comprehensive pump testing. These changes were incorporated to better monitor pumps and check valves for degradation. The adoption of the new Code does not create the possibility of a new or different kind of accident or malfunction.

No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed change. The proposed change does not challenge the performance or integrity of any safety-related system. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does this change involve a significant reduction in margin of safety?

The margin of safety associated with the acceptance criteria of any accident is unchanged. The proposed change will have no affect on the availability, operability, or performance of the safety-related systems and components. A change to the surveillance requirement is proposed, but the ASME OM Code is an NRC approved standard incorporating inservice testing enhancements not contained in ASME Section XI.

Pursuant to 10 CFR 50.91, the preceding analyses provide a determination that the proposed Technical Specifications change poses no significant hazard as delineated by 10 CFR 50.92.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Thomas G. Eppink, South Carolina Electric & Gas Company, Post Office Box 764, Columbia, South Carolina 29218.

NRC Section Chief: John A. Nakoski.

Southern Nuclear Operating Company, Inc, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: September 2, 2003.

Description of amendment request: The proposed change involves the extension from 1 hour to 24 hours of the completion time (CT) for Condition B of Technical Specification (TS) 3.5.1, which defines requirements for accumulators. Accumulators are part of the emergency core cooling system and consist of tanks partially filled with borated water and pressurized with nitrogen gas. The contents of the tank are discharged to the reactor coolant system if, as during a loss-of-coolant accident, the coolant pressure decreases to below the accumulator pressure. Condition B of TS 3.5.1 specifies a CT to restore an accumulator to operable status when it has been declared inoperable for a reason other than the boron concentration of the water in the accumulator not being within the required range. This change was proposed by the Westinghouse Owners Group participants in the Technical Specification Task Force (TSTF) and is designated TSTF–370. TSTF–370 is supported by NRC-approved topical report WCAP–15049–A, ''Risk-Informed Evaluation of an Extension to Accumulator Completion Times,'' submitted on May 18, 1999. The NRC staff issued a notice of opportunity for comment in the **Federal Register** on July 15, 2002 (67 FR 46542), on possible amendments concerning TSTF–370, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on March 12, 2003 (68 FR 11880). The licensee affirmed the applicability of the following NSHC determination in its application dated September 2, 2003.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The basis for the accumulator limiting condition for operation (LCO), as discussed in Bases Section 3.5.1, is to ensure that a sufficient volume of borated water will be immediately forced into the core through each of the cold legs in the event the RCS pressure falls below the pressure of the accumulators, thereby providing the initial cooling mechanism during large RCS pipe ruptures. As described in Section 9.2 of WCAP–15049–A, the proposed change will allow plant operation with an inoperable accumulator for up to 24 hours, instead of 1 hour, before the plant would be required to begin shutting down. The impact of the increase in the accumulator CT on core damage frequency for all the cases evaluated in WCAP–15049–A is within the acceptance limit of 1.0E–06/yr for a total plant core damage frequency (CDF) less than 1.0E–03/yr. The incremental conditional core damage probabilities calculated in WCAP–15049–A for the accumulator CT increase meet the criterion of 5E–07 in Regulatory Guides (RG) 1.174, ''An Approach for using Probabilistic Risk Assessment in Risk-Informed Decisions On Plant-Specific Changes to the Licensing Basis,'' and 1.177, ''An Approach for Plant-Specific, Risk-Informed Decisionmaking: Technical Specifications,'' for all cases except those that are based on design basis success criteria. As indicated in WCAP–15049–A, design basis accumulator success criteria are not considered necessary to mitigate large break loss-of-coolant accident (LOCA) events, and were only included in the WCAP–15049–A evaluation as a worst case data point. In addition, WCAP–15049–A states that the NRC has indicated that an incremental conditional core damage frequency (ICCDP) greater than 5E–07 does not necessarily mean the change is unacceptable.

The proposed technical specification change does not involve any hardware changes nor does it affect the probability of any event initiators. There will be no change to normal plant operating parameters, engineered safety feature (ESF) actuation setpoints, accident mitigation capabilities, accident analysis assumptions or inputs.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of the proposed change. As described in Section 9.1 of the WCAP–15049–A evaluation, the plant design will not be changed with this proposed technical specification CT increase. All safety systems still function in the same manner and there is no additional reliance on additional systems or procedures. The proposed accumulator CT increase has a very small impact on core damage frequency. The WCAP–15049–A evaluation demonstrates that the small increase in risk due to increasing the CT for an inoperable accumulator is within the acceptance criteria provided in RGs 1.174 and 1.177. No new accidents or transients can be introduced with the requested change and the likelihood of an accident or transient is not impacted.

The malfunction of safety related equipment, assumed to be operable in the accident analyses, would not be caused as a result of the proposed technical specification change. No new failure mode has been created and no new equipment performance burdens are imposed.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change does not involve a significant reduction in a margin of safety. There will be no change to the departure from nucleate boiling ratio (DNBR) correlation limit, the design DNBR limits, or the safety analysis DNBR limits.

The basis for the accumulator LCO, as discussed in Bases Section 3.5.1, is to ensure that a sufficient volume of borated water will be immediately forced into the core through each of the cold legs in the event the RCS pressure falls below the pressure of the accumulators, thereby providing the initial cooling mechanism during large RCS pipe ruptures. As described in Section 9.2 of WCAP–15049–A, the proposed change will allow plant operation with an inoperable accumulator for up to 24 hours, instead of 1 hour, before the plant would be required to begin shutting down. The impact of this on plant risk was evaluated and found to be very small. That is, increasing the time the accumulators will be unavailable to respond to a large LOCA event, assuming accumulators are needed to mitigate the design basis event, has a very small impact on plant risk. Since the frequency of a design basis large LOCA (a large LOCA with loss of offsite power) would be significantly lower than the large LOCA frequency of the WCAP–15049–A evaluation, the impact of increasing the accumulator CT from 1 hour to 24 hours on plant risk due to a design basis large LOCA would be significantly less than the plant risk increase presented in the WCAP–15049–A evaluation.

Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorneys for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201; Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

NRC Section Chief: John A. Nakoski.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 22, 2003.

Description of amendment request: The proposed amendment revises Technical Specification 3.3.2 governing radiation monitoring instrumentation to relax restrictions on containment purge valve operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The radiation monitors affected by the proposed amendment are not potential accident initiators. Adequate measures are available to compensate for instrumentation that is out of service. The proposed amendment does not affect how the affected instrumentation normally functions or its role in the response of an operator to an accident or transient. The core damage frequency in the STP [South Texas Project] PRA [probabilistic risk assessment] is not impacted by the proposed changes. Therefore, STPNOC [South Texas Project Nuclear Operating Company] concludes that there is no significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The instrumentation affected by the proposed amendment is not credited for the prevention of any accident not evaluated in the safety analysis. The proposed amendment involves no changes in the way the plant is operated or controlled. It involves no change in the design configuration of the plant. No new operating environments are created. Therefore, STPNOC concludes the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change has no significant effect on functions that are supported by the affected instrumentation. There will be no significant effect on the availability and reliability of the affected instrumentation. Adequate measures are available to compensate for instrumentation that is out of service. Therefore, STPNOC concludes the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: A.H. Gutterman, Esq., Morgan, Lewis & Bockius, 1111 Pennsylvania Avenue, NW., Washington, DC 20004.

NRC Section Chief: Robert A. Gramm.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: August 7, 2003.

Brief description of amendments: The proposed change allows entry into a mode or other specified condition in the applicability of a technical specification (TS), while in a condition statement and the associated required actions of the TS, provided the licensee performs a risk assessment and manages risk consistent with the program in place for complying with the requirements of 10 CFR 50.65(a)(4). Limiting Condition for Operation (LCO) 3.0.4 exceptions in individual TS would be eliminated, and Surveillance Requirement (SR) 3.0.4 revised to reflect the LCO 3.0.4 allowance.

This change was proposed by the industry's Technical Specification Task Force (TSTF) and is designated TSTF–359. The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 2, 2002 (67 FR 50475), on possible amendments concerning TSTF–359, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on April 4, 2003 (68 FR 16579). The licensee affirmed the applicability of the following NSHC determination in its application dated August 7, 2003.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS. Being in a TS condition and the associated required actions is not an initiator of any accident previously evaluated. Therefore, the probability of an accident previously evaluated is not significantly increased. The consequences of an accident while relying on required actions as allowed by proposed LCO 3.0.4, are no different than the consequences of an accident while entering and relying on the required actions while starting in a condition of applicability of the TS. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Entering into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS. The TS allow operation of the plant without the full complement of equipment through the conditions for not meeting the TS LCO. The risk associated with this allowance is managed by the imposition of required actions that must be performed within the prescribed completion times. The net effect of being in a TS condition on the margin of safety is not considered significant. The proposed change does not alter the required actions or completion times of the TS. The proposed change allows TS conditions to be entered, and the associated required actions and completion times to be used in new circumstances. This use is predicated upon the licensee's performance of a risk assessment and the management of plant risk. The change also eliminates current allowances for utilizing required actions and completion times in similar circumstances, without assessing and managing risk. The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Section Chief: Allen G. Howe.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: July 18, 2003.

Brief description of amendments: The proposed change allows entry into a mode or other specified condition in the applicability of a technical specification (TS), while in a condition statement and the associated required actions of the TS, provided the licensee performs a risk assessment and manages risk consistent with the program in place for complying with the requirements of 10 CFR 50.65(a)(4). Limiting Condition for Operation (LCO) 3.0.4 exceptions in individual TS would be eliminated, and Surveillance Requirement 3.0.4 revised to reflect the LCO 3.0.4 allowance.

This change was proposed by the industry's Technical Specification Task Force (TSTF) and is designated TSTF–359. The NRC staff issued a notice of opportunity for comment in the **Federal Register** on August 2, 2002 (67 FR 50475), on possible amendments concerning TSTF–359, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on April 4, 2003 (68 FR 16579). The licensee affirmed the applicability of the following NSHC determination in its application dated July 18, 2003.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS. Being in a TS condition and the associated required actions is not an initiator of any accident previously evaluated. Therefore, the probability of an accident previously evaluated is not significantly increased. The consequences of an accident while relying on required actions as allowed by proposed LCO 3.0.4, are no different than the consequences of an accident while entering and relying on the required actions while starting in a condition of applicability of the TS. Therefore, the consequences of an accident previously evaluated are not significantly affected by this change. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed). Entering into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS, will not introduce new failure modes or effects and will not, in the absence of other unrelated failures, lead to an accident whose consequences exceed the consequences of accidents previously evaluated. The addition of a requirement to assess and manage the risk introduced by this change will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change allows entry into a mode or other specified condition in the applicability of a TS, while in a TS condition statement and the associated required actions of the TS. The TS allow operation of the plant without the full complement of equipment through the conditions for not meeting the TS Limiting Conditions for Operation (LCO). The risk associated with this allowance is managed by the imposition of required actions that must be performed within the prescribed completion times. The net effect of being in a TS condition on the margin of safety is not considered significant. The proposed change does not alter the required actions or completion times of the

TS. The proposed change allows TS conditions to be entered, and the associated required actions and completion times to be used in new circumstances. This use is predicated upon the licensee's performance of a risk assessment and the management of plant risk. The change also eliminates current allowances for utilizing required actions and completion times in similar circumstances, without assessing and managing risk. The net change to the margin of safety is insignificant. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Section Chief: Robert A. Gramm.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of amendment request: August 29, 2003.

Brief description of amendment request: The proposed amendment would revise the Updated Final Safety Analysis Report to use the reactor building crane for heavy loads up to a total of 117 tons for removal and reinstallation activities for the reactor shield blocks prior to and during the Units 2 outage D2R18.

*Date of publication of individual notice in **Federal Register:*** September 10, 2003.

Expiration date of Individual notice: October 10, 2003.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.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 by e-mail to *pdr@nrc.gov*.

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of application for amendment: April 2, 2001, as supplemented by letters dated January 15, and August 23, 2002, March 28, and August 19, 2003.

Brief description of amendment: The amendment identifies the conditions under which the inclined fuel transfer system blind flange may be removed when primary containment integrity is required (*i.e.*, during Modes 1, 2, and 3) and restricts this configuration to no more than 40 days per operating cycle. These changes are reflected by (1) adding Note 5 for the Actions of Technical Specification (TS) 3.6.1.3, ''Primary Containment Isolation Valves (PCIVs),'' (2) deleting Note 3 of TS Surveillance Requirement 3.6.1.3.3, (3) adding a conditional note to TS 3.6.1.1, ''Primary Containment—Operating,'' and (4) associated TS Bases changes.

Date of issuance: September 17, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 158.

Facility Operating License No. NPF–62: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** May 13, 2003 (68 FR 25650). The supplemental letter of August 19, 2003, contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** Notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 17, 2003.

No significant hazards consideration comments received: No.

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of application for amendment: July 31, 2002, and supplemented by letters dated March 7 and August 28, 2003.

Brief description of amendment: The amendment revises Appendix A, Technical Specifications (TSs), of the Operating License by adding a Surveillance Requirement (SR) to TS 3.2.2, ''Minimum Critical Power Ratio (MCPR),'' that requires determination of the MCPR limits following completion of control rod scram time testing. The new SR provides for the required evaluation necessary to apply faster scram times to provide for improved MCPR operating limits.

Date of issuance: September 29, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 159.

Facility Operating License No. NPF–62: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** September 17, 2002 (67 FR 58637). The supplemental letters

contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** Notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 29, 2003.

No significant hazards consideration comments received: No.

AmerGen Energy Company, LLC, Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1 (TMI–1), Dauphin County, Pennsylvania

Date of application for amendment: January 14, 2003.

Brief description of amendment: The amendment revised technical specification sections 3.8.9, 3.15.2, 4.12.2, and associated Bases to delete the requirements for the reactor building purge air treatment system.

Date of issuance: September 23, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 245.

Facility Operating License No. DPR–50: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** (68 FR 10278) March 4, 2003. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 23, 2003.

No significant hazards consideration comments received: No.

AmerGen Energy Company, LLC, Docket No. 50–289, Three Mile Island Nuclear Station, Unit 1 (TMI–1), Dauphin County, Pennsylvania

Date of application for amendment: September 20, 2002.

Brief description of amendment: The amendment revises the Technical Specification (TS) definition of containment integrity to ensure that all power-operated valves, relief valves, and check valves are included and clarifies the handling of operability and reportability issues related to Type III containment isolation valves. The amendment also includes minor administrative and editorial changes to improve the consistency and clarity of the TSs.

Date of issuance: September 30, 2003.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 246.

Facility Operating License No. DPR–50: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 12, 2002 (67 FR 68729). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 2003.

No significant hazards consideration comments received: No.

Arizona Public Service Company, et al., Docket No. STN 50–529, Palo Verde Nuclear Generating Station, Unit No. 2, Maricopa County, Arizona

Date of application for amendment: December 21, 2001, as supplemented by letters dated March 13, August 27, August 29, September 4, September 6, October 11, November 21, December 10, December 23, 2002, and March 11, June 10, July 25, and August 22, 2003.

Brief description of amendment: The amendment changes the Unit 2 Technical Specifications and operating license to support (1) replacement of the steam generators and (2) the subsequent operation at an increased maximum power level of 3990 MWt, which is a 2.94 percent increase from the current 3876 MWt.

Date of issuance: September 29, 2003.

Effective date: This license amendment is effective as of the date of issuance, and shall be implemented prior to entry into Mode 4 during the restart from the Fall 2003 refueling outage.

Amendment No.: Unit 2–149.

Facility Operating License No. NPF–51: The amendment revised the Technical Specifications and Operating License.

Date of initial notice in ***Federal Register:*** February 19, 2002 (67 FR 7412). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 29, 2003.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: August 14, 2002, as supplemented on March 11, May 16, and May 23, 2003.

Brief description of amendment: The amendment revises the Technical Specifications (TSs) related to reactivity control systems, power distribution limits, and special test exceptions.

Date of issuance: September 25, 2003.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 280.

Facility Operating License No. DPR–65: This amendment revised the TSs.

Date of initial notice in ***Federal Register:*** September 17, 2002 (67 FR 58640). The supplements dated March 11, May 16, and May 23, 2003, provided additional information which clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 2003.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: August 7, 2002, as supplemented on October 23, 2002.

Brief description of amendment: The amendment revises Technical Specification (TS) 6.9.1.8, ''Core Operating Limits Report,'' to update the list of documents that describe the analytical methods used to determine the core operating limits.

Date of issuance: September 25, 2003.

Effective date: As of the date of issuance and shall be implemented prior to Mode 4 operation of Cycle 16.

Amendment No.: 281.

Facility Operating License No. DPR–65: This amendment revised the TSs.

Date of initial notice in ***Federal Register:*** September 17, 2002 (67 FR 58639). The supplement dated October 23, 2002, provided additional information which clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 2003.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: May 7, 2002, as supplemented on January 16, May 27, July 1, and August 21, 2003.

Brief description of amendment: The amendment revises Technical Specifications (TSs) 2.2, ''Limiting Safety System Settings'' and 3/4.3, ''Instrumentation'' to more accurately reflect the existing plant design for the Reactor Protection System, the Engineered Safety Features Actuation System, and the Radiation Monitoring System instrumentation and to provide

consistency within the associated TS Tables.

Date of issuance: September 25, 2003.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 282.

Facility Operating License No. DPR–65: This amendment revises the TSs.

Date of initial notice in ***Federal Register:*** June 25, 2002 (67 FR 42819). The supplements dated January 16, May 27, July 1, and August 21, 2003, provided additional information which clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 2003.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., Docket No. 50–423, Millstone Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: August 14, 2002, as supplemented December 19, 2002.

Brief description of amendment: The amendment revised the Technical Specifications (TSs) related to Containment Systems. Specifically, the revisions: (1) Added clarification to TS 1.7, ''Definitions—Containment Integrity;'' (2) added clarifying information, as well as revised a portion of Surveillance Requirement 4.6.1.1 associated with the affected section of TS 3.6.1.1, ''Containment Integrity;'' (3) revised TS 3.6.3, ''Containment Isolation Valves,'' that made editorial changes, added clarifying information, and added an Action item that increased the allowed outage time from 4 hours to 72 hours for Containment Isolation Valves in closed systems; and (4) made other changes that were clarifying and/or administrative in nature. In addition, the TS Bases were revised to address these changes, as appropriate.

Date of issuance: September 29, 2003.

Effective date: As of the date of issuance, and shall be implemented within 90 days from the date of issuance.

Amendment No.: 216.

Facility Operating License No. NPF–49: This amendment revised the TSs.

Date of initial notice in ***Federal Register:*** October 1, 2002 (67 FR 61678). The December 19, 2002, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the amendment beyond the scope of the initial notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 29, 2003.

No significant hazards consideration comments received: No.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: December 20, 2001, as supplemented by letters dated March 4, 2002, September 12, 2002, November 20, 2002, and August 28, 2003.

Brief description of amendments: The amendments revised the Technical Specifications (TS) 3.3.2, Engineered Safety Features Actuation System Instrumentation.

Date of issuance: September 10, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 208 and 202.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** March 19, 2002 (67 FR 12601). The supplements dated March 4, 2002, September 12, 2002, November 20, 2002, and August 28, 2003, provided clarifying information that did not change the scope of the December 20, 2001, application or the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 10, 2003.

No significant hazards consideration comments received: No.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: January 31, 2003, as supplemented by letters dated June 12, and September 2, 2003.

Brief description of amendments: The amendments revise the Technical Specifications to incorporate revised means of determining the mass of ice in the ice condenser containment.

Date of issuance: September 29, 2003.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 209 and 203.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 15, 2003, (68 FR 18274). The supplements dated June 12, and September 2, 2003, provided clarifying information that did not change the scope of the January 31, 2003, application nor the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 29, 2003.

No significant hazards consideration comments received: No.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: January 31, 2003, as supplemented by letters dated June 12, and September 2, 2003.

Brief description of amendments: The amendments revise the Technical Specifications to incorporate revised means of determining the mass of ice in the ice condenser containment.

Date of issuance: September 29, 2003.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 217 and 199.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 15, 2003, (68 FR 18274). The supplements dated June 12, and September 2, 2003, provided clarifying information that did not change the scope of the January 31, 2003, application nor the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 29, 2003.

No significant hazards consideration comments received: No.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: March 20, 2003, supplemented by letters dated July 22, and August 5, 2003.

Brief description of amendments: The amendments revised the Technical Specifications and the licensing basis in the Updated Safety Analysis Report to support installation of a passive low-pressure injection cross connect inside containment.

Date of Issuance: September 29, 2003.

Effective date: As of the date of issuance and shall be implemented

within 90 days from the date of issuance.

Amendment Nos.: 335, 335, and 336.

Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 15, 2003 (68 FR 22745). The supplement dated July 22 and August 5, 2003, provided clarifying information that did not change the scope of the March 20, 2003, application nor the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 29, 2003.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: August 16, 2002, as supplemented June 6, 2003.

Brief description of amendment: The amendment adds a new Technical Specification (TS) requirement to the Pilgrim Nuclear Power Station (Pilgrim) TSs consistent with Technical Specification Task Force (TSTF)–358. TSTF–358 addresses modifications to requirements for missed surveillances consistent with NUREG 1433, Revision 2, ''Standard Technical Specification, General Electric Plants, BWR/4'' (STS) surveillance requirement 3.0.3. The amendment to the Pilgrim TSs is added as TS 4.0.3.

The U.S. Nuclear Regulatory Commission (NRC) staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation (SE) and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). The licensee affirmed the applicability of the model NSHC determination in its application dated August 16, 2002, as supplemented on June 6, 2003.

In addition, the following statement was added to the TS definition of Limiting Condition for Operation (LCO): ''Failure to meet a Surveillance, whether such failure is experienced during the performance of the Surveillance or between performances of the Surveillance, shall be failure to meet the LCO.'' The amendment also made administrative changes to add new TS Sections 3.0, ''Limiting Condition for Operation (LCO) Applicability,'' and 4.0, ''Surveillance Requirement (SR) Applicability,'' into the Pilgrim TSs. New TSs 3.0, 4.0.1, and 4.0.2 are identified as ''Not Used.'' These changes rectify the differences in the format and terminology of the current Pilgrim TSs compared to the STS. The associated Bases are also implemented.

Date of issuance: September 30, 2003.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 203.

Facility Operating License No. DPR–35: The amendment revised the TSs.

Date of initial notice in ***Federal Register:*** July 22, 2003 (68 FR 43390). The Commission's related evaluation of the amendment is contained in a SE dated September 30, 2003.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: March 11, 2003.

Brief description of amendment: The amendment revises and relocates Surveillance Requirement (SR) 4.0.5 and SR 4.4.9 to the administrative section of the Technical Specifications (TS) under sections 6.5.8 and 6.5.7, respectively. The amendment also relocates TS 3.4.9, ''Reactor Coolant System Structural Integrity'' and its Bases to the Technical Requirements Manual. Additionally, the amendment extends the Waterford 3 flywheel volumetric examination interval to ten years.

Date of issuance: September 22, 2003.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 189.

Facility Operating License No. NPF–38: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 27, 2003 (68 FR 28851). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 22, 2003.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of application for amendments: April 19, 2002, and as supplemented September 9, 2002, January 3, and July 13, 2003.

Brief description of amendments: The amendments would revise the surveillance frequency of the containment spray system nozzles from 10 years to ''Following maintenance that could result in nozzle blockage, *OR* Following fluid flow through the nozzles.''

Date of issuance: September 22, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 134 and 134.

Facility Operating License Nos. NPF–37 and NPF–66: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 11, 2002 (68 FR 40023). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 22, 2003.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendments: October 28, 2002.

Brief description of amendments: The amendments authorize changes to the Updated Final Safety Analysis Report to describe the use of cast iron materials in the containment cooling service water and diesel generator cooling water systems.

Date of issuance: September 17, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 201 and 193.

Facility Operating License Nos. DPR–19 and DPR–25: The amendments revise the Updated Final Safety Analysis Report.

Date of initial notice in ***Federal Register:*** December 10, 2002 (67 FR 75875). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 17, 2003.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: December 4, 2001.

Brief description of amendment: The amendment revises the Davis-Besse Nuclear Power Station Operating License, Appendix A, Technical Specifications (TS) Section 6.9, ''Administrative Controls—Reporting Requirements,'' to eliminate the requirement to submit startup test reports to the NRC.

Date of issuance: September 25, 2003.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment No.: 258.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 22, 2003 (68 FR 43391). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 2003.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: July 18, 2002.

Brief description of amendments: These amendments revise the Technical Specifications regarding the time period that inoperable channels of the engineered safety feature actuation system can be in the bypassed or tripped condition.

Date of Issuance: September 30, 2003.

Effective Date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 188 and 132.

Facility Operating License Nos. DPR–67 and NPF–16: Amendments revise the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 20, 2002 (67 FR 53987). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 30, 2003.

No significant hazards consideration comments received: No.

FPL Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: October 11, 2002, as supplemented by letters dated April 21, and July 29, 2003.

Description of amendment request: The amendment revises the Technical Specifications (TS) to eliminate the Power Range Neutron Flux High Negative Rate Reactor Trip function from TS 3/4.3.1, ''Reactor Trip System Instrumentation,'' TS 2.2.1, ''Reactor Trip System Instrumentation Setpoints,'' and their associated Bases. The amendment also revises TS 3/4.10.3, ''Physics Tests,'' TS 3/4.10.4, ''Reactor Coolant Loops,'' and TS Table 4.3–1, ''Reactor Trip System Instrumentation Surveillance Requirements,'' that are associated with certain testing activities required during STARTUP operations. The revision also rewords the time interval for the Analog Channel Operational Test (ACOT) in surveillance requirement (SR) 4.10.3.2. In correlation with the revision to extend the ACOT interval in SR 4.10.3.2, Table 4.3–1 Note 1 is revised. This revision also extends the ACOT interval for those Functional Units that reference TS Table 4.3–1 Note 1. The revision to TS 3/4.10.4 will delete TS 3/4.10.4 in its entirety. Additionally, as a result of deleting TS 3/4.10.4, the footnote which references TS 3/4.10.4 in TS 3/4.4.1.1 is deleted as well.

Date of issuance: October 1, 2003.

Effective date: As of its date of issuance, and shall be implemented within 90 days.

Amendment No.: 91.

Facility Operating License No. NPF–86: Amendment revises the TSs.

Date of initial notice in ***Federal Register:*** November 26, 2002 (67 FR 70767). The April 21, 2003 and July 16, 2003, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the amendment beyond the scope of the initial notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 1, 2003.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: September 30, 2002, as supplemented July 24 and September 25, 2003.

Brief description of amendment: The amendment authorizes changes to the Updated Safety Analysis Report (USAR) to allow the use of an upgraded computer code for design-basis accident containment integrity analyses called Generation of Thermal-Hydraulic Information for Containment (GOTHIC) version 7.0p2 (GOTHIC 7) with noted conditions.

Date of issuance: September 29, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 169.

Facility Operating License No. DPR–43: The amendment authorizes changes to the Updated Safety Analysis Report.

Date of initial notice in ***Federal Register:*** October 29, 2002 (67 FR 66011). The supplemental letters contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 29, 2003.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: April 30, 2003.

Brief description of amendment: The amendment revises Kewaunee Nuclear Power Plant, Technical Specification Section 6.3, ''Plant Staff Qualifications.'' The amendment updates requirements that have been outdated based on licensed operator training programs being accredited by the National Academy for Nuclear Training and promulgation of the revised 10 CFR 55, ''Operators' Licenses.''

Date of issuance: October 2, 2003.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment No.: 170.

Facility Operating License No. DPR–43: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 10, 2003 (68 FR 34670). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 2003.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of application for amendments: March 11, 2003, as supplemented July 16, 2003.

Brief description of amendments: The amendments revise Technical Specification (TS) 3.1.4, ''Rod Group Alignment Limits,'' and TS 3.1.7, ''Rod Position Indication,'' to add a 1-hour soak time to both TSs to allow the control rod drive mechanisms additional time following substantial rod motion to reach thermal equilibrium.

Date of issuance: October 1, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 160 and 151.

Facility Operating License Nos. DPR–42 and DPR–60: Amendments revised the TSs.

Date of initial notice in ***Federal Register:*** April 15, 2003 (68 FR 18280). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 1, 2003.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Units 1 and 2, San Luis Obispo County, California

Date of application for amendments: April 15, 2002, as supplemented by letters dated September 27, 2002, February 28, 2003, April 25, 2003, June 24, 2003, and September 12, 2003.

Brief description of amendments: The amendments authorize changes to the Final Safety Analysis Report (FSAR) Update, together with other analyses, design, and procedure changes, to implement the Diablo Canyon Power Plant NUREG–0612, ''Control of Heavy Loads at Nuclear Power Plants'' program that is required to implement a dry cask Independent Spent Fuel Storage Installation (ISFSI).

Date of issuance: September 26, 2003.

Effective date: September 26, 2003, and shall be implemented following the implementation of the ISFSI. The implementation of the amendments include the incorporation into the FSAR Update the changes discussed above, as described in the licensee's application dated April 15, 2002; its supplements dated September 27, 2002, February 28, 2003, April 25, 2003, June 24, 2003, and September 12, 2003; and evaluated in the staff's safety evaluation attached to the amendment.

Amendment Nos.: 162 and 163.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments authorized revision of the FSAR Update.

Date of initial notice in ***Federal Register:*** June 11, 2002 (67 FR 40025) The supplemental letters dated September 27, 2002, February 28, 2003, April 25, 2003, June 24, 2003, and September 12, 2003, provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 26, 2003.

No significant hazards consideration comments received: No.

PSEG Nuclear, LLC, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: April 10, 2003.

Brief description of amendments: The amendments revise Salem Nuclear Generating Station, Unit Nos. 1 and 2 (Salem), Technical Specifications (TSs) Table 3.3–1, ''Reactor Trip System Instrumentation,'' by modifying the ''Condition and Setpoint'' description of permissive interlock ''P–7.'' The phrase ''Turbine impulse chamber pressure,'' contained in the ''Condition and Setpoint'' description for permissive P–7, is replaced with the phrase ''Turbine steam line inlet pressure'' in order to support planned modifications to Salem's high pressure turbines.

Date of issuance: October 1, 2003.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment Nos.: 259 and 240.

Facility Operating License Nos. DPR–70 and DPR–75: The amendments revised the TSs.

Date of initial notice in ***Federal Register:*** June 10, 2003 (68 FR 34672). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 1, 2003.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: September 24, 2002, supplemented by letters dated April 8 and May 21, 2003.

Brief description of amendment: This amendment revises the Action Statement and surveillance requirements for the emergency diesel generators (EDGs). The proposed changes would revise TS Section 3.8.1.1, Action b.2 and Action c.2, and TS Section 4.8.1.1, ''AC Sources'' and associated Bases Section related to the EDG.

Date of issuance: September 26, 2003.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 164.

Facility Operating License No. NPF–12: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 12, 2002 (67 FR 68742). The April 8 and May 21, 2003, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the scope of the application. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 26, 2003.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: December 19, 2002, as supplemented by letters dated April 7, May 21, May 30, June 4, September 4, and September 12, 2003.

Brief description of amendments: The amendments revise the licensed power level for Hatch, Units 1 and 2 by 1.5 percent from 2763 megawatts thermal (MWt) to 2804 MWt. The change is based on the installation of the Advanced Measurement Analysis Group, Inc. (AMAG)/Westinghouse Crossflow ultrasonic flow measurement instrumentation, resulting in improved feedwater flow measurement accuracy. The amendment changes the Renewed Facility Operating License (RFOL) and the Technical Specifications (TSs) to reflect the increased licensed power level.

Date of issuance: September 23, 2003.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: 238 and 180.

Renewed Facility Operating License Nos. DPR–57 and NPF–5: Amendments revise the RFOL and the TSs.

Date of initial notice in ***Federal Register:*** February 18, 2003 (68 FR 7821). The supplements dated April 7, May 21, May 30, June 4, September 4, and September 12, 2003, provided clarifying information that did not change the scope of the December 19, 2002, application nor the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 23, 2003.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: February 14, 2003, as supplemented by letters dated June 5 and August 21, 2003.

Brief description of amendment: The amendment consists of changes to Technical Specification (TS) 5.9.5, ''Core Operating Limits Report (COLR).'' The revised TS modifies TS 5.9.5 to add three additional methodologies in support of the Westinghouse 17×17

Robust Fuel Assembly (RFA)–2 fuel design with Intermediate Flow Mixers.

Date of issuance: September 30, 2003.

Effective date: As of the date of issuance and shall be implemented no later than MODE 6 entry following the next refueling outage in the fall of 2003.

Amendment No.: 46.

Facility Operating License No. NPF–90: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** April 1, 2003 (68 FR 15765). The supplemental letters provided clarifying information that did not expand the scope of the initial notice and did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 2003.

No significant hazards consideration comments received: No.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: March 6, 2003, as supplemented by letters dated July 25, August 29, and September 16, 2003.

Brief description of amendments: The amendments revise the Final Safety Analysis Report (FSAR) and Technical Specification (TS) Bases reflecting approval of elimination of response time testing for selected Reactor Trip System and Engineered Safety Features Actuation System protection channel equipment.

Date of issuance: September 25, 2003.

Effective date: As of the date of issuance. The TS Bases shall be implemented within 60 days from the date of issuance and the FSAR shall be implemented in the next periodic update to the FSAR in accordance with 10 CFR 50.71(e).

Amendment Nos.: 107 and 107.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the FSAR and TS Bases.

Date of initial notice in ***Federal Register:*** April 15, 2003 (68 FR 18288). The July 25, August 29, and September 16, 2003, supplemental letters provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register** on April 15, 2003 (68 FR 18288). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 25, 2003.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 3rd day of October.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–25742 Filed 10–10–03; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3553]

State of Texas

Cameron County and the contiguous counties of Hidalgo and Willacy in the State of Texas constitute a disaster area due to excessive rain and flooding that occurred on September 18 and continuing through September 22, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 8, 2003 and for economic injury until the close of business on July 7, 2004 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 14925 Kingsport Rd., Fort Worth, TX 76155–2243.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.125
Homeowners without credit available elsewhere	2.562
Businesses with credit available elsewhere	6.199
Businesses and non-profit organizations without credit available elsewhere	3.100
Others (including non-profit organizations) with credit available elsewhere	5.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	3.100

The number assigned to this disaster for physical damage is 355306 and for economic injury the number is 9X2500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 7, 2003.

Hector V. Barreto,

Administrator.

[FR Doc. 03–25942 Filed 10–10–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Military Reservist Economic Injury Disaster Loan #R204

As a result of Public Law 106–50, the Veterans Entrepreneurship and Small Business Development Act of 1999, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan program. Effective October 1, 2003, small businesses employing military reservists may apply for economic injury disaster loans if those employees are called up to active duty during a period of military conflict existing on or after March 24, 1999 and those employees are essential to the success of the small business daily operations. The filing period for small businesses to apply for economic injury loan assistance under the Military Reservist Economic Injury Disaster Loan Program begins on the date the essential employee is ordered to active duty and ends on the date 90 days after the essential employee is discharged or released from active duty.

The purpose of the Military Reservist economic injury disaster loan program (MREIDL) is to provide funds to eligible small businesses to meet its ordinary and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called-up to active duty in their role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active military duty.

Applications for loans for military reservist economic injury loans may be obtained and filed at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, 1–800–359–2227.

The interest rate for eligible small businesses is 3.1 percent. The number assigned for economic injury is R20400.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: October 7, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–25939 Filed 10–10–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Military Reservist Economic Injury Disaster Loan #R304

As a result of Public Law 106–50, the Veterans Entrepreneurship and Small Business Development Act of 1999, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan program. Effective October 1, 2003, small businesses employing military reservists may apply for economic injury disaster loans if those employees are called up to active duty during a period of military conflict existing on or after March 24, 1999 and those employees are essential to the success of the small business daily operations. The filing period for small businesses to apply for economic injury loan assistance under the Military Reservist Economic Injury Disaster Loan Program begins on the date the essential employee is ordered to active duty and ends on the date 90 days after the essential employee is discharged or released from active duty.

The purpose of the Military Reservist economic injury disaster loan program (MREIDL) is to provide funds to eligible small businesses to meet its ordinary and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called-up to active duty in their role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active military duty.

Applications for loans for military reservist economic injury loans may be obtained and filed at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 14925 Kingsport Rd., Ft. Worth, TX 75155–2243, 1–800–366–6303.

The interest rate for eligible small businesses is 3.1 percent. The number assigned for economic injury is R30400.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: October 7, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–25940 Filed 10–10–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Military Reservist Economic Injury Disaster Loan #R404

As a result of Public Law 106–50, the Veterans Entrepreneurship and Small Business Development Act of 1999, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan program. Effective October 1, 2003, small businesses employing military reservists may apply for economic injury disaster loans if those employees are called up to active duty during a period of military conflict existing on or after March 24, 1999 and those employees are essential to the success of the small business daily operations. The filing period for small businesses to apply for economic injury loan assistance under the Military Reservist Economic Injury Disaster Loan Program begins on the date the essential employee is ordered to active duty and ends on the date 90 days after the essential employee is discharged or released from active duty.

The purpose of the Military Reservist economic injury disaster loan program (MREIDL) is to provide funds to eligible small businesses to meet its ordinary and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called-up to active duty in their role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active military duty.

Applications for loans for military reservist economic injury loans may be obtained and filed at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795, 1–800–488–5323.

The interest rate for eligible small businesses is 3.1 percent. The number assigned for economic injury is R40400.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: October 7, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–25941 Filed 10–10–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Military Reservist Economic Injury Disaster Loan #R104

As a result of Pub. L. 106–50, the Veterans Entrepreneurship and Small Business Development Act of 1999, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan program. Effective October 1, 2003, small businesses employing military reservists may apply for economic injury disaster loans if those employees are called up to active duty during a period of military conflict existing on or after March 24, 1999 and those employees are essential to the success of the small business daily operations. The filing period for small businesses to apply for economic injury loan assistance under the Military Reservist Economic Injury Disaster Loan Program begins on the date the essential employee is ordered to active duty and ends on the date 90 days after the essential employee is discharged or released from active duty.

The purpose of the Military Reservist economic injury disaster loan program (MREIDL) is to provide funds to eligible small businesses to meet its ordinary and necessary operating expenses that it could have met, but is unable to meet, because an essential employee was called-up to active duty in their role as a military reservist. These loans are intended only to provide the amount of working capital needed by a small business to pay its necessary obligations as they mature until operations return to normal after the essential employee is released from active military duty.

Applications for loans for military reservist economic injury loans may be obtained and filed at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd FL, Niagara Falls, NY 14303, 1–800–659–2955.

The interest rate for eligible small businesses is 3.1 percent. The number assigned for economic injury is R10400.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: October 7, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–25943 Filed 10–10–03; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends Part T of the Statement of the Organization, Functions and Delegations of Authority that covers the Social Security Administration (SSA). This notice retitles the Special Counsel Staff (SCS) (TAH–2) in the Office of Hearings and Appeals (TAH), Office of Disability and Income Security Programs (TA). The changes are as follows: Chapter TA, Office of Disability and Income Security Programs, SubChapter TAH, Office of Hearings and Appeals

Section TAH.10 The Office of Hearings and Appeals—(Organization)

The Office of Hearings and Appeals, under the leadership of the Associate Commissioner for Hearings and Appeals, includes:

C. The Immediate Office of the Associate Commissioner for Hearings and Appeals (TAH) which includes:

Retitle 2: The Special Counsel Staff (TAH–2) to The Office of Special Programs and Services (OSPS) (TAH–2).

Section TAH.20 The Office of Hearings and Appeals—(Functions)

C. The Immediate Office of the Associate Commissioner for Hearings and Appeals (TAH) provides the Associate Commissioner and the Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

Retitle 2: The Special Counsel Staff (SCS) (TAH–2) to The Office of Special Programs and Services (OSPS) (TAH–2).

Delete: the acronym ''SCS''.

Add: the acronym ''OSPS'' in place of ''SCS''.

Dated: October 2, 2003.

Reginald F. Wells,

Deputy Commissioner for Human Resources.

[FR Doc. 03–25876 Filed 10–10–03; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Republic Airline, Inc. d/b/a Republic Airlines for Issuance of New Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 2003–10–6), Docket OST–2003–14579.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding Republic Airline, Inc. d/b/a Republic Airlines fit, willing, and able, and (2) awarding it certificate to engage in interstate scheduled air transportation of persons, property, and mail, using small aircraft, subject to limitations and conditions.

DATES: Persons wishing to file objections should do so no later than October 20, 2003.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–2003–14579 and addressed to Department of Transportation Dockets (M–30, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Janet A. Davis, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: October 6, 2003.

Michael W. Reynolds,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 03–25897 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular (AC) 23–20, Acceptance Guidance on Material Procurement and Process Specifications for Polymer Matrix Composite Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 23–20, Acceptance Guidance on Material Procurement and Process Specifications for Polymer Matrix Composite Systems. The AC provides an acceptable means, but not the only means, to show compliance with 14 CFR part 23 as applicable to the material and process specifications, or other documents, used to ensure sufficient control of composite prepreg materials in normal, utility, acrobatic and commuter airplanes.

DATES: Advisory Circular 23–20 was issued by the Manager of the Small Airplane Directorate on September 19, 2003.

How to Obtain Copies: A paper copy of AC 23–20 may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Office, DOT Warehouse, SVC–121.23, Ardmore East Business Center, 3341Q 75th Avenue, Landover, MD 20785, telephone 301–322–5377, or by faxing your request to the warehouse at 301–386–5394. The AC will also be available on the Internet at *http://www.airweb.faa.gov/AC.*

Issued in Kansas City, Missouri, on October 3, 2003.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–25948 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Civil Supersonic Aircraft Technical Workshop

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of workshop.

SUMMARY: The FAA is issuing this notice to advise the public of a technical workshop on civil supersonic aircraft. This workshop will allow subject matter experts to discuss recent research data and findings which might impact future rulemaking on supersonic flight over land.

DATES: The workshop will be on November 13, 2003, from 8:30 a.m. to 5 p.m.

ADDRESSES:

Workshop location: The workshop will be at Centra, 4121 Wilson Boulevard, Suite 800, Arlington, Virginia (one block from the Ballston metro shop).

Registration: Attendance is open to the interested public but space availability is limited. If you wish to attend the workshop, please register by faxing your name, address, phone number, e-mail, fax number, and organization to the contact person found in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Laurette Fisher, Office of Environment and Energy (AEE–100), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; facsimile (202) 267–5594, telephone (202) 267–3561.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) called for technical information on the latest research and development directed at mitigating the environmental

impacts from supersonic aircraft by notice in the **Federal Register** (68 FR 28181, May 23, 2003). The comment period ended September 30, 2003. Also in the May 23 notice the FAA stated that it was planning to conduct a technical workshop in the next six months and the FAA will publish a notice announcing the date and place of the workshop. The May 23 notice is available at *http://www.aee.faa.gov/noise/SST.htm.*

This notice announces the date and place of the Civil Supersonic Aircraft Workshop. The purpose of the workshop is to allow subject matter experts to discuss recent research data and findings on mitigating the environmental impacts from supersonic aircraft. The workshop is scheduled to be on: Thursday, November 13, 2003, Centra, 4121 Wilson Boulevard, Suite 800, Arlington, Virginia.

You may submit a written statement at the workshop and it will be placed in Docket No. FAA–2003–15230. You may review the public docket containing comments to the May 23 notice and the workshop in person at the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office is on the plaza level at the NASSIF Building at the U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. Information presented in a workshop setting is not considered proprietary.

Look for any updates on this workshop at *http://www.aee.faa.gov/noise/SST.htm.*

Issued in Washington, DC, on October 6, 2003.

Carl Burleson,

Director of Environment and Energy.

[FR Doc. 03–25952 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement No. ANM–03–115–28]

Use of Surrogate Parts When Evaluating Seatbacks and Seatback Mounted Accessories for Compliance With §§ 25.562(c)(5) and 25.785(b) and (d)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of final policy.

SUMMARY: The Federal Aviation Administration (FAA) announces the availability of the final policy on the use of surrogate parts when evaluating seatbacks and seatback mount accessories for compliance with 14 CFR 25.562(c)(5) and 25.785(b) and (d).

DATES: This final policy was issued by the Transport Airplane Directorate on October 2, 2003.

FOR FURTHER INFORMATION CONTACT: Michael T. Thompson, Federal Aviation Administration, Transport Airplane Directorate, Transport Standards Staff, Airframe and Cabin Safety Branch, ANM–115, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–1157; fax (425) 227–1149; e-mail: *michael.t.thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion of Comments

A notice of proposed policy was published in the **Federal Register** on July 8, 2003 (68 FR 40732). Four (4) commenters responded to the request for comments.

Background

The policy streamlines the seat certification process by providing Federal Aviation Administration certification policy on using surrogate test articles in lieu of actual production seatback mounted accessories (*e.g.*, video monitor, telephone) or part similar in construction to these production parts, during blunt trauma tests in accordance with §§ 25.562(c)(5) and 25.785(b) and (d).

The final policy as well as the disposition of public comments received is available on the Internet at the following address: *http://www.airweb.faa.gov/rgl.* If you do not have accesss to the Internet, you can obtain a copy of the policy by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Issued in Renton, Washington, on October 2, 2003.

K.C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–25958 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Technical Standard Order (TSO)–C167, Personnel Carrying Device Systems (PCDS), Also Known as Human Harnesses

AGENCY: Federal Aviation Administration (DOT).

ACTION: Notice of Availability and requests for public comment.

SUMMARY: This notice announces the availability of and requests comments on proposed Technical Standard Order (TSO)–C167, Personnel Carrying Device Systems (PCDS), also known as Human Harnesses. This proposed TSO tells PCDS manufacturers what minimum performance standards (MPS) their systems must first meet to obtain approval and identification with the applicable TSO marking.

DATES: Comments must identify the TSO and arrive by January 31, 2004.

ADDRESSES: Send all comments on the proposed TSO to: Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, Technical Programs and Continued Airworthiness Branch, AIR–120, Room 815, 800 Independence Avenue, SW, Washington, DC 20591. ATTN: Mr. Dave Rich, AIR–120. Or, deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Rich, Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, Technical Programs and Continued Airworthiness Branch, AIR–120, Room 815, 800 Independence Avenue, SW, Washington, DC 20591. Telephone (202) 267–7141, fax (202) 267–5340, e-mail *dave.rich@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

You may comment on the proposed TSO listed in this notice by sending written data, views, or arguments to the above listed address. You may also examine comments received on the proposed TSO, before and after the comment closing date, in Room 815, FAA Headquarters, 800 Independence Avenue, SW, Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director of the Aircraft Certification Service will consider all communications received by the closing date before issuing the final TSO.

Background

This TSO gives the MPS for personnel carrying device systems. The MPS are based on National Fire Protection Association (NFPA) 1983, Standard on Fire Service Life Safety Rope and System Components, 2001 edition, and Society of Automotive Engineers (SAE) Aerospace Standard (AS) 8043, Revision A, Restraint Systems for Civil Aircraft, issued March 2000. We modified NFPA 1983 and SAE AS 8043, and show those modifications in Appendix 1 of the proposed TSO. This TSO's standards apply to equipment intended to allow personnel to be transported external

from a helicopter (human external cargo (HEC) operations).

How To Get Copies

You may get a copy of the proposed TSO via the Internet at *http://www.faa.gov/certification/aircraft/TSOA.htm,* or by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on October 2, 2003.

David W. Hempe,

Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 03–25436 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

New Jersey Transit Rail Operations

[Docket Number FRA–1999–6356]

The New Jersey Transit Rail Operations (NJTR) requests an extension of time for a previously granted temporary waiver of compliance with the *Passenger Equipment Safety Standards*, 49 CFR part 238.235, for seventy (70) Comet I, low level door passenger coaches. The previously granted waiver requiring that each power operated door that is partitioned from the passenger compartment shall be equipped with a manual override adjacent to that door will expire on December 31, 2003. NJTR expected to retire the 70 cars after receiving 265 new Comet V cars and 160 re-manufactured Comet II cars. NJTR indicates that there have been numerous delays in the delivery of the replacement equipment and requests that the waiver extension be granted until a sufficient number of these cars are delivered to maintain their service.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–1999–6356) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room Pl-401, Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78). The Statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC. on October 7, 2003.

Grady C. Cothen,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–25896 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No.: 2002–13234]

Denial of Petition for Rulemaking; Code of Federal Regulations

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies the petition submitted by Bluewater Network, requesting that NHTSA initiate rulemaking to amend testing and calculation procedures and/or correction factors used to determine the fuel economy information relayed to consumers and policy makers, because NHTSA has no statutory authority to take the requested actions. It also denies the request that NHTSA use such amended calculations as the basis for data presented in the agency's annual report on the corporate average fuel economy (CAFE) program.

FOR FURTHER INFORMATION CONTACT: Ms. Henrietta L. Spinner, Office of Planning and Consumer Standards, NHTSA, 400 Seventh Street SW., Washington, DC 20590 at (202) 366–4802, facsimile (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a letter dated June 11, 2002, the Bluewater Network (Bluewater) petitioned the Environmental Protection Agency (EPA) and the Department of Transportation (DOT) to initiate rulemaking to revise the test procedures, calculation methods, and correction factors employed in the calculations used to determine the fuel economy information relayed to consumers and policy makers so that these values more accurately reflect the actual, real-world fuel economy that vehicles achieve on the road. DOT's authority under the CAFE program has been delegated to NHTSA. The petitioner also requested that NHTSA use more accurate fuel economy information in its annual report to Congress titled *Automotive Fuel Economy Program Annual Update.*

The Energy Policy Conservation Act passed by Congress in 1975 added Title V, ''Improving Automotive Efficiency,'' to the Motor Vehicle Information and Cost Savings Act and established the CAFE program, under which CAFE standards are set for passenger cars and light trucks. CAFE is the sales weighted average fuel economy, expressed in miles per gallon (mpg), of a manufacturer's fleet of passenger cars or light trucks with a gross vehicle weight rating (GVWR) of 8,500 lbs. or less, manufactured for sale in the United States, for any given model year.

Both EPA and NHTSA have executive responsibilities for CAFE. The EPA administers the testing program, which generates the fuel economy data and determines the procedures for calculating the fuel economy values for CAFE. It also compiles the production data from manufacturers' reports and furnishes CAFE results to both NHTSA and Department of Energy (DOE).

For CAFE, the test data are adjusted upward to account for the incentives authorized for dual fuel and dedicated alternative fuel vehicles. For passenger cars only, it is also adjusted upward to

account for test procedure changes since the CAFE program was established.

The EPA and DOE annually publish the *Fuel Economy Guide*, listing the fuel efficiencies (in miles per gallon) of new passenger vehicles. The *Fuel Economy Guide* is published and distributed by DOE, based on EPA data. This document lists the city and highway fuel economy estimates that are included on the fuel economy label on new vehicles. Manufacturers are required to place a window sticker containing the city and highway fuel economy (mpg) values on all new cars and light trucks (less than 8,500 GVWR), when they are offered for sale or lease.

NHTSA is responsible for establishing and amending the CAFE standards, promulgating regulations concerning CAFE procedures, definitions, and reports, considering petitions for exemption from standards for low volume manufacturers and establishing unique standards for them; enforcing fuel economy standards and regulations, responding to petitions concerning domestic production by foreign manufacturers and all other aspects of CAFE, including the classification of vehicle lines as either cars or trucks; collecting, recording, and cataloging manufacturers' Pre- and Mid-model year reports, considering carryback credit plans, and providing program incentives such as credits for alternative fueled vehicle lines.

Three different sets of fuel economy values exist: EPA's unadjusted dynamometer values, EPA's adjusted on-road values as reported to consumers, and manufacturer fleet fuel economy values as reported to NHTSA. Unfortunately, confusion also exists, especially regarding the origins of each set and how they are employed. The EPA's unadjusted dynamometer values are calculated from the emissions generated during the testing using a carbon balance equation. EPA knows the amount of carbon in the fuel, so by measuring the carbon compounds expelled in the exhaust they can calculate the fuel economy.

However, calculations using the carbon balance equation, in a controlled laboratory setting, overstate the fuel economy most people will achieve in real-world driving. To account for this, EPA conducted an extensive study in the early 1980s. In 1985, EPA adopted correction factors derived from the study to adjust downward the fuel economy values derived from the carbon balance equation, when the fuel economy would be reported to the public. The city test value measured, using the carbon balance equation, is reduced 10 percent with these correction factors, while the highway test value is reduced 22 percent. This downward adjustment of the fuel economy calculated from the carbon balance equation accounts for the differences between real-world driving and controlled laboratory conditions, and is used to provide more accurate information to prospective vehicle buyers. EPA has long reported its downward adjusted values as the fuel economy values listed in the Department of Energy's Fuel Economy Guide and on new vehicle labels. Thus, all of the fuel economy values that the Federal government uses for consumer information are EPA's downward-adjusted fuel economy levels.

As previously noted, manufacturer fleet fuel economy values are calculated by EPA, using the carbon balance equation and adjusted upward, if necessary, to reflect incentives mandated by law. Reported by EPA to NHTSA, these values are not intended to be used by the public for consumer information, as the government's best estimate of the fuel economy the public will actually achieve. Instead, the manufacturer fleet fuel economy values are used to determine compliance with the applicable average fuel economy standards. Manufacturer performance is reported in NHTSA's *Automotive Fuel Economy Program Annual Update.* Until recently, there was a statutory requirement for NHTSA to submit this annual report to Congress. However, effective May 15, 2000, the reporting requirement was eliminated pursuant to the Federal Reports Elimination and Sunset Act of 1995. Nonetheless, the agency still voluntarily produces the report. The primary purpose of the report is to provide information regarding the status of vehicle manufacturers' compliance with the CAFE standards. Again, this update is not intended as consumer information.

Bluewater petitioned EPA and NHTSA to initiate rulemaking to revise the test procedures, calculation methods, and correction factors employed in the calculations used to determine the fuel economy information relayed to consumers and policy makers so that these values more accurately reflect the actual, real-world fuel economy that vehicles achieve on the road.

Petitioner's Rationale

The petitioner stated that, since the CAFE program's inception in the mid-1970s, motorists have complained that their actual in-use fuel economy was significantly lower than the fuel economy figures reported by EPA. Although 17 years have passed since EPA promulgated correction factors to adjust the city and highway fuel economy values, Bluewater asserts that drivers today continue to complain that they are not achieving the fuel economy displayed on the window sticker when they purchased their vehicle or published in the *Fuel Economy Guide.*

Bluewater cited several recent studies that indicate EPA's real-world fuel economy adjustments should be revised, including a report by Mintz and others,[1] the Energy Information Administration's (EIA) *Annual Energy Outlook 2000* publication,[2] Fred Westbrook and Phil Patterson's 1989 study,[3] and the National Research Council's report.[4]

Bluewater stated that a 1993 study conducted by Mintz, *et al.* analyzed the shortfall experience of all household vehicles on the road in 1985, finding that the fuel economy shortfall was greater than the 15 percent correction factor EPA extrapolated to adjust the combined fuel economy values (55 percent city/45 percent highway): 18.7 percent for cars and 20.1 percent for light trucks.

The petitioner also stated that EIA's *Annual Energy Outlook 2000* indicated that, in 2001, the difference between the EPA's combined fuel economy rating and actual on-road fuel economy was 14.5 percent for cars and 19.3 percent for light trucks. EIA also projected that the on-road fuel economy shortfall will increase to 16.2 percent for cars and 20.9 percent for light trucks by 2020.

Westbrook and Patterson's 1989 study projected that the difference between the EPA's combined fuel economy rating and actual on-road fuel economy would rise above 29.7 percent by 2010.

The National Research Council's recent report stated that most drivers experience lower fuel economy than suggested by EPA's results. Furthermore, it noted that a review of the validity of the test cycles for today's patterns would be appropriate.

Bluewater believes that EPA should revise its on-road fuel economy adjustment factor and NHTSA should use the revised fuel economy values in

[1] Mintz, Marianne, Anant D. Vyas, and Lester A. Conley, ''Differences Between EPA-Test and In-Use Fuel Economy: Are the Correction Factors Correct?'' Transportation Research Record 1416 (1993), 124–130; EPA. Passenger Car Fuel Economy: EPA and Road.

[2] EIA. Assumptions to the Annual Energy Outlook 2000 with Projections to 2020: Transportation Demand Module. DOE/EIA–0554. January 2000.

[3] Westbrook, Fred and Patterson, Phil. ''Changing Driving Patterns and Their Effect on Fuel Economy.'' Presented at the 1989 SAE Government/Industry Meeting, Washington, DC. May 1989.

[4] National Research Council. Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards. July 2001.

its reports because that data would relay to consumers and to Congress a more accurate reflection of today's driving conditions and the in-use fuel economy.

Agency's Analysis

Under 49 U.S.C. 32904 and 32908, EPA is statutorily responsible for conducting fuel economy testing and calculating vehicle fuel economy, determining manufacturers' CAFE performances, and developing fuel economy data to be provided to consumers. Therefore, NHTSA simply does not have the statutory authority to grant the relief sought by the Bluewater petition. EPA is currently reviewing the petition and will address these issues separately.

After analyzing Bluewater's petition, the agency has concluded that it should not change the information it presents in its annual report on the CAFE program. NHTSA is statutorily required to base its CAFE calculations on the data supplied by EPA, resulting from these test procedures. Given that a primary purpose of the annual report is to provide information on the status of manufacturers' compliance with the CAFE standards, we believe that presenting the CAFE values as they are calculated for compliance purposes is the appropriate manner in which to present fuel economy data in the annual report. The report is not intended for consumer information purposes, and the agency is no longer required to submit the report to Congress. Finally, we note the agency's most recent update of the report includes a discussion that thoroughly explains the differences between EPA fuel economy values, on-road values, and the CAFE compliance values.

In light of the above considerations, the agency has reviewed the petition and concluded that it should not be granted. Accordingly, we deny Bluewater's petition. We note that this denial does not affect EPA's response to the petition.

Issued on: October 8, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–25959 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2003–16114; Notice 1]

Michelin North America, Inc., Receipt of Application for Decision of Inconsequential Noncompliance

Michelin North America, Inc. (MNA) has determined that approximately 31,266 Michelin Pilot Sport/Alpin tires have been imported into the United States with sidewall markings that did not meet the labeling requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 109 *''New Pneumatic Tires.''*

Pursuant to 49 U.S.C. 30118(d) and 30120(h), MNA has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' A copy of the petition may be found in this docket.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

The affected tires whose sidewalls labeling includes a maximum psi inflation pressure marking which rounds from the metric value to the nearest whole number (in this case down), rather than rounding up to the next higher whole number as specified by FMVSS No. 109 S4.3.4 (a). The tires in question meet or exceed all other requirements of FMVSS 109. The regulations applicable to 340 kPa tires require that the psi units be rounded ''to the next higher whole number'' even when the nearest whole number, and most accurate rounding, would require rounding down than up. The correct maximum inflation pressure required by FMVSS No. 109 for these tires is: ''340 kPa (50 psi).'' The noncompliant tires were incorrectly marked: ''340 kPa (49 psi).'' The actual conversion of 340 kPa to psi units yields 49.35 psi before rounding to whole numbers (340 kPa divided by a conversion factor of 6.895 equals 49.35 psi).

MNA states that this noncompliance will have no impact on either the performance of the tire on a motor vehicle, or on motor vehicle safety itself. MNA argues that the National Highway Traffic Safety Administration (NHTSA) has recently studied the impact of tire labeling information on safety in the context of its rulemaking efforts under the Transportation Recall Enhancement, Accountability and Documentation (TREAD) Act. This analysis found that sidewall maximum inflation pressure labeling is poorly understood by the general public, and indicated that those consumers that are aware of sidewall maximum inflation pressure labeling commonly misuse this information. A number of commenters on both the Advanced Notice of Proposed Rulemaking and the Notice of Proposed Rulemaking for Tire labeling recommended that the maximum inflation pressure labeling be removed from the sidewall because of its limited safety value and its propensity to confuse consumers. NHTSA ultimately decided to retain maximum inflation pressure labeling requirements as an aid in preventing over-inflation. The mislabeling issue in this case will in no way contribute to the risk of over-inflation because the value actually marked is lower than the value required by the regulations.

Also, MNA believes that, this mislabeling is clearly inconsequential with respect to safety for all of the following stated reasons: (1) The noncompliance is one solely of rounding to the nearest whole number and labeling; (2) The actual labeling is one psi less than that required by the regulation; (3) Rounding 49.35 psi to 49 psi, the nearest whole number, is more accurate in this case than rounding to the next higher whole number (50) as required by the regulations; (4) All performance requirements of FMVSS No. 109 are met or exceeded; (5) These tires are marked with the correct metric maximum inflation pressure (as allowed by FMVSS No. 109 and as shown on pages 1–32 of the 2003 Tire and Rim Association yearbook); (6) Use of the sidewall label as a source of information for the maximum inflation pressure will not increase the risk of over-inflation of the tire because the actual value is lower than both the actual maximum inflation pressure (by 0.35 psi) and lower than the 50 psi value required for these tires by the regulations; (7) Incorrect use of the sidewall label maximum inflation pressure as a source of information for the recommended inflation pressure will not result in an overloading of the tires or reduce the load capacity of the tires because the 49 psi conversion still remains 8 psi greater than that required to carry the maximum load for these tires. In fact, 340 kPa (50psi) is the higher of two alternative choices for the maximum inflation pressure provided for this tire's load rating per The Tire and Rim Association yearbook. Consequently, MNA believes that the foregoing noncompliance will have an

inconsequential impact on motor vehicle safety.

Interested persons are invited to submit written views, arguments, and data on the application described above. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods: Mail: Docket Management Facility; U.S. Department of Transportation, Nassif Building, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590–0001. Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC. Fax: 1–202–493–2251, or submit to Federal Rulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays. Comments may be submitted electronically by logging onto the Docket Management System Web site at *http://dms.dot.gov.* Click on ''Help'' to obtain instructions for filing the document electronically.

The application and supporting materials and all comments received before the close of business on the closing date indicated below will be considered. All comments received after the closing date will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: *November 13, 2003.*

Authority: (49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: October 7, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–25960 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–03–16273]

Pipeline Safety: Stress Corrosion Cracking (SCC) Workshop

AGENCY: Office of Pipeline Safety, Research and Special Programs Administration, DOT.

ACTION: Notice; Workshop on Stress Corrosion Cracking (SCC).

SUMMARY: The Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) and the National Association of Pipeline Safety Representatives (NAPSR) are cosponsoring a workshop on stress corrosion cracking (SCC) with the pipeline industry trade associations (American Petroleum Institute, Association of Oil Pipelines, Interstate Natural Gas Association of America, American Gas Association, and NACE International). The workshop will provide a forum for the discussion of SCC phenomena in both gas and hazardous liquid pipelines.

DATES: Tuesday, December 2, 2003, from 8 a.m. to 5 p.m.

ADDRESSES: The public may attend the meeting at the Westin Oaks Hotel, 5011 Westheimer Blvd., Houston, TX 77056 (telephone: 713–960–8100; fax: 713–960–6553). Operators of natural gas transmission and hazardous liquid pipelines are urged to attend. To facilitate meeting planning, advance registration for these meetings is strongly encouraged and can be accomplished online at the following Web site: *http://primis/rspa.dot.gov/meetings.*

Members of the public are welcome to attend the workshop. An opportunity will be provided for the public to ask questions or make short statements on the topics under discussion. You may submit written comments by mail or deliver to the Dockets Facility, U.S. Department of Transportation (DOT), Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. It is open from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays. You also may submit written comments to the docket electronically. To do so, log onto the following Internet Web address: *http://dms.dot.gov.* Click on ''Help & Information'' for instructions on how to file a document electronically. All written comments should identify the docket and notice numbers which appear in the heading of this notice. Anyone who would like confirmation of mailed comments must include a self-addressed stamped postcard.

Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the April 11, 2000, issue of the **Federal Register** (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Information on Services for Individuals with Disabilities: For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Juan Carlos Martinez (telephone: 202–366–1933; E-mail: *juan.martinez@rspa.dot.gov).*

FOR FURTHER INFORMATION CONTACT: Janice Morgan (telephone: 404–562–3552; E-mail *janice.morgan@rspa.dot.gov*) regarding the subject matter of this notice. You can read comments and other material in the docket on the Internet at: *http://dms.dot.gov.*

SUPPLEMENTARY INFORMATION: The first recorded SCC failure of a pipeline in the United States was in 1965. SCC continues to be a threat to the integrity of both gas transmission and hazardous liquid pipelines under certain conditions. Recent incidents throughout North America and elsewhere, including Australia, Russia, Saudi Arabia, and South America, have highlighted the threats to pipelines from SCC failures. Although SCC failures on hazardous liquid pipelines have been very rare compared with other threats to hazardous liquid pipelines and compared with SCC occurrences on natural gas pipelines, three SCC-caused failures of hazardous liquid pipelines have occurred in 2003.

RSPA/OPS recently issued an Advisory Bulletin to remind owners and operators of gas transmission and hazardous liquid pipelines to consider SCC as a risk factor when developing and implementing Integrity Management Plans. All owners and operators of pipeline systems, whether or not their pipeline systems are subject to the Integrity Management Plan rules, should determine whether their pipeline system is susceptible to SCC and assess the impact of SCC on pipeline integrity. Based on this evaluation an operator should prioritize application of internal inspection, hydrostatic testing, or other forms of integrity verification.

The workshop on December 2, 2003, will address the following topics:

1. Stress Corrosion Cracking—description, science, and history.

2. Practical application of SCC principles—how to assess SCC in operating pipelines within the context of integrity management.

3. Response to the occurrence of SCC—guidelines for response and remediation; addressing public concerns.

4. Research and development—knowledge gaps and next steps.

This is a technical workshop aimed at sharing information on SCC in pipelines among operators and technical experts, providing regulators with information they can use in pipeline inspection and oversight, and reviewing priorities for research to address the problems posed by SCC in operating gas and hazardous liquid pipelines.

RSPA/OPS will soon publish a final rule to require gas transmission pipelines to develop Integrity Management Plans for high consequence areas that incorporates requirements for addressing SCC threats by referencing Appendix A3 of standard ASME B31.8S. Although criteria and mitigation plans for near-neutral pH (6–8) SCC is not addressed in this standard, NACE International (NACE) is currently developing a standard on Direct Assessment of Stress Corrosion Cracking. Also, NACE will soon issue a technical committee report, *External Stress Corrosion Cracking of Underground Pipelines,* to provide information on SCC for hazardous liquid pipelines.

RSPA/OPS is cosponsoring this workshop with NAPSR and major pipeline industry trade groups, including the American Petroleum Institute (API) Association of Oil Pipelines (AOPL), Interstate Natural Gas Association of America (INGAA), American Gas Association (AGA), and a professional association, NACE International.

Authority: 49 U.S.C. 60102, 60109, 60117.

Issued in Washington, DC on October 7, 2003.

Jeffrey D. Wiese,

Manager, Program Development, Office of Pipeline Safety.

[FR Doc. 03–25894 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–03–14793 (Notice No. 03–11)]

Hazardous Materials: Regulations for the Safe Transport of Radioactive Material (TS–R–1); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: RSPA will conduct a public meeting pertaining to the proposed changes to the International Atomic Energy Agency's (IAEA) Regulations for the Safe Transport of Radioactive Materials, TS–R–1, scheduled for revision in the year 2005. Interested persons are invited to attend.

DATES: *Public meeting.* The public meeting will be held on November 5, 2003 from 9:30 a.m. to 11 a.m.

ADDRESSES: *Public meeting.* The meeting will be held at Department of Transportation Headquarters, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590–0001, in room 8236–8240.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to the Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Boyle, Office of Hazardous Material Technology, U.S. Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590–0001; (202) 366–2993; *rick.boyle@rspa.dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

The purpose of this meeting is to discuss the U.S. Department of Transportation comments forwarded to the International Atomic Energy Agency (IAEA) on the proposed changes to the IAEA Regulations for the Safe Transport of Radioactive Materials, TS–R–1. These comments will be presented as the U.S. positions at the IAEA regulatory review meeting scheduled for November 10–14, 2003, in Bonn, Germany. The public is invited to attend without prior notification. Due to heightened security measures at DOT Headquarters, participants are encouraged to arrive early to allow time to undergo the security checks necessary to obtain access to the building.

The regulatory changes proposed by IAEA are available on the Internet at *http://hazmat.dot.gov/files/IAEA_TS–R–1_rev_prop.pdf.* A consolidated draft of the endorsed proposed TS–R–1 revision may be downloaded at *http://hazmat.dot.gov/files/IAEA_TS–R–1_rev_draft.pdf.* A summary of the U.S. DOT positions forwarded to the IAEA may be downloaded at *http://hazmat.dot.gov/files/IAEA_TS–R–1_dot_position.pdf.*

Issued in Washington, DC on October 7, 2003.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 03–25895 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 239X)]

The Alabama Great Southern Railroad Company—Abandonment Exemption—in New Orleans, LA

The Alabama Great Southern Railroad Company (AGS)[1] has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 1.28 miles of railroad between milepost 1.22–NT and milepost 2.50–NT, in New Orleans, LA. The line traverses United States Postal Service Zip Code 70112.

AGS has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 13, 2003, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal

[1] AGS is a wholly owned subsidiary of Norfolk Southern Railway Company.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of

Continued

expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 24, 2003. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 3, 2003, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to AGS's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

AGS has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by October 17, 2003. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), AGS shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by AGS's filing of a notice of consummation by October 14, 2004, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: October 3, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–25787 Filed 10–10–03; 8:45 am]

BILLING CODE 4915–00–P

Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which currently is set at $1,100. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 3, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 13, 2003 to be assured of consideration.

Departmental Offices/Office of International Affairs/International Portfolio Investment Data Systems

OMB Number: 1505–0001.

Form Number: Treasury International Capital Form S.

Type of Review: Extension.

Title: Purchase and Sale of Long-Term Securities by Foreigners.

Description: Form S is required by law and is designed to collect timely information on international portfolio capital movements, including foreigners' purchases and sales of long-term securities in transactions with U.S. persons. The information will be used in the computation of the U.S. balance of payments accounts and international investment position, as well as in the formulation of U.S. international financial and monetary policies.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 250.

Estimated Burden Hours Per Respondent: 5 hours, 36 minutes.

Frequency of Response: Monthly.

Estimated Total Reporting Burden: 16,800 hours.

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Treasury PRA Clearance Officer.

[FR Doc. 03–25856 Filed 10–10–03; 8:45 am]

BILLING CODE 4811–16–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8869

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8869, Qualified Subchapter S Subsidiary Election.

DATES: Written comments should be received on or before December 15, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Qualified Subchapter S Subsidiary Election.

OMB Number: 1545–1700.

Form Number: 8869.

Abstract: Effective for tax years beginning after December 31, 1996, Internal Revenue Code section 1361(b)(3) allows an S corporation to own a corporate subsidiary, but only if it is wholly owned. To do so, the parent S corporation must elect to treat the wholly owned subsidiary as a qualified subchapter S subsidiary (QSub). Form 8869 is used to make this election.

Current Actions: There are no changes being made to the form at this time.

Affection Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 8 hr., 9 minutes.

Estimated Total Annual Burden Hours: 40,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 6, 2003.

Carol Savage,

Management and Program Analyst.

[FR Doc. 03–25915 Filed 10–10–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2000–41

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2000–41, Change in Minimum Funding Method.

DATES: Written comments should be received on or before December 15, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3945, or through the Internet at *CAROL.A.SAVAGE@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Change in Minimum Funding Method.

OMB Number: 1545–1704.

Revenue Procedure Number: Revenue Procedure 2000–41.

Abstract: Revenue Procedure 2000–41 provides a mechanism whereby a plan sponsor or plan administrator may obtain a determination from the Internal Revenue Service that its proposed change in the method of funding its pension plan(s) meets the standards of section 412 of the Internal Revenue Code.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 300.

Estimated Time Per Respondent: 18 hours.

Estimated Total Annual Burden Hours: 5,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 7, 2003.

Carol Savage,

Management and Program Analyst.

[FR Doc. 03–25916 Filed 10–10–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–106030–98]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, REG–106030–98, Source of Income from Certain Space and Ocean Activities; Also, Source of Communications Income (§§ 1.863–8(g) and 1.863–9(g).

DATES: Written comments should be received on or before December 15, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3945, or through the internet at *CAROL.A.SAVAGE@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Source of Income from Certain Space and Ocean Activities; Also, Source of Communications Income.

OMB Number: 154–1718.

Regulation Project Number: REG–106030–98.

Abstract: The information requested in proposed sections 1.863–8(g) and 1.863–9(g) is necessary for the Service to audit taxpayers' returns to ensure that taxpayers are applying the regulation properly.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents/Recordkeepers: 250.

Estimated Average Time per Respondent/Recordkeeper: 5 hours.

Estimated Total Annual Reporting/Recordkeeping Hours: 1,250.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 7, 2003.

Carol Savage,

Management and Program Analyst.

[FR Doc. 03–25917 Filed 10–10–03; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–656–871]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–656–87 (TD 8701), Treatment of Shareholders of Certain Passive Foreign Investment Companies (§§ 1.1291–9 and 1.1291–10).

DATES: Written comments should be received on or before December 15, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Larnice Mack at (202) 622–3179, or *Larnice.Mack@irs.gov*, or Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Treatment of Shareholders of Certain Passive Foreign Investment Companies.

OMB Number: 1545–1507.

Regulation Project Number: INTL–656–87.

Abstract: The reporting requirements affect United States persons that are direct and indirect shareholders of passive foreign investment companies (PFICSs). The requirements enable the Internal Revenue Service to identify PFICs, United States shareholders, and transactions subject to PFIC taxation and verify income inclusions, excess distributions, and deferred tax amounts.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 131,250.

Estimated Time Per Respondent: 46 minutes.

Estimated Total Annual Burden Hours: 100,000.

The following paragraph applies to all of the collections of 1information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 7, 2003.

Carol Savage,

Management and Program Analyst.

[FR Doc. 03–25918 Filed 10–10–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–248900–96]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–248900–96 (TD 8712), Definition of Private Activity Bonds (§§ 1.141–1, 1.141–12, 1.142–2, and 1.148–6).

DATES: Written comments should be received on or before December 15, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Larnice Mack at (202) 622–3179, or *Larnice.Mack@irs.gov,* or Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Definition of Private Activity Bonds.

OMB Number: 1545–1451.

Regulation Project Number: REG–248900–96.

Abstract: Internal Revenue Code section 103 provides generally that interest on certain State or local bonds is excluded from gross income. However, under Code sections 103(b)(1) and 141, interest on private activity bonds (other than qualified bonds) is not excluded. This regulation provides rules, for purposes of Code section 141, to determine how bond proceeds are measured and used and how debt service for those bonds is paid or secured.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or tribal governments.

Estimated Number of Respondents: 10,100.

Estimated Time Per Respondent: 2 hours, 59 minutes.

Estimated Total Annual Burden Hours: 30,100.

The following paragraph applies to all of the collections of 1information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 6, 2003.

Carol Savage,

Management and Program Analyst.

[FR Doc. 03–25919 Filed 10–10–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 97–48

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 97–48, Automatic Relief for Late S Corporation Elections.

DATES: Written comments should be received on or before December 15, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of revenue procedure should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3945, or through the Internet at *Carol.a.savage@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Automatic Relief for Late S Corporation Elections.

OMB Number: 1545–1562.

Revenue Procedure Number: Revenue Procedure 97–48.

Abstract: The Small Business Job Protection Act of 1996 provides the IRS with the authority to grant relief for late S corporation elections. This revenue procedure provides that, in certain situations, taxpayers whose S corporation election was filed late can obtain relief by filing Form 2553 and attaching a statement explaining that the requirements of the revenue procedure have been met.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 8, 2003.

Carol Savage,

Management and Program Analyst.

[FR Doc. 03–25920 Filed 10–10–03; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2000–42

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2000–42, Section 1503(d) Closing Agreement Requests.

DATES: Written comments should be received on or before December 15, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3945, or through the Internet at *CAROL.A.SAVAGE@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Section 1503(d) Closing Agreement Requests.

OMB Number: 1545–1706.

Revenue Procedure Number: Revenue Procedure 2000–42.

Abstract: Revenue Procedure 2000–42 informs taxpayers of the information they must submit to request a closing agreement under regulation section 1.1503–2(g)(2)(iv)(B)(2)(i) to prevent the recapture of dual consolidated losses upon the occurrence of certain triggering events.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 20.

Estimated Time Per Respondent: 100 hours.

Estimated Total Annual Burden Hours: 2,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 8, 2003.

Carol Savage,

Management and Program Analyst.

[FR Doc. 03–25921 Filed 10–10–03; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Group to the Commissioner of Internal Revenue; Meeting

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Notice.

SUMMARY: The Information Reporting Program Advisory Committee (IRPAC) will hold a public meeting on Thursday, October 23, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline Tilghman, National Public Liaison, CL:NPL:P, Room 7569 IR, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone: 202–622–6440 (not a toll-free number). E-mail address: **public_liaison@irs.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the IRPAC will be held on Thursday, October 23, 2003, from 9 a.m. to 4 p.m. in Room 2140, main Internal Revenue Service building, 1111 Constitution Avenue, NW., Washington, DC 20224. Issues to be discussed include: Tax Reporting Changes for Coverdell Educational Savings Account (ESA) Distributions, Electronic Filing of Forms 990; Form 1099-CAP Reporting, Power of

Attorney—Incapacitated Spouse, Form 1042–S—Additional Code for Canadians with U.S. Addresses, Schedule K–1 Enhancements, Continuing Professional Education (CPE) Credit, and Expansion of TIN Matching System to Permit Employers to Verify Employee Social Security Numbers. Reports from the four IRPAC sub-groups, Tax Exempt & Government Entities (TE/GE), Large and Mid-Size Business (LMSB), Small Business/Self-Employed (SB/SE), and Wage & Investment (W&I), will also be presented and discussed. Last minute agenda changes may preclude advance notice. The meeting room accommodates approximately 50 people, IRPAC members and Internal Revenue Service officials inclusive. Due to limited seating and security requirements, please call Jacqueline Tilghman to confirm your attendance. Ms. Tilghman can be reached at 202–622–6440. Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for purposes of security clearance. Please use the main entrance at 1111 Constitution Avenue to enter the building. Should you wish the IRPAC to consider a written statement, please call (202) 622–6440, or write to: Internal Revenue Service, Office of National Public Liaison, CL:NPL:P, 1111 Constitution Avenue, NW., Room 7569 IR, Washington, DC 20224 or e-mail: **public_liaison@irs.gov.*

Dated: October 7, 2003.

Robin G. Marusin,

Designated Federal Official, Branch Chief, Liaison/Tax Forum Branch.

[FR Doc. 03–25922 Filed 10–10–03; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 2 Taxpayer Advocacy Panel (Including the States of Delaware, North Carolina, South Carolina, New Jersey, Maryland, Pennsylvania, Virginia and the District of Columbia)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, November 4, 2003, from 3 p.m. to 4:30 p.m. EST.

FOR FURTHER INFORMATION CONTACT: Inez E. De Jesus at 1–888–912–1227, or 954–423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 2 Taxpayer Advocacy Panel will be held Tuesday, November 4, 2003 from 3 p.m. EST to 4:30 p.m. EST via a telephone conference call. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7977, or write Inez E. De Jesus, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Inez E. De Jesus. Ms. De Jesus can be reached at 1–888–912–1227 or 954–423–7977. The agenda will include the following: Various IRS issues.

Dated: October 7, 2003.

Tersheia Carter,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 03–25826 Filed 10–10–03; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Customer Awareness Survey.

DATES: Written comments should be received on or before December 12, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Customer Awareness Survey.

Abstract: The survey will focus on customer awareness of electronic savings bonds.

Current Actions: None.

Type of Review: New.

Affected Public: Individuals.

Estimated Number of Respondents: 5,000.

Estimated Total Annual Burden Hours: 1,250.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: October 7, 2003.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 03–25862 Filed 10–10–03; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0335]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the

Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine a veteran's dental treatment needs, and the fees associated for these services.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 15, 2003.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (193B1), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail ann.bickoff@mail.va.gov. Please refer to ''OMB Control No. 2900–0335'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Dental Record Authorization and Invoice for Outpatient Services, VA Form 10–2570d.

OMB Control Number: 2900–0335.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 10–2570b, Examination Procedure Instructions for Participating Fee Dentist, and VA Form 10–2570c, Treatment Procedure Instructions for the Participating Fee Dentist, have been combined with VA Form 10–2570d, Dental Record Authorization and Invoice for Outpatient Services. VA Form 10–2570d is essential to the proper administration of VA outpatient fee dental program. The associated instructions make it possible to communicate with clarity the required procedures, peculiarities, and precautions associated with VA authorizations for contracting with private dentists for the provision of dental treatment for eligible veteran beneficiaries. Since most of the veterans who are authorized fee dental care are geographically inaccessible to VA dental clinics, it is necessary to request information as to the veteran's oral condition, treatment needs and the usual customary fees for these services from the private fee dentist whom the veteran has selected. The form lists the dental treatment needs of the veteran patient, the cost to VA to provide such services, and serves as an invoice for payment.

Affected Public: Business and other for profit.

Estimated Total Annual Burden: 4,153 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 12,460.

Dated: October 2, 2003.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 03–25836 Filed 10–10–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0358]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to evaluate veterans' and other eligible person's suitability to change their program of education objectives.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 15, 2003.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 e-mail: *irmnkess@vba.va.gov*. Please refer to ''OMB Control No. 2900–0358'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Supplemental Information for Change of Program or Reenrollment After Unsatisfactory Attendance, Conduct or Progress, VA Form 22–8873.

OMB Control Number: 2900–0358.

Type of Review: Extension of a currently approved collection.

Abstract: Veterans and other eligible persons may change their program of education under conditions prescribed by Title 38 U.S.C., Section 3691. A claimant can normally make one change of program without VA approval. If that claimant makes any additional change of program, VA approval is required. Before VA may approve benefits for a second or subsequent change of

program, VA must first determine that the new program is suitable to the claimant's aptitudes, interests, and abilities, or that the cause of any unsatisfactory progress or conduct has been resolved before entering into a different program. VA Form 22–8873 is used to gather the necessary information only if the suitability of the proposed training program cannot be established from information already available in the claimant's VA education records.

Affected Public: Individuals or households.

Estimated Annual Burden: 9,150 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 18,300.

Dated: October 2, 2003.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 03–25837 Filed 10–10–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0379]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to verify the actual number of hours worked by a work-study claimant.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 15, 2003.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 e-mail: *irmnkess@vba.va.gov*. Please refer to ''OMB Control No. 2900–0379'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Time Record (Work-Study Program), VA Form 22–8690.

OMB Control Number: 2900–0379.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 22–8690 is used to report the number of hours completed and to ensure that the amount of benefits payable to a claimant who is pursuing work-study is correct. When a claimant elects to receive an advance payment, VA will make the advance payment for 50 hours, but will withhold benefits (to recoup the advance payment) until the claimant completes his or her 50 hours of service. VA will not pay any additional amount in advance payment cases until the claimant completes a total of 100 hours of service (50 hours for the advance payment and 50 hours for an additional payment). If the claimant elects not to receive an advance payment, benefits are payable when the claimant completes 50 hours of service.

Affected Public: State, Local or Tribal Governments, Individuals or households, Business or other for-profit, Not-for-profit institutions, and Federal Government.

Estimated Annual Burden: 10,750 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Annual Responses: 129,000.

Estimated Number of Respondents: 32,250.

Dated: October 1, 2003.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 03–25838 Filed 10–10–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0523]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information to determine the veteran-borrower's ability to qualify for guaranteed loan.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before December 15, 2003.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or *mailto:irmnkess@vba.va.gov*. Please refer to ''OMB Control No. 2900–0523'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must

obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Loan Analysis, VA Form 26–6393.

OMB Control Number: 2900–0523.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–6393 is used to determine a veteran-borrower qualification for a VA-guaranteed loan. Lenders complete and submit the form to provide evidence that the lender's decision to submit a prior approval loan application or close a loan on the automatic basis is based upon appropriate application of VA credit standards.

Affected Public: Business or other for profit.

Estimated Annual Burden: 100,000 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 200,000.

Dated: October 2, 2003.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 03–25839 Filed 10–10–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Vocational Rehabilitation & Employment Task Force; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the VA Vocational Rehabilitation & Employment (VR&E) Task Force will be held on Wednesday, October 22, 2003, in Room 530 at the VA Central Office, 810 Vermont Avenue, NW, Washington, DC 20420. The meeting will be open to the public.

The purpose of the Task Force is to conduct an independent review of the VR&E program within the Veterans Benefits Administration (VBA). The Task Force will provide recommendations to the Secretary of Veterans Affairs on improving the Department's ability to provide comprehensive services and assistance to veterans with service-connected disabilities and employment handicaps in becoming employable, and obtaining and maintaining suitable employment. The Task Force will also assess independent living services provided by VBA.

The October 22, 2003, meeting will convene at 8 a.m. and adjourn after the Task Force has completed discussion on potential recommendations designed to improve VA's ability to deliver employment and vocational rehabilitation services. That discussion is expected to focus on issues that fall generally within the Task Force's areas of emphasis—internal management, systems integration, employment, and independent living services.

No time will be allocated for receiving oral presentations from the public. Members of the public may submit written comments for review by the Committee to: Mr. John O'Hara, Designated Federal Officer, Vocational Rehabilitation & Employment Task Force, c/o Office of Policy, Planning, and Preparedness (008B), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Mr. O'Hara's email is *john.o'hara@mail.va.gov* and his fax number is (202) 273–5991.

Dated: October 3, 2003.

By Direction of the Secretary.

Phil Riggin,

Committee Management Officer.

[FR Doc. 03–25840 Filed 10–10ndash;03; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Performance Review Board Members

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Under the provisions of 5 U.S.C. 4314(c)(4) agencies are required to publish a notice in the **Federal Register** of the appointment of Performance Review Board (PRB) members. This notice revises the list of members of the Department of Veterans Affairs (VA) Performance Review Boards, which was published in the **Federal Register** (Vol. 67, No. 185), on September 24, 2002.

EFFECTIVE DATE: October 14, 2003.

FOR FURTHER INFORMATION CONTACT: Charlotte Moment, Office of Human Resources Management (052B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8165.

VA Performance Review Board (PRB)

William H. Campbell, Acting Assistant Secretary for Human Resources and Administration (Chairperson)
Nora E. Egan, Chief of Staff
William D. Stinger, Deputy Under Secretary for Benefits, Veterans Benefits Administration
Jonathan B. Perlin, Deputy Under Secretary for Health, Veterans Health Administration
John H. Thompson, Deputy General Counsel
D. Mark Catlett, Principal Deputy Assistant Secretary for Management
Lucretia M. McClenney, Special Assistant
Michael G. Sullivan, Deputy Inspector General
Edward F. Meagher, Deputy Assistant Secretary for Information Technology Management
Eligah D. Clark, Chairman, Board of Veteran's Appeals
Ventris C. Gibson, Deputy Assistant Secretary for Human Resources Management (Alternate)
Michael Walcoff, Associate Deputy Under Secretary for Operations, Veterans Benefits Administration (Alternate)
Laura J. Miller, Assistant Deputy Under Secretary for Health for Operations and Management (Alternate)

Veterans Benefits Administration PRB

William D. Stinger, Deputy Under Secretary for Benefits, (Chairperson)
Robert J. Epley, Associate Deputy Under Secretary for Policy & Program Management
James Bohmbach, Chief Financial Officer
Michael Walcoff, Associate Deputy Under Secretary for Field Operations
Geraldine V. Breakfield, Associate Deputy Under Secretary for Management
Diana M. Rubens, Director, Western Area Office
Ronald R. Aument, Deputy Chief of Staff, Office of the Secretary

Veterans Health Administration PRB

Jonathan B. Perlin, M.D., Ph.D., M.S.H.A., Deputy Under Secretary for Health (Chairperson)

Laura J. Miller, Assistant Deputy Under Secretary for Health for Operations and Management (Vice-Chairperson)
Robert A. Perreault, Director, Business Office
Peter L. Almenoff, M.D., Acting Network Director, VISN 15
Alfonso R. Batres, Ph.D., Chief Readjustment Counseling Officer
Linda W. Belton, Network Director, VISN 11
Lawrence A. Biro, Network Director, VISN 4
Leslie M. Burger, M.D., Network Director, VISN 20
Jeanette A. Chirico-Post, M.D., Network Director, VISN 1
Kenneth J. Clark, Network Director, VISN 22
Thomas J. Craig, M.D., Acting Chief Quality and Performance Officer
Patricia A. Crosetti, Acting Clinical Logistics Officer
Joan E. Cummings, M.D., Network Director, VISN 12
John Dandridge, Jr., Network Director, VISN 9
Jim W. Delgado, Acting Chief Communications Officer
James B. Donahoe, Director, Veterans Canteen Service
James J. Farsetta, Network Director, VISN 3
William F. Feeley, Network Director, VISN 2
Elwood J. Headley, M.D., Network Director, VISN 8
Daniel F. Hoffmann, Network Director, VISN 6
Thomas V. Holohan, M.D., Chief Patient Care Services Officer
Thomas J. Hogan, Director, Management Support Office (Ex Officio)
Joy W. Hunter, Chief Learning Officer/ Dean, VA Learning University
Joseph A. Klein, Acting Chief Policy and Planning Officer
Robert M. Kolodner, M.D., Acting Chief Information Officer
Robert E. Lynch, M.D., Network Director, VISN 16
Charles K. Maffet, M.D., Acting Network Director, VISN 19
Susan H. Mather, M.D., Chief Public Health and Environmental Hazards Officer
Patricia A. McKlem, Network Director, VISN 18
Frances M. Murphy, M.D., M.P.H., Deputy Under Secretary for Health Policy Coordination
James J. Nocks, M.D., Network Director, VISN 5
Jimmy A. Norris, Chief Financial Officer
Clyde L. Parkis, Network Director, VISN 10
Robert A. Petzel, M.D., Interim Network Director, VISN 23
Stephanie H. Pincus, M.D., M.B.A., Chief Academic Affiliations Officer
Cathy Rick, R.N., M.S.N., Chief Nursing Officer
Thomas J. Stranova, Network Director, VISN 17
Linda F. Watson, Network Director, VISN 7
Nevin Weaver, VHA Chief of Staff
Robert L. Wiebe, M.D., Network Director, VISN 21
Nelda P. Wray, M.D., M.P.H., Chief Research and Development Officer
Charles V. Yarbrough, Chief Facilities Management Officer
Dennis M. Duffy, Principal Deputy Assistant Secretary for Policy, Planning and Preparedness

Office of Inspector General PRB

David A. Brinkman, Director, Audit Follow-up Director, Department of Defense (Chairperson)
Nancy Hendricks, Assistant Inspector General for Audit, Federal Emergency Management Agency
George Grob, Deputy Inspector General for Evaluation and Inspections, Department of Health and Human Services

Dated: October 2, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 03–25841 Filed 10–10–03; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 68, No. 198

Tuesday, October 14, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 03–078–1]

Notice of Request for Extension of Approval of an Information Collection

Correction

In notice document 03–25253 beginning on page 57653 in the issue of Monday, October 6, 2003, the subject heading is corrected to read as set forth above.

[FR Doc. C3–25253 Filed 10–10–03; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48533; File No. SR–PCX–2003–44]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Posting Period for Membership Applications

September 24, 2003.

Correction

In notice document 03–24753 beginning on page 56367 in the issue of September 30, 2003, in the third column, the docket number is corrected to read as set forth above.

[FR Doc. C3–24753 Filed 10–10–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14905; Airspace Docket No. 03–AGL–04]

Modification of Class E Airspace; Cheboygan, MI

Correction

In rule document 03–24607 appearing on page 55817 in the issue of Monday, September 29, 2003, make the following correction:

§ 71.1 [Corrected]

On page 55817, in the second column, in § 71.1, in the fifth line from the bottom, ''84°31′109″'' should read, ''84°31′09″''.

[FR Doc. C3–24607 Filed 10–10–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy Statement No. ANM–03–115–31]

Conducting Component Level Tests to Demonstrate Compliance

Correction

In notice document 03–23301 beginning on page 54042 in the issue of Monday, September 15, 2003, in the third column, the docket number is corrected to read as set forth above.

[FR Doc. C3–23301 Filed 10–10–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
October 14, 2003

Part II

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 575

Consumer Information; New Car Assessment Program; Rollover Resistance; Final Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. NHTSA–2001–9663; Notice 3]

RIN 2127–AI81

Consumer Information; New Car Assessment Program; Rollover Resistance

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final policy statement.

SUMMARY: The Transportation Recall Enhancement, Accountability, and Documentation Act of 2000 requires NHTSA to develop a dynamic test on rollovers by motor vehicles for the purposes of a consumer information program, to carry out a program of conducting such tests, and, as these tests are being developed, to conduct a rulemaking to determine how best to disseminate test results to the public. This document modifies NHTSA's rollover resistance ratings in its New Car Assessment Program (NCAP) to include dynamic rollover tests after considering comments to our previous document. The changes described in this document will improve consumer information provided by NHTSA, but will not place regulatory requirements on vehicle manufacturers.

DATES: NCAP rollover resistance ratings in the 2004 model year will be determined using the system established by this document.

Petitions: Petitions for reconsideration must be received by November 28, 2003.

FOR FURTHER INFORMATION CONTACT: For technical questions you may contact Patrick Boyd, NVS–123, Office of Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 and Dr. Riley Garrott, NVS–312, NHTSA Vehicle Research and Test Center, P.O. Box 37, East Liberty, OH 43319. Mr. Boyd can be reached by phone at (202) 366–6346 or by facsimile at (202) 493–2739. Dr. Garrott can be reached by phone at (937) 666–4511 or by facsimile at (937) 666–3590.

SUPPLEMENTARY INFORMATION:

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II. Safety Problem
III. Background
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  B. National Academy of Sciences Study
IV. Notice of Proposed Rulemaking
V. Results of Dynamic Maneuver Tests of 25 Vehicles
  A. J-Turn Maneuver
  B. Fishhook Maneuver
  C. Loading Conditions
  D. Test Results
VI. Rollover Risk Model
VII. Comments to the Previous Notice
  A. Combined or Separate Rollover Resistance Ratings
  B. Crash Avoidance Technologies
  C. The J-Turn and Fishhook Maneuvers
  D. Tire Wear
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  A. Combined Ratings
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IX. Cost Benefit Statement
X. Rulemaking Analyses and Notices
  A. Executive Order 12866
  B. Regulatory Flexibility Act
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  E. Unfunded Mandates Act
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  H. Plain Language
Appendix I. Fishhook Test Protocol
Appendix II. Development of Logistic Regression Risk Model

I. Executive Summary

While the total number of highway fatalities has remained relatively stable over the past decade, the number of rollover deaths has risen substantially. According to NHTSA's National Center for Statistics and Analysis, from 1991 to 2001 the number of passenger vehicle occupants killed in all motor vehicle crashes increased 4 percent, while fatalities in rollover crashes increased 10 percent. In the same decade, passenger car occupant fatalities in rollovers declined 15 percent while rollover fatalities in light trucks increased 43 percent. In 2001, 10,138 people died in rollover crashes, a figure that represents 32 percent of occupant fatalities for the year.

In response to that trend, NHTSA has been evaluating rollover testing since 1993. In 2001, NHTSA began publishing rollover rating information for consumers, supplementing New Car Assessment Program (NCAP) frontal crashworthiness ratings that began in 1979 and side impact ratings that began in 1997.

When Congress approved the ''Transportation Recall, Enhancement, Accountability and Documentation (TREAD) Act of November 2000'', Section 12 directed the Secretary of Transportation to ''develop a dynamic test on rollovers by motor vehicles for a consumer information program; and carry out a program conducting such tests. As the Secretary develops a [rollover] test, the Secretary shall conduct a rulemaking to determine how best to disseminate test results to the public.''

On July 3, 2001, NHTSA published a Request for Comments notice (66 FR 35179) discussing a variety of dynamic rollover tests that we had chosen to evaluate in our research program and what we believed were their potential advantages and disadvantages.

We published a Notice of Proposed Rulemaking on October 7, 2002 (67 FR 62528) that proposed alternative ways of using the dynamic maneuver test results in consumer information on the rollover resistance of new vehicles.

Beginning with rollover ratings for the 2004 model year, NHTSA will combine a vehicle's Static Stability Factor (SSF) measurement with its performance in the so-called ''Fishhook'' maneuver. The so-called ''J-Turn'' dynamic test maneuver discussed in previous notices will be not be used by NHTSA for rating rollover resistance. Our analysis has found that the J-Turn maneuver test does not add any meaningful information to what is obtained from the fishhook maneuver test alone (see Appendix II.B). The predicted rollover rate will be translated into a five-star rating system that is the same as the one now in use: One star is for a rollover rate greater than 40 percent; two stars, between 30 and 39 percent; three stars, between 20 and 29 percent; four stars, between 10 and 19 percent; and five stars for 10 percent or less.

This decision maximizes the vehicle information used to make the rollover rate prediction and will allow us to ensure that rollover NCAP information corresponds even more closely to real-world rollovers. We have also decided to present our rollover information as a single combined rollover rating that most commenters agreed would be more understandable to consumers.

This document also includes a test procedure (Appendix I) for conducting vehicle maneuver tests, and discusses testing regimes that have been incorporated to minimize variability in test data.

II. Safety Problem

Rollover crashes are complex events that reflect the interaction of driver, road, vehicle, and environmental factors. We can describe the relationship between these factors and the risk of rollover using information from the agency's crash data programs. We limit our discussion here to light vehicles,

which consist of (1) passenger cars and (2) multipurpose passenger vehicles and trucks under 4,536 kilograms (10,000 pounds) gross vehicle weight rating.[1]

According to the 2001 Fatality Analysis Reporting System (FARS), 10,138 people were killed as occupants in light vehicle rollover crashes, which represent 32 percent of the occupants killed that year in crashes. Of those, 8,407 were killed in single-vehicle rollover crashes. Seventy-eight percent of the people who died in single-vehicle rollover crashes were not using a seat belt, and 64 percent were partially or completely ejected from the vehicle (including 53 percent who were completely ejected). FARS shows that 54 percent of light vehicle occupant fatalities in single-vehicle crashes involved a rollover event.

Using data from the 1997–2001 National Automotive Sampling System (NASS) Crashworthiness Data System (CDS), we estimate that 281,000 light vehicles were towed from a police-reported rollover crash each year (on average), and that 30,000 occupants of these vehicles were seriously injured or killed (defined as any fatality or an injury with an Abbreviated Injury Scale (AIS) rating of at least AIS 3).[2] Of these 281,000 light vehicle rollover crashes, 225,000 were single-vehicle crashes. (The NCAP rollover resistance ratings estimate the risk of rollover if a vehicle is involved in a single-vehicle crash.) Sixty-one percent of those people who suffered a serious injury in single-vehicle towaway rollover crashes were not using a seat belt, and 49 percent were partially or completely ejected (including 40 percent who were completely ejected). Estimates from NASS CDS indicate that 80 percent of towaway rollovers were single-vehicle crashes, and that 83 percent (168,000) of the single-vehicle rollover crashes occurred after the vehicle left the roadway. An audit of 1992–96 NASS CDS data showed that about 95 percent of rollovers in single-vehicle crashes were tripped by mechanisms such as curbs, soft soil, pot holes, guard rails, and wheel rims digging into the pavement, rather than by tire/road interface friction as in the case of untripped rollover events.

According to the 1997–2001 NASS General Estimates System (GES) data, 62,000 occupants annually received injuries rated as *K* or *A* on the police KABCO injury scale in rollover crashes. (The police KABCO scale calls *A* injuries ''incapacitating,'' but their actual severity depends on local reporting practice. An ''incapacitating'' injury may mean that the injury was visible to the reporting officer or that the officer called for medical assistance. A *K* injury is fatal.) The data indicate that 215,000 single-vehicle rollover crashes resulted in 49,000 *K* or *A* injuries. Fifty percent of those with *K* or *A* injury in single-vehicle rollover crashes were not using a seat belt, and 24 percent were partially or completely ejected from the vehicle (including 21 percent who were completely ejected). Estimates from NASS GES indicate that 13 percent of light vehicles in police-reported single-vehicle crashes rolled over. The estimated risk of rollover differs by light vehicle type: 10 percent of cars and 10 percent of vans in police-reported single-vehicle crashes rolled over, compared to 18 percent of pickup trucks and 27 percent of SUVs. The percentages of all police-reported crashes for each vehicle type that resulted in rollover were 1.7 percent for cars, 2.0 percent for vans, 3.8 percent for pickup trucks and 5.5 percent for SUVs as estimated by NASS GES.

III. Background

A. Existing NCAP Program and the TREAD Act

NHTSA's NCAP program has been publishing comparative consumer information on frontal crashworthiness of new vehicles since 1979, on side crashworthiness since 1997, and on rollover resistance since January 2001 (66 FR 3388). This notice does not establish a new consumer information program on rollover resistance ratings. Rather, it refines our existing rollover resistance rating program in accordance with the requirements of the TREAD Act and the recommendations of the National Academy of Sciences.

The present NCAP rollover resistance ratings are based on the Static Stability Factor (SSF) of a vehicle, which is the ratio of one half its track width to its center of gravity (c.g.) height (*see http://www.nhtsa.dot.gov/hot/rollover/* for ratings and explanatory information). After an evaluation of some driving maneuver tests in 1997 and 1998, we chose to use SSF instead of any driving maneuvers to characterize rollover resistance. As we explained in our notices establishing rollover NCAP, we chose SSF as the basis of our ratings because it represents the first order factors that determine vehicle rollover resistance in the vast majority of rollovers which are tripped by impacts with curbs, soft soil, pot holes, guard rails, etc. or by wheel rims digging into the pavement. In contrast, untripped rollovers are those in which tire/road interface friction is the only external force acting on a vehicle that rolls over. Driving maneuver tests directly represent on-road untripped rollover crashes, but such crashes represent less than five percent of rollover crashes.[3]

At the time, we believed it was necessary to choose between SSF and driving maneuver tests as the basis for rollover resistance ratings. SSF was chosen because it had a number of advantages: it is highly correlated with actual crash statistics; it can be measured accurately and inexpensively and explained to consumers; and changes in vehicle design to improve SSF are unlikely to degrade other safety attributes. We also considered the fact that an improvement in SSF represents an increase in rollover resistance in both tripped and untripped circumstances while maneuver test performance can be improved by reduced tire traction and certain implementations of electronic stability control that we believe are unlikely to improve resistance to tripped rollovers.

Congress funded NHTSA's rollover NCAP program, but directed the agency to enhance the program. Section 12 of the ''Transportation Recall, Enhancement, Accountability and Documentation (TREAD) Act of November 2000'' directs the Secretary to ''develop a dynamic test on rollovers by motor vehicles for a consumer information program; and carry out a program conducting such tests. As the Secretary develops a [rollover] test, the Secretary shall conduct a rulemaking to determine how best to disseminate test results to the public.'' The rulemaking was to be carried out by November 1, 2002.

On July 3, 2001, NHTSA published a Request for Comments notice (66 FR 35179) regarding our research plans to assess a number of possible dynamic rollover tests. The notice discussed the possible advantages and disadvantages of various approaches that had been suggested by manufacturers, consumer groups, and NHTSA's prior research. The driving maneuver tests to be evaluated fit into two broad categories: closed-loop maneuvers in which all test vehicles attempt to follow the same path; and open-loop maneuvers in which all test vehicles are given equivalent steering inputs. The

[1] For brevity, we use the term ''light trucks'' in this document to refer to vans, minivans, sport utility vehicles (SUVs), and pickup trucks under 4,536 kilograms (10,000 pounds) gross vehicle weight rating. NHTSA has also used the term ''LTVs'' to refer to the same vehicles.

[2] A broken hip with splintering of the bone is an example of an AIS 3 injury.

[3] NHTSA Reseach Note, ''Passenger Vehicles in Untripped Rollovers,'' September 1999.

principal theme of the comments was a sharp division of opinion about whether the dynamic rollover test should be a closed loop maneuver test like the ISO 3388 double lane change that emphasizes the handling properties of vehicles or whether it should be an open loop maneuver like a J-Turn or Fishhook that are limit maneuvers in which vulnerable vehicles would actually tip up. Ford recommended a different type of closed loop lane change maneuver in which a path-following robot or a mathematical correction method would be used to evaluate all vehicles on the same set of paths at the same lateral acceleration. It used a measurement of partial wheel unloading without tip-up at 0.7g lateral acceleration as a performance criterion in contrast to the other closed loop maneuver tests that used maximum speed through the maneuver as the performance criterion. Another unique comment was a recommendation from Suzuki to use a sled test developed by Exponent Inc. to simulate tripped rollovers.

The subsequent test program (using four SUVs in various load conditions and with and without electronic stability control enabled on two of the SUVs) showed that open-loop maneuver tests using an automated steering controller could be performed with better repeatability of results than the other maneuver tests. The J-Turn maneuver and the Fishhook maneuver (with steering reversal at maximum vehicle roll angle) were found to be the most objective tests of the susceptibility of vehicles to maneuver-induced on-road rollover. Except for the Ford test, the closed loop tests were found not to measure rollover resistance. Instead, the tests of maximum speed through a double lane change responded to vehicle agility. None of the test vehicles tipped up during runs in which they maintained the prescribed path even when loaded with roof ballast to experimentally reduce their rollover resistance. The speed scores of the test vehicles in the closed loop maneuvers were found to be unrelated to their resistance to tip-up in the open-loop maneuvers that actually caused tip-up. The test vehicle that was clearly the poorest performer in the maneuvers that caused tip-ups achieved the best score (highest speed) in the ISO 3388 and CU short course double lane change, and one vehicle improved its score in the ISO 3388 test when roof ballast was added to reduce its rollover resistance.

Due to the non-limit test conditions and the averaging necessary for stable wheel force measurements, the wheel unloading measured in the Ford test appeared to be more quasi-static (as in driving in a circle at a steady speed or placing the vehicle on a centrifuge) than dynamic. Sled tests were not evaluated because we believed that SSF already provided a good indicator of resistance to tripped rollover.

B. National Academy of Sciences Study

During the time NHTSA was evaluating dynamic maneuver tests in response to the TREAD Act, the National Academy of Sciences (NAS) was conducting a study of the four SSF-based rollover resistance ratings and was directed to make recommendations regarding driving maneuver tests. We expected the NAS recommendations to have a strong influence on TREAD-mandated changes to NCAP rollover resistance ratings.

When NHTSA proposed the present SSF rollover resistance ratings in June 2000 (65 FR 34998), vehicle manufacturers generally opposed it because they believed that SSF as a measure of rollover resistance is too simple since it does not include the effects of suspension deflections, tire traction and electronic stability control (ESC). In addition, the vehicle manufacturers argued that the influence of vehicle factors on rollover risk is too slight to warrant consumer information ratings for rollover resistance. In the conference report of the FY2001 DOT Appropriations Act, Congress permitted NHTSA to move forward with its rollover rating program, but directed the agency to fund a National Academy of Sciences (NAS) study on vehicle rollover ratings. The study topics were ''whether the static stability factor is a scientifically valid measurement that presents practical, useful information to the public including a comparison of the static stability factor test versus a test with rollover metrics based on dynamic driving conditions that may induce rollover events.'' The National Academy's report was completed and made available at the end of February 2002.

The NAS study found that SSF is a scientifically valid measure of rollover resistance for which the underlying physics and real-world crash data are consistent with the conclusion that an increase in SSF reduces the likelihood of rollover. It also found that dynamic tests should complement static measures, such as SSF, rather than replace them in consumer information on rollover resistance. The dynamic tests the NAS recommended would be driving maneuvers used to assess ''transient vehicle behavior leading to rollover.''

The NAS study also made recommendations concerning the statistical analysis of rollover risk and the representation of ratings. It recommended that we use logistic regression rather than linear regression for analysis of the relationship between rollover risk and SSF, and it recommended that we consider a higher-resolution representation of the relationship between rollover risk and SSF than is provided by the current five-star rating system.

We published a Notice of Proposed Rulemaking on October 7, 2002 (67 FR 62528) that proposed alternative ways of using the dynamic maneuver test results in consumer information on the rollover resistance of new vehicles. We chose the J-Turn and Fishhook maneuver (with roll rate feedback) as the dynamic maneuver tests because they were the type of limit maneuver tests that could directly lead to rollover as recommended by the NAS. We also proposed to use a logistic regression analysis to determine the relationship between vehicle properties and rollover risk, as recommended by the NAS. The resulting rollover resistance ratings were proposed to be part of NHTSA's New Car Assessment Program (NCAP). Also, we proposed two methods for presenting rollover resistance ratings for consumer information.

IV. Notice of Proposed Rulemaking

The TREAD Act calls for a rulemaking to determine how best to disseminate rollover test results to the public, and our Notice of Proposed Rulemaking (NPRM) of October 7, 2002 (67 FR 62528) proposed two alternatives for using the dynamic test results in consumer information on the rollover resistance of new vehicles. In this case the term ''rulemaking'' refers more to the process than to the product. This document does not amend the Code of Federal Regulations, but establishes NHTSA's policy on consumer information regarding the rollover resistance program. As mentioned above, this program places no requirements on vehicle manufacturers, only some on NHTSA.

While the TREAD Act calls for a rulemaking to determine how best to disseminate the rollover test results, the development of the dynamic rollover test is simply the responsibility of the Secretary. Based on NHTSA's recent research to evaluate rollover test maneuvers, the National Academy of Sciences' study of rollover ratings, comments to the July 3, 2000 notice, extensive consultations with experts from the vehicle industry, consumer groups and academia, and NHTSA's

previous research in 1997–8, the agency chose the J-Turn and the Fishhook maneuvers as dynamic rollover tests. They are the limit maneuver tests that NHTSA found to have the highest levels of objectivity, repeatability and discriminatory capability. The document announced that vehicles would be tested in two load conditions using the J-Turn at up to 60 mph and the Fishhook maneuver at up to 50 mph. Both maneuvers would be conducted with an automated steering controller, and the reverse steer of the Fishhook maneuver would be timed to coincide with the maximum roll angle to create an objective ''worst case'' for all vehicles regardless of differences in resonant roll frequency. Figures 1 and 2 illustrate the open-loop steering wheel motions characterizing these maneuvers. The light load condition would be the weight of the test driver and instruments, approximating a vehicle with a driver and one front seat passenger. The notice announced that the heavy load condition would add additional 175 lb manikins in all rear seat positions.

The National Academy of Sciences recommended that dynamic maneuver tests be used to supplement rather than replace Static Stability Factor in consumer information on rollover resistance. NHTSA proposed two alternatives for consumer information ratings on vehicle rollover resistance that included both dynamic maneuver test results and Static Stability Factor. The first alternative was to include the dynamic test results as vehicle variables along with SSF in a statistical model of rollover risk that would combine their predictive power. This is conceptually similar to the present ratings in which a statistical model is used to distinguish between the effects of vehicle variables and demographic and road use variables recorded for state crash data on a large number of single-vehicle crashes. The National Academy of Sciences recommended using a logistic regression model for this purpose. Such a model would be used to predict the rollover rate in single-vehicle crashes for a vehicle considering both its dynamic maneuver test performance and its Static Stability Factor for an average driver population (as a common basis of comparison).

Under the first alternative, the ''star rating'' of a vehicle would be based on its rollover rate in single-vehicle crashes predicted by a statistical model. The format would be the same as for the present rollover ratings (for example, one star for a predicted rollover rate in single-vehicle crashes greater than 40 percent and five stars for a predicted rollover rate less than 10 percent). The present rollover ratings are based on a linear regression model using state crash reports of 241,000 single-vehicle crashes of 100 make/model vehicles. We proposed to replace the current rollover risk model with one that uses the performance of the vehicle in dynamic maneuver tests as well as its SSF to predict rollover risk. The performance of a vehicle in dynamic maneuver tests would be simply whether it tipped up or not in each of the four maneuver/load combinations.

In order to compute this logistic model for rollover risk, it is necessary to have the dynamic maneuver test results as well as SSF for a number of vehicles with rollover rates established by state crash reports of single-vehicle crashes. We had the SSF measurements and established rollover rates for the 100 make/model vehicles upon which we based the static rating system but not their dynamic maneuver test results. Thus, we asked for comment on the suitability of a rating method that combines static and dynamic vehicle properties in a single rating and on the validity of logistic regression analysis for the risk model that combines the properties in a way that is predictive of real-world crash experience.

The NPRM notice announced that we were going to perform the dynamic maneuver tests on about 25 of the 100 make/model vehicles for which we had SSF measurements and substantial state crash data. Time and budget constraints would not permit testing all 100 vehicles. With these dynamic maneuver test results and our existing crash and SSF information we would be able to compute the new risk model using a standard statistical package of computer programs (SAS) for logistic regression analysis. This final document presents the dynamic maneuver test results for 24 of the 100 vehicles, chosen to span the SSF range and to represent high production vehicles of each type (passenger car, van, pickup truck and sport utility vehicle (SUV)). An additional SUV with a lower SSF than found among the 100 vehicles was also included. The resulting risk model is presented in this document.

The second alternative we proposed was to have separate ratings for Static Stability Factor and for dynamic maneuver test performance. Dynamic maneuver tests directly represent on-road untripped rollovers. Under this alternative, the dynamic maneuver test performance would be used to rate resistance to untripped rollovers in a qualitative scale. Barring unforeseen results of the dynamic maneuver tests of the 25 vehicle group, the obvious qualitative scale would be: A for no tip-ups, B for tip-up in one maneuver, C for tip-ups in two maneuvers, D for tip-ups in three maneuvers and E for tip-ups in all four maneuvers/load combinations.

A statistical risk model is not possible for untripped rollover crashes, because they appear to be relatively rare events and they cannot be reliably identified in state crash reports. For this alternative, the current Static Stability Factor based system would be used to rate resistance to tripped rollovers (since we believe most of the rollovers reported in the state crash reports are tripped). Again we asked for comments on the usefulness and validity of the concept in the NPRM notice, but we could not offer examples of actual vehicle ratings because the tests had not yet been conducted.

V. Results of Dynamic Maneuver Tests of 25 Vehicles

This section presents an overview of the test maneuvers and the results for 25 vehicles that were used to develop the logistic regression risk model. A more extensive account of the test program is contained in the Phase VI and VII Report that has been placed in Docket NHTSA–2001–9663. A detailed description of how we will perform the maneuver tests for NCAP ratings is contained in Appendix I.

The NHTSA J-Turn and Fishhook (with roll rate feedback) maneuver tests were performed for 25 vehicles representing four vehicle types including passenger cars, vans, pickup trucks and SUVs. We chose mainly high production vehicles that spanned a wide range of SSF values, using vehicles NHTSA already owned where possible. Except for four 2001 model year vehicles NHTSA purchased new, the vehicle suspensions were rebuilt with new springs and shock absorbers, and other parts as required for all the other vehicles included in the test program.

A. J-Turn Maneuver

The NHTSA J-Turn maneuver represents an avoidance maneuver in which a vehicle is steered away from an obstacle using a single input. The maneuver is similar to the J-Turn used during NHTSA's 1997–98 rollover research program and is a common maneuver in test programs conducted by vehicle manufacturers and others. Often the J-Turn is conducted with a fixed steering input (handwheel angle) for all test vehicles. In its 1997–98 testing, NHTSA used a fixed handwheel angle of 330 degrees. In the testing that preceded the NPRM notice, we developed an objective method of specifying equivalent handwheel angles

for J-Turn tests of various vehicles, taking into account their differences in steering ratio, wheelbase and linear range understeer properties. (*See* NHTSA's Phase IV report docketed with the NPRM notice as item 38 in Docket No. NHTSA 2001–9663). Under this method, one first measures the handwheel angle that would produce a steady-state lateral acceleration of 0.3 g at 50 mph on a level paved surface for a particular vehicle. In brief, the 0.3 g value was chosen because the steering angle variability associated with this lateral acceleration is quite low and there is no possibility that stability control intervention could confound the test results. Since the magnitude of the handwheel position at 0.3 g is small, it must be multiplied by a scalar to have a high maneuver severity. In the case of the J-Turn, the handwheel angle at 0.3 g was multiplied by eight. When this scalar is multiplied by the average handwheel angle at 0.3 g (observed during NHTSA's 1997–98 rollover research program), the result is approximately 330 degrees. Figure 1 illustrates the J-Turn maneuver in terms of the automated steering inputs commanded by the programmable steering machine. The rate of the handwheel turning is 1000 degrees per second.

To begin the maneuver, the vehicle was driven in a straight line at a speed slightly greater than the desired entrance speed. The driver released the throttle, coasted to the target speed, and then triggered the commanded handwheel input. The nominal maneuver entrance speeds used in the J-Turn maneuver ranged from 35 to 60 mph, increased in 5 mph increments until a termination condition was achieved. Termination conditions were simultaneous two inch or greater lift of a vehicle's inside tires (two-wheel lift) or completion of a test performed at the maximum maneuver entrance speed without two-wheel lift. If two-wheel lift was observed, a downward iteration of vehicle speed was used in 1 mph increments until such lift was no longer detected. Once the lowest speed for which two-wheel lift could be detected was isolated, two additional tests were performed at that speed to monitor two-wheel lift repeatability.

B. Fishhook Maneuver

The second maneuver test, the fishhook maneuver, uses steering inputs that approximate the steering a driver acting in panic might use in an effort to regain lane position after dropping two wheels off the roadway onto the shoulder. In the NPRM notice, we described it as a road edge recovery maneuver. As pointed out by some commenters, it is performed on a smooth pavement rather than at a road edge drop-off, but its rapid steering input followed by an over-correction is representative of a general loss of control situation. The original version of this test was developed by Toyota, and variations of it were suggested by Nissan and Honda. NHTSA has experimented with several versions since 1997, and the present test includes roll rate feedback in order to time the counter-steer to coincide with the maximum roll angle of each vehicle in response to the first steer.

Figure 2 describes the Fishhook maneuver in terms of the automated steering inputs commanded by the programmable steering machine and illustrates the roll rate feedback. The initial steering magnitude and countersteer magnitudes are symmetric, and are calculated by multiplying the handwheel angle that would produce a steady state lateral acceleration of 0.3 g at 50 mph on level pavement by 6.5. The average steering input is equivalent to the 270 degree handwheel angle used in earlier forms of the maneuver but, as in the case of the J-Turn, the procedure above is an objective way of compensating for differences in steering gear ratio, wheelbase and understeer properties between vehicles. The fishhook maneuver dwell times (the time between completion of the initial steering ramp and the initiation of the countersteer) are defined by the roll motion of the vehicle being evaluated, and can vary on a test-to-test basis. This is made possible by having the steering machine monitor roll rate (roll velocity). If an initial steer is to the left, the steering reversal following completion of the first handwheel ramp occurs when the roll rate of the vehicle first equals or goes below 1.5 degrees per second. If an initial steer is to the right, the steering reversal following completion of the first handwheel ramp occurs when the roll rate of the vehicle first equals or exceeds -1.5 degrees per second. The handwheel rates of the initial steer and countersteer ramps are 720 degrees per second.

To begin the maneuver, the vehicle was driven in a straight line at a speed slightly greater than the desired entrance speed. The driver released the throttle, coasted to the target speed, and then triggered the commanded handwheel input described in Figure 2. The nominal maneuver entrance speeds used in the fishhook maneuver ranged from 35 to 50 mph, increased in 5 mph increments until a termination condition was achieved. Termination conditions included simultaneous two inch or greater lift of a vehicle's inside tires (two-wheel lift) or completion of a test performed at the maximum maneuver entrance speed without two-wheel lift. If two-wheel lift was observed, a downward iteration of vehicle speed was used in 1 mph increments until such lift was no longer detected. Once the lowest speed for which two-wheel lift could be detected was isolated, two additional tests were performed at that speed to check two-wheel lift repeatability.

C. Loading Conditions

The vehicles were tested in each maneuver in two load conditions in order to create four levels of stringency in the suite of maneuver tests. The light load was the test driver plus instrumentation in the front passenger seat, which represented two occupants. A heavier load was used to create a higher level of stringency for each test. In our NPRM, we announced that the heavy load would include 175 lb anthropomorphic forms (water dummies) in all rear seat positions. During the test of the 25 vehicles, it became obvious that heavy load tests were being run at very unequal load conditions especially between vans and other vehicles (two water dummies in some vehicles but six water dummies in others). While very heavy passenger loads can certainly reduce rollover resistance and potentially cause special problems, crashes at those loads are too few to greatly influence the overall rollover rate of vehicles. Over 94% of van rollovers in our 293,000 crash database occurred with five or fewer occupants, and over 99% of rollovers of other vehicles occurred with five or fewer occupants. The average passenger loads of vehicles in our crash database was less than two: 1.81 for vans; 1.54 for SUVs; 1.48 for cars; and 1.35 for pickup trucks. In order to use the maneuver tests to predict real-world rollover rates, it seemed inappropriate to test the vehicles under widely differing loads that did not correspond to the real-world crash statistics. Therefore, the tests used to develop a statistical model of rollover risk were changed to a uniform heavy load condition of three water dummies (representing a 5-occupant loading) for all vehicles capable of carrying at least five occupants. Some vehicles were loaded with only two water dummies because they were designed for four occupants. For pickup trucks, water dummies were loaded in the bed at approximately the same height as a passenger in the front seat.

To avoid disruption, the tests were completed under the original loading

plan. Then we conducted tests at a 5-occupant heavy load only for those vehicles in which loading differences might influence tip-up. If the vehicle had completed the maneuver without tip-up with more than three water dummies in the rear it was not necessary to retest at a lighter load. Likewise, if the vehicle tipped up in the light load (no water dummies) condition, it was not necessary to retest with three water dummies in the rear. We have never observed a vehicle for which a greater passenger load improved performance in a tip-up test.

D. Test Results

The test results in Table 1 reflect the performance either measured or imputed as described for a heavy-load condition representing 5 occupants except for the Ford Explorer 2DR, the Chevrolet Tracker and Metro that were designed for only four occupants, and the Honda CRV, Honda Civic and Chevrolet Cavalier that could not be loaded to the 5 occupant level without exceeding a gross axle weight rating because of the additional weight of the outriggers.

Note that Table 1 includes some results collected during tests performed with alternative steering angles. Although the steering angles used during these tests were still based on the handwheel angle that would produce a steady-state lateral acceleration of 0.3 g at 50 mph on a level paved surface, the scalars used to calculate the steering angles were smaller. These tests were performed because, for some vehicles, the methods used to calculate the steering inputs used in the J-Turn and/or Fishhook maneuvers can produce ''excessive'' steering—steering angles so great that maneuver severity is actually reduced (*i.e.*, the lateral force capability of the tires is exceeded). As an example, consider the Ford Ranger 4WD and Aerostar. These vehicles required a reduction of the J-Turn steering scalar from 8.0 to 7.0 (Ranger 4WD) or 6.0 (Aerostar) before J-Turn steering was able to produce two-wheel lift.

TABLE 1.—DYNAMIC MANEUVER TEST RESULTS (THE CHECK MARK INDICATES TIP-UP OBSERVED)

Veh. group number	Model range/make/model	Nominal static stability factor	Fishhook light (FL) (2 occ.)	Fishhook heavy (FH) (5 occ.)	J-turn light (JL) (2 occ.)	J-turn heavy (JH) (5 occ.)
	'92–'00 Mitsubishi Montero 4WD	0.95	✔	✔		✔
47	'95–'03 Chevrolet Blazer 2WD	1.02	✔	✔		✔
43	'95–'01 Ford Explorer 2dr 2WD	1.06				
44	'95–'01 Ford Explorer 4dr 4WD	1.06		✔		
66	'96–'00 Toyota 4Runner 4WD	1.06		✔		
89	'93–'97 Ford Ranger p/u 4WD	1.07	✔	✔	✔	✔
58	'88–'97 Jeep Cherokee 4WD	1.08				
59	'95–'02 Acura SLX/Isuzu Trooper 4WD	1.09	✔	✔	✔	✔
70	'88–'98 Ford Aerostar 2WD	1.10	✔	✔	✔	✔
74	'88–'02 Chevrolet Astro 2WD	1.12		✔		
53	'89–'98 Chevrolet/Geo Tracker 4WD	1.13		✔		
91	'88–'98 Chevrolet K1500 p/u 4WD	1.14				
88	'93–'97 Ford Ranger p/u 2WD	1.17		✔		✔
85	'97–'02 Ford F–150 p/u 2WD	1.18				
54	'97–'01 Honda CR–V 4WD	1.19	✔	✔		✔
83	'88–'96 Ford F–150 p/u 2WD	1.19				
67	'88–'95 Dodge Caravan/Plymouth Voyager 2WD	1.21				
90	'88–'98 Chevrolet C1500 p/u 2WD	1.22				
68	'96–'00 Dodge Caravan/Plymouth Voyager 2WD	1.23				
73	'95–'98 Ford Windstar 2WD	1.24				
22	'95–'01 Chevrolet/Geo Metro	1.29				
19	'88–'94 Chevrolet Cavalier	1.32				
18	'91–'96 Chevrolet Caprice	1.40				
7	'88–'95 Ford Taurus	1.45				
26	'92–'95 Honda Civic	1.48				
Total Tip-ups			6	11	3	7

During some Fishhook tests, excessive steering caused some vehicles to reach their maximum roll angle response to the initial steering input before it had been fully completed (this is essentially equivalent to a ''negative'' T_1 in Figure 2). Since dwell time duration can have a significant effect on how the Fishhook maneuver's ability to produce two-wheel lift, we believe that excessive steering may stifle the most severe timing of the counter steer for some vehicles. In an attempt to better insure high maneuver severity, a number of vehicles that did not produce two-wheel lift with steering inputs calculated with the 6.5 multiplier were also tested with lesser steering angles by reducing the multiplier to 5.5. This change reduced the likelihood of excessive steering, and increased the dwell times observed during the respective maneuvers. In the case of the Ford Ranger 4x2, Fishhook maneuvers with steering inputs based on the reduced multiplier were able to produce two-wheel lift. Such lift was not observed when the original steering was used (*i.e.*, when a multiplier of 6.5 was used). We have modified the Fishhook test procedure to include tests at the steering angle determined by the 5.5 multiplier for vehicles that do not tip up using the original steering angle determination.

Each test vehicle in Table 1 represented a generation of vehicles whose model year range is given. Twenty-four of the vehicles were taken from 100 vehicle groups whose 1994–98 crash statistics in six states were the basis of the present SSF based rollover resistance ratings. The vehicle group numbers used to identify these vehicles in the prior notices (65 FR 34998 and 66 FR 3388) are given for convenience. The nominal SSFs used to describe the vehicle groups in the prior statistical studies are given. While there were some variations between the SSFs of the

individual test vehicles and the nominal vehicle group SSF values, the nominal SSFs were retained for the present statistical analyses because they represent vehicles produced over a wide range of years in many cases and provide a simple comparison between the risk model presented in this document and that discussed in the previous notices.

The check marks under the various test maneuver names indicate which vehicles tipped up during the tests. Eleven of the twenty-five vehicles tipped up in the Fishhook maneuver conducted in the heavy condition. The heavy condition represented a five-occupant load for all vehicles except the six mentioned above that were limited to a four-occupant load by the vehicle seating positions and GVWR. All eleven were among the sixteen test vehicles with SSFs less than 1.20. None of the vehicles with higher SSFs tipped up in any test maneuver. The fishhook test under the heavy load clearly had the greatest potential to cause tip-up. The groups of vehicles that tipped up in other tests were subsets of the larger group of eleven that tipped up in the fishhook heavy test. There were seven vehicles in the group that tipped up in the J-Turn heavy test, six of which also tipped up in the Fishhook light test. The J-Turn light test had the least potential to tip up vehicles. Only three vehicles tipped up, all of which had tipped up in every other test.

VI. Rollover Risk Model

In its study of our rating system for rollover resistance (Transportation Research Board Special Report 265), the National Academy of Sciences (NAS) recommended that we use logistic regression rather than linear regression for analysis of the relationship between rollover risk and SSF. Logistic regression has the advantage that it operates on every crash data point directly rather than requiring that the crash data be aggregated by vehicle and state into a smaller number of data points. For example, we now have state data reports of about 293,000 single-vehicle crashes of the hundred vehicle make/models (together with their corporate cousins) whose single-vehicle crashes we have been tracking in six states. The logistic regression analysis of this data would have a sample size of 293,000, producing a narrow confidence interval on the repeatability of the relationship between SSF and rollover rate. In contrast, the linear regression analysis operates on the rollover rate of the hundred vehicle make/models in each of the six states. It produces a maximum sample size of only 600 (100 vehicles times six states) minus the number of samples for which fewer than 25 crashes were available for determining the rollover rate (a data quality control practice). Confidence limits computed for a data sample size of 600 will be much greater than those based on a sample size of 293,000. On average, each sample in the linear regression analysis was computed from over 400 crash report samples. However, ordinary techniques to compute the confidence intervals of linear regression results do not take into account the actual sample size represented by aggregated data. The statistical model created to combine SSF and dynamic test information in the prediction of rollover risk was computed by means of logistic regression as recommended by the NAS. Logistic regression is well suited to the correlation with crash data of vehicle properties that include both continuous variables like SSF and binary variables like tip-up or no tip-up in maneuver tests.

We had previously considered logistic regression during the development of the SSF based rating system (66 FR 3388, January 12, 2001, p.3393), but found that it consistently under-predicted the actual rollover rate at the low end of the SSF range where the rollover rates are high. The NAS study acknowledged this situation and gave the example of another analysis technique (non-parametric) that made higher rollover rate predictions at the low end of the SSF scale. In the NPRM, we discussed our plan to first examine ways to improve the fit of the logistic regression model to the actual rollover rates in the simpler model with SSF as the only vehicle attribute before expanding the logistic regression model to predict rollover rates using maneuver test results and SSF as vehicle attributes. In this way, the addition of maneuver test results is more likely to have an effect that reflects the additional information they represent on rollover causation.

Appendix II discusses the details of seeking a mathematical transformation of SSF to improve the accuracy of logistic regression models. We found that logistic regression on the transformation ''Log(SSF–0.9)'' rather than on SSF directly computed a risk model whose predictions of rollovers per single-vehicle crash more closely matched the relationship between vehicle SSF and actual rollover rates observed in state crash data. We sought to optimize the accuracy of the predictions in the SSF range between 1.0 and 1.25 that includes the vehicles with the highest rollover rates, even at the expense of accuracy in predicting the low rollover rates at high end of the SSF scale. The risk model that resulted from this exercise is equivalent to the SSF-based rating system used for 2001–2003 NCAP rollover resistance ratings except that it was computed using logistic regression rather than linear regression as the statistical technique. Figure 3 compares the logistic regression model and linear regression model formerly used for NCAP ratings. The linear regression model is not in the form of a straight line because it also operated on a transformation of SSF (Log(SSF) in this case). The logistic regression model is the more accurate at lower half of the SSF range, and the linear regression model is the more accurate at the upper half of the SSF range. The two curves are quite similar.

A good logistic regression risk model using SSF only was the starting point for models using dynamic variables together with SSF. The dynamic maneuver test results (tip-up or no tip-up in each maneuver/load combination in Table 1) were used as four binary dynamic variables in the logistic regression analysis. The dynamic variables were entered in addition to SSF to describe the vehicle. The same driver and road variables from state crash reports discussed above were used. The state crash report data for twenty four of the vehicles used in the logistic regression analysis with dynamic maneuver test variables was a subset of the database of 293,000 single-vehicle crashes described above. One extra vehicle was added for the maneuver tests that was not among the 100 vehicle groups we had studied previously, but state crash report data from the same years and states was obtained for it. However, the database with SSF and dynamic maneuver test was much smaller than the 293,000 sample size available for the logistic regression model with SSF only. Its sample size was 96,000 single-vehicle crashes of 25 vehicles including 20,000 rollovers. Appendix II contains a more detailed discussion.

First, we tried each dynamic variable separately in conjunction with SSF. The models using variables for performance in the Fishhook heavy and J-Turn heavy maneuvers predicted a greater rollover risk for those vehicles that tipped up in the maneuver test. However, the models using variables for performance in the Fishhook light and J-Turn light maneuvers predicted a greater rollover risk for vehicles that did *not* tip up.

We do not believe vehicles that tip up in the least severe maneuvers are actually safer than those that do not tip up. A more rational interpretation is that the numbers of vehicle tipping up

in these maneuvers were too few to establish a definitive correlation. Only three vehicles tipped up in the J-Turn light maneuver, and six vehicles tipped up in the Fishhook light maneuver. Only one more vehicle tipped up in the J-Turn heavy maneuver than in the Fishhook light, and the prediction of the model with J-Turn heavy was consistent with expectations that tip-up in the test predicts greater rollover risk. However, the extra vehicle in the J-Turn heavy tip-up group was the Ford Ranger 2 WD with a very large sample size of over 8,000 single-vehicle crashes (nearly 10 percent of the entire data base).

Next we computed a logistic regression model combining SSF with the dynamic variables for both maneuvers, Fishhook heavy and J-Turn heavy, that were observed to have a directionally correct result when entered into the model individually. The variable for J-Turn heavy was rejected by the logistic regression program as not statistically significant in the presence of the Fishhook heavy variable. In other words, the predictions based on tip-up in the Fishhook heavy maneuver do not change whether or not the vehicle also tips up in the J-Turn heavy maneuver.

Figure 4 shows the final model that uses Fishhook heavy as the only necessary dynamic variable. This model has a risk prediction for vehicles that tip up in the dynamic maneuver tests based on the greatest number of vehicles possible in our 25 vehicle data base. All 11 vehicles that tipped up in any maneuver are represented on the tip-up curve, and the 14 vehicles without tip-up are represented on the other curve. The risk curve in Figure 4 representing vehicles that tipped up in the Fishhook heavy maneuver is very similar to the logistic regression model based on SSF only in Figure 3 (that was based on the rollover rates of 100 vehicles). This result is logical because the SSF only model was optimized for best fit in the 1.00 to 1.25 SSF range that included all vehicles tipping up in dynamic maneuver tests. Also, the fact that the risk curve of the logistic regression model in Figure 3 that was based on the SSF of 100 vehicles closely matches the risk curve in Figure 4 that was based on 11 vehicles that tipped up in the dynamic tests suggests that the curve in Figure 4 is robust. However, the small difference in Figure 4 between the risk curve for vehicles that tip up in the dynamic test and the risk curve for those that do not tip up suggests that the predictive power of tip-up in the dynamic test may not be great.

Our testing and logistic regression analysis was sufficient to assign a greater rollover risk to vehicles that tipped up in the most severe maneuver than to those that did not tip up at all. However, the extra risk was small, and we were not able to distinguish a rollover risk difference between vehicles that tipped up in the less severe Fishhook maneuver with a two occupant load from those that tipped up only with a five occupant load. In general, vehicles that tip up in the Fishhook maneuver with a two occupant load also tip up at a slower entry speed in the Fishhook maneuver with a five occupant load than those that do not. Therefore, our data does not allow us to distinguish rollover risk differences between vehicles on the basis of maneuver entry speed for tip-up. The objective of using different load conditions and different maneuvers instead of different speeds in a single maneuver to provide a range of test severity was to reduce the sensitivity of the result to extraneous factors such as tire wear.

It is noteworthy that the final rollover risk model required results from only the fishhook maneuver. This is an advantage from the standpoint of minimizing the practical problems of the effects of tire wear during a test series and of deviations from uniformity of surface friction at a test facility. The fishhook maneuver produces less wear on the test tires and requires only about 2 or 3 lane widths of uniform test surface versus 10 or more lane widths for the J-Turn maneuver. The commenters also considered it more representative of a real driving situation than the J-Turn.

VII. Comments to the NPRM Notice and Agency Response

We received 39 comments to the NPRM notice from vehicle manufacturers, equipment suppliers, test labs, public interest groups, the National Transportation Safety Board, the Insurance Institute for Highway Safety, attorneys, and members of the public. Mainly, the comments addressed whether the static and dynamic measurements should be used for separate ratings of rollover resistance or for a combined rating based on a risk model. The nature of the dynamic maneuver tests, testing of 15-passenger vans, and several practical testing issues such as the extraneous effects of tire wear, surface condition and ambient temperature were also addressed. The notice also introduced the related subject of handling ratings that was not part of the TREAD Act requirements. We received a number of valuable comments on handling tests, and we are still soliciting information. However, the subject of this notice is confined to the TREAD Act requirements for dynamic rollover ratings.

A. Combined or Separate Rollover Resistance Ratings

The main question posed in the NPRM notice was whether the rollover resistance ratings should reflect the combined statistical power of SSF and dynamic tests for predicting rollover risk or whether ratings of rollover risk using SSF alone should continue, supplemented with a qualitative comparison of dynamic test performance. The document gave alternative A as a risk model determined by logistic regression analysis of state crash reports of single-vehicle crashes for about 25 vehicles with known SSF and dynamic test results. That process led to the risk model described in Section VI, however the mathematical calculation of the model could not be performed until the completion of a lengthy dynamic test program. Alternative B in the notice was a continuation of rollover risk prediction using SSF-only plus qualitative separate dynamic scores of A, B, C, D, or E signifying the number of maneuvers in which the vehicle tripped up without a risk interpretation.

Commenters representing TRW Automotive, National Automobile Dealers Association (NADA), General Motors (GM), Alliance of Automobile Manufacturers (Alliance), Association of International Automobile Manufacturers (AIAM), Insurance Institute for Highway Safety (IIHS), Bosch, Consumers Union, Advocates for Highway and Auto Safety (Advocates), Toyota, Continental-Teves and Public Citizen remarked directly on the question of combined versus separate use of SSF and dynamic maneuver tests in rollover resistance ratings. Except for Continental-Teves and Bosch, the commenters were in favor of ratings that combined the SSF and dynamic maneuver tests in a single rating. Consumers Union specifically supported the logit risk model operating on a moderate risk scenario (in which rollover rates vary in the approximate range of 0.075 to 0.55 across the range of vehicles) as a way of combining the SSF and dynamic maneuver tests. It commented that using the risk model it described was consistent with the recommendations of the NAS study. We believe the risk model we have developed is consistent with recommendation of NAS and Consumers Union. It is the logit model with the risk scenario (of demographic and road condition variables) that represents the average crash conditions of 293,000 actual single-vehicle crashes.

It produces predicted rollover rates in the range of 0.09 to 0.50 for vehicles ranging from tip-up to no tip-up in maneuvers and from 1.0 to 1.55 in SSF.

The other commenters in favor of combined ratings were primarily concerned that separate ratings would be too confusing to serve as consumer information. They believed a combined rating was the only viable option, but they did not comment specifically on the means used by NHTSA to develop the combined risk model. IIHS and the Alliance (along with Carr Engineering) suggested that another comment period following the notice containing the actual model (as opposed to the example given in the NPRM notice) would be necessary. GM suggested that the risk model be developed through a collaborative effort along the lines of the Motor Vehicle Safety Research Advisory Committee, and the Alliance suggested a working-level dialog between NHTSA and the auto industry to develop the risk model. TRW supported a single rating that would be computed on the basis of the SSF only model with a predetermined number of stars added or subtracted for dynamic maneuver performance (determined without a statistical relationship to risk). Advocates expressed wariness that the combined rating could be misleading to consumers unless it corresponded to real-world rollover rates. Public Citizen preferred the combined rating developed from a risk model. It was concerned that consumers would focus more attention on the dynamic maneuvers in separate ratings although the tests represent an event (on-road untripped rollover) that occurs in less than 5 percent of actual rollover crashes.

Continental-Teves and Bosch prefer separate ratings for SSF and dynamic maneuver tests. Continental-Teves stated that ''the relative effects of SSF and dynamic performance are not well understood, and may not be the same for every vehicle or every driver.'' Bosch stated that ''static and dynamic ratings should be separate, as they are both equally important with regards to indicating stability and safety of the vehicle.'' Bosch further explained that '' a combined rating may not adequately show the influence of such systems [Electronic Stability Control and Rollover Mitigation] which in turn would not encourage manufacturers to add systems to vehicles that increase overall vehicle safety in potential rollover as well as many other situations.''

B. Crash Avoidance Technologies

Some of the stated expectations of the commenters about rollover resistance ratings are unrealistic. The rollover resistance ratings predict the likelihood of a single-vehicle crash becoming a rollover. They do not predict the likelihood of the vehicle becoming involved in a single-vehicle crash. Similarly, the frontal and side NCAP crashworthiness ratings do not predict the likelihood of the vehicle striking an object head-on or being struck from the side. The Alliance comment anticipates the dilemma. While conceding that SSF is strongly correlated with a tripped rollover once the vehicle is already off-road, it states that ''the likelihood of being involved in a single-vehicle crash in the first place ''particularly one involving off-road excursion ''is influenced much more by demographic and environmental influences than is the scenario examined for SSF purposes.'' The scenario used in the combined risk model is the same scenario used in the SSF model, namely the average demographic and environmental variables reported by the states for the entire 293,000 single-vehicle crash data base we have collected. We think this is the best scenario to characterize single-vehicle crashes.

The Alliance is concerned that our model ''may fail to account for potentially beneficial technologies for avoiding single-vehicle and rollover crashes, such as electronic stability control and variable ride high suspension systems.'' Its concern is unnecessary for variable ride-height suspension systems, which will be tested in the highway rather than off-road height for both SSF and dynamic maneuver tests, and the technology will certainly improve the rating of vehicles so equipped.

However, the Alliance is right that the model does not predict the risk of a single-vehicle crash. NHTSA has been very clear in public notices, consumer information and web site presentations that neither the SSF risk model nor the proposed combined SSF and dynamic maneuver risk model predict the risk of having a single-vehicle crash. From the standpoint of rollover resistance, single-vehicle crashes are a measure of exposure. The prediction is of the risk of a rollover resulting from the exposure of the vehicle to a single-vehicle crash. The risk of rollover in the event of a single-vehicle crash is strongly influenced by vehicle properties, but the vehicle properties of modern vehicles have far less influence in comparison to demographic and environmental factors regarding the risk of a single-vehicle crash in the first place. However, electronic yaw stability control may provide a real-world reduction in single-vehicle crashes.

We have been optimistic about the potential of electronic yaw stability control to reduce single-vehicle crashes. NHTSA's consumer information identifies its availability as standard or optional equipment on individual vehicles and explains how it operates to help a driver maintain control in extreme circumstances. One of the reasons we are exploring the possibility of NCAP handling ratings is to describe the effect of yaw stability control on handling predictability. However, the technology has not been in widespread use long enough to produce much crash evidence for the evaluation of its real-world effectiveness in preventing single-vehicle crashes. Our previous attempts at evaluating its effectiveness were thwarted by insufficient data.

Part of the motivation for the NAS study of NHTSA's SSF-based rollover resistance ratings was the Alliance's concern that yaw stability control was not being considered. In its public oral presentation to the NAS study committee in May 2001, NHTSA said it did not expect yaw stability control to have a large effect on the risk of rollover given a single-vehicle crash. In its view, the large majority of rollovers were the result of various types of tripping, and SSF represented the most important vehicle attributes in those circumstances. NHTSA believes that the greatest potential effect of yaw stability control was in reducing single-vehicle crashes in the first place. Therefore, we suggested to the committee that rather than trying to predict rollovers per single-vehicle crash with dynamic maneuver tests, we should keep SSF for that purpose and adjust the comparative risk for vehicles with yaw stability control by the effect of yaw stability control to reduce exposure to single-vehicle crashes. However, establishing the effectiveness of yaw stability control would require data not available for at least two or three more years. Neither the NAS committee nor the Alliance, which was active in providing the committee information, expressed interest in this suggestion. But the present comments indicate that finding a way to include the crash avoidance potential of yaw stability control is a principal concern of the Alliance and several suppliers of these systems.

IIHS's comment also shows an expectation of more than what is possible for a rollover resistance rating. It discusses a comparison of the 1997 Jeep Grand Cherokee and 1997 Toyota 4Runner made in one its reports. In that report, the Toyota had four times the number of fatal rollovers per 100,000

registered vehicles as the Jeep, but they had very similar SSFs. They also had very similar rollover rates in terms of rollovers per single-vehicle crash that were consistent with their SSFs. IIHS expects a good dynamic rating to show a large difference between the Grand Cherokee and the 4Runner. That will not be possible because differences in dynamic maneuver test performance predict only small differences in rollover rate, and, in fact, there is not a large difference in rollover rate between these vehicles in terms of rollovers per single-vehicle crash in our six state crash data base. The difference is in the definition of rollover rate. A rollover rate in terms of fatal rollovers per 100,000 vehicles depends on the rate of single-vehicle crashes per 100,000 vehicles and on the occurrence of a fatality in the rollover as well as on the rate of rollover per single-vehicle crash. The first two of these factors depend primarily on demographic and environmental influences and can mask actual differences or similarities between vehicles as in this case. Neither vehicle had yaw stability control, which would have created a plausible vehicle-related difference in single-vehicle crash rate. The difference in fatality rate could involve crashworthiness features, or particularly in the case of rollover, it could merely reflect the seat belt wearing habits of a risk taking demographic that also experienced a higher rate of single-vehicle crashes. The rate of rollovers per single-vehicle crash is much less sensitive to demographic influences than is the rate of fatal rollovers per 100,000 vehicles.

Carr Engineering and Suzuki commented that the agency was not following the recommendations of the NAS study by performing J–Turn and Fishhook maneuver tests. They believe that the NAS recommended handling tests to assess loss of control potential rather than limit maneuvers to assess the resistance of the vehicle to actual on-road tip-up. We agree that the language of the NAS study report is somewhat ambiguous. That is why we included in our NPRM notice the clarification the NAS study panel gave us during the presentation of the report to NHTSA in response to our direct questions about J–Turn and Fishhook tests versus handling tests. The NAS study committee clarified that it envisioned dynamic maneuver tests as limit maneuvers where loss of control and actual on-road vehicle tip-up can be expected for vulnerable vehicles. The NAS study panel stated it was not in a position to recommend a specific test because that would require study of discriminatory capability, repeatability and other properties, but J–Turns and Fishhooks were of the type of tests it had in mind. Two outside experts in vehicle dynamics and testing reviewed our test plan before the Phase VI test of the 25 vehicles. One had been a member of the NAS study committee. Once again, we were assured that our tests were consistent with the NAS recommendations.

We believe that both our test selection and our analysis method of developing a rollover risk model to combine SSF and dynamic test results are entirely consistent with the recommendations of the NAS study and therefore appropriate to satisfy the requirements of the TREAD Act. We agree that it is important to inform consumers of the effectiveness of yaw stability control in reducing single-vehicle crashes, and we will determine its effectiveness from crash report data as sufficient data becomes available.

C. The J–Turn and Fishhook Maneuvers

There were a number of comments regarding the J–Turn and Fishhook test protocols from the Alliance, GM, Toyota, Honda, Nissan, Renfroe Engineering, Carr Engineering, Mechanical Systems Analysis Inc, and Automotive Testing Inc. In addition, Ford made a detailed presentation elaborating on some of the subjects introduced in the Alliance comment. The Ford presentation material was placed in Docket NHTSA–2001–9663.

A number of the commenters objected to the J–Turn maneuver because they thought it was not representative of real driving, involved too fast a steering movement, or was redundant. Since its results were not used in the risk model, we agree that it is redundant. As a result, we are no longer planning to use it in the NCAP testing program.

Except for Suzuki, Carr Engineering and Ford, those who commented on the maneuver tests supported the Fishhook maneuver. Carr Engineering and Advocates objected to calling the Fishhook maneuver a road edge recovery test as we had done in the NPRM notice. While the Fishhook maneuver includes steering commands like a crash involving road edge recovery, it is performed on a smooth uniform surface instead of one with vertical drop-offs and friction coefficients differences that exist at road edges. To accommodate these concerns, we will refer to the maneuver as the Fishhook.

D. Tire Wear

The effect of tire wear on test results and the tire changing protocol was addressed by several commenters. Tire shoulder wear during limit maneuver tests is much more severe than in ordinary driving and has the effect of increasing the lateral acceleration capability of the vehicle. After a number of tests, the tire wear causes the vehicle to tip up more easily, and there is concern that a vehicle with test-worn tires does not represent a typical street driven vehicle. In the 25 vehicle tests, new tires were used for each maneuver (FH, FL, JH, JL) which limited the tires to no more than 6 runs in each direction (4 for Fishhooks) before detecting tip-up if it occurred.

Ford gave an example using a Ford Ranger 4WD that was apparently known to tip up at 53 mph with worn tires in a J–Turn test. The vehicle was equipped with new tires and tested repeatedly at 53 mph. It did not tip up during the first three runs, but during the fourth run a large increase in lateral acceleration and sideslip angle occurred and the vehicle tipped up. It continued this behavior for two subsequent runs, and the tires exhibited a large amount of shoulder wear after only six runs. We have noticed similar tire wear effects, but not in so few runs. The J–Turn tests are of much longer duration than Fishhook tests and produce more wear per run. Also tests run at lower speeds approaching tip-up speed produce less wear than tests performed at a higher speed just below the tip-up speed. Ford's example of a worst case in which the tire wear of just three runs changed vehicle behavior from no tip to tip-up is an effective illustration of the tire wear problem.

We believe this problem is much less acute for Fishhook tests. We performed a similar experiment using a 2001 Ford Explorer 4 door 4WD that we knew would tip up at 40 mph on worn tires in a Fishhook maneuver. We performed 18 test runs without tip-up and then experienced a 20 degree tip-up against the outriggers on the nineteenth run. We performed three more runs and experienced two more tip-ups. Renfroe Engineering also commented about tire wear effects citing an UMTRI study in which lateral tire forces remained steady for about 10 runs and then increased to a maximum force at about 20 runs.

Ford suggested a tire change protocol to limit tire wear. We intend to test a number of vehicles in the summer of 2003. During these tests we will use the tire change protocol of Appendix I because we believe this appropriately limits the effect of tire wear. However, we intend to confirm tip-ups using new (broken in but not worn) tires when appropriate to make sure that the

vehicle scores have not been affected by tire wear. We will consider the results of this exercise in deciding whether any changes in the tire change protocol are necessary.

E. Pavement Temperature

The Alliance and Toyota commented on the potential effect of pavement temperature on Fishhook maneuver results. Toyota has observed increases in pavement friction as an apparent consequence of increases in pavement temperature. It also supplied a computer simulation of Fishhook tests that showed a large decrease in the speed at tip-up with increases in surface friction. Taken together, Toyota's information predicts a decrease in tip-up speed in a Fishhook maneuver of over 15 mph for a 70 degree F increase in pavement temperature. While the risk model for ratings does not depend on tip-up speed, the temperature effects predicted by Toyota would prevent most of the vehicles that tipped up in a summer test from having tip-up in a winter test. NHTSA ran a number of tests to evaluate the temperature sensitivity of J–Turn and Fishhook tests (NHTSA Technical Report ''Testing to Determine the Effects of Ambient Temperature on Dynamic Rollover Testing'', docketed with this notice). We tested the 2001 Toyota 4Runner 4WD (with and without yaw stability control enabled) and the 2001 Chevrolet Blazer 2WD on the same test track during cold, moderate and hot ambient temperature. The difference between cold and hot ambient temperature was about 60 degrees F. We do not have pavement temperatures, but there is no reason to believe that the range of pavement temperature is less than the range of ambient temperature. The whole test procedure including the determination of handwheel angles based on the 0.3g steady state curve was repeated at each temperature. The results are given in Table 2. Every test that failed to cause tip-up in cold weather also failed to cause tip-up in hot weather, and the two tests that caused tip-up in hot weather also caused tip-up in cold weather. Thus, the temperature effect predicted by the commenters did not occur. The tip-up speeds for the Blazer in the right and left Fishhooks repeated to within 1 mph despite differences in ambient temperature of 60 degrees F, seasonal differences in pavement surface, and the use of three different sets of tires. The only temperature effect observed was that the Blazer tipped up in the J–Turn in cold weather but did not in the moderate and hot weather tests. This is the opposite of the temperature effect predicted by the commenters and occurred during a maneuver we no longer intend to use. We do not think it is necessary to set tight surface temperature limits on the test protocol as suggested by the commenters.

TABLE 2.—RESULTS FROM NHTSA J-TURN AND FISHHOOK TESTS AT VARIOUS AMBIENT TEMPERATURE CONDITIONS.

Test vehicle and configuration	Test maneuver	Test condition	Ambient temperature (°F)	Commanded handwheel angle (degrees)	Initial Steer Left			Initial Steer Right		
					Wheel lift, front/rear (inches)		Maneuver entrance speed (mph)	Wheel Lift, front rear (inches)		Maneuver entrance speed (mph)
					Front	Rear		Front	Rear	
Toyota 4Runner, VSC disabled	NHTSA J-Turn[1]	Cold	30	345	0	0	62.1	0	0	61.7
		Moderate	79	354	0	0	60.4	0	0	60.0
		Hot	87	358	0	0	61.8	0	0	60.3
	Fishhook[2]	Cold	32	280	1	0	51.1	0	1	51.7
		Moderate	74–73	287	0	0	48.0	0	0	48.5
		Hot	89	290	1	0	51.4	0	0	50.8
Toyota 4Runner, VSC enabled	NHTSA J-Turn[1]	Cold	28	345	0	0	61.8	0	0	62.4
		Moderate	75	354	0	0	59.4	0	0	58.2
		Hot	90	358	0	0	61.9	0	0	61.6
	Fishhook[2]	Cold	31	280	0	0	51.3	0	0	51.7
		Moderate	72	287	0	0	48.8	0	0	50.1
		Hot	90	290	0	0	50.7	0	0	51.3
Chevrolet Blazer	NHTSA J-Turn[1,3]	Cold	29	381	5–8	5–8	58.0	5–8	5–8	54.8
		Moderate	83	401	0	0	60.9	0	0	62.2
		Hot	86	392	0	0	60.3	0	0	59.4
	Fishhook[2,3]	Cold	30	309	5–8	5–8	40.2	2–3	2–3	39.1
		Moderate	74	326	3–4	3–4	40.3	4–5	4–5	40.1
		Hot	90	319	2–3	2–3	39.4	2–3	2–3	38.8

[1] NHTSA J-Turn maximum nominal entrance speed was 60 mph.
[2] Fishhook maximum nominal entrance speed was 50 mph.
[3] Two-wheel lift ≥2 inches was observed during tests highlighted in bold.

F. Surface Friction

A practical problem for the repeatability of any limit maneuver test is the possibility that the surface friction properties of the test track will change. Ford commented that computer simulations of several of its SUVs showed that a change in surface coefficient of 0.05 would change the tip-up speed in a fishhook test by as much as 12 mph in one example (6 mph and 4 mph respectively for two other example vehicles). It also commented that a seasonal variation in surface coefficient of 0.05 could be typical of test tracks, and that its own test track exhibited a long-term trend of an increase in coefficient of 0.02 per year (which would change the tip-up speed of the first example vehicle by 8 mph in Ford's simulation). Ford's simulations are even more pessimistic than Toyota's regarding the possibility of repeatable Fishhook tip-up speeds given normal variations in surface properties and temperatures. However, we have not observed these large variations in tip-up speed in actual tests. The very close repeatability of tip-up speed for the Blazer in Table 2 extended over likely

seasonal changes in the pavement as well as changes in ambient temperature.

Additionally, NHTSA performed a study using the same 4Runner and Blazer mentioned above for J-Turn and Fishhook tests at Daimler Chrysler's Arizona Proving Grounds (APG) and General Motors Desert Proving Grounds (DPG) as well as TRC of Ohio, where our maneuver test development has been conducted (NHTSA Technical Report ''Testing to Determine the Effects of Surface Variability on Dynamic Rollover Testing'', docketed with this notice). Table 3 shows the peak and slide braking coefficients (multiplied by 100) measured at these facilities.

TABLE 3.—FRICTION NUMBERS FOR ALL TEST FACILITIES

Test facility	Peak braking coefficient		Skid number	
	Dry	Wet	Dry	Wet
TRC	94–96	69–83	81–84	47–54
DPG	86–93	74–77	83–85	60–64
APG	90–93	75–80	81–84	56–59

Table 4 shows the results of the maneuver tests. As in Table 2, the vehicles were loaded with the equivalent of a 2-occupant load, like the light load condition of the 25 vehicle test. The 4Runner did not tip up at TRC and it did not tip up at the other facilities. The Blazer did not tip up in the J–Turn at TRC, but it did at the other facilities. We do not think that this is a result of the surface coefficient of friction (due to the similarities of the ranges) but rather due to the greater degree of vertical irregularities and pavement cracks at DPG and APG than at TRC. Tip-up is often triggered by vertical oscillations of the vehicle suspension during high cornering forces in maneuver tests. DPG had the most vertical surface irregularities that caused the Blazer to tip up most easily. The Blazer tipped up in the Fishhook at TRC, and it also tipped up in the Fishhook at the other facilities. Again, the tip-up speeds were lower at APG and DPG, which would be expected due to the greater surface irregularities.

TABLE 4.—RESULTS FROM NHTSA J-TURN AND FISHHOOK TESTS

Test vehicle and configuration	Test maneuver	Test facility	Commanded handwheel angle, deg	Initial steer left		Initial steer right	
				Moderate or major lift	Maneuver entrance speed, mph	Moderate or major lift	Maneuver entrance speed, mph
				Yes/No		Yes/No	
Toyota 4Runner, VSC enabled	NHTSA J-Turn [1]	TRC	354	No	58.21	No	59.29
		DPG	402	No	61.56	No	61.21
		APG	362	No	61.68	No	62.11
	Fishhook [2]	TRC	287	No	48.75	No	50.13
		DPG	327	No	53.05	No	50.94
		APG	294	No	52.63	No	51.44
Toyota 4Runner, VSC disabled	NHTSA J-Turn [1]	TRC	354	No	60.4	No	60.00
		DPG	402	No	60.97	No	61.63
		APG	362	No	62.38	No	62.27
	Fishhook [2]	TRC	287	No	49.84	No	49.79
		DPG	327	No	52.20	No	51.93
		APG	294	No	51.04	No	51.14
Chevrolet Blazer	NHTSA J-Turn [1]	TRC	401	No	60.90	No	62.27
		DPG	382	Yes	49.80	Yes	44.90
		APG	395	Yes	57.36	Yes	58.68
	Fishhook [2]	TRC	326	Yes	40.32	Yes	40.09
		DPG	311	Yes	37.80	Yes	38.01
		APG	321	Yes	35.52	Yes	38.54

[1] NHTSA J-Turn maximum nominal entrance speed is 60 mph.
[2] Fishhook maximum nominal entrance speed is 50 mph.

We recognize the potential difficulties caused by changes in surface friction coefficient, and we have tried to minimize them. We have observed the Fishhook maneuver to be less sensitive to surface conditions than the J-Turn, and we have used changes in vehicle load condition rather than changes in tip-up speed to signify degrees of test severity in a way least likely to be influenced by surface coefficient. None of the changes of pavement and temperature in our test experience has caused a change in the Fishhook result (tip-up or no tip-up) for a vehicle. We believe the comments based on computer simulation overstate the sensitivity observed in our actual tests.

G. Steering Reversal

Honda commented that using a roll rate measurement within 1.5 degrees/sec of a zero crossing as shown in Figure 2 to trigger the reverse steering in a fishhook maneuver occasionally leads to an unusually long dwell time (T_1) for certain vehicles at certain load conditions. It suggested setting a default value for dwell time to force a reverse

steering action if the absolute value of the vehicle roll rate stayed too long at a value that was very low but not low enough to trigger reversal. It explained that tests in which excessive dwell times occurred would be less severe and possibly not cause a tip-up that would have occurred with a shorter dwell.

Automotive Testing Inc. commented at length on the same phenomenon. It observed that the low but steady roll rate above 1.5 degrees/sec that can delay the triggering of steering reversal is a result of tire deflections continuing the roll motion of the whole vehicle after the point of maximum roll of the suspension system. It believes that a default trigger negates the design of the maneuver to let the vehicle motions select the steering response, but describes some ways of using filtering of the roll rate signal to cause the steering to trigger earlier in these cases. But it acknowledges that letting the vehicle react to the actual roll motion of the whole vehicle rather than to a roll signal distorted by signal processing may be preferable.

At this point we are preserving the consistent application of the fishhook steering algorithm. We do not believe that commenters have presented us a substantive reason to depart from this application. If the vehicle tips up despite a long dwell time, there is no change in test result. If the vehicle does not tip, it will be retested with a reduced steering angle according to the current procedure, which may change the roll frequency harmonics and dwell time. We will observe the steering reversal dwell times during the first group of tests and, if necessary, reconsider the commenter's observations on this issue.

H. Fifteen-Passenger Vans

The National Transportation Safety Board, Public Citizen and others commented on the rollover issues surrounding fifteen-passenger vans. NHTSA agrees that it is important to investigate the commenters' concerns about the rollover susceptibility of fifteen-passenger vans. To do this, we will conduct an evaluation of fifteen-passenger vans' rollover susceptibility at different loading conditions and evaluate available electronic stability control systems on these vehicles.

I. Tip-up Criterion

Mechanical Systems Analysis, Inc. and several other commenters suggested that the tip-up criterion of 2 inches simultaneous wheel lift is too conservative. It recommended a criterion of 20 degrees body roll instead because suspension bouncing on test surface irregularities could influence performance under our criterion. Other similar recommendations were given for body roll angles between 15 and 20 degrees. The 2 inch wheel lift criterion is met at about 11 degrees of body roll on average.

NHTSA's tests were performed on a very smooth test area at TRC of Ohio. The tip-up criterion maximized driver safety and minimized tire wear by allowing us to increase speed in 5 mph increments with a reasonable expectation of avoiding sudden violent tip-ups that could ''pole-vault'' the vehicle on its outriggers. However, we observed tip-ups at lower than expected speeds during tests at other facilities (DPG and APG as described above) that were probably influenced by surface irregularity as described by the commenter. We believe that our tip-up criterion is appropriate for an excellent facility like TRC, but we agree that the criterion should be revisited if NCAP tests were to take place at a facility with a more irregular surface.

J. Testing of Passenger Cars v. Light Trucks

Consumers Union and IIHS recommended that we not test passenger cars in order to devote all the available time and resources for maneuver tests to light trucks. We agree that it is very unlikely that passenger cars will tip up in the maneuver test. We have tested passenger cars at the low end of the SSF range for passenger cars without observing any tip-ups. It seems reasonable to rate passenger cars using the ''no tip-up'' curve of the risk model along with SSF measurements. However, we prefer to track whether this continues to be true. Hence, we will continue to test a few passenger cars each year at the low end of the SSF range to reinforce the ''no tip-up'' assumption. Therefore, two passenger cars are listed in Table 5.

K. Testing With Stability Control Systems

Toyota suggested that NHTSA should selectively choose vehicles with optional equipment that assists the driver in controlling the vehicle such as electronic yaw stability control, while in a previous comment Honda suggested the opposite policy. Honda believed that even a vehicle with standard stability control should be tested with it turned off if the vehicle has an ''off'' switch. It has been NHTSA's policy for rollover resistance ratings that we test vehicles most representative of those sold. Also, we are interested in the potential safety benefits of electronic yaw stability control and have alerted consumers to its purpose and availability on individual models in our present consumer information. Therefore, when it is standard equipment or optional equipment found on the majority of vehicles of a particular model, we will test with stability control turned on and report that the test vehicle was so equipped. Also, if the market penetration of a stability control option is too low for NHTSA to choose it for inclusion on our test vehicle, we will consider optional NCAP tests at the manufacturer's expense.

VIII. Final Form for Rollover Resistance Ratings—Alternative I

A. Combined Ratings

NHTSA will use the statistical model shown in Figure 4 to combine the vehicle's SSF measurement and its performance in the Fishhook maneuver with 5-occupant loading as a prediction of its rollover rate per single-vehicle crash. The predicted rollover rate will be translated into a star rating in the same way used in the present rollover resistance ratings: one star for a rollover rate greater than 40 percent; two stars, greater than 30 percent; three stars, greater than 20 percent; four stars, greater than 10 percent; five stars, less than or equal to 10 percent.

The decision to combine the static (SSF) and the dynamic (maneuver test) vehicle measurements in a single rollover resistance rating is consistent with the view of most commenters that separate ratings would be confusing to consumers. It is also the best way of achieving NHTSA's goal of presenting risk-based ratings because it maximizes the vehicle information used to make the prediction of the rate of rollovers per single-vehicle crash. Those who favored separate static and dynamic ratings expressed concern that the influence of electronic stability control would be small in the combined rating. It is true that electronic stability control will not have a great influence on rollover resistance ratings because the dynamic test result has less predictive power than the static measurement on rollover rate and the effect of electronic (yaw) stability control on the dynamic test is also modest. We believe that the potential benefit of electronic stability control lies in helping drivers to stay on the road and away from tripping devices rather than providing much increase in rollover resistance, especially regarding tripped rollovers. Rather than reduce the rate of rollovers in single-vehicle crashes, electronic stability control may reduce the number of single-vehicle crashes in the first place. However, its effectiveness in reducing single-vehicle

crashes remains to be demonstrated by crash statistics.

For the present time, we will retain the use of five stars to express rollover resistance ratings. Focus groups consistently find that presentation understandable. However, the NAS and a number of commenters were in favor of presentations that are able to show smaller differences between vehicles, contrast the range of ratings between types of vehicles and show the relative position of a vehicle's rating among other vehicles of the same type. NHTSA is performing additional consumer research to determine the best approach to providing consumers with more detailed information to supplement the star ratings. Several presentation methods are being tested, and we will consider those test results and propose appropriate changes to how we present rollover information to consumers.

B. Dynamic Testing

The Fishhook maneuver test will be conducted according to the procedure in Appendix I, and we will discontinue the J-Turn maneuver test. This decision is a consequence of the logistic regression analysis of the crash data, SSF and results of the J-Turn and Fishhook tests at two load conditions for 25 vehicles. From a statistical point of view, the J-Turn test results were redundant in the presence of the Fishhook test results. The J-Turn test also seems to be more sensitive to irregularities in pavement surface and friction and changes in ambient temperature than the Fishhook test. It also causes more concern about tire wear effects than the Fishhook, and it was criticized by some commenters as less representative of ''real-world'' driving situations.

We have decided to change the heavy load condition from an anthropomorphic dummy (water dummy) in every rear seating position (along with the test driver and instruments of approximately a passenger weight in the front) to a standard load representing five occupants in all vehicles capable of at least that loading. During the test of the 25 vehicles, it became obvious that heavy load tests were being run at very unequal conditions especially between vans and other vehicles (two water dummies in some vehicles but six water dummies in others). While very heavy passenger loads can certainly reduce rollover resistance and potentially cause special problems, crashes at those loads are too few to greatly influence the overall rollover rate of vehicles. Over 94% of van rollovers in our 293,000 crash database occurred with five or fewer occupants, and over 99% of rollovers of other vehicles occurred with five or fewer occupants. The average passenger load of vehicles in our crash database was less than two: 1.81 for vans; 1.54 for SUVs; 1.48 for cars; and 1.35 for pickup trucks. In order to use the maneuver tests to predict real-world rollover rates rather than investigate possible poor performance at high occupancy levels, it is not useful to test the vehicles under widely differing loadings while there is much less loading variation represented in the crash statistics. Consequently, the maneuver test data used in the logistic regression analysis involving the 25 dynamic test vehicles in the heavy load condition represented performance with a 5-occupant loading (obtained using three water dummies in the rear seating positions) for all vehicles capable of carrying at least that load.

The use of dynamic maneuver tests creates the need for a policy regarding tire de-beading. The tests are conducted using the tire pressure recommended by the vehicle manufacturer and labeled on the vehicle. We have experienced a number of instances in which the tire bead became unseated from the rim, resulting in total air loss and rim contact with the paved surface. This causes damage to the test facility and the possibility of a rollover of the test vehicle. For at least a year, we have been using inner tubes in all tires placed on rollover test vehicles. This action reduces the instances of total de-beading, but does not eliminate them entirely. In some instances, a tire with a tube that is not pinched during the process can experience a partial de-bead in which the rim makes contact with the pavement surface and then the tire becomes remounted on the rim by the pressure of the tube. It has been NHTSA's experience on the test track that if a maneuver results in rim contact without destroying the tube, the next run at a higher speed will destroy the tube and cause a complete de-beading of the tire and hard contact of the rim with risk to the driver, test surface and vehicle.

In the case of rim contact without total de-beading, it is a near certainty that total de-beading would have occurred without the tube, and total de-beading despite the tube is highly likely at the next speed increment. Thus, we consider rim contact to indicate de-beading, and it will be NHTSA's policy to terminate the test if rim contact with the pavement is observed even if the tube prevents total de-beading.

The vehicle did not actually tip up in the maneuver if the test is terminated as a result of rim contact indicating tire de-beading. However, debeading is a bad outcome for the test because tire de-beading is associated with on-road tripped rollovers that actually outnumber on-road untripped rollovers. Therefore, it would be improper to ignore tire debeading and predict the vehicle's rollover rate as if it had completed the test without tip-up or de-beading. The only alternative in the case of rim contact is to simply not compute a rollover resistance rating of the vehicle because the test was not completed. It will be reported that the dynamic test could not be completed because of tire debeading, but the SSF measurement will be retained in the detailed consumer information.

C. Demonstration Program

In April 2003, NHTSA's VRTC began the Demonstration Test program at TRC of Ohio using the test protocol of Appendix I for Fishhook maneuver tests of 18 new vehicles. Table 5 lists the vehicles in this group. We will verify tip-ups using new tires as explained in our answer to Ford's comments in Section VII. Unless we discover serious procedural problems, these vehicles will be given 2004 NCAP rollover resistance ratings according to the system established in this final notice.

TABLE 5.—VEHICLES INCLUDED IN DEMONSTRATION TEST

	Make	Model	Bodystyle
1	Chevrolet	Silverado 4x2	PU ext. cab.
2	Chevrolet	Silverado 4x4	PU ext. cab.
3	Chevrolet	Trailblazer 4x2	4-dr Utility.
4	Chevrolet	Trailblazer 4x4	4-dr Utility.
5	Ford	Explorer 4x2	4-dr Utility.
6	Ford	Explorer 4x4	4-dr Utility.
7	Ford	Explorer SportTrac 4x2	4-dr Utility.
8	Ford	Explorer SportTrac 4x4	4-dr Utility.

TABLE 5.—VEHICLES INCLUDED IN DEMONSTRATION TEST—Continued

	Make	Model	Bodystyle
9	Ford	Focus	4-dr wagon.
10	Jeep	Liberty 4x2	4-dr Utility.
11	Jeep	Liberty 4x4	4-dr Utility.
12	Subaru Outback (4x4)	4-dr wagon..	
13	Toyota	Echo	4-dr sedan.
14	Toyota	4Runner 4x2	4-dr Utility.
15	Toyota	4Runner 4x4	4-dr Utility.
16	Toyota	Tacoma 4x2	PU ExCab.
17	Toyota	Tacoma 4x4	PU ExCab.
18	Volvo	XC90 (4x4)	4-dr Utility.

X. Assessment of Costs and Benefits

Since this is a consumer information program, no Regulatory Evaluation was developed for this notice. Adding the dynamic maneuver tests to the Rollover NCAP will not require vehicle manufacturers to take any action. The costs are Federal Government costs for developing the test protocol and rating system, conducting the tests, and disseminating the information. The benefits are information to consumers. Consumers want additional information. It is impossible for us to quantify the effect on consumer behavior or on manufacturer behavior.

XI. Rulemaking Analyses and Notices

A. Executive Order 12866

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

NHTSA has considered the impact of this action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This action has been determined to be economically not significant. However, because it is a subject of Congressional interest, this rulemaking document was reviewed by the Office of Management and Budget under Executive Order 12866, ''Regulatory Planning and Review.''

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. § 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small business, small organizations and small governmental jurisdictions. I hereby certify that the amendment will not have a significant economic impact on a substantial number of small entities. The proposed action does not impose regulatory requirements on any manufacturer or other party.

C. National Environmental Policy Act

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federal implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The action will not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

E. Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted annually for inflation with base year of 1995). Adjusting this amount by the implicit gross domestic product price deflator for the year 2002 results in $113 million (110.66/98.11 = 1.13). The assessment may be included in conjunction with other assessments, as it is here.

The action does not impose regulatory requirements on any manufacturer or other party.

F. Civil Justice Reform

This action will not have any retroactive effect. Under 49 U.S.C. 21403, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 21461 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

G. Paperwork Reduction Act

This document does not contain ''collections of information,'' as that term is defined in 5 CFR Part 1320 Controlling Paperwork Burdens on the Public.

H. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. This action will not result in regulatory language.

Issued on: October 2, 2003.

Jeffrey W. Runge,

Administrator.

BILLING CODE 4910–59–P

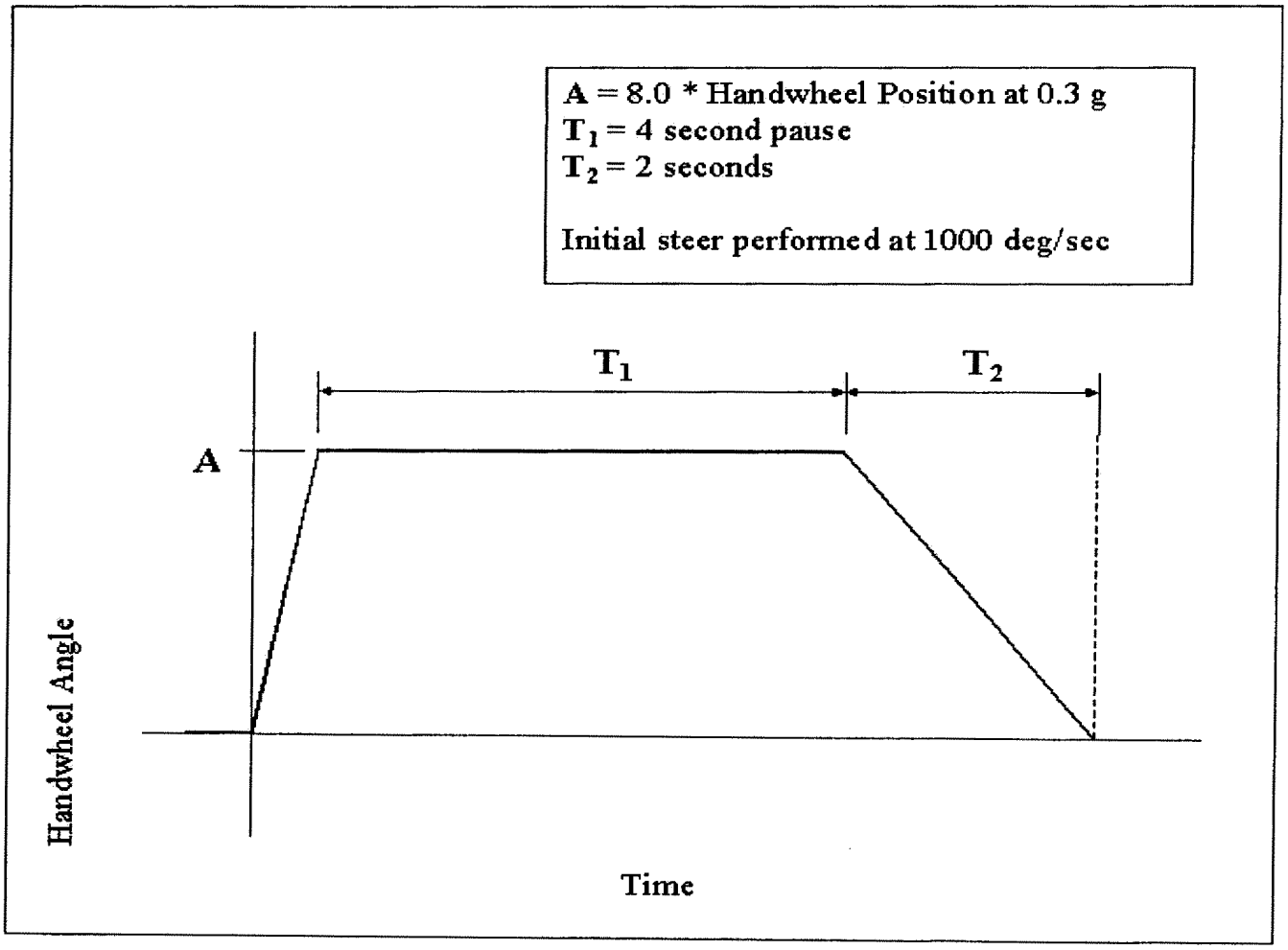


Figure 1. NHTSA J-Turn maneuver description.

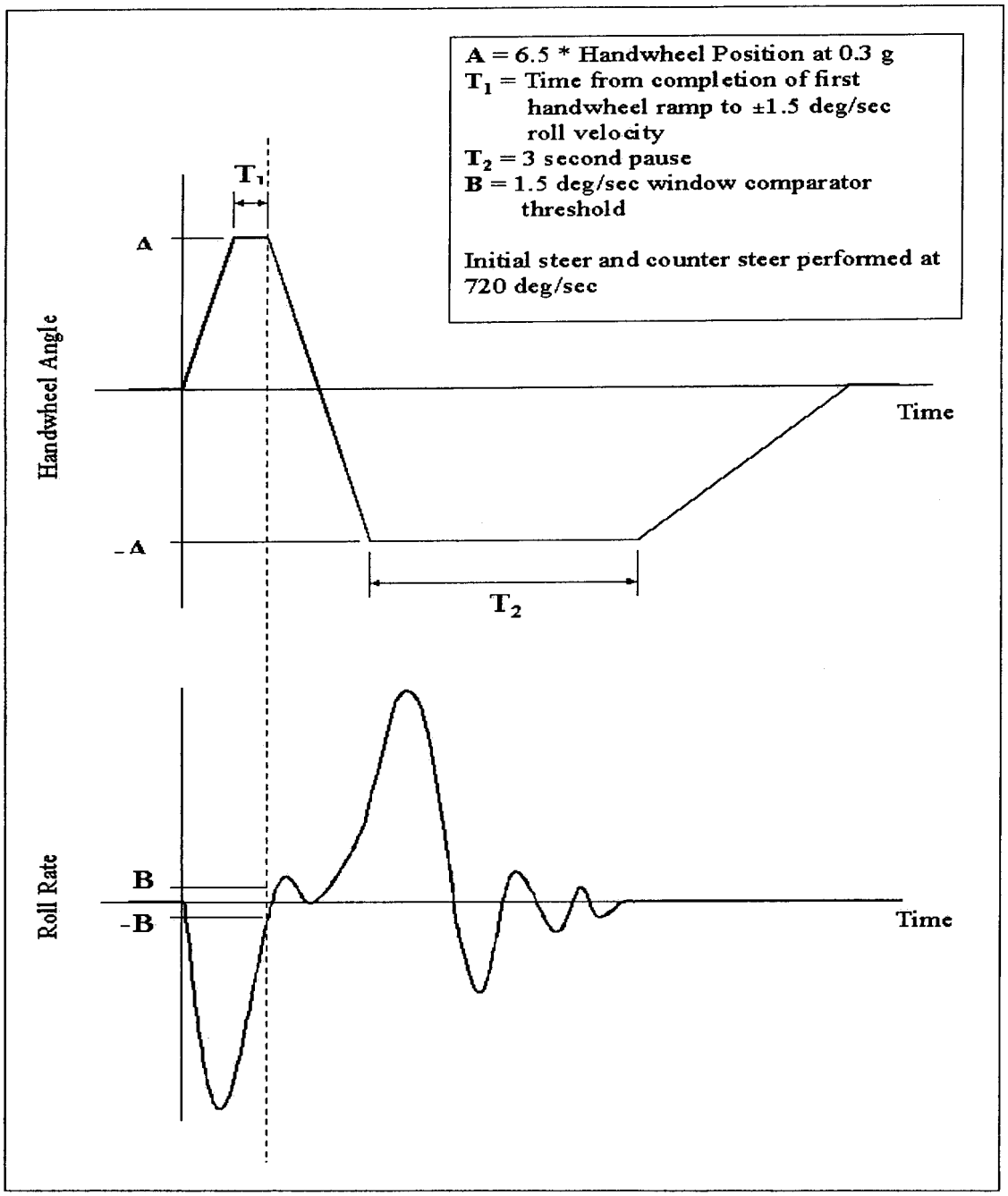


Figure 2. NHTSA Fishhook (with roll rate feedback) maneuver description.

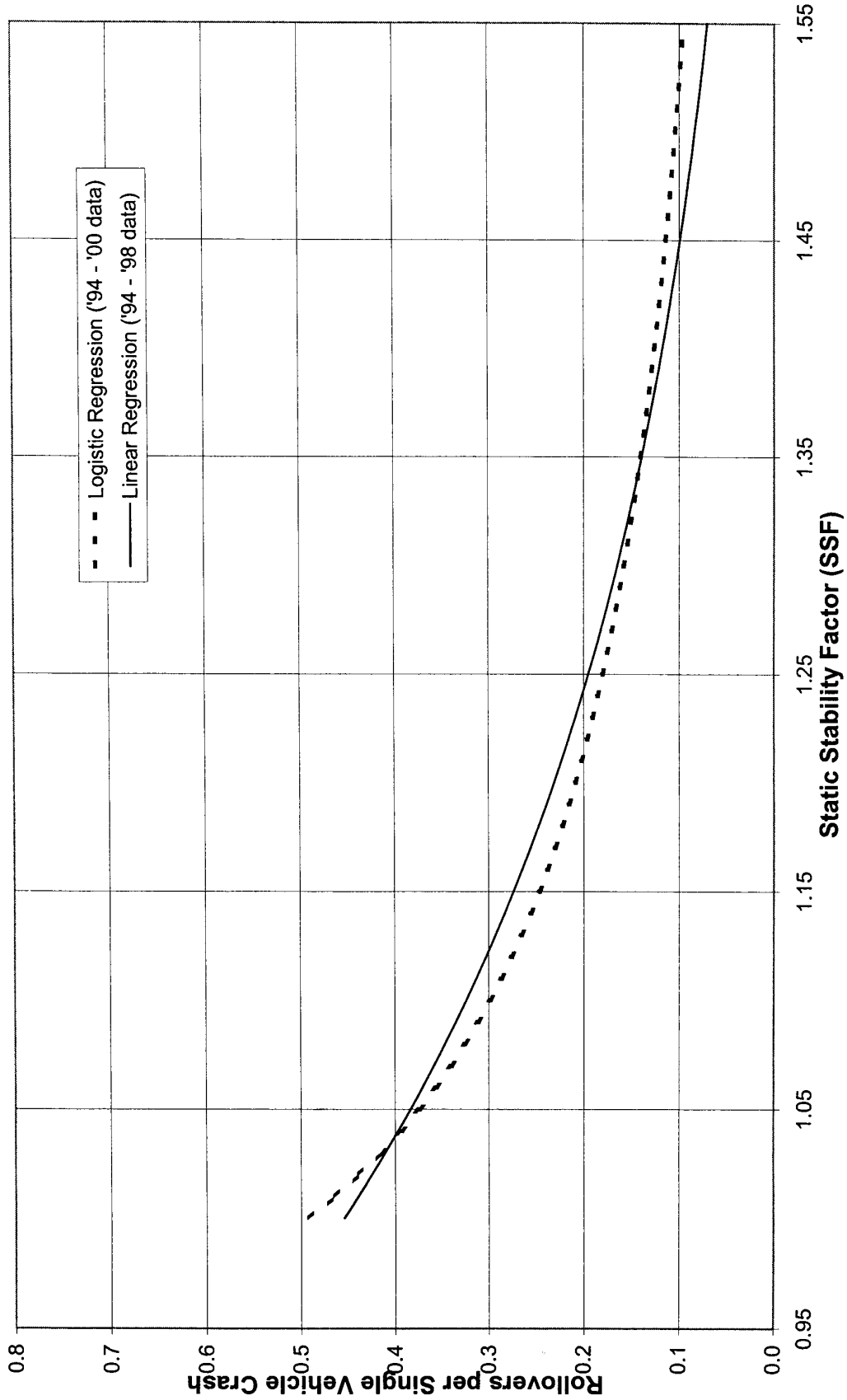
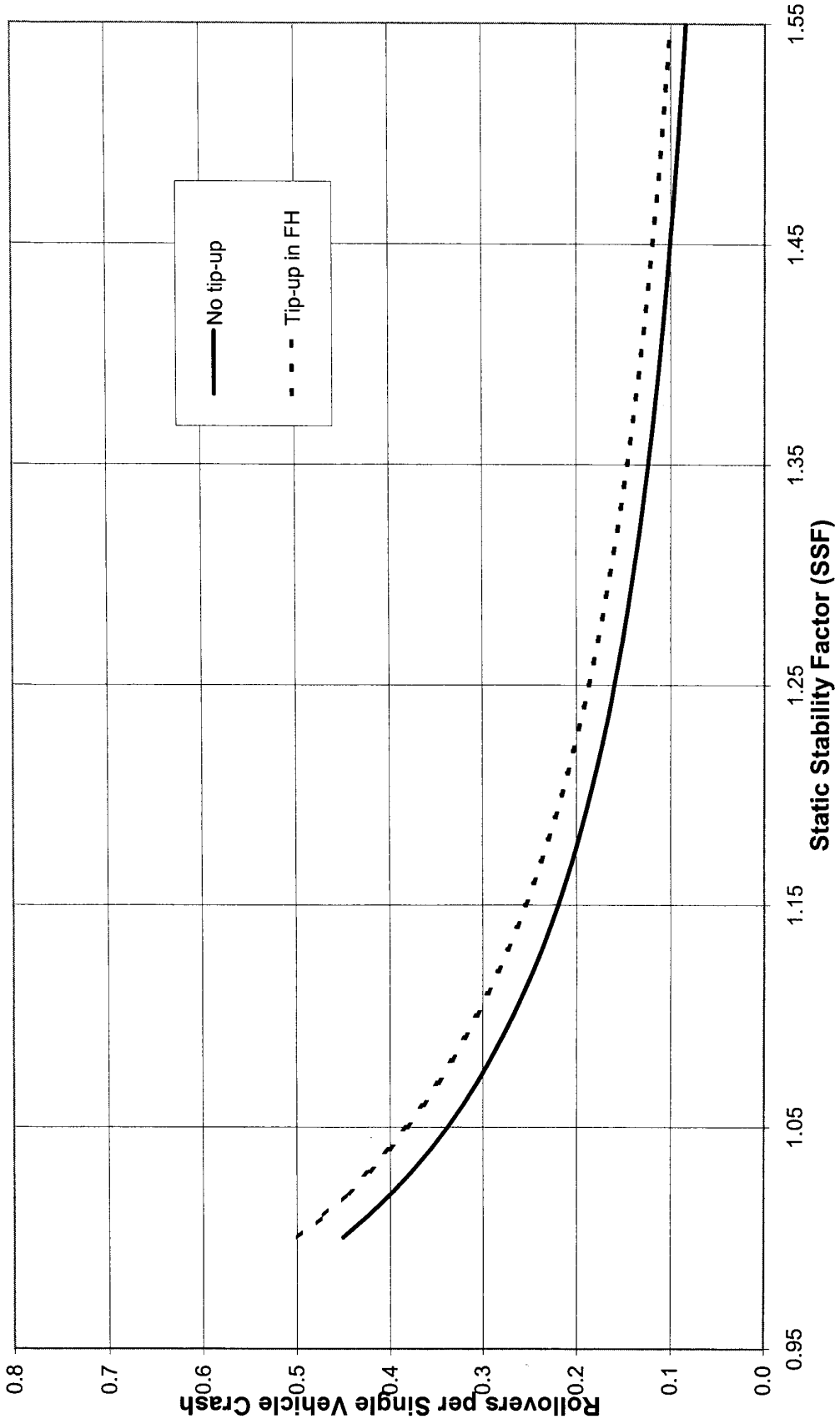


Figure 3: Logistic regression risk model using SSF only and Linear regression risk model for 2001-2203 NCAP Rollover Resistance

Figure 4: Final dynamic model using Fishhook maneuver with heavy load (FH) as the only necessary dynamic variable



Appendix I. Fishhook Maneuver Test Procedure

1.0 Introduction

1.1 General

This document describes the test procedure used by the National Highway Traffic Safety Administration's (NHTSA) New Car Assessment Program (NCAP) to evaluate light vehicle dynamic rollover propensity. The procedure is comprised of one characterization maneuver and one rollover resistance maneuver.

1.2 Rollover Resistance Requirements of the TREAD Act

Section 12 of the ''Transportation Recall, Enhancement, Accountability and Documentation (TREAD) Act of November 2000'' reflects the desire of Congress to supplement SSF [Static Stability Factor] with a dynamic stability test using vehicle maneuvers. Congress directed NHTSA to ''develop a dynamic test on rollovers by motor vehicles for a consumer information program; and carry out a program conducting such tests.'' NHTSA's NCAP Light Vehicle Dynamic Rollover Propensity Test Procedure described in this document was developed as part of NHTSA's effort to fulfill the requirements of the TREAD Act.

1.3 Recent NHTSA Light Vehicle Dynamic Rollover Propensity Research

During the spring through fall of 2001 NHTSA performed an extensive assessment of many test track maneuvers potentially capable of quantifying on-road, untripped rollover propensity. In brief, five vehicle characterization and nine dynamic rollover propensity maneuvers were studied. Each maneuver was either discarded or retained for subsequent program phases. The 2001 research project is documented in [1].

During the spring through fall of 2002 NHTSA performed a comprehensive evaluation of rollover resistance for a broad spectrum of twenty-six light vehicles. The test vehicles were evaluated with one Characterization maneuver and two Rollover Resistance maneuvers. Up to two load configurations per vehicle were used. The 2002 research project is documented in [2].

2.0 Test Equipment

2.1 Vehicle Load Configurations

NHTSA's dynamic rollover propensity test procedure uses one of two loading configurations: Nominal or Multi-Passenger. A description of each configuration is provided below.

Both vehicle load configurations include instrumentation, a steering machine, and outriggers.

Test vehicle bumper assemblies are removed for outrigger installation. The reduction in vehicle weight due to the removal of the bumpers is offset by the additional weight of the outriggers and their mounting system. The outrigger system typically outweighs the bumper assemblies.

2.1.1 Nominal Load Configuration

The Nominal Load Configuration consists of the driver, instrumentation, steering machine, outriggers, and full tank of fuel. Weight and location specifications for the data acquisition system and steering machine are presented in Table I.1 and Figure I.1.

TABLE I.1.—EQUIPMENT LOCATION AND WEIGHT

Equipment	Location	Weight, typical (lbs)
Data Acquisition System	Front passenger seat	58
Steering Machine	Handwheel	31
Steering Machine Electronics Box	Passenger row foot well behind the front passenger seat. If vehicle does not have a rear passenger row foot well, the Electronics Box should be placed in the front passenger seat foot well.	39

Non-pickup truck vehicles with only front designated seating positions use the Nominal Load Configuration.

2.1.2 Multi-Passenger Configuration

The Multi-Passenger Configuration includes all elements of the Nominal Load Configuration plus ballast in the form of water dummies. Water dummies are installed as follows:

For vehicles with three or more designated rear seating positions, three 175 lb water dummies are used. The water dummies shall be positioned on the rear seats (second seating row) closest to driver and front passenger seats (first seating row). If there are only two seating positions in the second seating row, the third water dummy shall be placed in the center of the third seating row, provided it is a designated seating position. Refer to Figure I.2.

For vehicles with two designated rear seating positions, two 175 lb water dummies shall be positioned in the rear seats. Refer to Figure I.3.

For pickups with only front designated seating positions, three 175 lb water dummies will be used. The water dummies shall be positioned behind the cab in a manner that emulates a second seating row. If it is not possible to fit three water dummies directly behind the cab, the third water dummy shall be placed in the center of a simulated third seating row. Refer to Figure I.4.

For pickups with two seating rows, three 175 lb water dummies will be used. If the second seating row includes three designated seating positions, each water dummy shall be placed in these positions. If the second seating row includes two designated seating positions, two 175 lb water dummies shall be positioned in the second seating row of the cab, and the third water dummy shall be positioned behind the cab in a manner that emulates the center seating position of a third seating row. Refer to Figure I.5.

For all vehicles, if the Multi-Passenger Configuration results in the vehicle exceeding its Gross Vehicle Weight Rating (GVWR) and/or rear Gross Axle Weight Rating (GAWR), the weight of each dummy will be equally reduced until the GVWR and/or rear GAWR are no longer exceeded. The weight of the water dummies shall not be reduced if only the front GAWR is exceeded and the front axle weight does not exceed the front GAWR by more that 50 pounds, *i.e.*, if the Multi-Passenger Configuration results in the vehicle exceeding its front GAWR, and its GVWR and/or rear GAWR, the weight of each dummy will be equally reduced until the GVWR and rear GAWR are no longer exceeded and the front GAWR is not exceeded by more that 50 pounds.

For non-pickup truck vehicles with only front designated seating positions, the Multi-Passenger Configuration is omitted from the test matrix.

2.2 Safety Outriggers

Safety outriggers are installed on all test vehicles during all test maneuvers. NHTSA uses outriggers machined from 6Al–4V titanium. NHTSA's ''short'' outriggers are used for vehicles with baseline weights under 3,500 pounds in a baseline condition (as delivered); ''standard'' outriggers are used for vehicles with baseline weights from 3,500 and 7,000 pounds; and ''long'' outriggers are used for vehicles with baseline weights from 7,001 to 10,000 pounds. Information on NHTSA's titanium outrigger system is documented in [3].

2.3 Tires

All tires must be new, and of the same make, model, size, and DOT specification of those installed on vehicles when purchased new. Tire inflation pressures are to be in accordance with the recommendations indicated on each vehicle's identification placard.

2.3.1 Tire Mounting Technique

When mounting tires to the rims used for testing, no tire mounting lubricant should be used. Lubricant is not used due to uncertainty surrounding the occurrences of tire debeading observed during NHTSA's rollover research. To eliminate the possibility of tire lubricant contributing to this phenomenon, it should not be used. Because no lubricant is used, care must be taken to confirm that the tire is fully seated on the

wheel rim at the completion of the mounting procedure.

2.3.2 Frequency of Tire Changes

To minimize the effects of tire wear on vehicle response and rollover propensity, rollover research requires frequent tire changes. For each loading condition, the following guidelines must be followed:

- One set of tires is to be used for each Slowly Increasing Steer test series. Each series is comprised of left and right steer tests.
- Up to two tire sets are to be used for the Fishhook maneuver test series. The actual number of tire sets used is dependent on the response of each vehicle. The tire change protocol is presented in the Fishhook maneuver test procedure (Section 3.2). **Note:** A tire change between the completion of the Slowly Increasing Steer maneuver and initiation of Fishhook testing is not required provided the abbreviated Slowly Increasing Steer procedure described in Section 3.1.2 is used. If the abbreviated procedure is not used (*i.e.*, the maneuver is performed such that maximum lateral acceleration is achieved), a tire change between the completion of the Slowly Increasing Steer maneuver and initiation of Fishhook testing is required, as tire wear associated with these tests may potentially confound Fishhook test outcome.

2.3.3 Use of Inner Tubes

Fishhook maneuvers have been shown to produce debeading of the outside front and rear tires. The occurrence of debeads can result in significant damage to the test surface. NHTSA research has concluded the easiest, most cost effective way to minimize debeading is the use of inner tubes designed for radial tires. Inner tubes must be installed prior to any Fishhook test ''one inner tube for each of the vehicle's tires. Inner tubes should be appropriately sized for the test vehicle's tires.

Installation of inner tubes is not required prior to Slowly Increasing Steer tests, regardless of vehicle or load condition.

2.4 Data Collection

All data is to be sampled at 200 Hz. NHTSA's signal conditioning consists of amplification, anti-alias filtering, and digitizing. Amplifier gains are selected to maximize the signal-to-noise ratio of the digitized data. Filtering is performed with two-pole low-pass Butterworth filters with nominal cutoff frequencies selected to prevent aliasing. The nominal cutoff frequency is 15 Hz (calculated breakpoint frequencies are 18 and 19 Hz for the first and second poles respectively).

Data collection is initiated manually by the test driver immediately before the start of the maneuver or automatically by ''Handwheel Command Flag'' signal from the steering machine (refer to Section 3.2.4.2.2, Handwheel Command Flag).

2.5 Instrumentation

Each test vehicle is to be equipped with sensors, a data acquisition system, and a programmable steering machine. Equipment location and weight specifications are presented in Table I.1 and Figure I.1.

2.5.1 Sensors and Sensor Locations

Table I.2 lists the sensors required by NHTSA's dynamic rollover propensity test procedure. A brief description of these sensors is provided in this section.

TABLE I.2.—RECOMMENDED SENSOR SPECIFICATIONS

Type	Output	Range	Resolution	Accuracy
Multi-Axis Inertial Sensing System	Longitudinal, Lateral, and Vertical Acceleration.	Accelerometers: ±2 g	Accelerometers: ≤10 ug.	Accelerometers: ≤0.05% of full range.
	Roll, Yaw, and Pitch Rate.	Angular Rate Sensors: ±100 deg/s.	Angular Rate Sensors: ≤0.004 deg/s.	Angular Rate Sensors: 0.05% of full range.
Angle Encoder	Handwheel Angle	±800 deg	0.25 deg	±0.25 deg.
Ultrasonic Distance Measuring System	Left and Right Side Vehicle Height.	5–24 inches	0.01 inches	±0.25% of maximum distance.
Load Cell	Brake Pedal Force	0–300 lbf	N/A	N/A.
Radar Speed Sensor	Vehicle Speed	0.1–125 mph	0.009 mph	±0.25% of full scale.
Infrared Distance Measuring System	Wheel Lift	13.75–33.5 inches	0.10 in., short range 0.3 in., long range	±1% of full scale
Data Flag (Handwheel Command Flag)	Pauses in commanded steering inputs.	0—10 V	N/A	Flag should respond within 10 ms.
Data Flag (Roll Rate Flag)	Indication of ± 1.5 deg/s roll rate.	0–10 V	N/A	Flag should respond within 10 ms.

2.5.1.1 Handwheel Angle

Handwheel position is measured via an angle encoder integral with the programmable steering machines.

2.5.1.2 Vehicle Speed

Vehicle speed is measured with a non-contact speed sensor placed at the center rear of each vehicle.

NHTSA has had good experiences with the use of Doppler radar based sensors. Sensor outputs are to be transmitted not only to the data acquisition system, but also to a dashboard display unit. This allows the driver to accurately monitor vehicle speed.

2.5.1.3 Chassis Dynamics

A multi-axis inertial sensing system is used to measure linear accelerations and roll, pitch, and yaw angular rates. The position of the multi-axis inertial sensing system must be accurately measured relative to the C.G. of the vehicle in the Nominal Load and Multi-Passenger Configurations. These data are required to translate the motion of the vehicle at the measured location to that which occurred at the actual C.G to remove roll, pitch, and yaw effects. NHTSA uses an independent laboratory to measure the C.G. of its test vehicles.

The following equations are used to correct the accelerometer data in post-processing. They were derived from equations of general relative acceleration for a translating reference frame and use the SAE Convention for Vehicle Dynamics Coordinate Systems. The coordinate transformations are:

$$x''_{corrected} = x''_{accel} - \left(\Theta'^2 + \Psi'^2\right)x_{disp} + \left(\Theta'\Phi' - \Psi''\right)y_{disp} + \left(\Psi'\Phi' + \Theta''\right)z_{disp}$$

$$y''_{corrected} = y''_{accel} + \left(\Theta'\Phi' + \Psi''\right)x_{disp} - \left(\Phi'^2 + \Psi'^2\right)y_{disp} + \left(\Psi'\Theta' - \Phi''\right)z_{disp}$$

$$z''_{corrected} = z''_{accel} + \left(\Psi'\Phi' - \Theta''\right)x_{disp} + \left(\Psi'\Theta' + \Phi''\right)y_{disp} - \left(\Phi'^2 + \Theta'^2\right)z_{disp}$$

where,

$x''_{corrected}$, $y''_{corrected}$, and $z''_{corrected}$ = longitudinal, lateral, and vertical accelerations, respectively, at the vehicle's center of gravity

x''_{accel}, y''_{accel}, and z''_{accel} = longitudinal, lateral, and vertical accelerations, respectively, at the accelerometer location

x''_{disp}, y''_{disp}, and z''_{disp} = longitudinal, lateral, and vertical displacements, respectively, of the center of gravity with respect to the accelerometer location

φ' and φ''=roll rate and roll acceleration, respectively

Θ' and Θ'' = pitch rate and pitch acceleration, respectively

Ψ' and Ψ'' = yaw rate and yaw acceleration, respectively

NHTSA does not use inertially stabilized accelerometers for this test procedure. Therefore, lateral acceleration must be corrected for vehicle roll angle during data post-processing. This is discussed in Section 4.12.

2.5.1.4 Roll Angle

An ultrasonic distance measurement system is used to collect left and right side vertical displacements for the purpose of calculating vehicle roll angle. One ultrasonic ranging module is mounted on each side of a vehicle, and is positioned at the longitudinal center of gravity. With these data, roll angle is calculated during post-processing using trigonometry.

2.5.1.5 Wheel Lift

Wheel lift is measured individually with two height sensors attached to spindles installed at the wheel. Using trigonometry, the output of the two sensors can be used to resolve the camber angle of the wheel, and remove its influence from the uncorrected height sensor output. Information on NHTSA's wheel lift measurement system is documented in [4].

2.5.1.6 Brake Application

Brake pedal force is measured with a load cell transducer attached to the face of the brake pedal. While brake pedal force is not explicitly required by this test procedure, it is important to monitor the driver's braking activity during testing. No test included in this procedure requires brake application. If the driver applies force to the brake pedal before completion of a test, that test is not valid, and should not be considered in further analyses.

2.5.2 Additional Mnemonics

2.5.2.1 Handwheel Command Flag

Refer to Section 3.2.4.2.2, Handwheel Command Flag.

2.5.2.2 Roll Rate Flag

Refer to Section 3.2.4.2.3, Roll Rate Flag.

2.6 Steering Machine

A programmable steering machine is used to generate handwheel steering inputs for all test maneuvers. The machine must provide at least 35 lb_f-ft of torque at a handwheel rate of 720 deg/sec, be able to move each vehicle's steering system through its full range, and accept angular rate sensor feedback input for roll rate-induced steering reversals (refer to section 3.2.4). It is recommended that the steering machine be capable of initiating steering programs at a preset road speed, and have the convenience of changing the steering program during test sessions.

3.0 Test Maneuvers

3.1 Slowly Increasing Steer

The Slowly Increasing Steer maneuver is used to characterize the lateral dynamics of each vehicle, and is based on the ''Constant Speed, Variable Steer'' test defined in SAE J266 [5]. The maneuver is used to determine the steering that produces a lateral acceleration of 0.3 g. This handwheel angle is used to define the magnitude of steering to be used for the NHTSA Fishhook maneuver.

3.1.1 Maneuver Description (Option #1)

To begin this maneuver, the vehicle is driven in a straight line at 50 mph. The driver must attempt to maintain this speed during and briefly after the steering is input using smooth throttle modulation. At time zero, handwheel position is linearly increased from zero to 270 degrees at a rate of 13.5 degrees per second. Handwheel position is held constant at 270 degrees for two seconds, after which the maneuver is concluded. The handwheel is then returned to zero as a convenience to the driver. The maneuver is performed three times to the left and three times to the right for each load configuration. Figure I.6 presents a description of the handwheel angles to be used during Slowly Increasing Steer, Option #1 tests.

3.1.2 Maneuver Description (Option #2, Preferred)

Historically, NHTSA has used Slowly Increasing Steer tests to measure linear range *and* maximum quasi steady state lateral acceleration. While maximum lateral acceleration data is interesting, it is not a required metric when determining a vehicle's NCAP rollover resistance rating. For this reason, NHTSA recommends use of an ''abbreviated'' Slowly Increasing Steer maneuver. The handwheel angles used in this abbreviated procedure only steer the vehicle enough to assess its linear range lateral acceleration performance.

To determine the most appropriate Slowly Increasing Steer handwheel angle for a given vehicle, a preliminary left steer test is performed. The test speed during this test was held constant at 50 mph via throttle modulation, and the steering input ranged from 0 to 30 degrees, applied at 13.5 degrees per second. The magnitude of this input was selected because it was believed to be capable of producing a steady state lateral acceleration within the linear range for any light vehicle. Using the ratio of steady state handwheel position and lateral acceleration established by this test, the maximum steering input for the abbreviated Slowly Increasing Steer test was derived using the below equation:

$$\text{Equation 3.1} \qquad \frac{30\ \text{degrees}}{a_{y,\ 30\ \text{degrees}}} = \frac{\partial_{SIS}}{0.55\ \text{g}}$$

where,

$a_{y,30\ degrees}$ was the *raw* lateral acceleration produced with a constant handwheel angle of 30 degrees during a test performed at 50 mph

d_{SIS} was the steering input that, if the relationship of handwheel angle and lateral acceleration was linear, would produce a lateral acceleration of 0.55 g during a test performed at 50 mph

Note: $a_{y,30\ degrees}$ is ''raw'' data, not corrected for the effects of roll, pitch, and yaw. NHTSA acknowledges the relationship of handwheel angle and corrected lateral acceleration data is often not linear at 0.55 g. However, previously collected data indicates the magnitude of raw 0.55 g acceleration data is typically reduced by approximately 9.6 percent to 0.497 g, when corrected for roll, pitch, and yaw, just outside of the linear range for most vehicles. Removing the effect of accelerometer offset (error due to the accelerometer not being positioned at the vehicle's actual center of gravity) typically reduces the magnitude of these data by an additional 0.07 percent. The importance of Equation 3.1 is that it simply provides experimenters with a direct, ''in-the-field'' way of determining an appropriate steering input for which to proceed with further tests for a given vehicle.

Figure I.7 presents a description of the handwheel angles to be used during the abbreviated Slowly Increasing Steer, Option #2 tests.

3.1.3 Measured Parameters

Analyses of Slowly Increasing Steer tests output overall average handwheel position at a specified lateral acceleration

When lateral acceleration data collected during Slowly Increasing Steer tests is plotted with respect to time, a first order polynomial best-fit line accurately describes the data from 0.1 to 0.375 g. NHTSA defines this as the linear range of the lateral acceleration response. A simple linear regression is used to determine the best-fit line, as shown in Figures I.8 and I.9.

Using the slope of the best-fit line, the average of handwheel position at 0.3 g is calculated using data from each of the six Slowly Increasing Steer tests performed for each vehicle. This average handwheel position is used to calculate NHTSA Fishhook maneuver steering inputs, as described in Section 3.2.

3.2 NHTSA Fishhook Maneuver

3.2.1 Maneuver Overview

To begin the maneuver, the vehicle is driven in a straight line at a speed slightly greater than the desired entrance speed. The driver releases the throttle, and when at the target speed, initiates the handwheel commands described in Figure I.10 using a programmable steering machine. Following completion of the countersteer, handwheel position is maintained for three seconds. As a convenience to the test driver, the handwheel is then returned to zero.

Each Fishhook maneuver test series contains two sequences (with exceptions noted in the following sections): Tests performed with left-right steering (first sequence), and tests performed with right-left

steering (second sequence). The sequence of left-right tests always precedes those performed with right-left steering.

3.2.2 Default Procedure

Fishhook maneuver handwheel angles are calculated with lateral acceleration and handwheel angle data (δ) collected during a series of six Slowly Increasing Steer tests (a total of three left-steer and three right-steer tests are performed). For each Slowly Increasing Steer test, a linear regression line is fitted to the lateral acceleration data from 0.1 to 0.375 g. Using the slopes of these regression lines, the handwheel angles at 0.3 g are determined for each individual test ($\delta_{0.3\ g}$). The six handwheel angles are then averaged to produce an overall value ($\delta_{0.3\ g,\ overall}$).

$$\delta_{0.3\ g,\ overall} = \left(\left| \delta_{0.3\ g,\ left\ (1)} \right| + \left| \delta_{0.3\ g,\ left\ (2)} \right| + \left| \delta_{0.3\ g,\ left\ (3)} \right| + \delta_{0.3\ g,\ right\ (1)} + \delta_{0.3\ g,\ right\ (2)} + \delta_{0.3\ g,\ right\ (3)} \right) / 6$$

The Fishhook maneuver steering angles are calculated by multiplying $\delta_{0.3\ g,\ overall}$ by a steering scalar (SS). The default steering scalar is 6.5.

$$\delta_{Fishhook\ (Default)} = 6.5 \times \delta_{0.3\ g,\ overall}$$

3.2.2.1 Maneuver Entrance Speed

For the sake of driver safety, and as a final step in the tire scrub-in procedure, each Default Procedure sequence begins with a Maneuver Entrance Speed (MES) equal to 35 mph. The MES is measured at the initiation of the first steering ramp, and is increased until a termination condition is satisfied. The order of MES for a sequence is, in mph: 35, 40, 45, 47.5, 50. For each test run, the actual MES must be within 1 mph of the target MES.

Note: NHTSA's experience with the Fishhook maneuver indicates that an incremental increase in MES of 5 mph, up to 45 mph, minimizes tire wear without compromising test driver safety. However, when a MES greater than 45 mph is used, the severity of the responses produced with some vehicles can increase substantially from that observed at lesser entrance speeds. This is especially true if a vehicle has a propensity to oscillate in roll, and/or is able to produce two-wheel lift slightly less than NHTSA's threshold criterion of two inches. In some of these cases, the driver and/or experimenter may not be comfortable with a final 5 mph upwards increment in MES, and might, for the sake of driver safety, deviate from a test procedure that requires it. Generally speaking, such a deviation typically involves the experimenter's use of a more gradual 2.5 mph increase in MES.

To promote driver safety while also eliminating inconsistencies in the way NHTSA's Fishhook maneuvers are performed, the test procedure requires a MES increment equal to 2.5 mph be used above 45 mph if a test performed at 45 mph does not produce two-wheel lift, regardless of the vehicle being evaluated.

3.2.2.2 Outrigger Contact

If either safety outrigger contacts the pavement without two-wheel lift during a Fishhook maneuver test run, the affected outrigger is raised 0.75 inches and the test is repeated at the same MES. If both safety outriggers contact the pavement without two-wheel lift, both outriggers are raised 0.75 inches and the test is repeated at the same MES.

3.2.2.3 Termination and Conclusion Conditions

A test *sequence* is terminated if the MES capable of producing two-wheel lift is observed and the MES is 45 mph or lower. If two-wheel lift is observed during a left-right sequence at 45 mph or lower, the [entire] *series* is terminated. If no two-wheel lift is observed during a left-right sequence, right-left tests are performed. If two-wheel lift is observed during a right-left sequence performed with a MES of 45 mph or lower, the test series is terminated.

If the MES capable of producing two-wheel lift during a left-right or right-left sequence is 47.5 mph or higher, a new set of tires is installed on the vehicle and the procedure described in Section 3.2.3.1 is implemented.

A test *series* is terminated if rim-to-pavement contact or tire debeading is observed during any test performed with either test sequence.

A test series is deemed complete if both test sequences within a given series have been performed at the maximum maneuver entrance speed without two-wheel lift, rim-to-pavement contact, tire debeading, or outrigger-to-pavement contact. If the Default Procedure is completed without encountering a termination condition, Supplemental Procedure Part 2, described in Section 3.2.3.2, is implemented.

The flowchart presented in Figure I.11 describes the sequence of events for the Default Test Series.

3.2.3 Supplemental Procedures

Note: If the results of the Default Test Series require the implementation of the Supplemental Procedure Part 1, neither Supplemental Procedure Part 2 nor Part 3 is used.

Note: Depending on the response of test vehicles to elements of the Fishhook maneuver protocol, Supplemental Procedure, Parts 1, 2, and 3 may require a change in the steering scalar. The steering machine used by NHTSA has the capability for making such changes in vehicles during test sessions via selection of a pre-programmed steering schedule and the adjustment of overall steering angles.

3.2.3.1 Supplemental Procedure Part 1

Following the tire scrub-in procedure outlined in Section 4.6, tests are performed with handwheel angles equal to $\delta_{Fishhook\ (Default)}$, as explained in Section 3.2.2. The steering combination (*i.e.*, either left-right or right-left) that produced two-wheel lift in the Default Test Series is used. The first test is to be performed at a MES of 35 mph. This test is performed to ensure any mold sheen remaining from the tire break-in procedure has been removed from the tires. The second test is to be performed at the MES at which two-wheel lift had been previously observed (*i.e.*, with the previous tire set). If two-wheel lift is produced during the test performed with handwheel angles equal to $\delta_{Fishhook\ (Default)}$, the tip-up will be reported in the vehicle's NCAP Rollover Resistance Rating and the test series is deemed complete. If two-wheel lift is not produced and the MES is 47.5 mph, the MES is increased to 50 mph. If two-wheel lift is produced during the test performed with MES equal to 50 mph, the tip-up will be reported in the vehicle's NCAP Rollover Resistance Rating and the test series is deemed complete.

If two-wheel lift is *not* produced at 50 mph with handwheel angles equal to $\delta_{Fishhook\ (Default)}$, tests are performed with steering angles calculated by multiplying $\delta_{0.3\ g.\ overall}$ by a steering scalar of 5.5.

$$\delta_{Fishhook\ (Supplemental)} = 5.5 \times \delta_{0.3\ g,\ overall}$$

After the application of the reduced scalar, a test is to be performed, using the same steering combination (*i.e.*, either left-right or right-left), at the MES at which two-wheel lift had been observed in the Default Test Series. If two-wheel lift is produced during the test performed with handwheel angles equal to $\delta_{Fishhook\ (Supplemental)}$, the tip-up will be reported in the vehicle's NCAP Rollover Resistance Rating and the test series is deemed complete. If two-wheel lift is not produced and the MES is 47.5 mph, the MES is increased to 50 mph. If two-wheel lift is produced during the test performed with MES equal to 50 mph, the tip-up will be reported in the vehicle's NCAP Rollover Resistance Rating and the test series is deemed complete. If two-wheel lift is *not* produced at 50 mph, the test series is deemed complete and no tip-up will be reported in the vehicle's NCAP Rollover Resistance Rating.

A test series is terminated if rim-to-pavement contact or tire debeading is observed during any Supplemental Procedure Part 1 test. The flowchart presented in Figure I.12 describes the sequence of events for the Supplemental Procedure Part 1.

3.2.3.2 Supplemental Procedure Part 2

If two-wheel lift is not produced during tests performed with the Default Procedure, the steering scalar is reduced from 6.5 to 5.5. Using the same tires used for tests performed with the Default Test Series, tests are performed with steering angles calculated by multiplying $\delta_{0.3\ g.\ overall}$ by a steering scalar of 5.5.

$$\delta_{Fishhook\ (Supplemental)} = 5.5 \times \delta_{0.3\ g,\ overall}$$

For the sake of driver safety, the first test of the left-right sequence with the reduced steering scalar applied is to be performed at a MES of 45 mph. If this test does not

produce two-wheel lift, the MES is increased to 47.5 mph. If the test with MES equal to 47.5 mph does not produce two-wheel lift, the MES is increased to 50 mph (the maximum MES used for Fishhook maneuver testing). If no two-wheel lift is observed during the left-right sequence, the right-left test sequence is initiated using the same process as the left-right sequence. If any test in the Supplemental Procedure Part 2 test series produces two-wheel lift, a new set of tires is installed on the vehicle, and the procedure described Section 3.2.3.3 is implemented.

A test series is terminated if rim-to-pavement contact or tire debeading is observed during any test performed with either test sequence. A test series is deemed complete if both test sequences within the series have been performed at the maximum maneuver entrance speed without two-wheel lift. The flowchart presented in Figure I.13 describes the sequence of events for the Supplemental Procedure Part 2.

3.2.3.3 Supplemental Procedure Part 3

Following the tire scrub-in procedure outlined in Section 4.6, two tests are performed with handwheel angles equal to $\delta_{\text{Fishhook (Supplemental)}}$. The steering combination that produced two-wheel lift during Supplemental Procedure Part 2 testing is used (*i.e.*, either left-right or right-left). The first test is to be performed at a MES of 35 mph. This test is performed to ensure any mold sheen remaining from the tire break-in procedure has been removed from the tires. The second test is to be performed at the MES that had produced two-wheel lift during Supplemental Procedure Part 2 testing (*i.e.*, with the previous tire set). If two-wheel lift is produced during the test performed with handwheel angles equal to $\delta_{\text{Fishhook (Supplemental)}}$, the tip-up will be reported in the vehicle's NCAP Rollover Resistance Rating and the test series is deemed complete. If two-wheel lift is *not* produced and the MES is 45 mph, the MES is increased to 47.5 mph. If two-wheel lift is not produced and the MES is 47.5 mph, the MES is increased to 50 mph. If two-wheel lift is produced during any test performed during Supplemental Procedure Part 3, the tip-up will be reported in the vehicle's NCAP Rollover Resistance Rating and the test series is deemed complete. If two-wheel lift is *not* produced during Supplemental Procedure Part 3, the test series is deemed complete and no tip-up will be reported in the vehicle's NCAP Rollover Resistance Rating.

A test series is terminated if rim-to-pavement contact or tire debeading is observed during any Supplemental Procedure Part 3 test. The flowchart presented in Figure I.14 describes the sequence of events for the Supplemental Procedure Part 3.

3.2.4 Handwheel Inputs

3.2.4.1 Steering Rate

The handwheel rates of the initial steer and countersteer steering ramps are always to be performed with nominal steering rates of 720 degrees per second, regardless of what steering scalar is used.

3.2.4.2 Dwell Time

The Fishhook maneuver is designed to maximize the roll motion of the test vehicle. When left-right steering is used, this is accomplished by:

1. Steering the vehicle with an input equal to $\delta_{\text{Fishhook (Default)}}$ or $\delta_{\text{Fishhook (Supplemental)}}$
2. Waiting until the vehicle achieves maximum roll angle.
3. Reversing the direction of steer
4. Steering the vehicle with an input equal to $-\delta_{\text{Fishhook (Default)}}$ or $-\delta_{\text{Fishhook (Supplemental)}}$

When right-left steering is used, the sign conventions indicated in Steps 1 and 4 above are switched from positive to negative (*i.e.*, for Step 1) or from negative to positive (*i.e.*, for Step 4).

Dwell time is defined as the time from the completion of the initial steering ramp to the initiation of the steering reversal. A roll rate ''Window Comparator'' is used to determine when the vehicle has achieved maximum roll angle. Since the programmable steering machine used by NHTSA has a mechanical overshoot after completion of the initial steer, dwell time is not measured directly with handwheel angle data. Rather, two signals output from the steering machine are used: ''Handwheel Start'' and ''Roll Flag''.

3.2.4.2.1 Steering Machine Window Comparator

As indicated in Figure I.10, Fishhook maneuver steering reversals are commanded after the completion of the initial steering ramp and when the roll rate of the vehicle is very close to zero (because it is the derivative of roll angle, when roll rate is equal to zero at this point, roll angle is at its maximum). To minimize the likelihood of erroneous reversals, the reversals occur when the roll rate signal transmitted from a sensor positioned near the test vehicle's center of gravity enters the window comparator. The window comparator is defined as ±1.5 degrees per second, regardless of what steering scalar was used.

Examples: If an initial steer to the left is input, the reversal is initiated when the roll velocity of the vehicle is equal to 1.5 degrees per second. If an initial steer to the right is input, the reversal is initiated when the roll velocity of the vehicle is equal to −1.5 degrees per second.

3.2.4.2.2 Handwheel Command Flag

The programmable steering machine used by NHTSA outputs a ''Handwheel Command Flag'' signal based on the machine's internal clock. The output of the Handwheel Command Flag signal ranges from 0 to 10 volts, and is binary. The signal is high (10 volts) when the steering machine is in the process of executing a commanded input, or low (0 volts) when the machine is not in use or a pause is commanded during the execution of a commanded input, as shown in Figure I.10. When the pause ends, and execution of the commanded steering inputs are resumed, the Handwheel Command Flag signal is once again set high. In a Fishhook maneuver, the duration of the pause is the dwell time.

3.2.4.2.3 Roll Rate Flag

The ''Roll Rate Flag'' signal output by the programmable steering machine used by NHTSA is monitored. Like that of the Handwheel Command Flag channel, the Roll Rate Flag output ranges from 0 to 10 volts, and is binary. The signal is high (10 volts) when the roll rate of the test vehicle is within the window comparator, or low (0 volts) when roll rate is outside the window comparator, as shown in Figure I.10.

Fishhook maneuver steering reversals are to be initiated by the steering machine within 10 milliseconds of the roll rate entering the window comparator. Initiation of the steering reversal is defined as the instant the steering machine sets the Roll Rate Flag signal high.

Note: After completion of the initial steer, the instants that the steering machine sets the Roll Rate Flag and Handwheel Command Flag signals high should coincide.

3.2.4.3 Excessive Steering

In some cases, the magnitude of $\delta_{\text{Fishhook (Default)}}$ used during the Default Procedure may be so great that the vehicle reaches maximum roll angle before completion of the initial steer. This is defined as excessive steering; *i.e.*, the vehicle cannot respond to the entire commanded steering input.

Excessive steering is also said to occur if the dwell time of a Fishhook test performed with the Default Procedure results in a dwell time less than 80 milliseconds. The mechanical overshoot of the steering machine that occurs after completion of the initial steer can prohibit the machine from accurately executing dwell times less than approximately 80 milliseconds. In such cases, the effect of the overshoot is that the actual dwell time is equal to zero (an immediate steering reversal).

NHTSA's experience with the Fishhook maneuver has demonstrated the effect of excessive steering on dynamic rollover resistance is vehicle-dependent. While it may not allow the roll motion of some test vehicles to be maximized, excessive steering has been shown to contribute to an increased tip-up propensity in others. For this reason, a test sequence for which excessive steering is observed should *not* be terminated. Testing should proceed as outlined in Section 3.2.2, Default Procedure. If two-wheel lift is not observed during either Default Procedure test sequence, the Supplemental Procedure beginning at Part 2, described in Section 3.2.3.2, is performed.

4.0 Items Pertaining to Test Conduct

4.1 Definition of Two-Wheel Lift

Two-wheel lift is defined as the occurrence of at least two inches of simultaneous lift of the inside wheels from the test surface. NHTSA does not consider two-wheel lift less than two inches when calculating a vehicle's NCAP rollover resistance rating. Two-wheel lift great enough to require outriggers to suppress further roll motion is to be reported simply as ''two-wheel lift'' as long as at least two inches of simultaneous two-wheel lift occurs before outrigger contact with the ground is made.

4.2 Vehicle Test Configurations

4.2.1 Load Configurations

All vehicles are to be evaluated with one of the two load configurations previously defined in Section 2.1.

4.2.2 Fuel Tank Loading

Prior to beginning a Slowly Increasing Steer or Fishhook maneuver test series, the fuel tank of the vehicle is to be completely filled at the beginning of testing and may not be less than 75% of capacity during any part of the testing. This criterion is in agreement with that defined in FMVSS 135.

4.2.3 Stability Control System

If equipped, vehicles are tested with stability control systems active. Stability control is not to be deactivated for any Slowly Increasing Steer or Fishhook maneuver.

4.3 Road Test Surface

Tests are conducted on a dry, uniform, solid-paved surface. Surfaces with irregularities, such as dips and large cracks, are unsuitable, as they may confound test results.

4.3.1 Pavement Friction

All maneuvers are to be performed on a dry, high-mu road test surface.

Unless otherwise specified, the road test surface produces a peak friction coefficient (PFC) of approximately 0.9 when measured using an American Society for Testing and Materials (ASTM) E1136 standard reference test tire, in accordance with ASTM Method E 1337–90, at a speed of 64.4 km/h (40 mph), without water delivery. This criterion is in agreement with that defined in FMVSS 135.

4.3.2 Slope

The test surface has a consistent slope between level and 2%. All tests are to be initiated in the direction of positive slope (uphill).

4.4 Ambient Conditions

4.4.1 Ambient Temperature

The ambient temperature shall be between 0° C (32° F) and 40° C (104° F). This criterion is in agreement with that defined in FMVSS 135.

4.4.2 Wind Speed

The maximum wind speed shall be no greater than 10 m/s (22 mph).

4.5 Calibration Data

It is strongly recommended that calibration data be collected prior to tests of each configuration to assist in resolving uncertain test data. NHTSA typically records the following data at the beginning of each test day for each test vehicle configuration.

- The distance measured by the speed sensor along a straight line between the end points of a surveyed linear roadway standard of 1000 feet or more (observed and recorded manually from the speed sensor display).
- Five to fifteen seconds of data from all instrument channels as the configured and prepared test vehicle is driven in a straight line on a level, uniform, solid-paved road surface at 60 mph.

4.6 Tire Break-In Procedure

Prior to each test series, the tires must be ''scrubbed in'' to wear away mold sheen and be brought up to operating temperature. Test vehicles are to be driven around a circle 100 feet in diameter at a speed that produces a lateral acceleration of approximately 0.5 to 0.6 g. Using this circle, three clockwise laps are to be followed by three counterclockwise laps. Once the six laps of the circle are complete, the driver is to input, sinusoidal steering at a frequency of 1 Hz and a handwheel amplitude (δ_{ss}) corresponding to 0.5–0.6 g for 10 cycles while maintaining a vehicle speed of 35 mph. A total of four passes using sinusoidal steering are to be used. The handwheel magnitude of the final cycle of the final pass is to be twice that of δ_{ss}. These four sinusoid passes typically require an area similar in size to that required by the Fishhook maneuver. The steering machine should be programmed to execute the sinusoids. There should be only a minimal delay between the completion of the tire break-in and the start of a test series to allow for the collection of a static data file, steering machine and data acquisition system adjustment, and final driver briefing.

4.7 Static Datums

At the completion of the tire break-in procedure and before the start of a test series, fifteen seconds of data are collected from all instrument channels with the test vehicle at rest, the engine running, the transmission in ''Park'' (automatic transmission) or in neutral with the parking brake applied (manual transmission), and the front of the test vehicle facing in the direction of positive gradient (uphill) on the test surface. The static data files are used in post processing to establish datums for each instrument channel.

4.8 Vehicle Gear Selection

All tests are performed with automatic transmissions in ''Drive'' or with manual transmissions in the highest gear capable of sustaining the desired test speed (Slowly Increasing Steer) or Maneuver Entrance Speed (Fishhook), with one exception:

Slowly Increasing Steer tests may be performed with automatic transmissions in lower gears if 50 mph cannot be maintained in ''Drive'' and the gear selection does not result in engine overspeeding. In some cases, 50 mph cannot be maintained through to the end of the steering schedule regardless of the gear selection due to low engine power or chassis responses that result in the loss of traction or spin out. It has been NHTSA's experience, however, that maximum lateral acceleration is generally achieved well before the maneuver's maximum handwheel angle is attained.

Manual transmission clutches are to remain engaged during all maneuvers.

4.9 Outrigger Adjustment

The initial clearance between the road surface and the bottom of the NHTSA outrigger skid pads is approximately 14 inches for the ''standard'' outriggers and approximately 12 inches for the ''short'' outriggers with the test vehicle at rest on a level surface. Note that the Multi-Passenger Configuration may compress the suspension more than the Nominal Load Configuration (reducing outrigger clearance). As such, outrigger height adjustment may be required when transitioning from one load configuration to the next.

Outrigger height adjustment may be required during a test series. If an outrigger skid pad contacts the road surface during a test run wherein there is no two-wheel lift, the outrigger at the affected end of the vehicle is raised 0.75 inches and the test run is repeated at the same maneuver entrance speed. If both outriggers make contact with the test surface during a test run wherein there is no two-wheel lift, both outriggers are raised 0.75 inches and the test run is repeated at the same maneuver entrance speed.

4.10 Videotape Documentation

It is recommended that all test runs be documented on videotape. NHTSA videotapes Slowly Increasing Steer tests from a viewpoint several hundred feet outside the circular path of the test vehicle. Fishhook maneuver tests are videotaped from a viewpoint that facilitates observation of the inboard side of the vehicle so as to best record instances of two-wheel lift. For both maneuvers, it is recommended the zoom of the camera be adjusted during each test such that the vehicle fills the view frame to the greatest extent possible.

4.11 Summary of Tests To Be Performed for Each Vehicle

For each test vehicle, testing will be performed according to the following plan:

1. Installation of new tires
2. Tire break-in
3. Slowly Increasing Steer Maneuver test series in the Nominal Load or Multi-Passenger Configuration
4. Tire change
5. Tire break-in
6. NHTSA Fishhook maneuver test series in the Nominal Load or Multi-Passenger Configuration with additional tire changes and break-ins as indicated in the maneuver protocol

4.12 Summary of Metrics Measured For Each Vehicle

1. Overall handwheel position at 0.3 g in the Nominal Load Configuration
2. Two-Wheel Lift in NHTSA Fishhook maneuver in Nominal Load or Multi-Passenger Configuration (Yes/No)
3. Rim-to-Pavement Contact or Tire Debeading in Nominal Load or Multi-Passenger Configuration (Yes/No)

4.13 Post Processing

Data are filtered in post processing with a 6-Hz 12-pole, 2-pass, phaseless digital Butterworth filter. All accelerations are corrected for CG displacement (see Section 2.5.1.3). Laser height measurements are filtered with a one-pass 200 ms running average technique.

Post processing also includes roll effects correction for lateral acceleration as follows.

$$a_{yc} = a_{ym}\cos\Theta - a_{zm}\sin\Theta$$

where,

a_{yc} is the corrected lateral acceleration (*i.e.*, the vehicle's lateral acceleration in a plane horizontal to the test surface)

a_{ym} is the measured lateral acceleration in the vehicle reference frame

a_{zm} is the measured vertical acceleration in the vehicle reference frame

Θ is the vehicle s roll angle

Note: The z-axis sign convention is positive in the downward direction for both the vehicle and test surface reference frames.

5.0 References

1. Forkenbrock, G.J., Garrott, W.R., Heitz, Mark, O'Harra, Brian C., ''A Comprehensive Experimental Examination of Test Maneuvers That May Induce On-Road, Untripped Light Vehicle Rollover—Phase IV of NHTSA's Light Vehicle Rollover Research Program,'' NHTSA Technical Report, DOT HS 809 513, October 2002.

2. Forkenbrock, G.J., O'Harra, Brian C., Elsasser, Devin, ''An Experimental Examination of 26 Light Vehicles Using Test Maneuvers That May Induce On-Road, Untripped Light Vehicle Rollover—Phase VI of NHTSA's Light Vehicle Rollover Research Program,'' NHTSA Technical Report, DOT HS 809 547, 2003.

3. NHTSA, ''NHTSA's Experience With Outriggers Used For Testing Light Vehicle—A Brief Summary,'' Docket No. NHTSA–2001–9663, January 2003.

4. NHTSA, ''NHTSA's Set-Up Procedures for Wheel Lift Sensors—A Brief Overview,'' Docket No. NHTSA–2001–9663, April 2003.

5. SAE J266, Surface Vehicle Recommended Practice, ''Steady-State Directional Control Test Procedures For Passenger Cars and Light Trucks,'' 1996.

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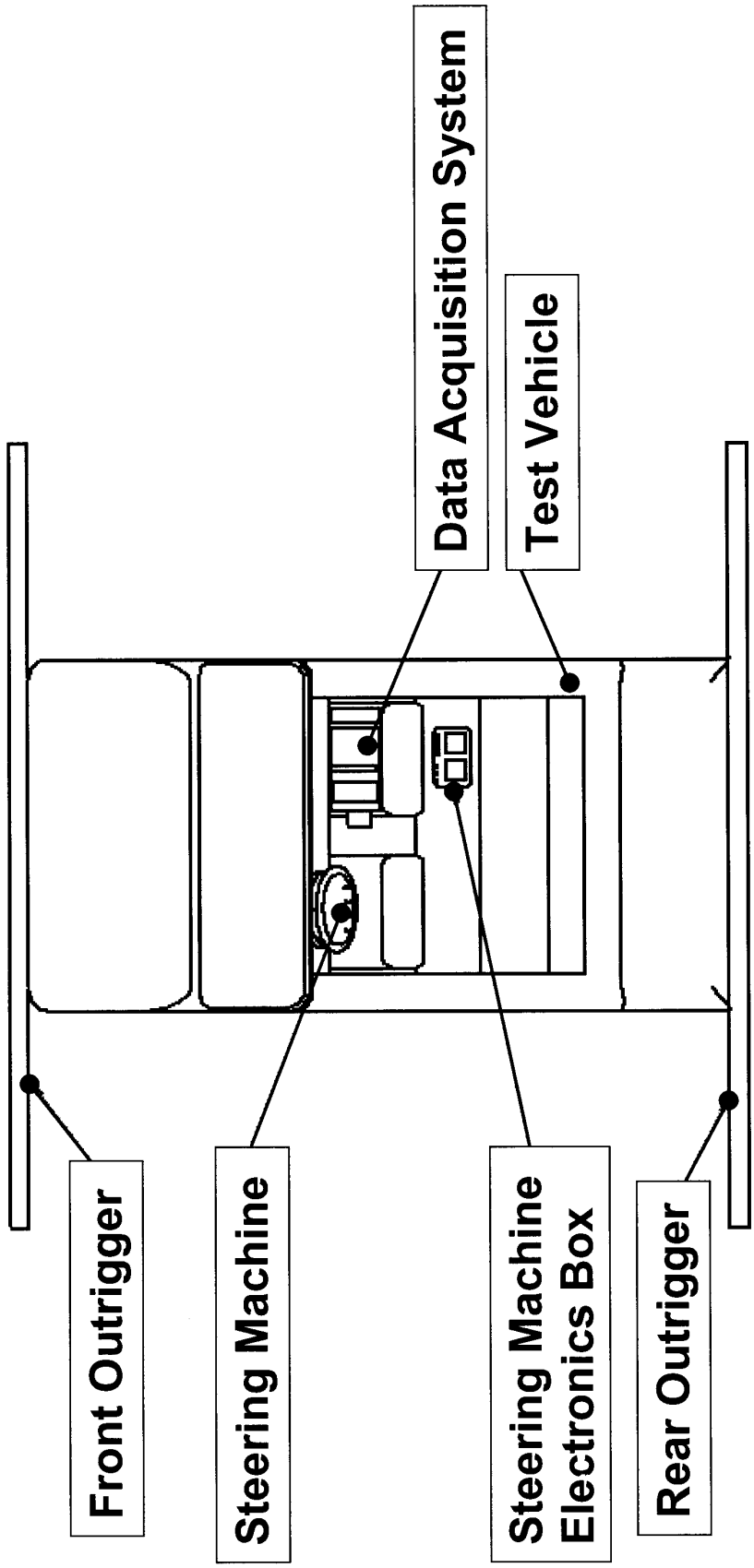


Figure I.1. Equipment location.

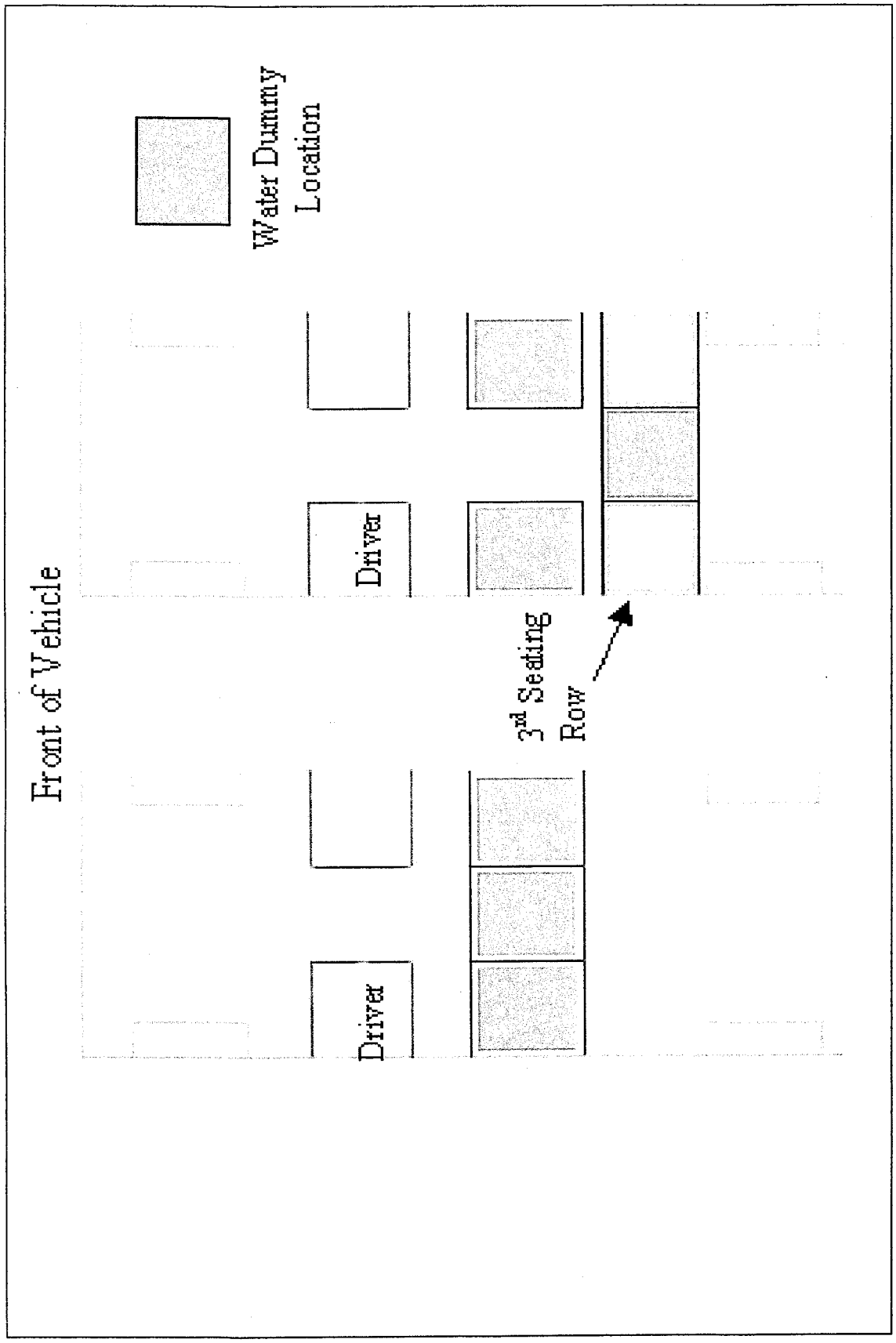


Figure I.2. Water dummy placement for vehicles with three or more designated rear seating positions, excluding pick-up trucks. **Note:** A water dummy is placed in the third seating row only when the second seating row is limited to two designated seating positions.

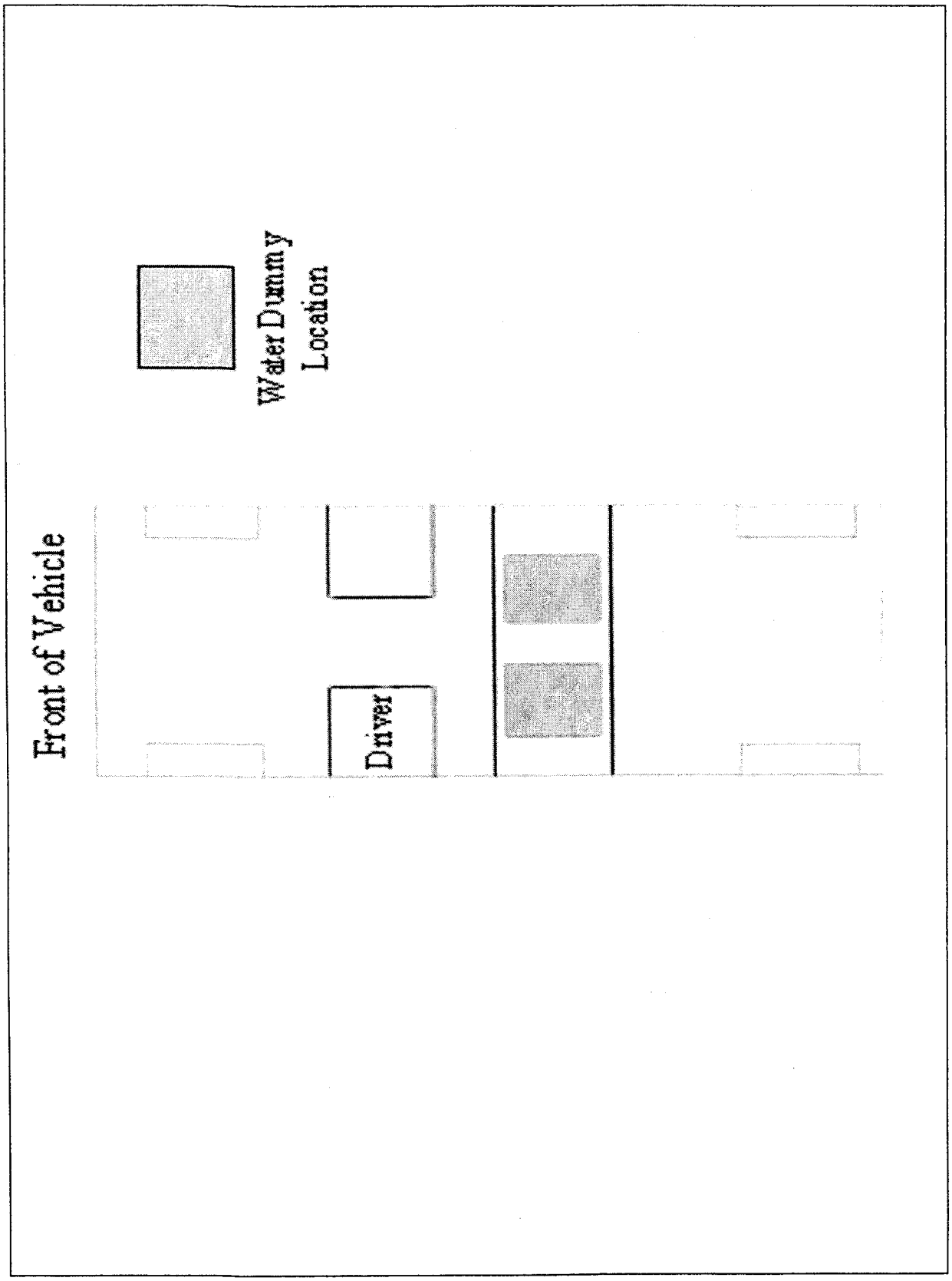


Figure I.3. Water dummy placement for vehicles with two designated rear seating positions, excluding pick-up trucks.

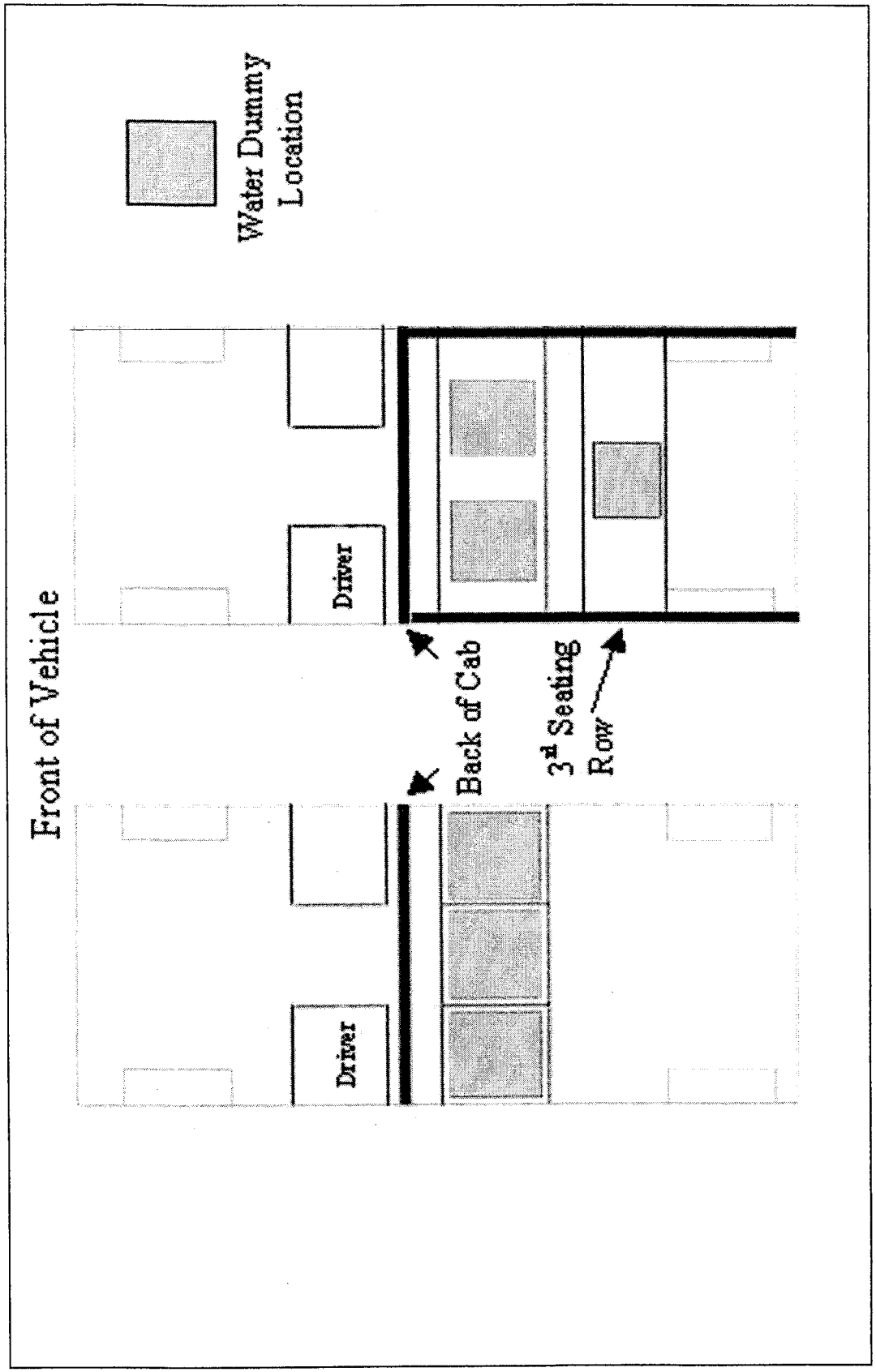


Figure I.4. Water dummy placement for pick-up trucks with no designated rear seating positions. **Note:** A water dummy is placed in a simulated third seating row only when the inside width of the cargo bed prevents the placement of three dummies side by side in the simulated second row.

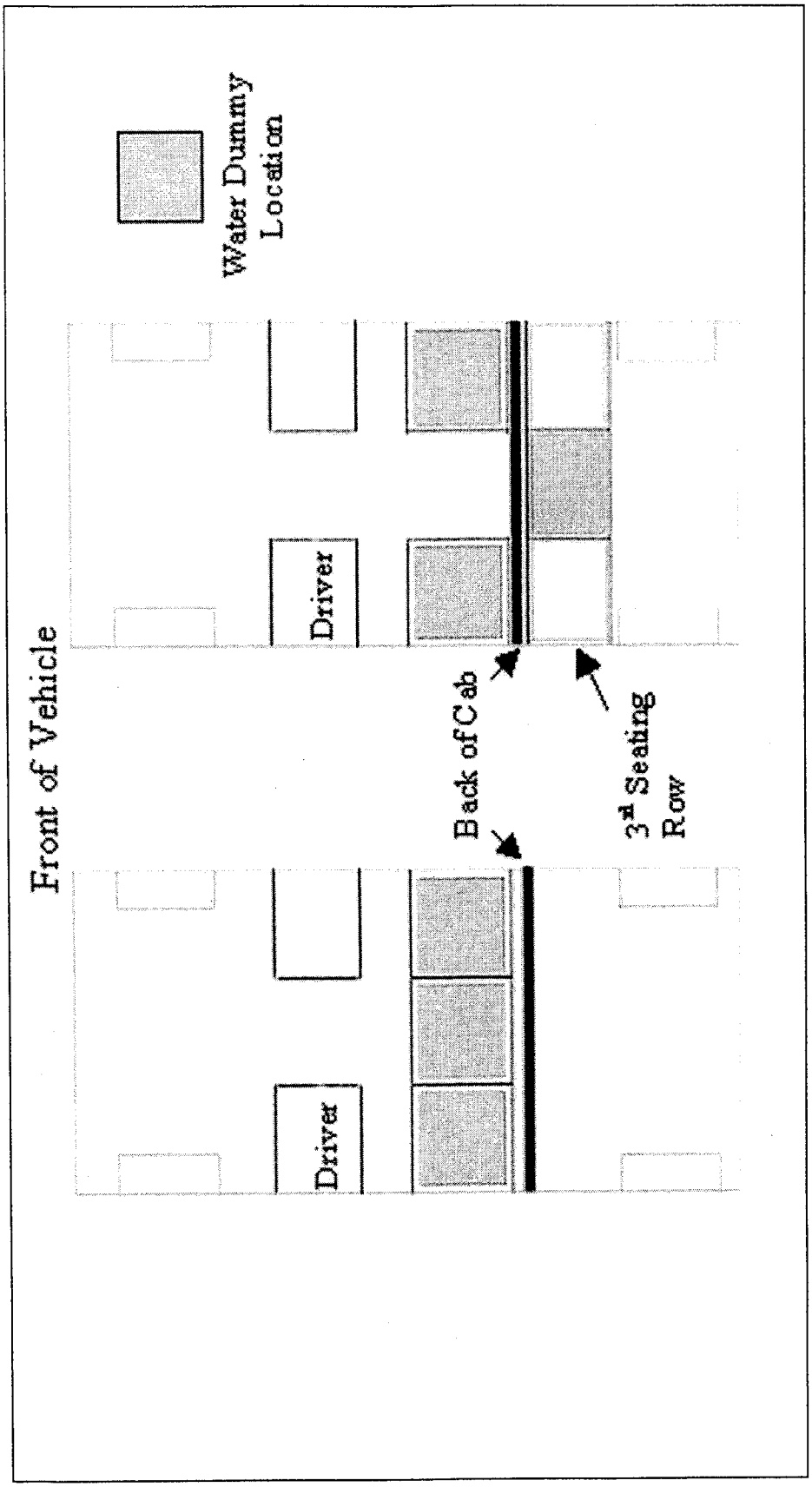


Figure I.5. Water Dummy Placement – pick-up trucks with two or more designated rear seating positions. **Note:** A water dummy is placed in a simulated third seating row only when the second seating row is limited to two designated seating positions

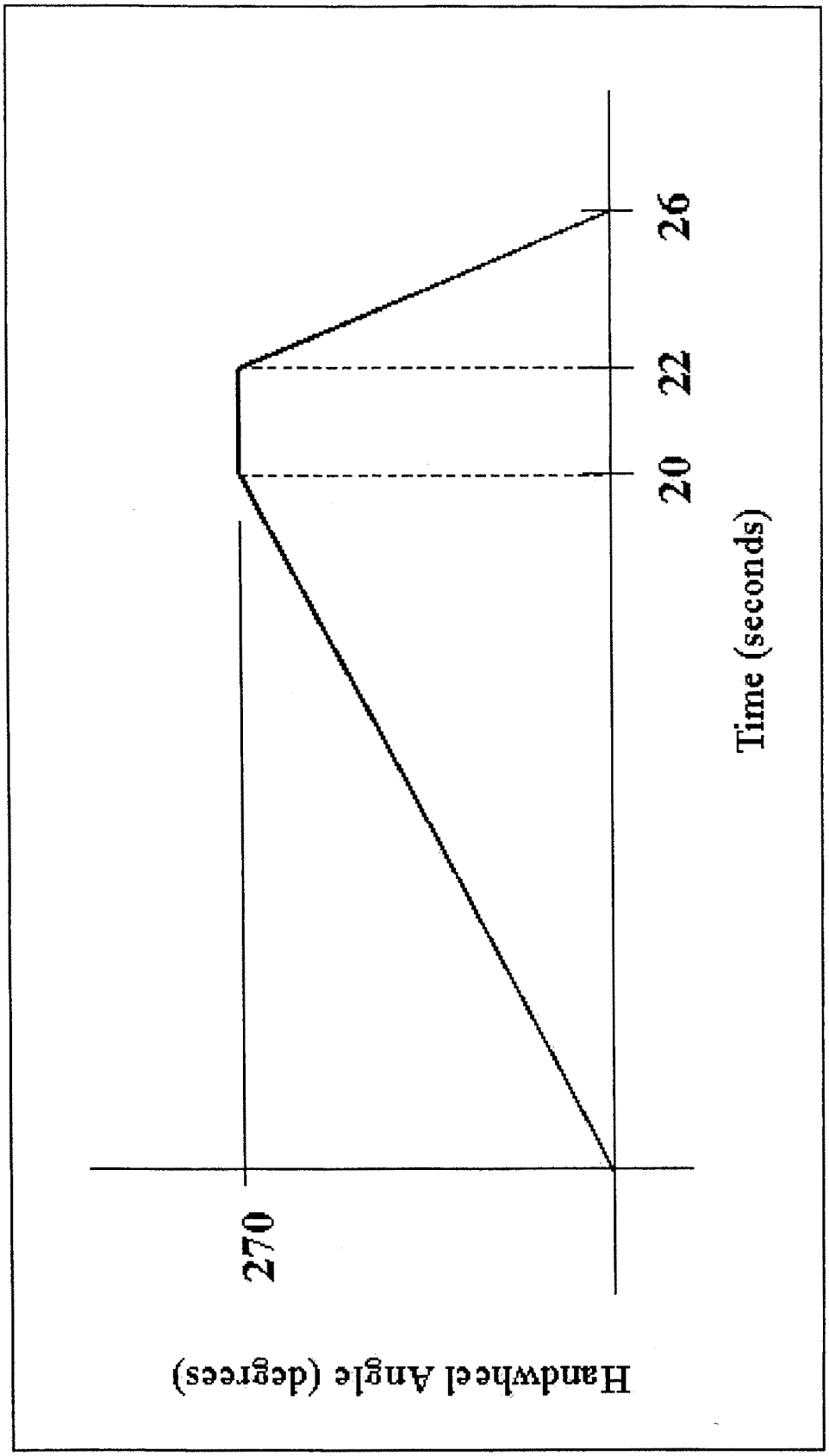


Figure I.6. Slowly Increasing Steer maneuver description (Option #1).

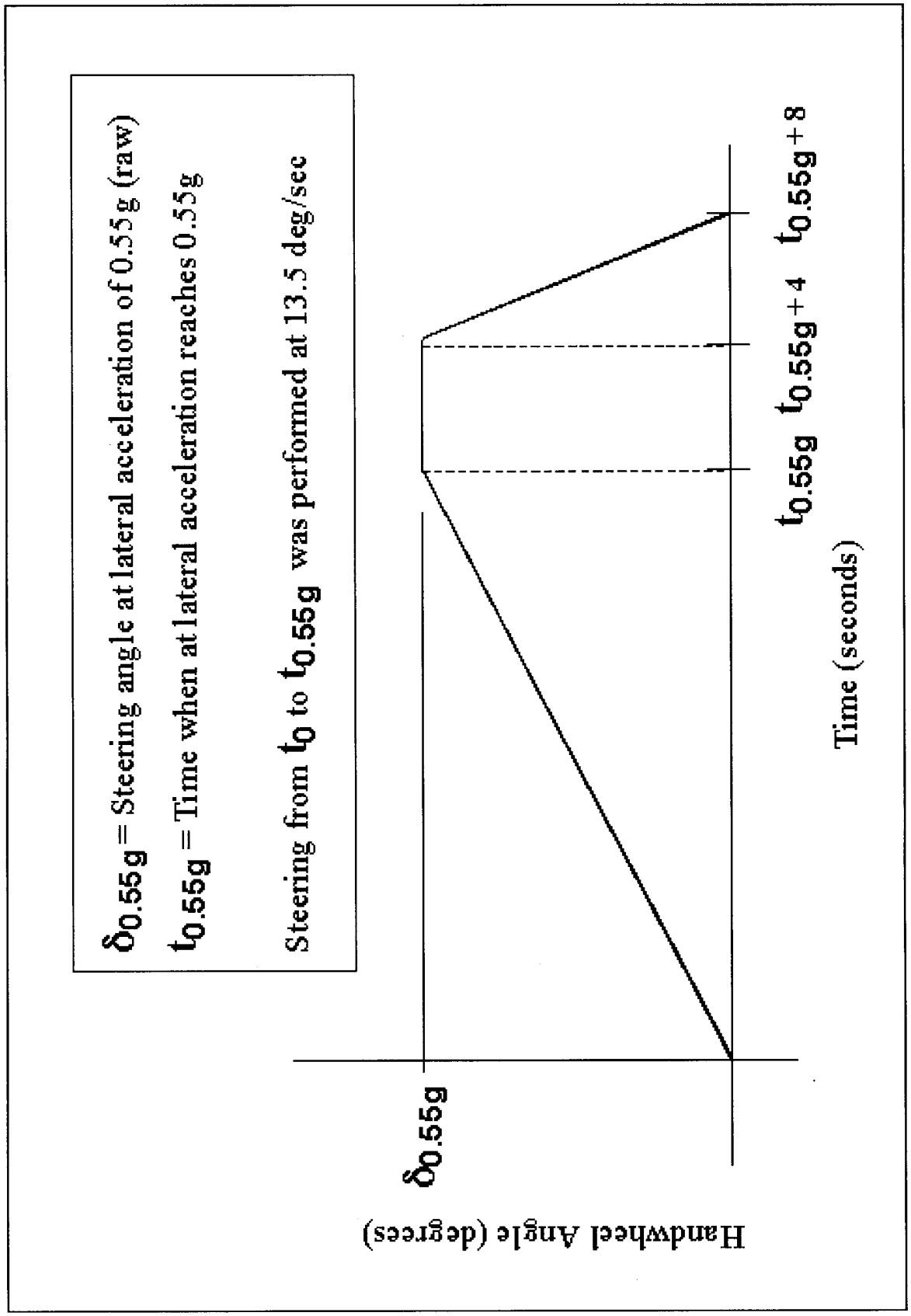


Figure I.7. Slowly Increasing Steer maneuver description (Option #2).

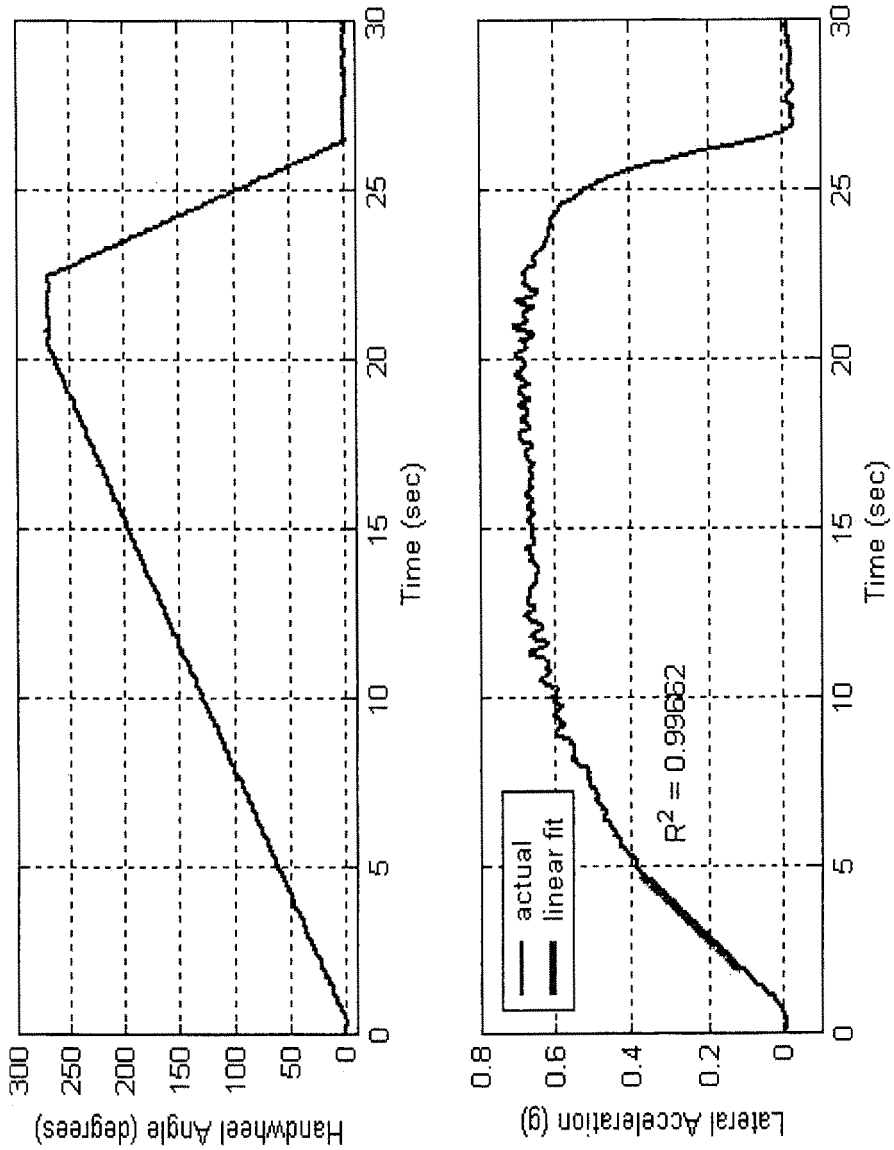


Figure I.8. Sample handwheel angle and lateral acceleration data (Option #1). The linear range used to define the lateral acceleration regression line is highlighted.

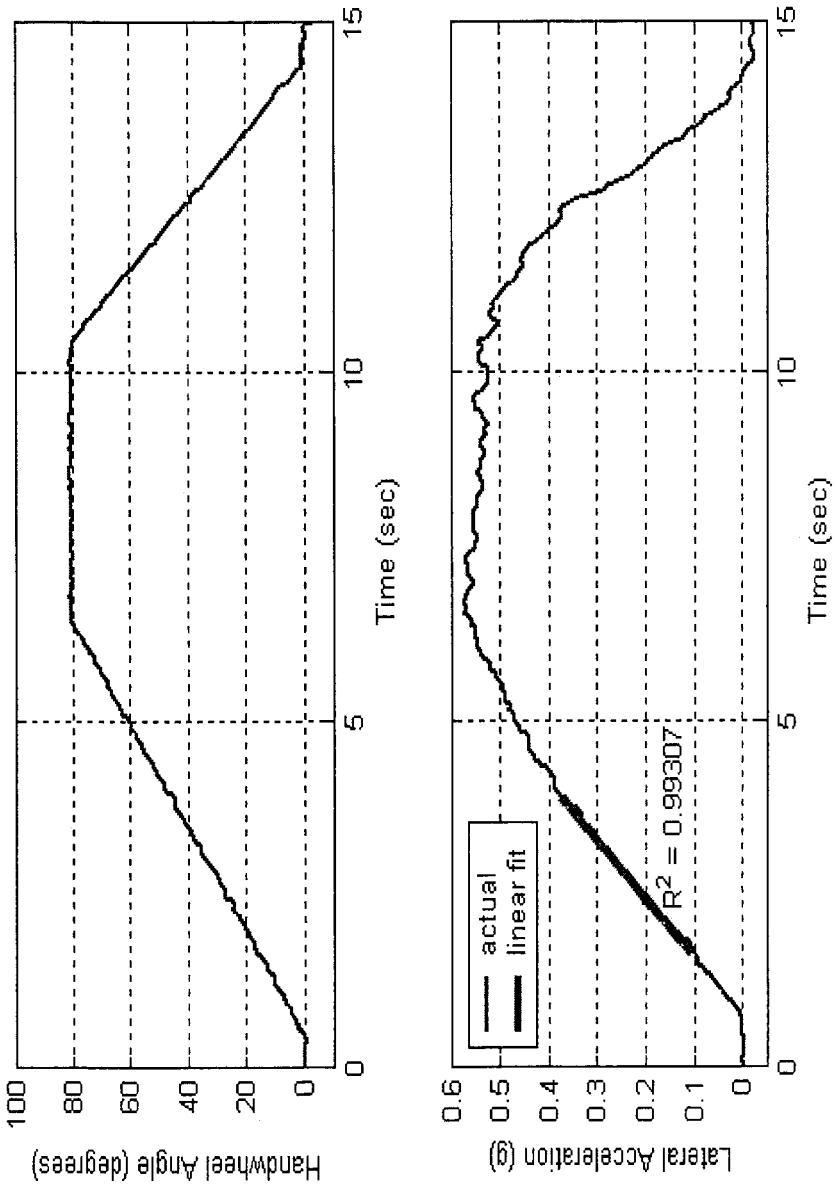


Figure I.9. Sample handwheel angle and lateral acceleration data (Option #2). The linear range used to define the lateral acceleration regression line is highlighted.

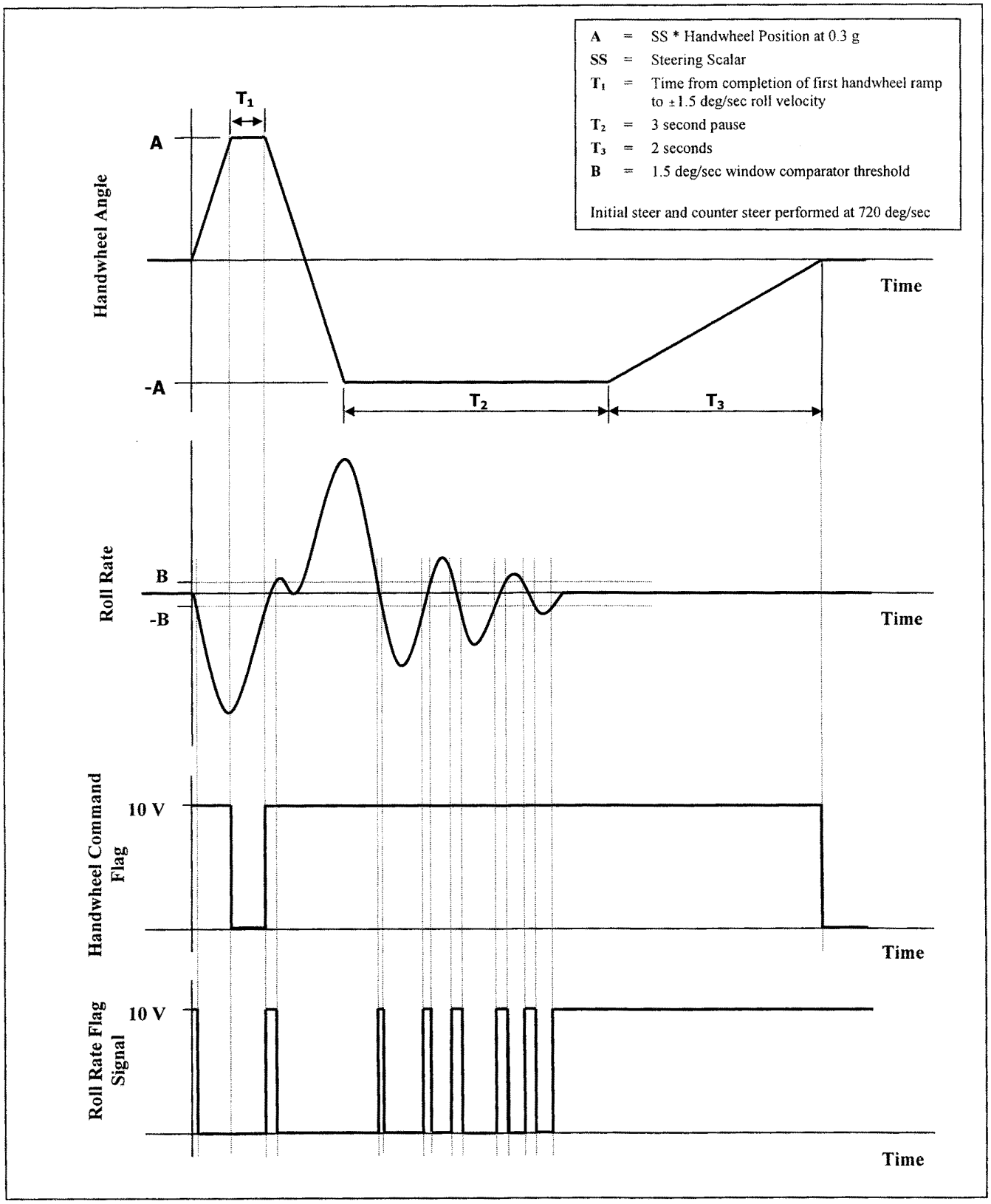


Figure I.10. NHTSA Fishhook maneuver description.

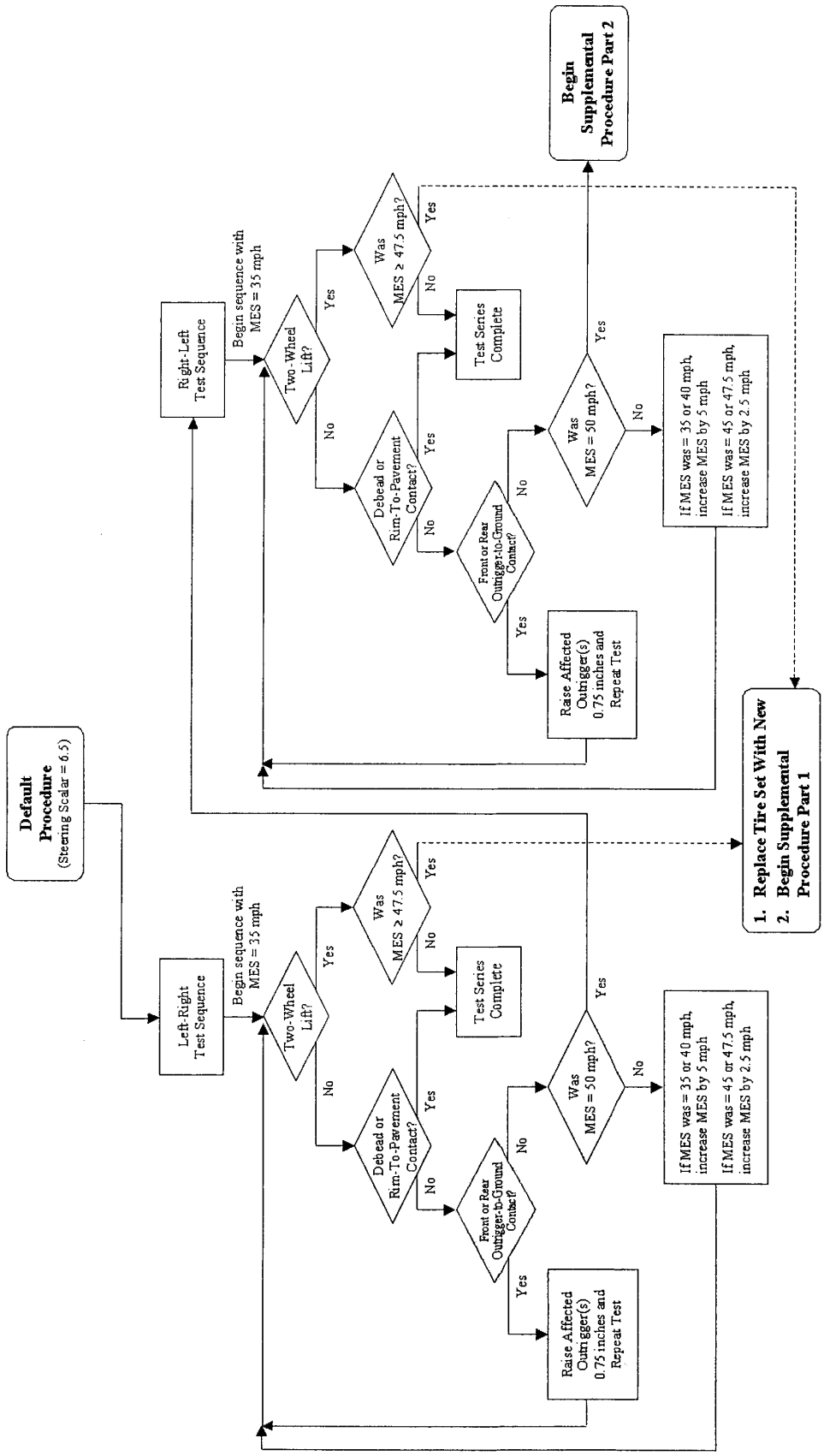


Figure I.11. Default Test Procedure.

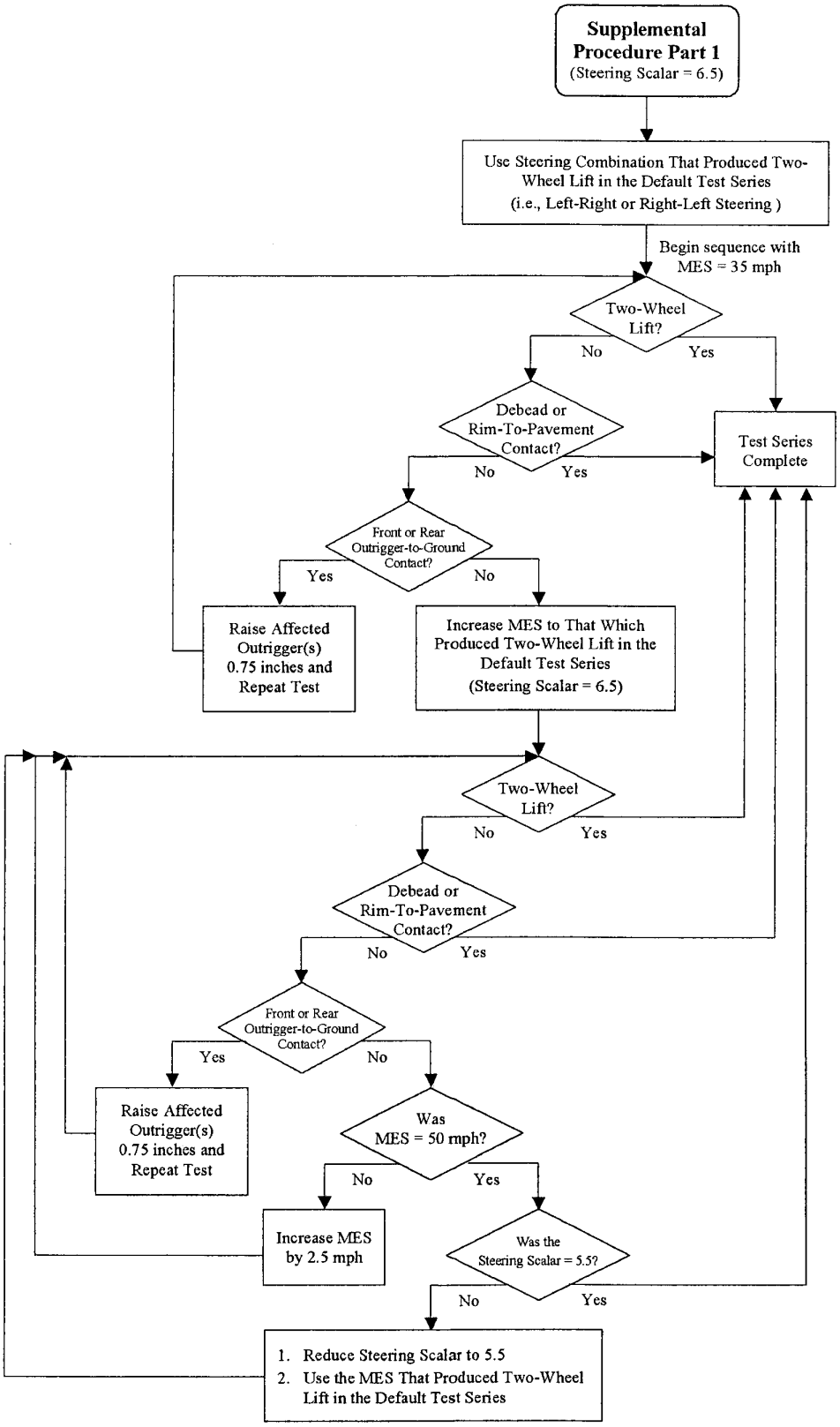


Figure I.12. Supplemental Procedure Part 1.

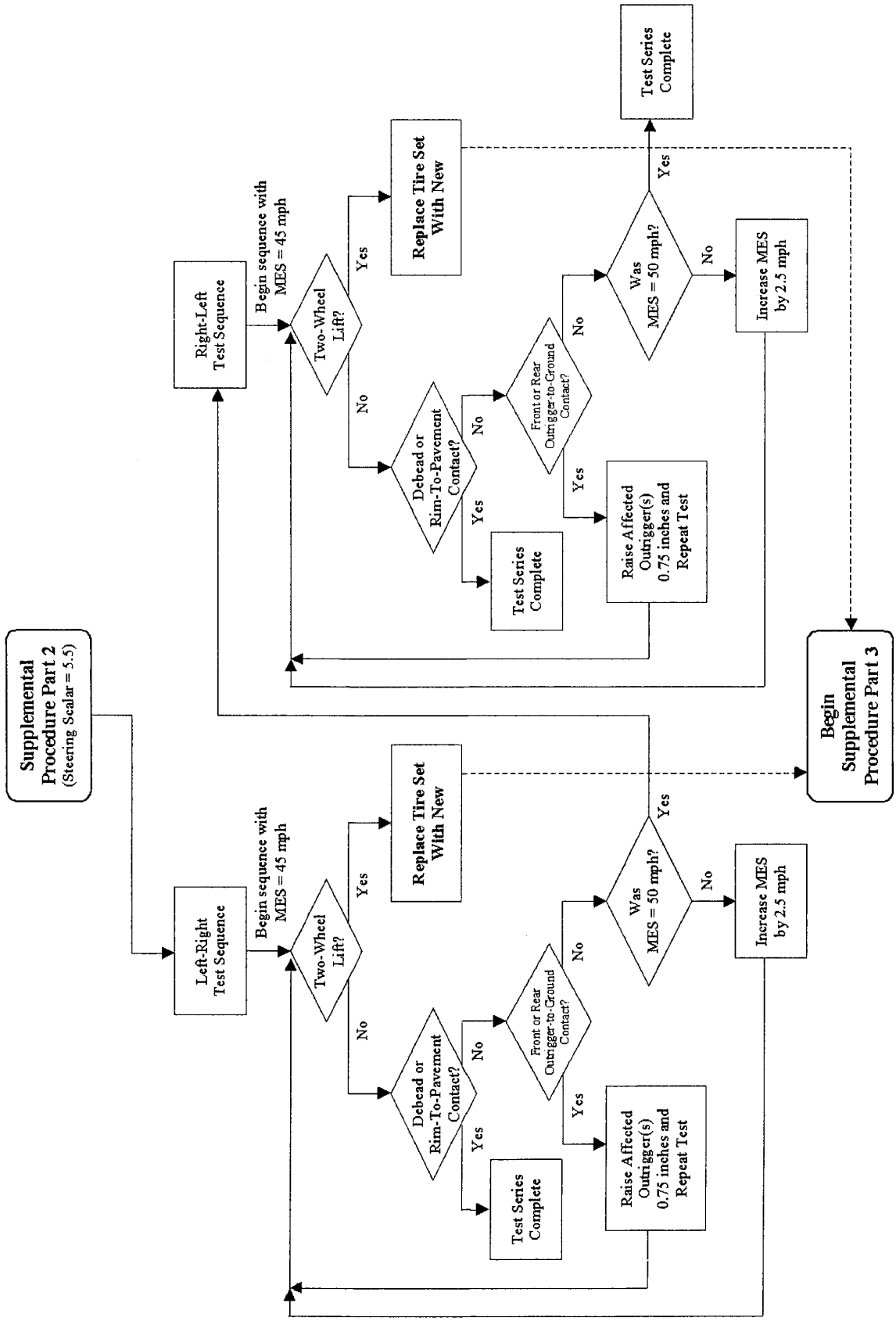


Figure I.13. Supplemental Procedure Part 2.

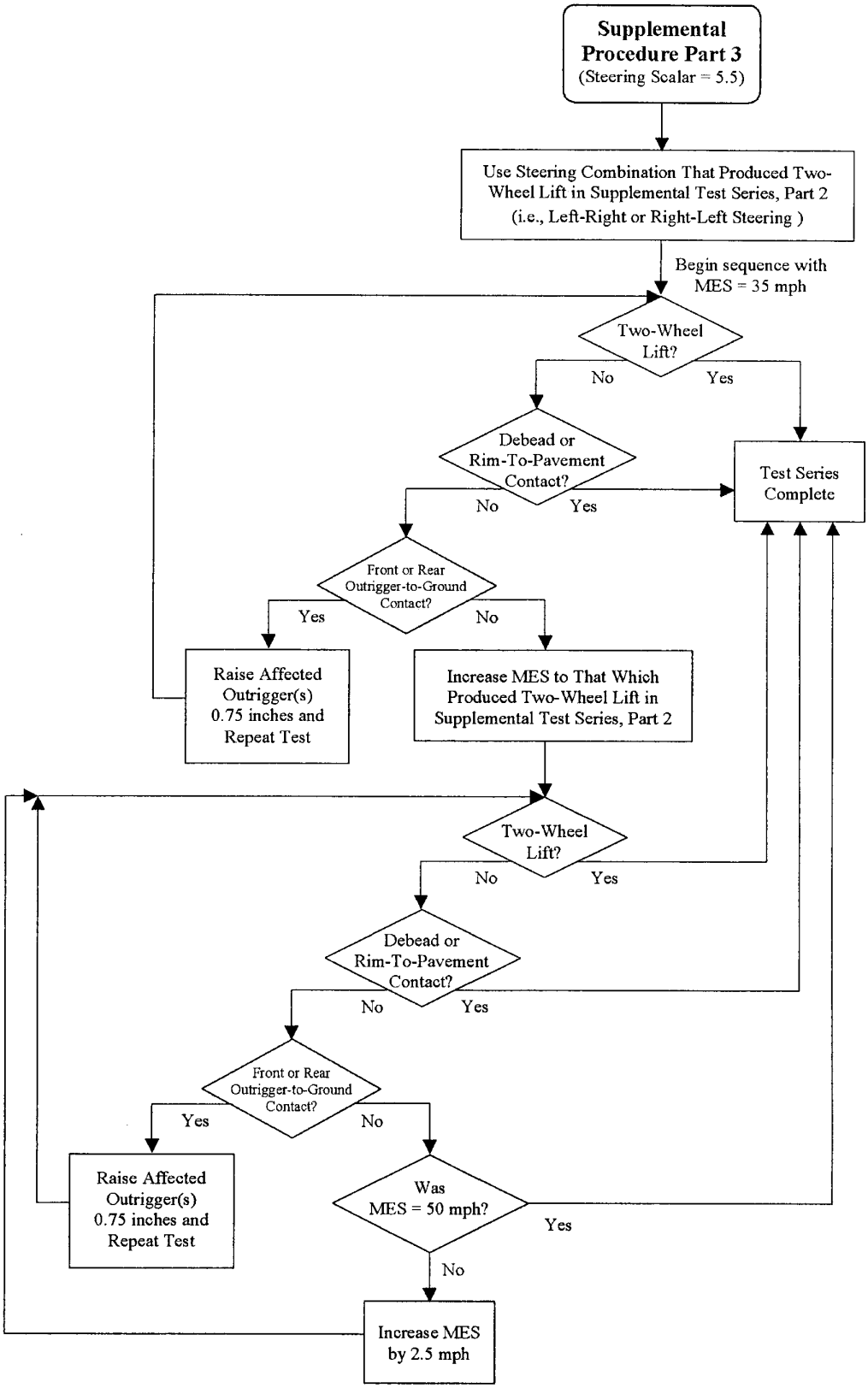


Figure I.14. Supplemental Procedure Part 3.

Appendix II. Development of a Rollover Risk Model

In its study of our rating system for rollover resistance (Transportation Research Board Special Report 265), the National Academy of Sciences (NAS) recommended that we use logistic regression rather than linear regression for analysis of the relationship between rollover risk and SSF. We had considered a logistic regression model during the development of the rollover resistance rating system used by NCAP for 2001 to 2003 vehicles, but we observed that it predicted rollover rates that were systematically lower than actual rollover rates for vehicles with low SSF. Our first step was to explore the use of transformations of SSF to create a logistic regression model that better matched actual rollover rates while following the recommendation of the NAS.

A satisfactory logistic regression model using SSF only was the starting point for developing a risk model that used both a vehicle's SSF and its performance in dynamic maneuver tests to predict its rollover rate. We used four binary variables to describe whether or not the vehicle tipped up in two dynamic maneuver tests each performed at two different occupant load conditions. The final model required the results of only the Fishhook maneuver test with the heavy five occupant load and the SSF of a vehicle. The predicted rollover rate determines the rollover resistance rating of the vehicle.

A. Improving the Fit of the Logistic Regression Model With SSF Only

We had considered logistic regression during the development of the SSF based rating system (66 FR 3393, January 12, 2001), but found that it consistently under-predicted the actual rollover rate at the low end of the SSF range where the rollover rates are high. The NAS study acknowledged this situation and gave the example of another analysis technique (non-parametric) that made higher rollover rate predictions at the low end of the SSF scale. In the NPRM, we discussed our plan to first examine ways to improve the fit of the logistic regression model to the actual rollover rates in the simpler model with SSF as the only vehicle attribute before expanding the logistic regression model to predict rollover rates using maneuver test results and SSF as vehicle attributes. In this way, the addition of maneuver test results is more likely to have an effect that reflects the additional information they represent on rollover causation.

A consultant to the Bureau of Transportation Statistics who lectured on logistic regression suggested that we use a transformation of SSF, like Log(SSF), rather than SSF alone to change the shape of the trend line generated by the logistic regression in our range of interest of SSF. This technique is similar to what we used to improve the fit of the linear regression model in the SSF rating system (Figure II.1). Linear regression creates a ''best fit'' straight line to predict the relationship between the independent variable, SSF in this case, and the dependent variable, rollover rate per single vehicle crash in this case. However, the observations of rollover rate for groups of vehicles with a known SSF did not appear to lie on a straight line. The relationship appeared to be exponential with a reduction in rollover rate with increase in SSF much greater at low SSFs than at high SSFs. We used the transformation Log(SSF) to replace SSF alone in the linear regression model so that it would compute a ''best fit'' exponential curve instead of a best fit straight line in order better fit the prediction line to the observations. We referred to Figure II.1 in notices 65 FR 34998 and 66 FR 3388 as a linear regression model because of the analysis technique, but the NAS study refers to it as the exponential model because of its curve shape.

Figure II.2 plots the actual rollover rates as a function of SSF observed for 293,000 single vehicle crashes involving 100 vehicle groups in six states from 1994 to 2001 (not all state's data available in every year). The point designated ''actual rate'' at each value of SSF gives the proportion of single vehicle crashes for vehicles of that SSF that resulted in rollover. For example, the leftmost point shows that for all single vehicle crashes observed for vehicles with an SSF of 1.00, slightly less than 50% resulted in rollover. There are fewer than 100 data points because the data at each SSF often include the crashes of several vehicles with the same SSF.

Figure II.2 also plots the rollover rates predicted for the same 293,000 crashes by a logistic regression model operating on SSF without transformation as the only vehicle variable. The model was developed from a database that contained the driver characteristic and road condition variables in the state crash reports of 293,000 crashes in six states. Data from Maryland, Florida, North Carolina, Missouri, Utah and Pennsylvania were used because these were the only states with electronic records available to NHTSA in which we could identify the make/model of the vehicle and could be sure whether or not a rollover occurred. The driver variables were gender, age [young (less than 25), old (70 or older), neither], and evidence of alcohol or drug use. The road condition variables were weather, speed limit, curve, hill, darkness, wet or icy surface, and potholes or other bad surface conditions. The SAS logistic regression program used these driver and road variables, the vehicle SSF, the State and the outcome (rollover or not) for each of 293,000 single vehicle crashes to compute the risk model. Figure II.2 shows the exercise of inputting the driver, road, state and vehicle SSF circumstances for each individual crash of the 293,000 back into the risk model to test how well the model can predict the actual rollover outcomes.

In similar fashion as the ''actual rate'' points on Figure II.2, the ''predicted rate'' points at each value of SSF give the proportion of single vehicle crashes for vehicles of that SSF that resulted in rollover. The number and circumstances (as well as can be described from state crash report variables) of crashes represented by the actual and predicted rate points are identical. However, in one case the rollover outcomes are the actual outcomes reported in the state data. But in the other case, the rollover outcomes are the predictions of the risk model given the driver and road variables and vehicle SSF for each actual the crash. The predicted rate points do not lie on a continuous curve when plotted against SSF because the distribution of driver and road variables are different for the single vehicle crashes experienced by each group of vehicles represented by its SSF value.

Figure II.2 shows that the risk model obtained using the untransformed SSF computes predictions that match the actual rollover rates well at SSFs higher than 1.3, but its predictions are consistently low at the low end of the SSF range. The predictions also tend to be too high in the 1.15 to 1.25 SSF range. For this reason we described the form of the curve inherent to the logistic regression computation as being too flat or lacking sufficient curvature to represent rollover risk in our past notices.

Figure II.2 also lists an objective measure of the goodness of fit of the predictions to aid in the comparisons of models with and without using transformations of SSF. It is the R^2 value for linear regression between the predicted and actual rollover rates. Figure II.3 is a plot of predicted versus actual rollover rates taken from Figure II.2. It shows how the R^2 value was obtained. A linear regression of the form ''y = mx'' computes the best fit line that passes through the origin. The R^2 value that describes the goodness of fit of the points to the line ''y = 0.9673x'' is 0.752. A perfect set of predictions would cause an R^2 value of 1.0 on the line ''y = 1.0x''.

Figures II.4, II.5, and II.6 show the predictions of a series of risk models obtained in the same way as that shown in Figure II.2 except that transformations of SSF were used as the vehicle variable instead of just SSF. The first transformation, shown in Figure II.4, was Log(SSF). This is the transformation currently used in the linear regression rollover risk model. It makes a very small improvement both to the under-predictions at the low end of the SSF range and the over-predictions in the 1.15 to 1.25 SSF range. The R^2 goodness of fit indicator increased to 0.7975.

Next we tried the transformation Log (SSF-margin). Figure II.5 shows the predictions of a logistic regression model with a margin of 0.85. The subtraction of a margin from SSF makes a large improvement in the fit of the predicted rollover rates to the actual rollover rates in the SSF range of 1.0 to 1.25. The R^2 goodness of fit indicator increased to 0.8811 about the line ''y = 1.0011x'' for the whole SSF range of data base (1.0 to 1.53). This transformation caused a small sacrifice in the fit of the model at the high end of the SSF range. However, a good fit in the 1.0 to 1.25 SSF range is more important to a rating system because most of the consumer requests for rollover information involve vehicles in this range.

Figure II.6 shows the fit of the model with a margin of 0.9. The R^2 goodness of fit indicator increased slightly to 0.8948 about the line ''y = 1.0091x'', but the sacrifice of fit at the high SSF end also increased. Figure II.7 is a plot of predicted versus actual rollover rates taken from Figure II.6. The use

of the transformation Log(SSF–0.90) instead of SSF alone in the logistic regression gave us a risk model with the benefits of logistic regression recommended by the NAS and a goodness of fit with the actual rollover rate data at least equivalent to that of the linear regression model we have been using.

Figure II.8 shows the best logistic regression model (margin = 0.90) and the linear regression model we have been using. In this presentation, the driver and road variables of the crashes for each SSF were the same so that the differences in predicted rollover rates along each line were a purely a function of SSF differences, and the risk curve is continuous. The common scenario of driver and road variables represented the average conditions for the entire 293,000 single vehicle crashes (only 20% of which resulted in rollover). The linear regression model represents the same scenario.

The line in Figure II.8 representing the linear regression model is described by the equation:

$$\text{Roll Rate} = 13.28e^{(-3.376 \times \text{SSF})}$$

The line in Figure II.8 representing the logistic regression model is described by the following equation:

$$\text{Roll Rate} = \frac{1}{1 + e^{(2.7546 + 1.1814 \times \ln(\text{SSF} - 0.90))}}$$

B. Adding Dynamic Maneuver Test Results to the Logistic Regression Model

The dynamic maneuver test results (tip-up or no tip-up in each maneuver/load combination in Table 1 of the main body of the notice) were used as four binary variables in the logistic regression analysis. They were entered in addition to SSF to describe the vehicle. The same driver and road variables from state crash reports discussed above were used. The state crash report data for twenty-four of the vehicles used in the logistic regression analysis with dynamic maneuver test variables was a subset of the database of 293,000 single vehicle crashes described above. One extra vehicle was added for the maneuver tests that was not among the 100 vehicle groups we had studied previously, but state crash report data from the same years and states was obtained for it. However, the database with SSF and dynamic maneuver tests was much smaller than the 293,000 sample size available for the logistic regression model with SSF only. Its sample size was 96,000 single vehicle crashes of 25 vehicles including 20,000 rollovers.

The risk models combining SSF and dynamic maneuver test results (''dynamic results'' for short) are computed in the same way as the logistic regression curve in Figure II.7. The logistic regression analysis of the database of 96,000 state reports of single vehicle crashes along with the dynamic results and SSF of each crashed vehicle provides a mathematical relationship between all of the vehicle, driver and road variables and a prediction of whether rollover will occur in a single vehicle crash described by any combination of the variables. Next, for the number of sets of driver and road variables that define the average crash scenario of the 293,000 single vehicle crash database, predictions of rollover or no rollover in the crash are made at each combination of SSF and dynamic results. The proportion of crashes that are predicted to result in rollover is plotted at each SSF and dynamic result. Continuous curves predicting rollover rate versus SSF for each combination of dynamic results is the form of the model. Since all of the predictions were made with the same driver and road scenario, the changes in rollover rate along each SSF curve or between dynamic results are functions of vehicle attributes.

Figure II.9 illustrates the form of the model with dynamic results. It shows the predicted rollover rate as a function of SSF and whether or not the vehicle tipped-up in the Fishhook maneuver with 5 occupant loading (fishhook heavy or FH). It predicts a rollover rate that is strongly dependant on SSF but higher for vehicles that tip-up in this severe maneuver than for vehicles that do not tip up in the test.

The intent of using dynamic results from four tests was to provide tests with a range of severity to best discriminate between vehicles on the basis of dynamic performance. The Fishhook heavy maneuver was the most severe, and the J-turn light was the least severe. The expectation was that tip-up in the least severe maneuver would predict a greater rollover risk than tip-up in the most severe maneuver.

Figures II.10, II.11 and II.12 show logistic regression models using each of the other maneuvers as a single variable for dynamic results. In Figure II.10, vehicles that tip-up in J-turn heavy are predicted to have a slightly greater rollover risk than those that do not tip. However, in the Fishhook light and J-turn light maneuvers, the logistic regression models of Figures II.11 and II.12 predicted a greater rollover risk for vehicles that did not tip-up.

We do not believe vehicles that tip up in the least severe maneuvers are actually safer than those that do not tip up. A more rational interpretation is that the numbers of vehicle tipping up in these maneuvers were too few to establish a definitive correlation. Only three vehicles tipped up in the J-turn light maneuver, and six vehicles tipped up in the Fishhook light maneuver. Only one more vehicle tipped up in the J-turn heavy maneuver than in the Fishhook light, and the prediction of the model with J-turn heavy was consistent with expectations that tip-up in the test predicts greater rollover risk. However, the extra vehicle in the J-turn heavy tip-up group was the Ford Ranger 2 WD with a very large sample size of over 8,000 single vehicle crashes (nearly 10 percent of the entire data base).

Next we computed a logistic regression using both dynamic results variables, Fishhook heavy and J-turn heavy, that were observed to have a directionally correct result when entered into the model individually. The result was that the variable, J-turn heavy, was rejected by the logistic regression program as not statistically significant in the presence of the Fishhook heavy variable. In other words, the predictions based on tip-up in the Fishhook heavy maneuver do not change whether or not the vehicle also tips up in the J-turn heavy maneuver.

Figure II.13 shows the final model that uses only Fishhook heavy of the dynamic results variables. The printout of the SAS logistic regression procedure that establishes the coefficients of the model has been docketed separately. This model has a risk prediction for vehicles that tip up in the dynamic maneuver tests based on the greatest number of vehicles possible in our 25 vehicle data base. All 11 vehicles that tipped up in any maneuver are represented on the tip-up curve, and the 14 vehicles without tip-up are represented on the other curve. The logistic regression model based on SSF only for 100 vehicles is included for reference. It is very similar to the risk model with dynamic result variables for vehicles that tip up in the Fishhook heavy maneuver. This result is not surprising because the SSF only model was optimized for best fit in the 1.00 to 1.25 SSF range that included all vehicles tipping up in dynamic maneuver tests. The SSF only model was based on a vehicle sample that included 10 of the 11 vehicles that tipped up in the dynamic tests, but the sample included 90 additional vehicles. The fact that the prediction based on the SSF of 100 vehicles closely matches the prediction based on 11 vehicles that tipped up in the dynamic tests suggests that the small sample has produced a robust prediction although the predictive power of tip-up in the dynamic test may not be great.

In Figure II.13, the equation of the line representing the SSF only model (from the 100 vehicle database) is:

$$\text{Roll Rate} = \frac{1}{1 + e^{(2.7546 + 1.1814 \times \ln(\text{SSF} - 0.90))}}$$

The equations for the final model representing a combination of SSF with dynamic scores for each of the dynamic results (tip-up and no tip-up) are:

$$\text{Roll Rate} = \frac{1}{1 + e^{(2.6968 + 1.1686 \times \ln(\text{SSF} - 0.90))}} \quad \text{for tip-up in FH}$$

$$\text{Roll Rate} = \frac{1}{1 + e^{(2.8891 + 1.1686 \times \ln(\text{SSF} - 0.90))}} \quad \text{for no tip-up}$$

Figure II.1: Linear regression model for 2001-2003 SSF Rollover Resistance Rating (RO/SVC estimated from six states adjusted to national average road use and for difference in state reporting)

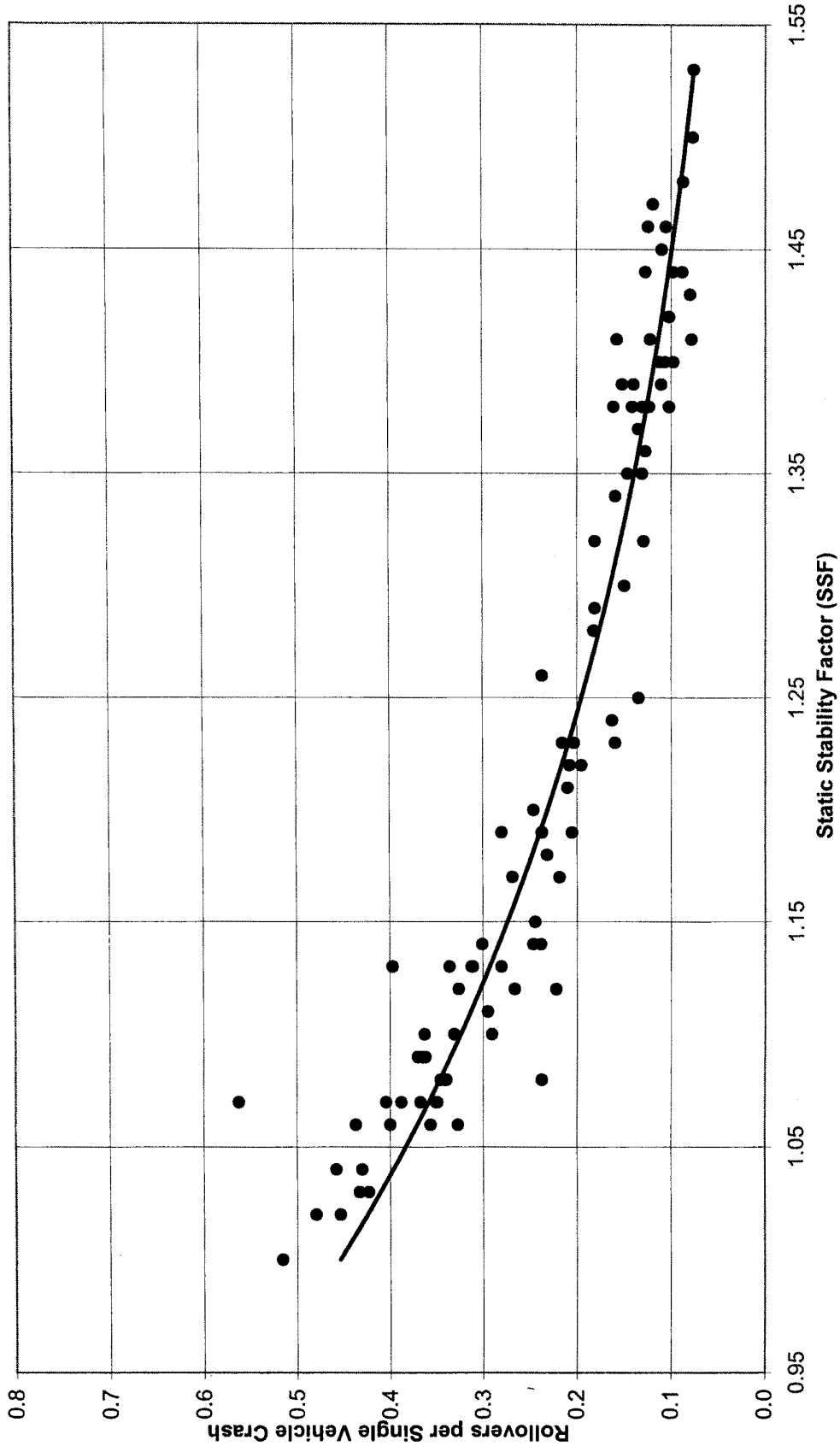
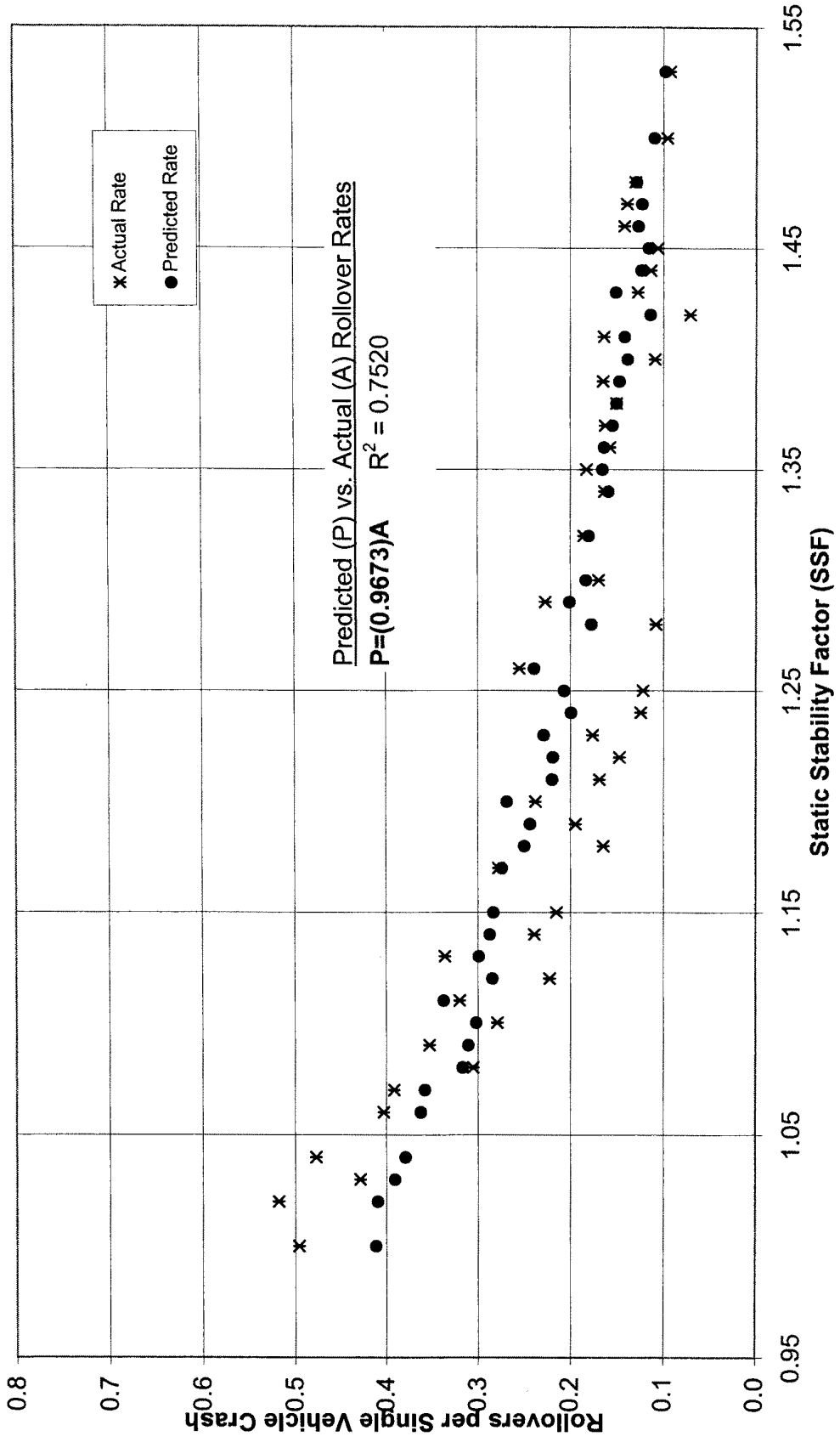


Figure II.2: Logistic regression model operating on SSF (w/o transformation)
100 vehicle database - SSF only



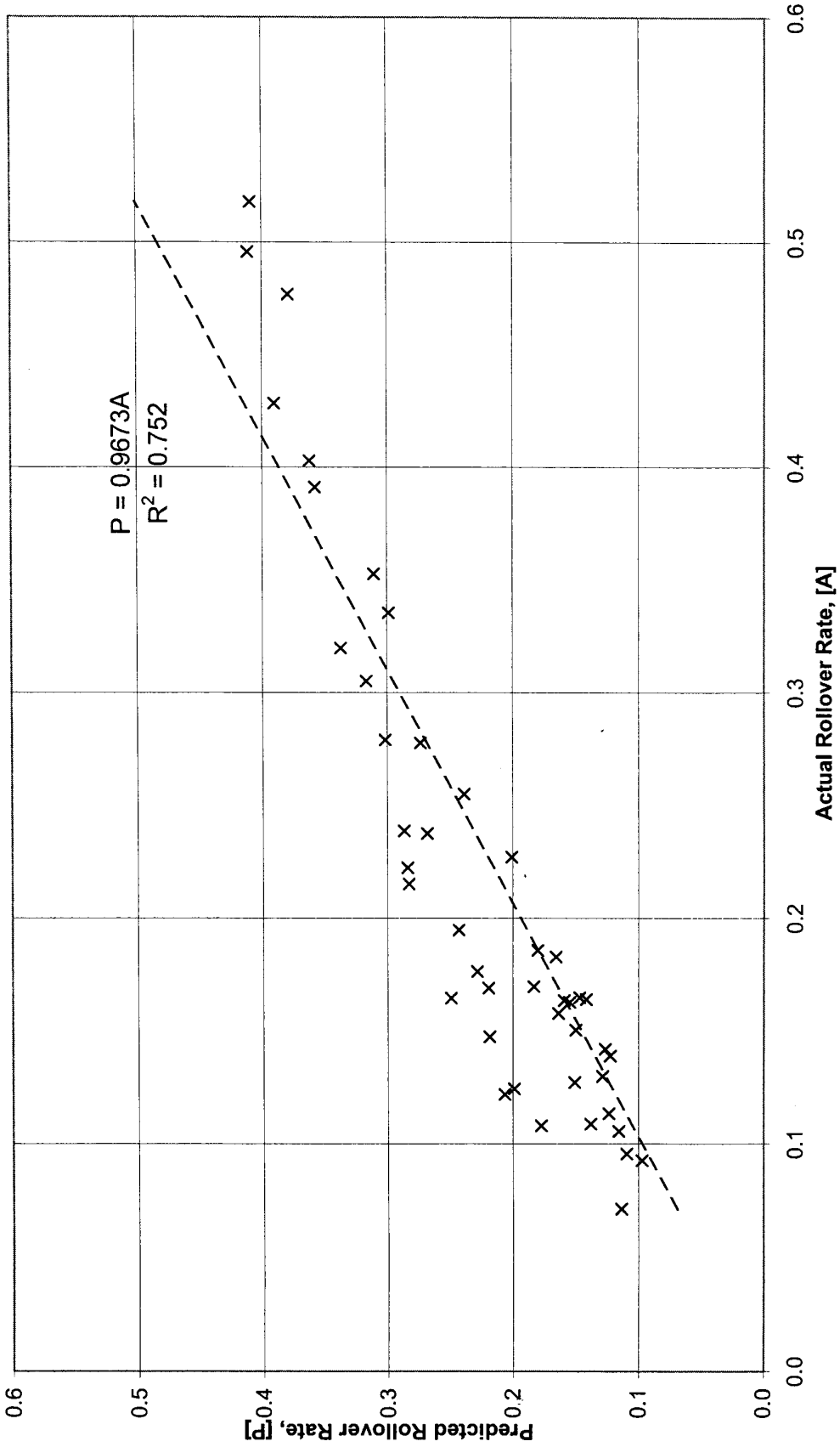


Figure II.3: Actual rollover rate vs. Predited rollover rate (using model of Fig. II.2) 100 vehicle database - SSF only

Figure II.4: Logistic regression model operating on the LOG (SSF)
100 vehicle database - SSF only

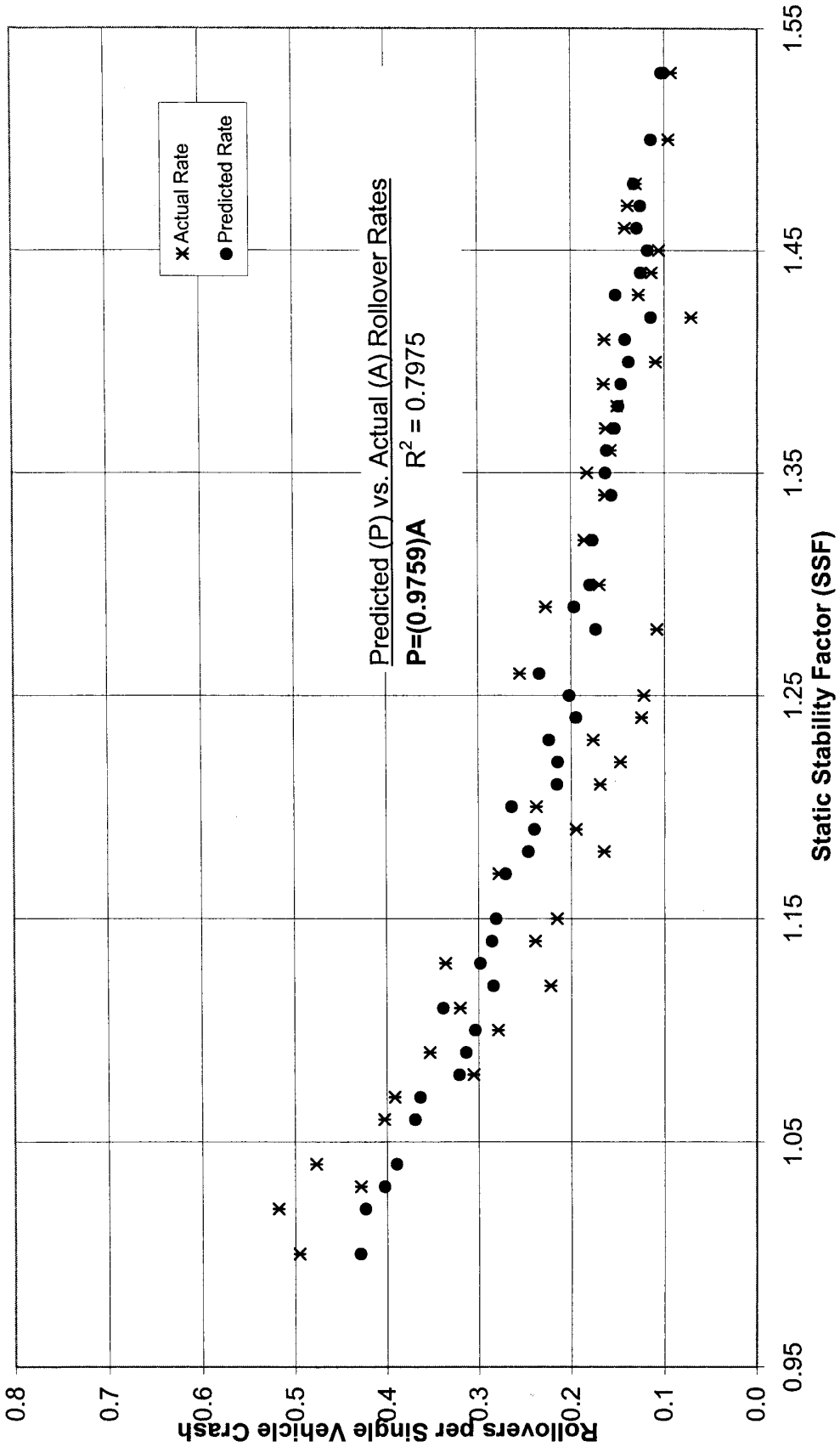


Figure II.5: Logistic regression model operating on the LOG(SSF-0.85) 100 vehicle database - SSF only

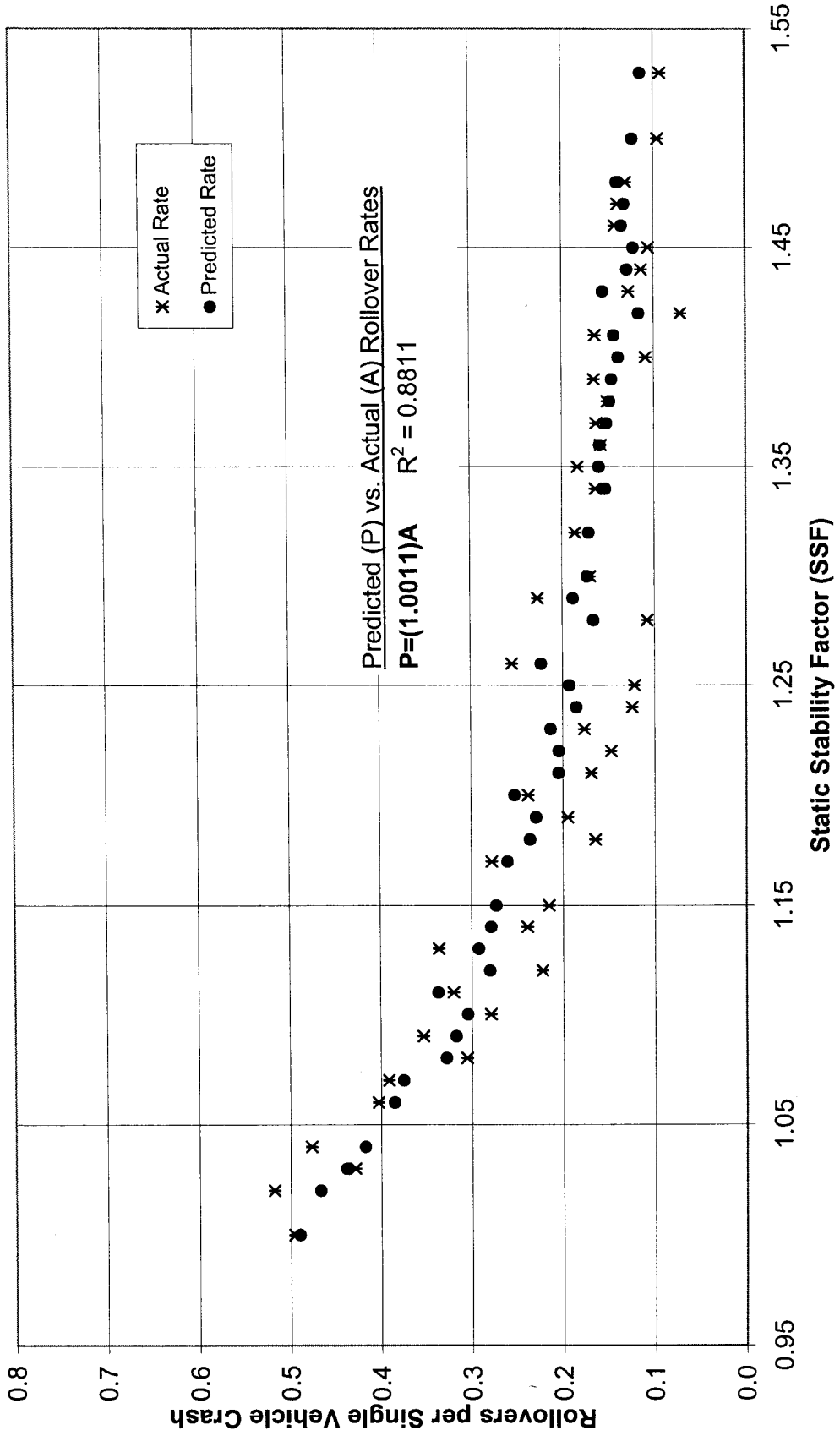
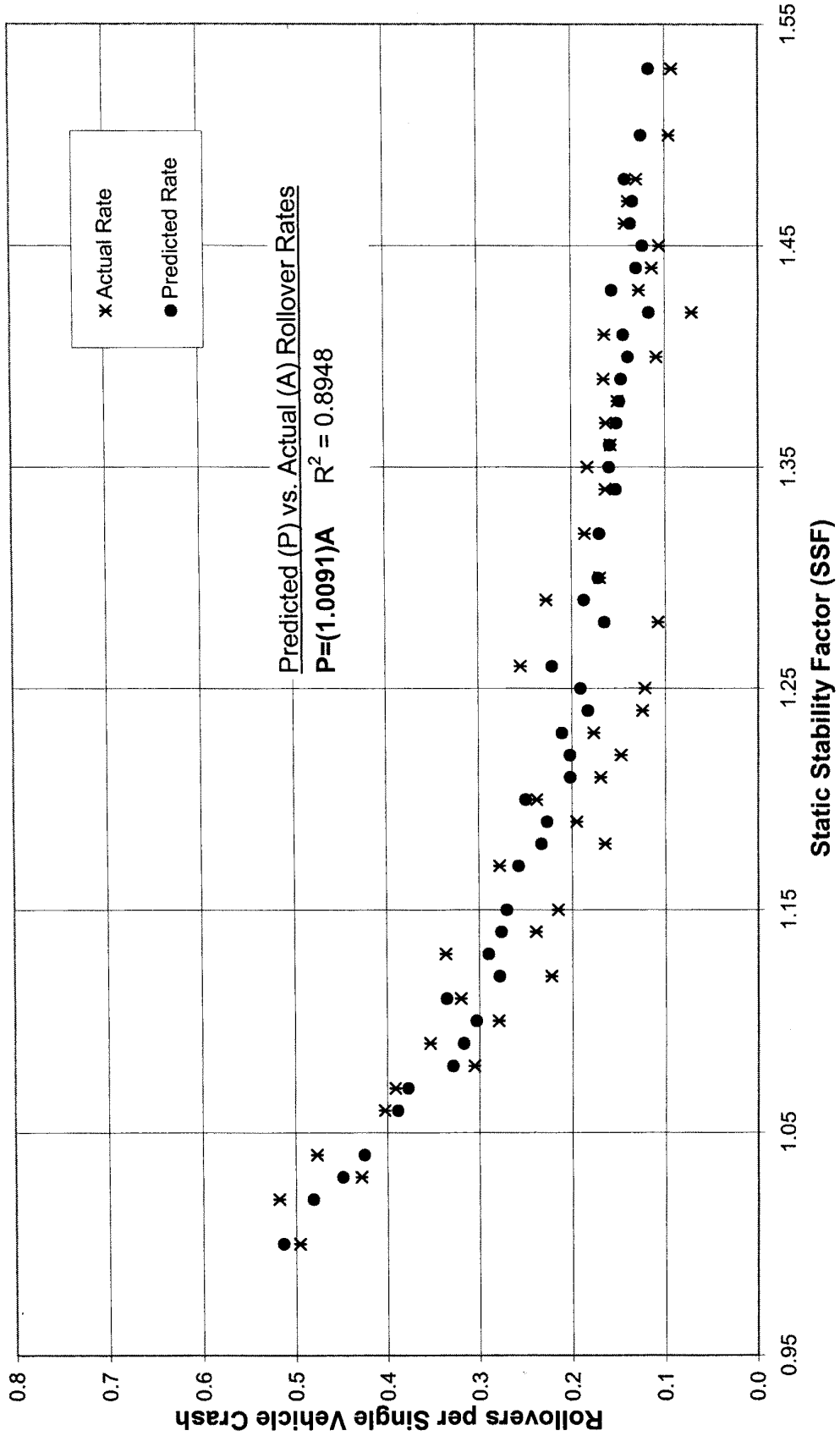


Figure II.6: Logistic regression model operating on the LOG(SSF-0.90)
100 Vehicle database - SSF only



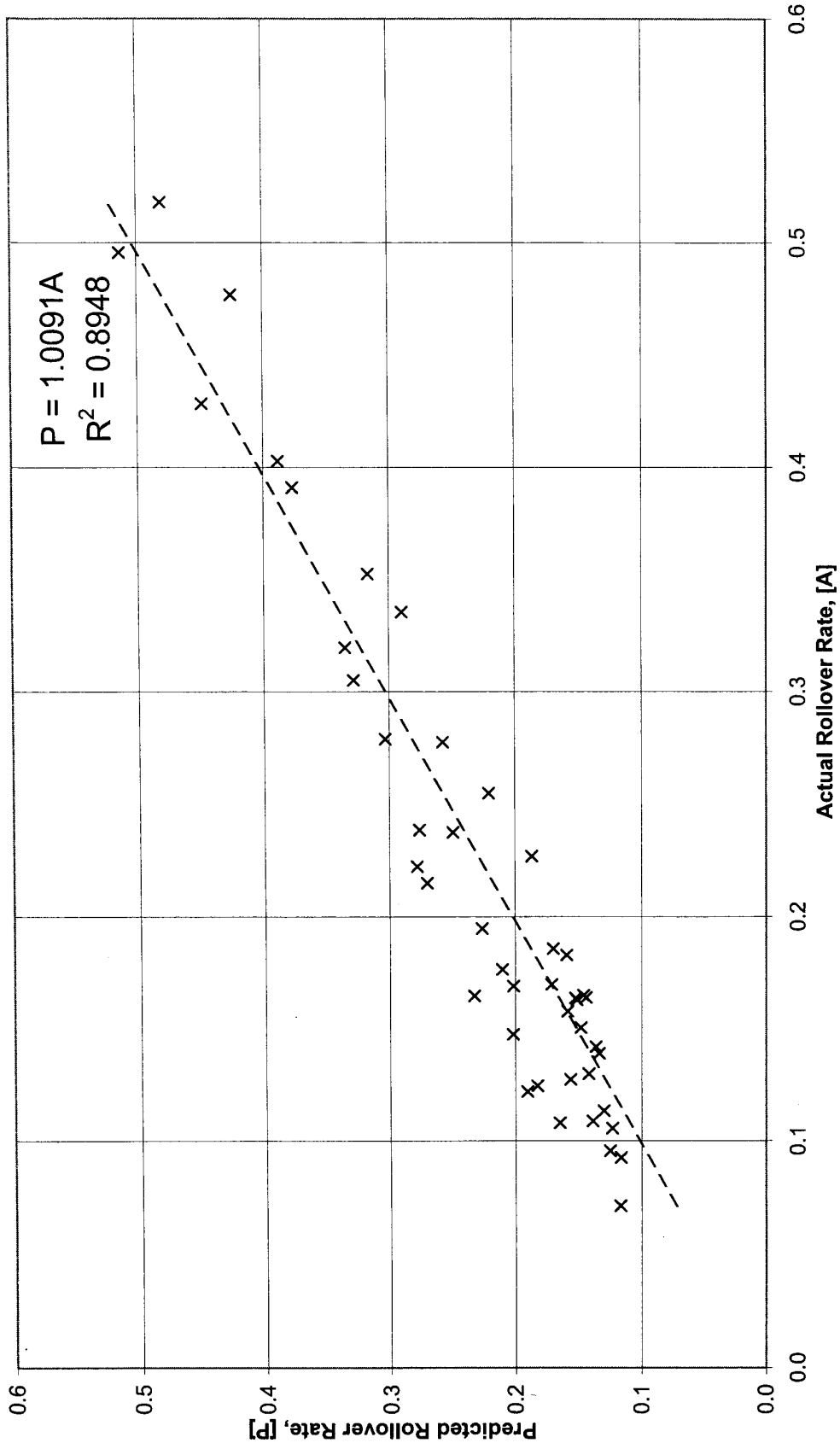
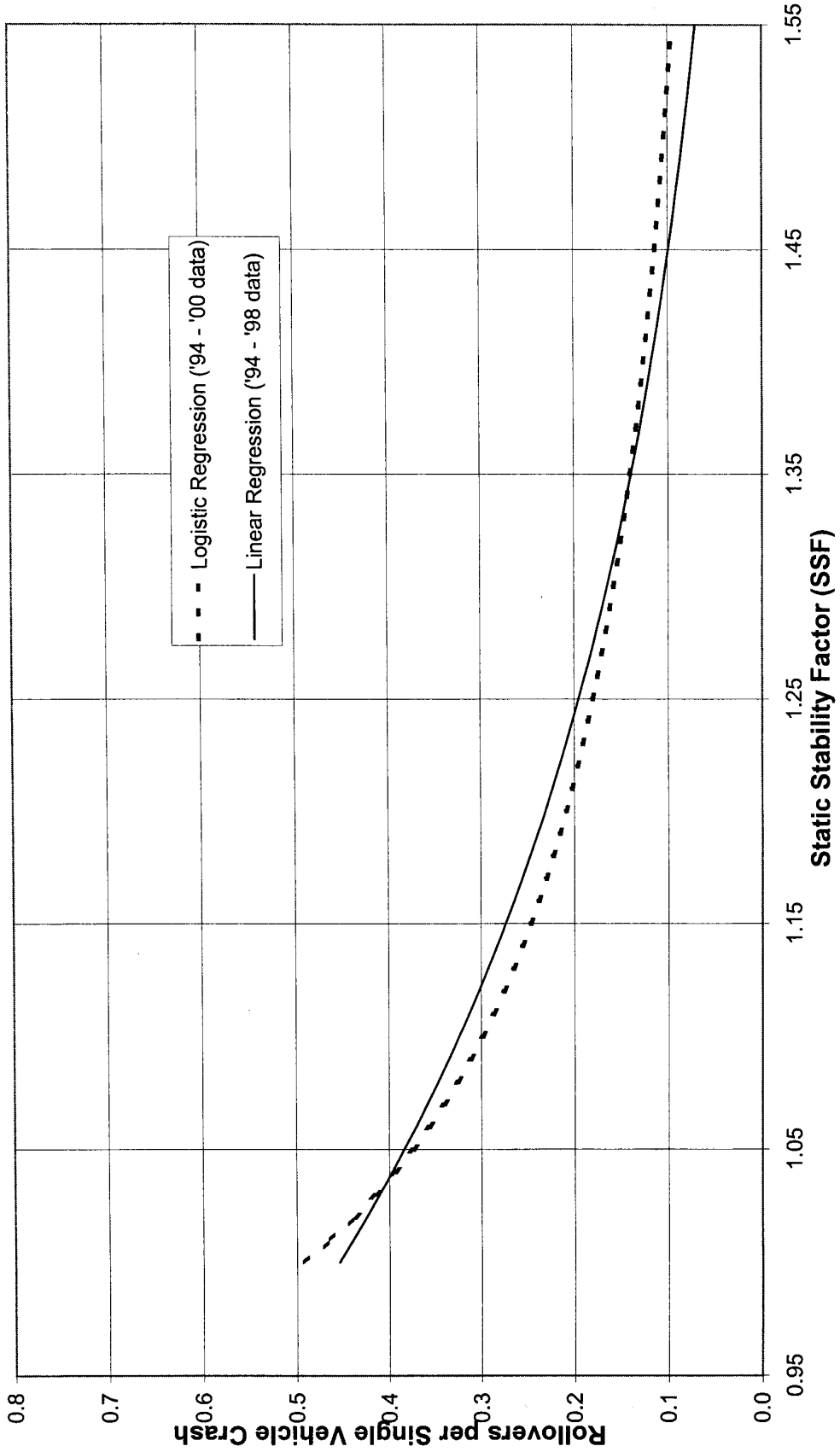


Figure II.7: Actual rollover rate vs. Predicted rollover rate (using model of Fig. II.6) 100 vehicle database - SSF only

Figure II.8: Logistic regression risk model using SSF only and Linear regression risk model for 2001-2003 NCAP Rollover Resistance



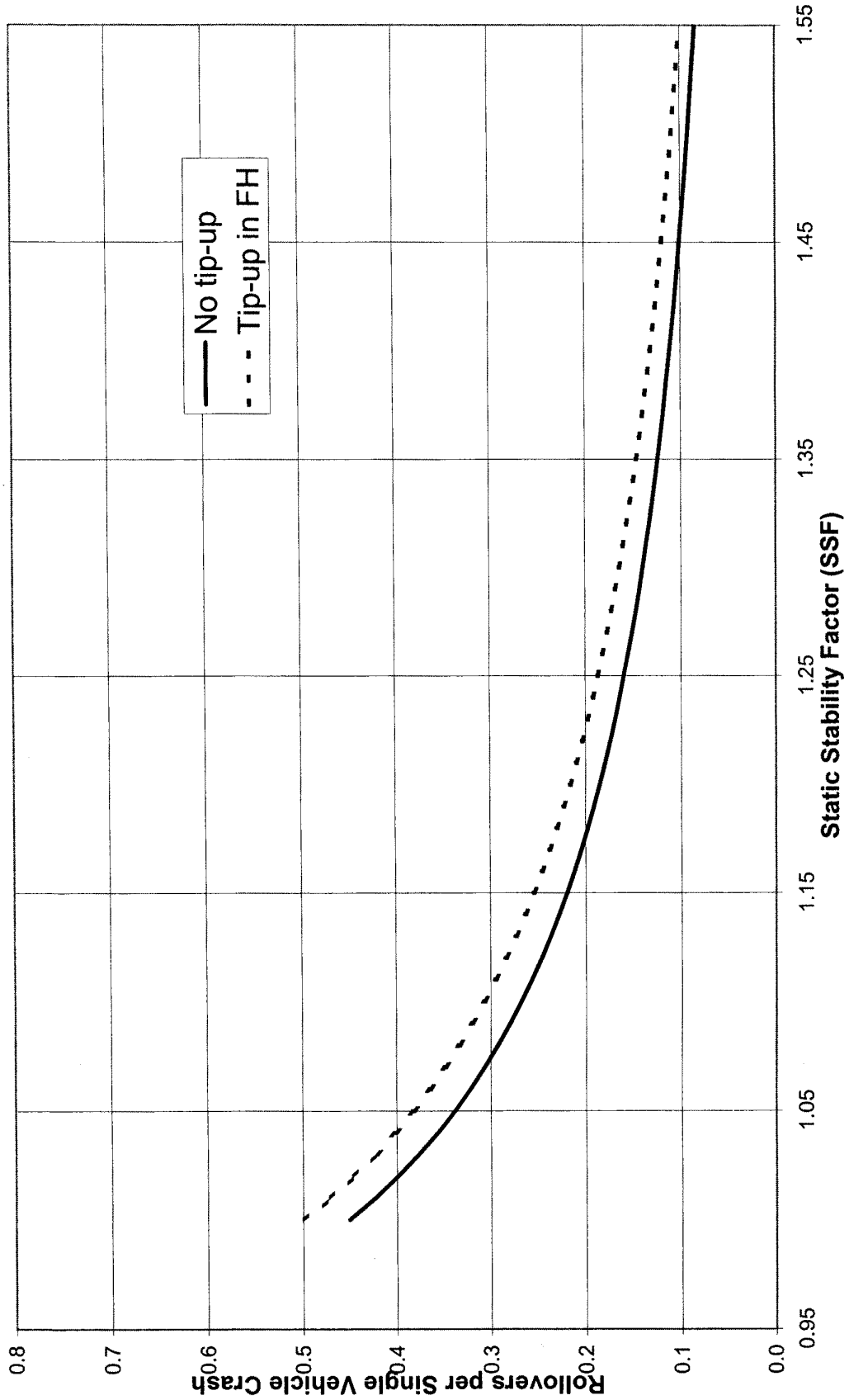


Figure II.9: Model with single dynamic variable - Fishhook, Heavy

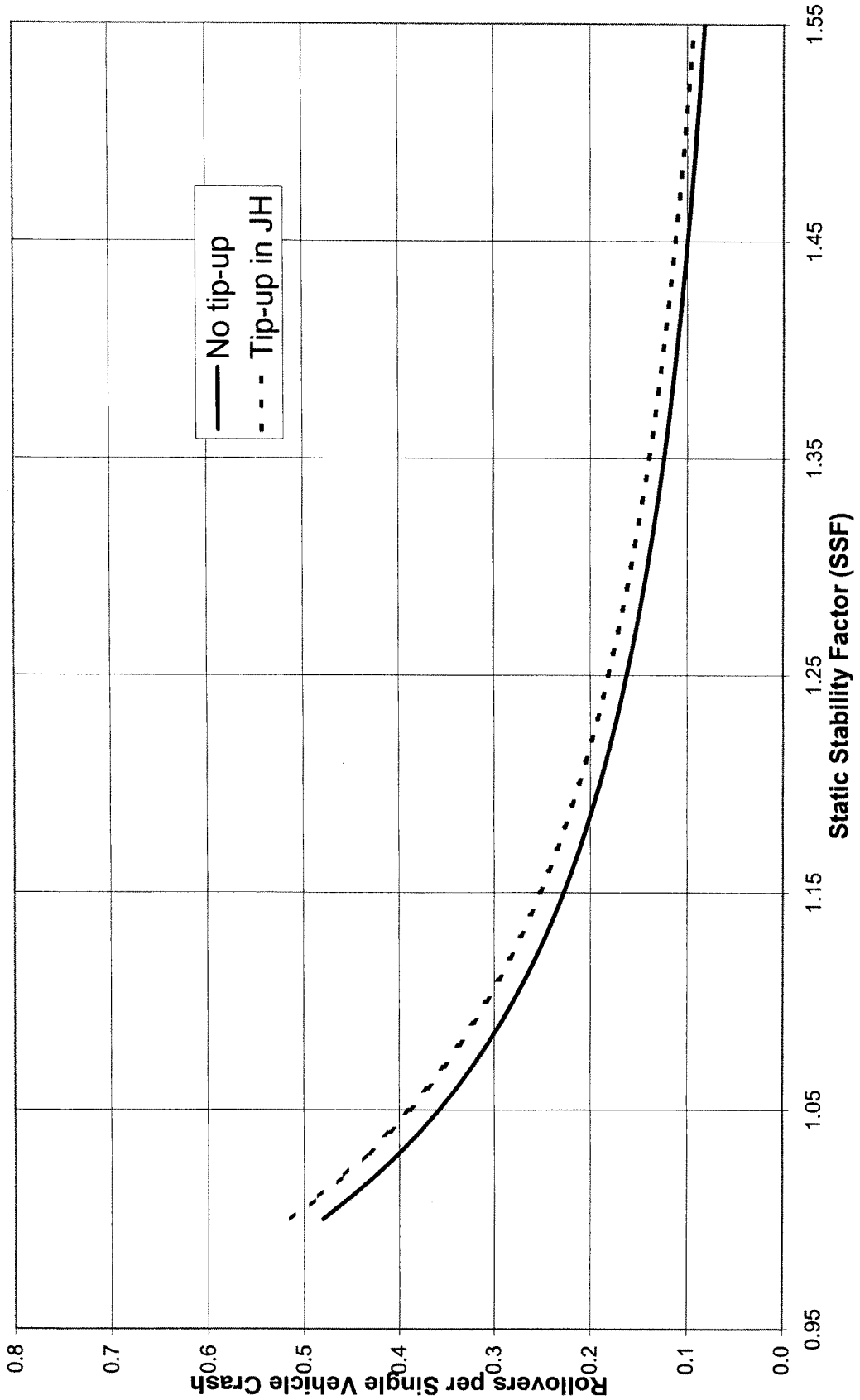


Figure II. 10: Model with single dynamic variable - J-Turn, Heavy

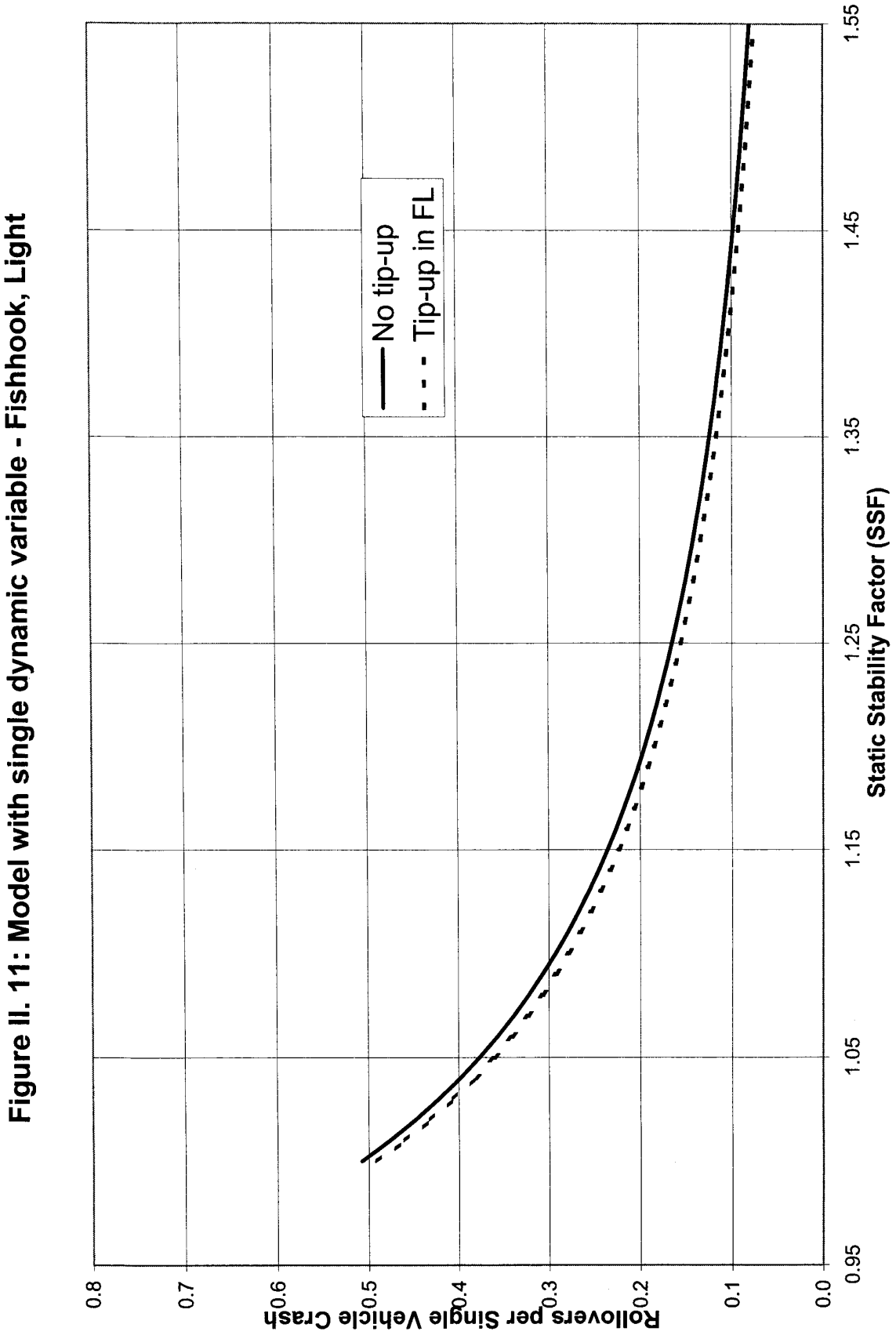


Figure II. 11: Model with single dynamic variable - Fishhook, Light
Rollovers per Single Vehicle Crash
0.8
0.7
0.6
0.5
0.4
0.3
0.2
0.1
0.0
0.95
1.05
1.15
1.25
1.35
1.45
1.55
Static Stability Factor (SSF)
No tip-up
Tip-up in FL

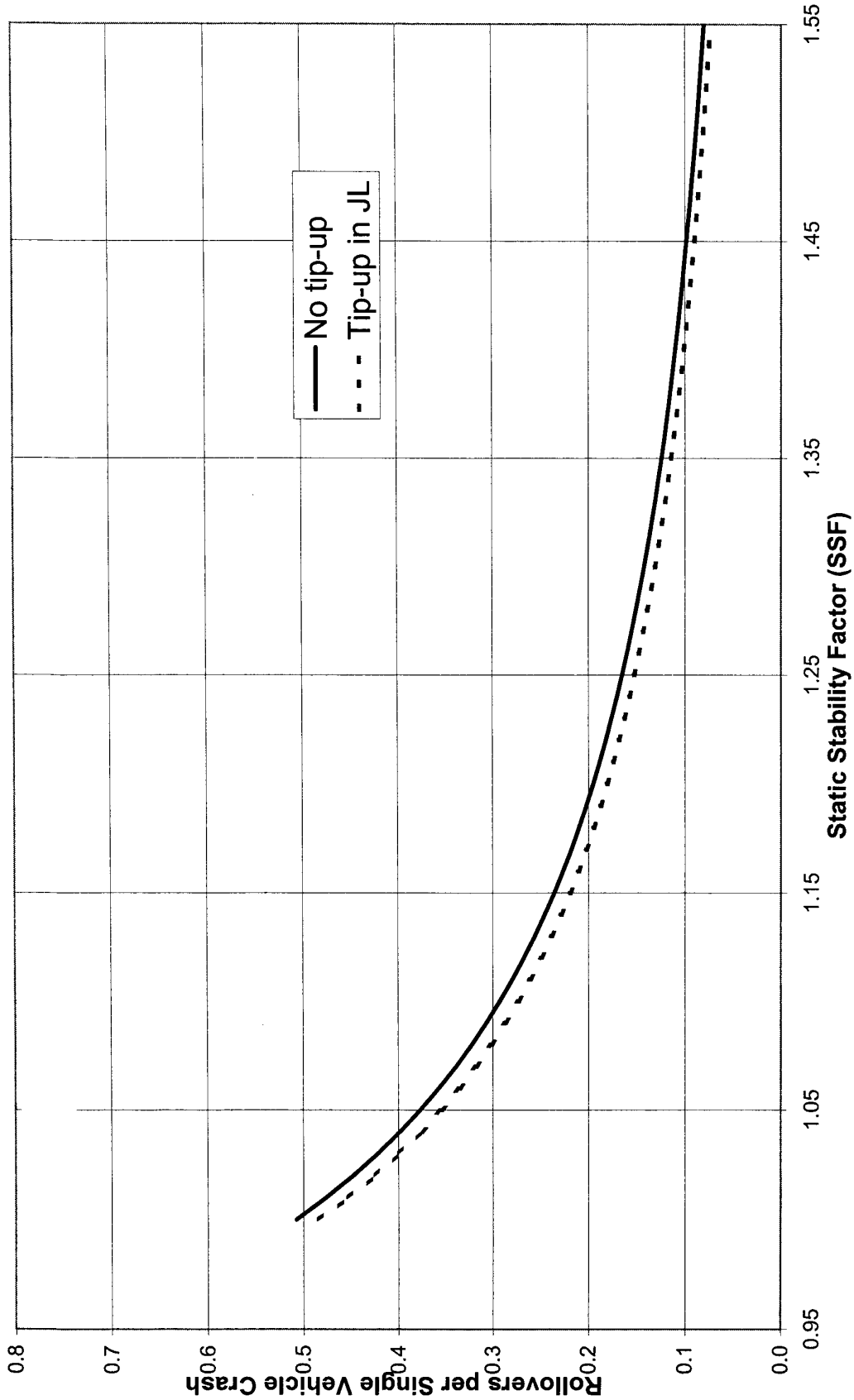
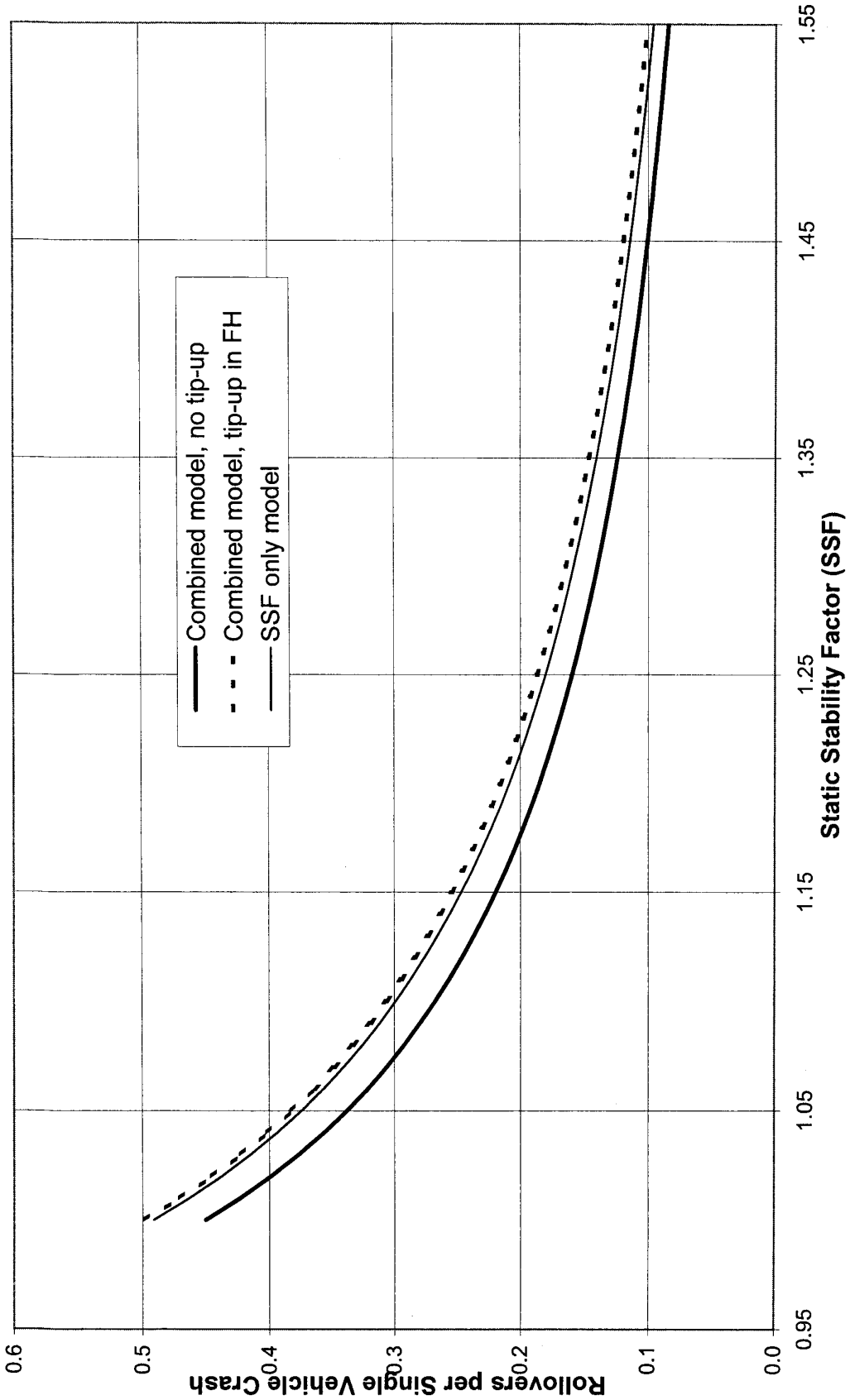


Figure II. 12: Model with single dynamic variable - J-Turn, Light

Figure II. 13: Comparison of Combined Model to SSF-only Model



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Hospital Mortgage Insurance Act of 2003 (Oct. 3, 2003; 117 Stat. 1158)

H.R. 978/P.L. 108–92

To amend chapter 84 of title 5, United States Code, to

provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes. (Oct. 3, 2003; 117 Stat. 1160)

S. 111/P.L. 108–93

To direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes. (Oct. 3, 2003; 117 Stat. 1161)

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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	(869–050–00110–1)	62.00	July 1, 2003
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	(869–050–00114–4)	40.00	July 1, 2003
*200–End	(869–050–00115–2)	64.00	July 1, 2003
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	(869–050–00120–9)	46.00	July 1, 2003
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	(869–050–00125–0)	49.00	July 1, 2003
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	(869–050–00131–9)	61.00	July 1, 2003
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	(869–050–00148–9)	29.00	July 1, 2003
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	(869–050–00154–3)	43.00	July 1, 2003
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	(869–050–00158–6)	50.00	July 1, 2003
266–299	(869–048–00156–5)	47.00	July 1, 2002
*300–399	(869–050–00160–8)	42.00	July 1, 2003
400–424	(869–050–00161–6)	56.00	July 1, 2003
*425–699	(869–050–00162–4)	61.00	July 1, 2003
*700–789	(869–050–00163–2)	61.00	July 1, 2003
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
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Subscription (mailed as issued)		298.00	2003
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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.