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Presidential Documents

Title 3—

The President

Proclamation 7728 of October 31, 2003

National Alzheimer's Disease Awareness Month, 2003

By the President of the United States of America

A Proclamation

Recent studies estimate that 4.5 million Americans are affected by Alzheimer's disease, and that more than 13 million will be affected by the middle of this century. As we seek to increase our understanding of the causes, symptoms, and effects of this disease, we recognize the victims and the family members, caregivers, and healthcare professionals who care for those afflicted with it.

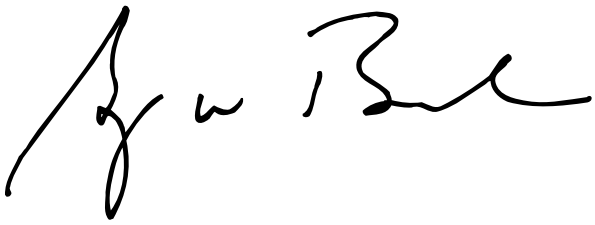
Researchers have not yet discovered the cause of Alzheimer's disease, but its effects are well documented. Alzheimer's disrupts the processes that keep nerve cells in the brain healthy, resulting in a decline in cognitive abilities. Those affected by Alzheimer's disease grow increasingly dependent on others.

Alzheimer's disease has no known cure or certain treatment, but research will continue to lead us to breakthroughs that will help control the symptoms of Alzheimer's disease or eventually cure or even reverse its effects. We are supporting Alzheimer's research and helping those afflicted with the disease get care. Through the National Institute on Aging (NIA), we are funding Alzheimer's Disease Centers across the country that care for patients, improve diagnostic techniques, and participate in long-term research. The NIA also operates the Alzheimer's Disease Education and Referral Center, which provides vital information to people with Alzheimer's disease and their caregivers. In addition, scientists at the National Institutes of Health and the Department of Veterans Affairs are conducting clinical trials of drugs and enhancing overall care.

During National Alzheimer's Disease Awareness Month, we especially thank all who care for those affected by this tragic disease. By caring for patients and continuing vital research, we strive to improve the quality of life for today's victims and enhance the health of future generations.

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 November 2003 as National Alzheimer's Disease Awareness Month. I call upon the people of the United States to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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.



[FR Doc. 03–28001
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Billing code 3195–01–P

Presidential Documents

Proclamation 7729 of October 31, 2003

National Diabetes Month, 2003

By the President of the United States of America

A Proclamation

Almost 17 million Americans have diabetes, a disease that prevents the body from using its own insulin to break down sugars. It is the sixth leading cause of death in the United States. During National Diabetes Month, we recognize advancements in preventing, treating, and detecting this disease, and we renew our commitment to helping Americans with diabetes live longer, healthier lives.

Diabetes can lead to severe complications, including heart disease, blindness, kidney failure, and lower-extremity amputations. Up to 1 million Americans have type 1 diabetes, an autoimmune disorder that destroys insulin-producing cells in the pancreas, while an estimated 16 million Americans have type 2 diabetes, in which the body does not sufficiently produce or process enough insulin. Type 2 diabetes is often related to obesity, and it is rising rapidly among men and women of all ages. Type 2 diabetes is also on the rise among children, for whom it was once extremely rare. Modest weight loss, increased exercise, and a healthy diet can decrease the risk of type 2 diabetes and help manage its complications.

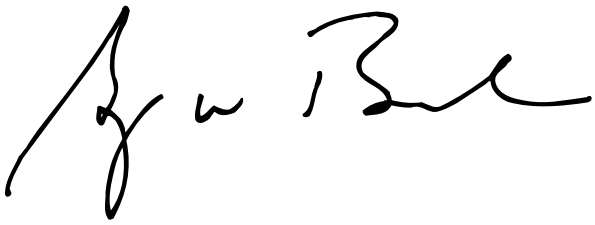
Through the HealthierUS Initiative, my Administration is helping Americans develop the healthier habits that can improve their quality of life. And the Centers for Disease Control and Prevention and the National Institutes of Health are working together through the National Diabetes Education Program to educate Americans at risk for diabetes and to instruct those living with the disease about controlling blood glucose, blood pressure, and cholesterol. By raising awareness in our communities and providing assistance to those battling the disease, we are fighting diabetes.

My Administration also has demonstrated a strong commitment to medical research by completing a 5-year commitment to double the NIH budget to more than $27 billion. During fiscal year 2003, the NIH invested an estimated $860.5 million into diabetes research. We will continue to support NIH scientists and others working to treat and cure this disease.

During National Diabetes Month, we commend those advancing the fight against diabetes as they bring hope and health to millions of Americans.

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 November 2003 as National Diabetes Month. I call upon all Americans to increase their awareness of the risk factors and symptoms related to diabetes and to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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.



[FR Doc. 03–28002
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Presidential Documents

Proclamation 7730 of October 31, 2003

National Family Caregivers Month, 2003

By the President of the United States of America

A Proclamation

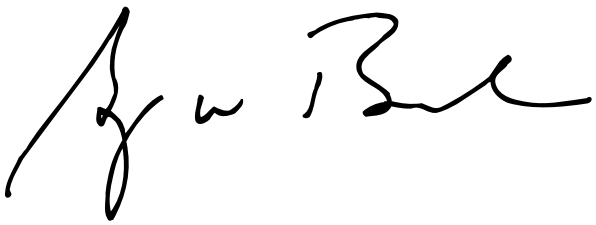
Millions of Americans make extraordinary efforts every day to care for loved ones who are elderly, chronically ill, or disabled. These caregivers make many sacrifices to improve the lives of their loved ones. Through their love, dedication, and courage, these compassionate children, parents, spouses, grandparents, and extended family members strengthen and preserve the importance of family and reflect the true character of our Nation.

My Administration is supporting family caregivers in their efforts to provide comfort and support to their loved ones. The National Family Caregiver Support Program, managed by the Administration on Aging of the Department of Health and Human Services, gives family caregivers counseling, information, respite care, and supplemental services.

As we mark National Family Caregivers Month, we express our gratitude to family caregivers, and celebrate the great blessings they bring to their families and to our Nation.

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 November 2003 as National Family Caregivers Month. I encourage all Americans to honor and support family members, friends, and neighbors who assume important caregiving responsibilities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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

Federal Register

Vol. 68, No. 214

Wednesday, November 5, 2003

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

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 11 and 25

RIN 3150–AH30

Assessment of Access Authorization Fees

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to change the way the agency assesses access authorization fees. The NRC is replacing its set fee schedules for special nuclear material access authorization and national security information or restricted data access authorization with a formula for calculating fees based on current Office of Personnel Management (OPM) billing rates for personnel background investigations. The new formula is designed to recover the full cost of processing a request for access authorization from the licensee. The use of a fee assessment formula tied to current OPM billing rates will eliminate the need for the NRC to update its access authorization fee schedules through regular rulemakings.

EFFECTIVE DATE: November 5, 2003.

ADDRESSES: Publicly available documents pertaining to this rulemaking may be accessed through the NRC's Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* If ADAMS access is not available or difficulty is encountered in its use, contact the NRC PDR Reference staff at 1–800–397–4209, (301) 415–4737, or through the PDR's e-mail address at *pdr@nrc.gov.*

Publicly available NRC documents related to this final rule can also be viewed on public computers in the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland, Room O–1 F21. The PDR reproduction contractor will make copies of documents for a fee.

FOR FURTHER INFORMATION CONTACT: Patricia A. Smith, Security Branch, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–7739, e-mail *pas5@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Certain individuals employed by licensees or contractors of the Nuclear Regulatory Commission (NRC) are assigned duties which require access to special nuclear material (plutonium, uranium-233, and uranium enriched in the isotopes uranium-233 or uranium-235) or to restricted data or national security information. Individuals who require access to such material or information must obtain an access authorization from the NRC. When a licensee requests access authorization for an employee or a contractor, the NRC initiates a full-field background investigation of the individual seeking access authorization. Based on the results of that investigation, the NRC will determine whether permitting the individual access to special nuclear material, restricted data, or national security information would create a security risk.

The Office of Personnel Management (OPM) conducts the required access authorization background investigations for the NRC and sets the rates charged for these investigations. The combined cost of the OPM background investigation and any related NRC processing activities are recovered from the licensee through an access authorization fee assessed by the NRC. It has been the NRC's practice to publish the fee schedule for special nuclear material access authorization in § 11.15(e)(1) and the corresponding fee schedule for restricted data and national security information access authorization in Appendix A to 10 CFR Part 25. Both schedules have been based on rates charged by OPM for conducting the required background investigations. In the past, the NRC has amended its fee schedules whenever OPM has notified Federal agencies of a change in the rates charged for conducting background investigations, with the NRC's adjusted fees becoming effective on the date the new NRC fee schedules were published in the **Federal Register**.

Discussion

The NRC's past practice of publishing adjusted fee schedules in response to OPM rate changes led to frequent NRC rulemakings to revise § 11.15(e)(1) and Appendix A to Part 25. Rulemaking is a resource-intensive and inefficient means of accomplishing purely administrative purposes such as, in this case, the maintenance of NRC fee schedules fully reflective of current OPM billing rates for routine agency-to-agency services. Moreover, past NRC rulemakings to update the access authorization fee schedules did not take into account the increasing in-house cost to the NRC of processing access authorization applications. This final rule amends § 11.15(e), § 25.17(f), and Appendix A to Part 25 to establish a formula for calculating NRC fees that is directly tied to published OPM billing rates. This amendment will ensure that the NRC's administrative costs are fully recovered through access authorization fees charged to licensees, while obviating the need for routine rulemakings to amend the fee schedules.

This final rule replaces the NRC's set schedule of access authorization fees with tables which allow licensees to calculate the NRC fee for any given application by reference to the current OPM billing schedule for personnel investigation services. Investigations Reimbursable Billing Rates for personnel background checks are published by OPM's Investigations Service in a Federal Investigation Notice (FIN). The current OPM billing rates were published as FIN 02–01 on November 1, 2001 and became effective on January 1, 2002. FIN 02–01 is available on OPM's Investigations Service Web site at *http://www.opm.gov/extra/investigate/fins.htm.* NRC licensees can also obtain the current OPM investigations rate schedule from the Security Branch of the NRC's Division of Facilities and Security by contacting the individual named under the **FOR FURTHER INFORMATION CONTACT** heading.

The amendments define the NRC's access authorization fee for any given request as the sum of (1) the current OPM billing rate for the required investigation and (2) the NRC's in-house

processing fee. As noted, the OPM billing rate is pulled directly from the current OPM fee schedule for investigations. The new tables in § 11.15(e)(2) and Appendix A to Part 25 cross-reference each type of NRC access authorization request to the appropriate investigation service listed on OPM's fee schedule. The NRC's in-house processing fee is 11.6% of the relevant OPM rate. The in-house processing fee of 11.6% is based on a recent NRC audit of actual in-house costs incurred in processing licensee applications for access authorization. This fixed percentage of the OPM rate, when added to the base OPM investigations charge, yields the total access authorization fee assessed by the NRC {OPM rate + [(OPM rate × 11.6%), rounded to the nearest dollar] = NRC access authorization fee}.

For example, a licensee seeking a special nuclear material ''NRC–U'' access authorization requiring a single scope background investigation is directed by the table in § 11.15(e)(2) to calculate the application fee based on the OPM billing rate for a ''Code C'' Single Scope Background Investigation (SSBI). According to the current OPM investigations fee schedule (FIN 02–01), OPM charges $2,725 for a ''Code C'' SSBI. The table instructs the licensee to calculate the NRC processing fee by multiplying $2,725 by 11.6%, which equals $316.10. The licensee then rounds the NRC processing fee to the nearest dollar, or $316, and adds that amount to the OPM investigations fee of $2,725 to determine the total assessed material access authorization fee: $3041. The table below illustrates the calculation process:

Current OPM billing rate for SSBI–C	Plus NRC application processing fee					Equals total NRC access authorization fee for NRC–U application
	OPM rate	×	11.6%	=	NRC fee (rounded to nearest $)	
$2,725	$2,725	×	11.6%	=	$316.10 (rounded to $316)	= $3,041

Licensees applying for restricted data or national security information access authorization follow a similar procedure. The table in Appendix A to Part 25 cross-references each type of ''Q'' or ''L'' access authorization to the corresponding OPM investigation type. The OPM billing rate for the type of investigation referenced is determined by consulting the current OPM schedule of billing rates. This rate is then plugged into the fee assessment formula {OPM rate + [(OPM rate × 11.6%), rounded to the nearest dollar] = NRC access authorization fee}, illustrated above, to calculate the correct NRC access authorization fee for the type of application submitted.

Section-by-Section Analysis

Section 11.15(e)

The revised paragraph § 11.15(e)(1) describes the relationship between OPM and NRC and provides the formula used in calculating the material access authorization fee. This paragraph also explains how to access the OPM billing schedule and specifies that changes to the access authorization fees become effective on the effective date of OPM's most recently published billing schedule.

The revised § 11.15(e)(2) directs licensees to remit the appropriate access authorization fee with each application submitted, in accordance with the table presented in that paragraph. The table cross-references each type of NRC material access authorization request to a type of investigation in the current OPM fee schedule, and directs licensees to calculate the application fee according to the stated formula {OPM rate + [(OPM rate × 11.6%), rounded to the nearest dollar] = NRC access authorization fee}.

New paragraph § 11.15(e)(3) indicates that applications for individuals that have a current access authorization from another Federal agency may be processed expeditiously at no cost to the licensee.

Section 25.17(f)

The revised paragraph § 25.17(f)(1) describes the relationship between OPM and NRC and provides the formula used in calculating national security information and restricted data access authorization fees. This paragraph also explains how to access the OPM billing schedule and specifies that changes to national security information and restricted data access authorization fees become effective on the effective date of OPM's most recently published billing schedule.

The revised § 25.17(f)(2) directs licensees to remit the appropriate national security information or restricted data access authorization fee with each application submitted. Applicants are instructed to calculate the appropriate fee by using the stated formula {OPM rate + [(OPM rate × 11.6%), rounded to the nearest dollar] = NRC access authorization fee} with reference to the table in appendix A to part 25.

New paragraph § 25.17(f)(3) indicates that applications for individuals that have a current access authorization from another Federal agency may be processed expeditiously at no cost to the licensee.

Appendix A to Part 25

The revised table in Appendix A cross-references each type of NRC ''Q'' or ''L'' access authorization request to a type of investigation in the current OPM fee schedule, and directs licensees to calculate the application fee according to the stated formula.

Administrative Procedure Act

Because this final rule deals solely with agency practice and procedure, the notice and comment provisions of the Administrative Procedure Act do not apply under 5 U.S.C. 553(b)(A). The final rule is effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires agencies to use technical standards developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or is otherwise impractical. This final rule replaces the NRC's published access authorization fee schedules with a formula for calculating access authorization fees based on current Office of Personnel Management billing rates for personnel background investigations. This action is administrative in nature and does not involve the establishment or application of a technical standard containing generally applicable requirements.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusions 10 CFR 51.22(c)(1) and (2). Therefore, neither an environmental impact statement nor an

environmental assessment has been prepared for this final rule. Because of its procedural nature, this action does not raise environmental justice concerns.

Paperwork Reduction Act Statement

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0046 and 3150–0062.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Regulatory Analysis

A regulatory analysis has not been prepared for this rulemaking. This final rule establishes a formula for calculating access authorization fees which ensures that the NRC recovers the full cost of application processing from licensees submitting access authorization requests. The formula provides a more efficient and effective mechanism for updating NRC access authorization fees in response to changes in the underlying OPM rate schedule for required personnel background investigations. These amendments are administrative in nature and will neither impose new nor relax existing safety requirements and, thus, do not call for the sort of safety/cost analysis described in the agency's regulatory analysis guidelines in NUREG/BR–0058.

Backfit Analysis

The NRC has determined that the backfit rule does not apply to this final rule and a backfit analysis is not required because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR Chapter I.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects

10 CFR Part 11

Hazardous materials-transportation, Investigations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Special nuclear material.

10 CFR Part 25

Classified information, Criminal penalties, Investigations, Reporting and recordkeeping requirements, Security measures.

■ For the reasons set forth in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 11 and 25.

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

■ 1. The authority citation for part 11 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 11.15(e) also issued under sec. 501, 85 Stat. 290 (31 U.S.C. 483a).

■ 2. In § 11.15, paragraph (e) is revised to read as follows:

§ 11.15 Application for special nuclear material access authorization.

* * * * *

(e)(1) The Office of Personnel Management (OPM) bills NRC for the cost of each background investigation conducted in support of an application for special nuclear material access authorization. The combined cost of the OPM investigation and NRC's application processing overhead are recovered from the licensee through a material access authorization fee calculated with reference to current OPM personnel investigation billing rates {OPM rate + [(OPM rate × 11.6%), rounded to the nearest dollar] = NRC access authorization fee}. Updated OPM billing rates are published periodically in a Federal Investigations Notice (FIN) issued by OPM's Investigations Service. Copies of the current OPM billing schedule can be obtained by phoning the NRC's Security Branch, Division of Facilities and Security, Office of Administration at 1–800–368–5642. Any change in the NRC's access authorization fees will be applicable to each access authorization request received on or after the effective date of OPM's most recently published investigations billing schedule.

(2) Each application for a special nuclear material access authorization, renewal, or change in level must be accompanied by the licensee's remittance, payable to the U.S. Nuclear Regulatory Commission. Applicants shall calculate the access authorization fee according to the stated formula {OPM rate + [(OPM rate × 11.6%), rounded to the nearest dollar] = NRC access authorization fee} and with reference to the following table:

The NRC application fee for an access authorization type * * *	Is the sum of the current OPM billing rate charged for an investigation of type * * *	Plus the NRC's processing fee (rounded to the nearest dollar), which is equal to the OPM billing rate for the type of investigation referenced multiplied by * * *
i. NRC–R [1]	NACLC—National Agency Check with Law and Credit (Standard Service, Code B).	11.6%
ii. NRC–R [1] (expedited processing)	NACLC—National Agency Check with Law and Credit (Expedite Handling, Code A).	11.6%
iii. NRC–R based on certification of comparable investigation [2].	No fee assessed for most applications.	
iv. NRC–R renewal [1]	NACLC—National Agency Check with Law and Credit (Standard Service, Code B).	11.6%
v. NRC–U requiring single scope investigation.	SSBI—Single Scope Background Investigation (120 Day Service, Code C).	11.6%
vi. NRC–U requiring single scope investigation (expedited processing).	SSBI—Single Scope Background Investigation (35 Day Service, Code A).	11.6%

The NRC application fee for an access authorization type * * *	Is the sum of the current OPM billing rate charged for an investigation of type * * *	Plus the NRC's processing fee (rounded to the nearest dollar), which is equal to the OPM billing rate for the type of investigation referenced multiplied by * * *
vii. NRC–U based on certification of comparable investigation [2].	No fee assessed for most applications.	
viii. NRC–U renewal [2]	LBI—Limited Background Investigation (120 Day Service, Code C)	11.6%

[1] If the NRC, having reviewed the available data, deems it necessary to perform a single scope investigation, the appropriate NRC–U fee will be assessed prior to the conduct of the investigation.

[2] If the NRC determines, based on its review of available data, that a single scope investigation is necessary, the appropriate NRC–U fee will be assessed prior to the conduct of the investigation.

(3) Certain applications from individuals having current Federal access authorizations may be processed expeditiously at no cost to the licensee because the Commission, at its discretion, may decide to accept the certification of access authorizations and investigative data from other Federal government agencies that grant personnel access authorizations.

* * * * *

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

■ 3. The authority citation for Part 25 continues to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 Comp., p. 398 (50 U.S.C. 401, note); E.O. 12829, 3 CFR, 1993 Comp., p. 570; E.O. 12958, 3 CFR, 1995 Comp., p. 333; E.O. 12968, 3 CFR, 1995 Comp., p. 396.

Appendix A also issued under 96 Stat. 1051 (31 U.S.C. 9701).

■ 4. In § 25.17, paragraph (f) is revised to read as follows:

§ 25.17 Approval for processing applicants for access authorization.

* * * * *

(f)(1) The Office of Personnel Management (OPM) bills NRC for the cost of each background investigation conducted in support of an application for access authorization. The combined cost of the OPM investigation and NRC's application processing overhead are recovered from the licensee through an authorization fee calculated with reference to current OPM personnel investigation billing rates {OPM rate + [(OPM rate × 11.6%), rounded to the nearest dollar] = NRC access authorization fee}. Updated OPM billing rates are published periodically in a Federal Investigations Notice (FIN) issued by OPM's Investigations Service. Copies of the current OPM billing schedule can be obtained by phoning the NRC's Security Branch, Division of Facilities and Security, Office of Administration at 1–800–368–5642. Any change in the NRC's access authorization fees will be applicable to each access authorization request received on or after the effective date of OPM's most recently published investigations billing schedule.

(2) Applications for access authorization or access authorization renewal processing that are submitted to the NRC for processing must be accompanied by a check or money order, payable to the United States Nuclear Regulatory Commission, representing the current cost for the processing of each ''Q'' and ''L'' access authorization, or renewal request. Applicants shall calculate the access authorization fee according to the stated formula {OPM rate + [(OPM rate × 11.6%), rounded to the nearest dollar] = NRC access authorization fee} and with reference to the table in Appendix A to this part.

(3) Certain applications from individuals having current Federal access authorizations may be processed more expeditiously and at less cost, since the Commission, at its discretion, may decide to accept the certification of access authorization and investigative data from other Federal Government agencies that grant personnel access authorizations.

■ 5. Appendix A to Part 25 is revised as follows:

APPENDIX A TO PART 25—FEES FOR NRC ACCESS AUTHORIZATION

The NRC application fee for an access fee for an acess authorization type * * *	Is the sum of the current OPM billing rate charged for an investigation of type * * *	Plus the NRC's processing fee (rounded to the nearest dollar), which is equal to the OPM billing rate for the type of investigation referenced multiplied by * * *
Initial ''L'' access authorization [1]	ANACI—Access National Agency Check with Inquiries (Standard Service, Code B).	11.6%
Initial ''L'' access authorization [1] (expedited processing).	ANACI—Access National Agency Check with Inquiries (Expedite Handling, Code A).	11.6%
Reinstatement of ''L'' access authorization [2].	ANACI—Access National Agency Check with Inquiries (Standard Service, Code B).	11.6%
Extension or Transfer of ''L'' access authorization [2].	ANACI—Access National Agency Check with Inquiries (Standard Service, Code B).	11.6%
Renewal of ''L'' access authorization [1].	ANACI—Access National Agency Check with Inquiries (Standard Service, Code B).	11.6%
Initial ''Q'' access authorization	SSBI—Single Scope Background Investigation (120 Day Service, Code C).	11.6%
Initial ''Q'' access authorization (expedited processing).	SSBI—Single Scope Background Investigation (35 Day Service, Code A).	11.6%
Reinstatement of ''Q'' access authorization [2].	SSBI—Single Scope Background Investigation (120 Day Service, Code C).	11.6%

The NRC application fee for an access fee for an acess authorization type * * *	Is the sum of the current OPM billing rate charged for an investigation of type * * *	Plus the NRC's processing fee (rounded to the nearest dollar), which is equal to the OPM billing rate for the type of investigation referenced multiplied by * * *
Reinstatement of ''Q'' access authorization [2] (expedited processing).	SSBI—Single Scope Background Investigation (35 Day Service, Code A).	11.6%
Extension or Transfer of ''Q'' [2]	SSBI—Single Scope Background Investigation (120 Day Service, Code C).	11.6%
Extension or Transfer of ''Q'' [2] (expedited processing).	SSBI—Single Scope Background Investigation (35 Day Service, Code A).	11.6%
Renewal of ''Q'' access authorization [2].	LBI—Limited Background Investigation (120 Day Service, Code C)	11.6%

[1] If the NRC determines, based on its review of available data, that a single scope investigation is necessary, the appropriate fee for an Initial ''Q'' access authorization will be assessed before the conduct of the investigation.
[2] Full fee will only be charged if an investigation is required.

Dated at Rockville, Maryland, this 27th day of October, 2003.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 03–27804 Filed 11–4–03; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–SW–07–AD; Amendment 39–13358; AD 2003–22–10]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model EC120B Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified Eurocopter France model helicopters that requires operators to either temporarily or permanently secure the electrical bonding braid (bonding braid) that is installed on the left cyclic pitch control stick base within 10 hours time-in-service (TIS) and, if temporarily secured, installing a permanent attachment system for the bonding braid within 500 hours TIS or 12 months, whichever occurs first. This amendment is prompted by a report of a bonding braid twisting around the attachment nut installed on the bolt that connects the roll channel torque link to the left-hand cyclic pitch control stick. The actions specified by this AD are intended to prevent an unsecured bonding braid from restricting travel to the cyclic pitch control stick, and subsequent loss of control of the helicopter.

DATES: Effective December 10, 2003. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 10, 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: Richard Monschke, Avaiation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for the specified model helicopters was published in the **Federal Register** on July 16, 2003 (68 FR 41967). That action proposed to require, within 10 hours TIS, temporarily or permanently securing the bonding braid using clamps, then, if not already accomplished, installing a permanent attachment system within 500 hours TIS or 12 months, whichever occurs first. Installing the permanent attachment system is a terminating action for the requirements of this AD.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that unsafe condition may exist on Eurocopter Model EC 120 B helicopters. The DGAC advises that there was a report involving twisting of a bonding braid at the base of a cyclic stick that restricted movement of the cyclic pitch sticks.

Eurocopter has issued Alert Telex No. 67A008, dated July 8, 2002, which specifies installing a clamp to position the bonding braid upwards and holding it against the cyclic pitch stick. DGAC classified this alert telex as mandatory and issued AD 2002–371–010(A), dated July 24, 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.

The FAA estimates that this AD will affect 80 helicopters of U.S. registry and the actions will take approximately 0.5 working hour per helicopter to accomplish the modification to temporarily secure the bonding braid, and 0.5 work hour to install a permanent attachment system. The average labor rate is $60 per work hour. Required parts will cost approximately $20 her helicopter. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $6,400 for the entire fleet, assuming that all operators install the temporary restraint, and subsequently, install the permanent restraint.

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:

2003–22–10 Eurocopter France: Amendment 39–13358. Docket No. 2003–SW–07–AD.

Applicability: Model EC120B helicopters, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent an unsecured bonding braid from restricting travel of the cyclic pitch control stick, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS), temporarily secure the electrical bonding braid or in stall the permanent attachment system for the bonding braid in accordance with the Accomplishment Instructions, paragraph 2.B., of Eurocopter France Alert Telex No. 67A008, dated July 8, 2002 (Alert Telex).

(b) Within 500 hours TIS or 12 months, whichever occurs first, install the permanent attachment system for the bonding braid in accordance with the Accomplishment Instructions, paragraph 2.B.2. and 2.B.3., of the Alert Telex.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Send the proposal to the Manager, Safety Management Group, FAA. Contact the Safety Management Group for information about previously approved alternative methods of compliance.

(d) The required actions shall be done in accordance with the Eurocopter France Alert Telex No. 67A008, dated July 8, 2002. The Director of the Federal Register approved this incorporation by reference 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.

(e) This amendment becomes effective on December 10, 2003.

Note: The subject of this AD is addressed in Direction Generale De L'Aviation (France) AD 2003–371–010(A), dated July 24, 2002.

Issued in Fort Worth, Texas, on October 24, 2003.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 03–27542 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16057; Airspace Docket No. 03–AGL–07]

Modification of Class D Airspace; Minot, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D airspace at Minot, ND. Category E circling procedures have become necessary at Minot AFB, Minot, ND, controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing these approach procedures. This action increases the area of the existing controlled airspace at Minot AFB, Minot, ND.

EFFECTIVE DATE: 0901 UTC, December 25, 2003.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, June 20, 2003, the FAA proposed to amend 14 CFR part 71 to modify Class D airspace at Minot, ND (68 FR 36948). The proposal was to modify controlled airspace extending upward from the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace areas extending upward from the surface of the earth are published in paragraph 5000, of FAA Order 7400.9L dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations listed in this document will be published subsequently in the order.

The Rule

This amendment to 14 CFR part 71 modifies Class D airspace at Minot, ND, to accommodate aircraft executing instrument flight procedures into and out of Minot AFB. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

* * * * *

Paragraph 5000 Class D airspace.

* * * * *

AGL ND D Minot, ND [Revised]

Minot, Minot AFB, ND
(Lat. 48°24′56″ N., long. 101°21′28″ W.)

That airspace extending upward from the surface to and including 4,200 feet MSL and within a 5.6-mile radius of Minot AFB. This Class D airspace is effective during the specific dates and times established in advance by a notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on October 9, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–27751 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15228; Airspace Docket No. 03–AEA–04]

Establishment of Class E Airspace; Gettysburg, PA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Gettysburg, PA. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft operating into Gettysburg Airport and Travel Center, Gettysburg, PA under Instrument Flight Rules (IFR).

EFFECTIVE DATE: 0901 UTC May 15, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On June 30, 2003, a notice proposing to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace extending upward from 700 feet above the surface within a 6-mile radius of Gettysburg Airport and Travel Center, Gettysburg, PA was published in the **Federal Register** (68 FR 38653–38654). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before July 30, 2003. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace area designations for airspace extending upward from the surface of the earth are published in paragraph 6005 of FAA Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) provides controlled Class ES airspace extending upward from 700 feet above the surface for aircraft conducting IFR operations within a 6-mile radius of Gettysburg Airport and Travel Center, Gettysburg, PA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9569, 3 CFR, 1959–1963 Compl., p.389.

§ 71.1 [Amended]

The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003 is amended as follows:

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

* * * * *

AEA PA E5, Gettysburg, PA [New]

Gettysburg Airport and Travel Center, PA
(Lat. 39°50′27″ N., long. 73°57′43″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Gettysburg Airport and Travel Center.

* * * * *

Issued in Jamaica, New York on October 10, 2003.

John G. McCartney,

Assistant Manager, Air Traffic Division, Eastern Region.

[FR Doc. 03–27741 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16056; Airspace Docket No. 03–AGL–08]

Modification of Class E Airspace; New Richmond, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at New Richmond, WI. Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPS) have been developed for New Richmond Municipal Airport. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing these approaches. This action increases the area of the existing controlled airspace at New Richmond Municipal Airport.

EFFECTIVE DATE: 0901 UTC, December 25, 2003.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal

Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, June 20, 2003, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at New Richmond, WI (68 FR 36950). The proposal was to modify controlled airspace extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9L dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at New Richmond, WI, to accommodate aircraft executing instrument flight procedures into and out of New Richmond Municipal Airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

* * * * *

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

* * * * *

AGL WI E5 New Richmond, WI [Revised]

New Richmond, New Richmond Municipal Airport, WI

(Lat. 45°08′54″ N., long. 92°32′17″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the New Richmond Municipal Airport, excluding that portion within the Osceola, WI Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on October 9, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–27750 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9090]

RIN 1545–BC31

Limitation on Use of the Nonaccrual-Experience Method of Accounting Under Section 448(d)(5); Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to temporary regulations that were published in the **Federal Register** on September 4, 2003 (68 FR 52496) that revises temporary income tax regulations providing guidance regarding the use of a nonaccrual-experience method of accounting by taxpayers using an accrual method of accounting and performing services.

DATES: This correction is effective September 4, 2003.

FOR FURTHER INFORMATION CONTACT: Terrance McWhorter (202) 622–4970 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

These temporary regulations that are the subject of these corrections are under section 448 of the Internal Revenue Code.

Need for Correction

As published, this temporary regulation (TD 9090) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

■ Accordingly, the publication of temporary regulations (TD 9090), which were the subject of FR Doc. 03–22458, is corrected as follows:

§ 1.448–2T [Corrected]

■ 1. On page 52502, column 3, § 1.448–2T(e)(6)(iv), second to last line of the paragraph, the language ''self-test), as applicable, of this section'' is corrected to read ''self test, as applicable,''.

■ 2. On page 52503, column 1, § 1.448–2T (e)(6)(vii), in the paragraph heading, the language *''Recapture*—(1) *In general.''* is corrected to read *''Recapture.''*

Cynthia E. Grigsby,

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

[FR Doc. 03–27864 Filed 11–4–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 14

Administrative Claims Under the Federal Tort Claims Act; Delegation of Authority

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Directive delegates authority to the Secretary of Health and

Human Services to settle administrative tort claims presented pursuant to the Federal Tort Claims Act where the amount of the settlement does not exceed $200,000. This Directive implements the Administrative Dispute Resolution Act. This Directive will alert the general public to the new authority and is being published in the CFR to provide a permanent record of this delegation.

EFFECTIVE DATE: November 5, 2003

FOR FURTHER INFORMATION CONTACT: Phyllis J. Pyles, Director, Torts Branch, Civil Division, U.S. Department of Justice, P.O. Box 888, Washington, DC 20044, (202) 616–4252.

SUPPLEMENTARY INFORMATION: This Directive has been issued to delegate settlement authority and is a matter solely related to the division of responsibility between the Department of Justice and the Department of Health and Human Services. It does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). It is not a significant regulatory action within the meaning of Executive Order No. 12866.

List of Subjects in 28 CFR Part 14

Authority delegations (government agencies), Claims.

■ By virtue of the authority vested in me by part 0 of title 28 of the Code of Federal Regulations, including §§ 0.45, 0.160, 0.162, 0.164, and 0.168, 28 CFR part 14 is amended as follows:

PART 14—ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT

■ 1. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 2672; 38 U.S.C. 224(a).

■ 2. The Appendix to Part 14 is amended by adding a new provision at the end of the Appendix to read as follows:

Appendix to Part 14—Delegations of Settlement Authority

* * * * *

Delegation of Authority to the Secretary of Health and Human Services

Section 1. Authority to Compromise Tort Claims.

(a) The Secretary of Health and Human Services shall have the authority to adjust, determine, compromise, and settle a claim involving the Department of Health and Human Services under section 2672 of title 28, United States Code, relating to the administrative settlement of federal tort claims, if the amount of the proposed adjustment, compromise, or award does not exceed $200,000. When the Secretary of Health and Human Services believes a claim pending before him presents a novel question of law or policy, he shall obtain the advice of the Assistant Attorney General in charge of the Civil Division.

(b) The Secretary of Health and Human Services may redelegate, in writing, the settlement authority delegated to him under this section.

Section 2. Memorandum.

Whenever the Secretary of Health and Human Services settles any administrative claim pursuant to the authority granted by section 1 for an amount in excess of $100,000 and within the amount delegated to him under section 1, a memorandum fully explaining the basis for the action taken shall be executed. A copy of this memorandum shall be sent to the Director, FTCA Staff, Torts Branch of the Civil Division.

Peter D. Keisler,

Assistant Attorney General, Civil Division.

[FR Doc. 03–27826 Filed 11–4–03; 8:45 am]

BILLING CODE 4410–12–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[TX–50–FOR]

Texas Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposed revisions to its regulations regarding permit fees. Texas intends to revise its program to improve operational efficiency.

EFFECTIVE DATE: November 5, 2003.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. Internet address: *mwolfrom@osmre.gov.*

SUPPLEMENTARY INFORMATION:

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

I. Background on the Texas Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Texas program effective February 16, 1980. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval, in the February 27, 1980, **Federal Register** (45 FR 12998). You can find later actions on the Texas program at 30 CFR 943.10, 943.15, and 943.16.

II. Submission of the Amendment

By letter dated July 10, 2003 (Administrative Record No. TX–655), Texas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Texas sent the amendment at its own initiative.

We announced receipt of the proposed amendment in the August 15, 2003, **Federal Register** (68 FR 48844). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on September 15, 2003. We did not receive any public comments.

During our review of the amendment, we identified concerns about the proposed annual fee. We notified Texas of these concerns by letters dated August 22, 2003, and September 15, 2003 (Administrative Record Nos. TX–655.03 and TX–655.05, respectively). By letters dated September 4, 2003, and September 24, 2003 (Administrative Record Nos. TX–655.04 and TX–655.06, respectively), Texas sent us additional explanatory information to its proposed program amendment. Because the additional information merely clarified certain provisions of Texas' amendment, we did not reopen the public comment period.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described

below. Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes.

16 Texas Administrative Code (TAC) Section 12.108 Permit Fees

In paragraph (b), Texas proposed to increase the annual permit fee from $120.00 per acre to $300.00 per acre. Permittees must pay the fee to the Commission for each acre of land within the permit area on which the permittees actually conducted operations for the removal of coal and lignite during the calendar year. Because this increased fee had an effective date of September 1, 2003, Texas also proposed how it is to be calculated for calendar year 2003 only. For the period January 1, 2003, through August 31, 2003, the annual permit fee is $120.00 per acre and for the period September 1, 2003, through December 31, 2003, the fee is $300.00 per acre.

The Federal regulations at 30 CFR 777.17, concerning permit fees, provide that applications for surface coal mining permits must be accompanied by a fee determined by the regulatory authority. The Federal regulations also provide that the fees may be less than, but not more than the actual or anticipated cost of reviewing, administering, and enforcing the permit. The annual permit fee increase proposed by Texas is the first such increase since the provision in the Texas Surface Coal Mining and Reclamation Act that authorizes the Commission to set the fee became effective September 1, 1985. We find that Texas' proposed permit fees including the annual permit fee are reasonable and consistent with the discretionary authority provided by the regulations at 30 CFR 777.17.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

On July 25, 2003, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Texas program (Administrative Record No. TX–655.01). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Texas proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on July 25, 2003, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. TX–655.01). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On July 25, 2003, we requested comments on Texas' amendment (Administrative Record No. TX–655.01), but neither responded to our request.

V. OSM's Decision

Based on the above findings, we approve the amendment Texas sent us on July 10, 2003.

We approve the regulations proposed by Texas with the provision that they be fully promulgated in identical form to the regulations submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 943, which codify decisions concerning the Texas program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

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

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

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

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This determination is based on the fact that the Texas program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Texas

program has no effect on Federally-recognized Indian tribes.

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

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

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

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 16, 2003.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR part 943 is amended as set forth below:

PART 943—TEXAS

■ 1. The authority citation for part 943 continues to read as follows:

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

■ 2. Section 943.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 943.15 Approval of Texas regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * *	*	*
July 10, 2003	November 5, 2003.	TAC 12.108(b)

[FR Doc. 03–27877 Filed 11–4–03; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[WY–031–FOR Rule Package 1J]

Wyoming Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving a proposed amendment to the Wyoming regulatory program (the ''Wyoming program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Wyoming proposed revisions to its coal rules about roads, mine facilities, and excess spoil. Wyoming intends to revise its program to be consistent with the corresponding Federal regulations and clarify ambiguities.

EFFECTIVE DATE: November 5, 2003.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: 307/261–6550, Internet address: *GPadgett@osmre.gov*

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program
II. Submission of the Proposed Amendment
III. Office of Surface Mining Reclamation and Enforcement's (OSM's) Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Wyoming Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and

reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. You can find background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval in the November 26, 1980, **Federal Register** (45 FR 78637). You can also find later actions concerning Wyoming's program and program amendments at 30 CFR 950.12, 950.15, 950.16, and 950.20.

II. Submission of the Proposed Amendment

By letter dated November 28, 2002, Wyoming sent us an amendment to its program (Wyoming Rule Package 1J, Administrative Record No. WY–36–1) under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming sent the amendment in response to 30 CFR part 732 letters of February 21, 1990, and October 3, 1990 (Administrative Record Nos. WY–36–6 and WY–36–7), that we sent to Wyoming, and to include changes it made at its own initiative.

We announced receipt of the proposed amendment in the March 4, 2003, **Federal Register** (volume 68 FR No. 42, page 10193). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (Administrative Record No. WY–36–8). We did not receive any comments.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations.

A. Minor Revisions to Wyoming's Rules

Wyoming proposed minor wording, editorial, punctuation, grammatical, and recodification changes to the following previously-approved rules.

Wyoming Coal Rules Chapter 1, Section 2(a), 2(b), Definitions.

These State-initiated revisions are necessary to maintain consistent use of the term ''mine facilities.''

Because these changes are minor, we find that they will not make Wyoming's rules less effective than the corresponding Federal regulations.

B. Revisions to Wyoming's Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations

Wyoming proposed revisions to the following rules containing language that is the same as or similar to the corresponding sections of the Federal regulations:

1. *Chapter 1, Section 2(ah), Definition of Existing Structure.*
2. *Chapter 1, Section 2(bu), Definition of Public Road.*
3. *Chapter 1, Section 2(bz), Definition of Road.*
4. *Chapter 2, Section 2(a)(v), 2(a)(v)(I)(1), 2(b)(iii) and 2(b)(xxi), Mine Safety and Health Administration Identification Number.*
5. *Chapter 2, Section 2(b)(xix), Road Systems.*
6. *Chapter 4, Section 2(c)(i)(A), Topsoil Removal Exemption.*
7. *Chapter 4, Section 2(j), Roads.*
8. *Chapter 4, Section 2(j)(ii), Roads: General Performance Standards.*
9. *Chapter 4, Section 2(j)(iii), Roads-Design and Construction.*
10. *Chapter 4, Section 2(j)(iii)(B), Primary Road-Fords.*
11. *Chapter 4, Section 2(j)(iii)(C)(I), Primary Road-Drainage Control.*
12. *Chapter 4, Section 2(j)(iii)(C)(I), Primary Road-Haul and Access Roads.*
13. *Chapter 4, Section 2(j)(iii)(C)(II), Primary Road-Drainage Pipes and Culverts.*
14. *Chapter 4, Section 2(j)(iii)(C)(III), Primary Road-Culverts.*
15. *Chapter 4, Section 2(j)(iii)(C)(V), Ditches.*
16. *Chapter 4, Section 2(j)(vii), Primary Road-Surface Water Runoff.*
17. *Chapter 4, Section 2(j)(viii); Exemptions Concerning Roads.*
18. *Chapter 4, Section 2(m); Removal and Reclamation of Mine Facilities.*
19. *Chapter 4, Section 2(n)(ii)(B)(2); minimizes additional contributions of suspended solids to streamflow outside of the permit area.*
20. *Chapter 4, Section 2(x); Utility Installation.*
21. *Chapter 12, Section 1(a)(v), Permitting Procedures.*
22. *Chapter 18, Section 3(c)(xvii), Section 3(d)(vi)(A), 3(d)(x), Permit Applications.*

Because these proposed rules contain language that is the same as or similar to the corresponding Federal regulations, we find that they are no less effective than the corresponding Federal regulations.

C. Revisions to Rules That Are Not the Same as the Corresponding Provisions of the Federal Regulation

1. *Chapter 2, Section 2(a) and (b), Contents of an application for a surface coal mining permit (Chapter 2, Section 2(b)(iv)(G).* In its October 3, 1990, letter (follow up to its 30 CFR part 732 letter), OSM told Wyoming in E–2 that to be no less effective than the Federal rules, Wyoming's coal rules must require maps and cross sections for all roads, not just those deemed appropriate. Consequently, Wyoming proposes in this amendment to repeal Chapter 2, Section 2(b)(iv)(G)(item 5.a) and adopt Chapter 2, Section (b)(xix) to effectuate this change.

In addition, the Wyoming rule currently found at Chapter 2, Section 2(b)(iv)(G)(I) is proposed for recodification as Chapter 2, Section 2(a)(i)(E) because it is more appropriate for this requirement regarding legal ownership to be under subsection (a) rather than (b).

Finally, with the repeal of subsection 2(b)(iv)(G), the rule that follows it as (H) must be renumbered as (G) to coincide with the numbering within this subsection. Moreover, the term ''buildings and structures'' is proposed to be repealed and replaced with ''mine facilities'' to maintain consistent use of the term ''mine facilities.'' These changes are no less effective than the Federal regulations.

2. *Chapter 2, Section 2(b)(i)(D)(V), Operation Plan: Maps and Plans.* The original Wyoming rule was not as detailed as its Federal counterpart regulations and was therefore disapproved by the OSM in a February 21, 1990, 30 CFR part 732 letter (Item E–4) to Wyoming. The proposed revised State rule is very similar to its Federal counterpart regulation at 30 CFR 780.14 and therefore is as effective as it.

3. *Chapter 4, Section 2(j)(iv), Roads-Location.* This rule change is simply to include the citations to the specific State hydrologic requirements as required by OSM's October 3, 1990, 30 CFR part 732 letter to Wyoming. Inclusion of the citations make the State rule no less effective than the Federal regulations.

4. *Chapter 4, Section 2(j)(iii)(D), Primary Road.* This rule change makes the State rule almost identical to its Federal counterpart which makes it no less effective than the Federal regulations.

5. *Chapter 4, Section 2(j)(v), Road Maintenance and Repair.* In order to be consistent with the Federal rules regarding road maintenance, Wyoming is proposing to revise its current Chapter 4 rules to read, ''A road shall be maintained to meet the performance standards of this Chapter.'' This does not include the Federal counterpart phrase at 30 CFR 816.150(e)(1), ''and any additional criteria specified by the

regulatory authority'' because OSM did not require it. The rule is therefore no less effective than the Federal regulations.

6. *Chapter 4, Section 2(j)(vi), Road Reclamation.* In the February 21, 1990, 30 CFR part 732 letter (Item E–8) that OSM sent to Wyoming, OSM indicated that the State must adopt the Federal minimum standards for road reclamation. Consequently, Wyoming is proposing to adopt the counterpart Federal rules. However, the proposed adoption at Chapter 4, Section 2(j)(vi)(B) provides an alternative to operators regarding culverts in roadways that are being reclaimed. Rather than having to remove a culvert if it is not an approved part of the postmining land use, the operator can approach the Administrator about leaving the culvert buried in place for perpetuity. If an operator chooses this alternative, the operator will be required to provide a plan which will guarantee that there will not be any subsidence associated with the culvert in the future and that the culvert will be buried at a sufficient depth to prevent erosion (wash out) of the culvert. Offering operators a reasonable alternative to removing culverts in roadways, Wyoming's rule is no less effective that its Federal counterpart.

The proposed adoption at Chapter 4, Section 2(j)(vi)(F) also mentions subsoil because Wyoming Coal Rules contain specific provisions regarding subsoil handling, which are not mentioned in the Federal counterpart rule. The proposed rule is therefore no less effective than the Federal regulations since it regulates more than the Federal provisions.

7. *Chapter 4, Section 2(c)(xi)(F), Temporary Overburden and Spoil Piles.* This rule is proposed for adoption to make it clear that temporary overburden or spoil piles also warrant the use of prudent location, design and construction practices in order to ensure the safety and stability of these temporary piles. OSM has determined that the proposed State rule does not conflict with the backfilling and grading requirements of 30 CFR 816.102. The proposed rule requires the use of prudent engineering practices to ensure safety and stability of any temporary stockpiles. Once mining is complete, material would be returned to the mined area and be subject to the general backfilling and grading or excess spoil disposal rules. The proposed rule is not inconsistent with the intent of SMCRA and is no less effective than the Federal regulations.

8. *Chapter 4, Section 2(c)(xi)(G), Excess Spoil.* This revision simply makes some minor word changes as well as reorganizes the existing excess spoil rules which had been previously approved by OSM. Therefore, the revision is no less effective than the Federal rules.

9. *Appendix A, Appendix IV, List of Threatened and Endangered Plant Species.* On its own initiative, Wyoming had attempted to keep this list, prepared by the U.S. Fish and Wildlife Service (FWS), up to date in this appendix. However, because this involved rulemaking and was a lengthy process, Wyoming attempted to simply refer the reader to the FWS office. This turned out to be in conflict with Wyoming Statute 16–3–103(h) and is therefore now proposed for removal. Since having the list in an appendix was a State initiative, removing it is does not affect the effectiveness of Wyoming's rules.

10. *Chapter 5, Section 7(a)(ii), Remining.* OSM asked Wyoming's Land Quality Division, in a March 31, 1986, **Federal Register** notice (51 FR 10827) to remove some language in Wyoming's rules that was less effective than the Federal counterpart regulations. The language in question was submitted to OSM on March 31, 1989, and was approved by OSM for removal in the July 25, 1990, **Federal Register** notice (55 FR30221). It is therefore acceptable to remove it from Wyoming's master list of outstanding disapprovals.

D. Revisions to Wyoming's Coal Rules With No Corresponding Federal Regulations

1. *Chapter 4, Section 2(j)(i)(A), Roads.* Wyoming proposed this rule for repeal because it was cited by OSM in the November 26, 1986, **Federal Register** as being less effective than the Federal regulations. The Federal definition of ''surface coal mining activities'' includes all lands affected by the construction of new roads or use of existing roads to gain access to the site, not just those that are constructed or upgraded (which is what the current State rule says). In addition, Federal rules do not limit the inclusion of a road or railroad as being part of a permit area if they provide exclusive service to a particular operator (which is also what the current State rule says).

This current language is no longer necessary in the State rules with the adoption of the Federal definition of roads (which makes it clear that any ''surface corridor of affected land associated with travel by a land vehicle used * * *'' is considered a road. There is no distinction as to whether the road has been constructed or upgraded. If it is being used, it is considered to be part of a ''surface coal mining operation.''

Eliminating this State rule will make Wyoming's rule consistent with its Federal counterpart.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (Administrative Record No. WY–36–5), but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Wyoming program (Administrative Record No. WY–36–5). No comments were received.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), we are required to get concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

Under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from EPA (Administrative Record No. WY–36–5). EPA did not respond to our request.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the ACHP and SHPO on amendments that may have an effect on historic properties. On December 10, 2002, we requested comments on Wyoming's amendment (Administrative Record No. WY–36–3 and 4), but neither responded to our request.

V. OSM's Decision

Based on the above findings, we approve Wyoming's November 28, 2002, amendment, as follows: Finding A, minor revisions to Wyoming's Coal Rules at Chapter 1, Section 2, 2(a), 2(b); Finding B, revisions to Wyoming's rules that have the same meaning as the corresponding provisions of the Federal regulations: finding B.1, Section 2(ah), definition of existing structure; finding B.2, Chapter 1, Section 2(bu), definition of public road; finding B.3, Chapter 1, Section 2(bz), definition of road; finding B.4, Chapter 2, Section 2(a)(v), 2(a)(v)(I)(1), 2(b)(iii), and 2(b)(xxi), Mine Safety and Health Administration identification number; finding B.5, Chapter 2, Section 2(b)(xix), road systems; finding B.6, Chapter 4, Section

2(c)(i)(A), topsoil removal exemption; finding B.7, Chapter 4, Section 2(j), roads; finding B.8, Chapter 4, Section 2(j)(ii), roads: general performance standards; finding B.9, Chapter 4, Section 2(j)(iii), roads-design and construction; finding B.10, Chapter 4, Section 2(j)(iii)(B), primary road-Fords; finding B.11, Chapter 4, Section 2(j)(iii)(C)(I), primary road-drainage control; finding B.12, Chapter 4, Section 2(j)(iii)(C)(I), primary road-haul and access roads; finding B.13, Chapter 4, Section 2(j)(iii)(C)(II), primary road-drainage pipes and culverts; finding B.14, Chapter 4, Section 2(j)(iii)(C)(V), drainage ditches; finding B.15, Chapter 4, Section 2(j)(iii)(C)(III), primary road-culverts; finding B.16, Chapter 4, Section 2(j)(vii), primary road-surface water runoff; finding B.17, Chapter 4, Section 2(j)(viii), exemptions concerning roads; finding B.18, Chapter 4, Section 2(m), removal and reclamation of mine facilities; finding B.19, Chapter 4, Section 2(n)(ii)(B)(2), minimizes additional contributions of suspended solids to streamflow outside of the permit area; finding B.20, Chapter 4, Section 2(x), utility installation; finding B.21, Chapter 12, Section 1(a)(v), permitting procedures; finding B.22, Chapter 18, Section 3(c)(xvii), Section 3(d)(vi)(A), Section 3(d)(x), permit applications; Finding C, revisions to rules that are not the same as the corresponding provisions of the Federal Regulations: finding C.1, Section 2(a) and (b), contents of an application for a surface coal mining permit (Chapter 2, Section 2(b)(iv)(G)); finding C.2, Chapter 2, Section 2(b)(i)(D)(v), Operation Plan: Maps and Plans; finding C.3, Chapter 4, Section 2(j)(iv), Roads-location; finding C.4, 2(j)(iii)(D), Primary Road; finding C.5, Chapter 4, Section 2(j)(v), road maintenance and repair; finding C.6, Chapter 4, Section 2(j)(vi), road reclamation; finding C.7, Chapter 4, Section 2(xi)(F), temporary overburden and spoil piles; finding C.8, Chapter 4, Section 2(c)(xi)(G), excess spoil; finding C.9, Appendix A, Appendix IV, list of Threatened and Endangered Plant Species; finding C.10, Chapter 5, Section 7(a)(ii), remining; finding D, revisions to Wyoming's Coal Rules with no corresponding Federal Regulations: finding D.1, Chapter 4, Section 2(j)(i)(A), roads.

We approve the rules as proposed by Wyoming with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 950, which codify decisions concerning the Wyoming program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrates that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

Effect of OSM's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any change of an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to approved State programs that are not approved by OSM. In the oversight of the Wyoming program, we will recognize only the statutes, regulations and other materials we have approved, together with any consistent implementing policies, directives and other materials. We will require Wyoming to enforce only approved provisions.

VI. Procedural Determinations

Executive Order 12630—Takings

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

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

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

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. The rule does not involve or affect Indian tribes in any way.

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

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

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory

program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

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

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 30, 2003.

Allen D. Klein,

Regional Director, Western Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR part 950 is amended as set forth below:

PART 950—WYOMING

■ 1. The authority citation for part 950 continues to read as follows:

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

§ 950.12 [Amended]

■ 2. Section 950.12 is amended by removing and reserving paragraph (a)(8).

■ 3. Section 950.15 is amended in the table by adding a new entry in chronological order by date of final publication to read as follows:

§ 950.15 Approval of Wyoming regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	*	* * * *
November 28, 2002	November 5, 2003.	Chap. 1, Section 2, 2(a), 2(b) Chap. 1, Section 2(ah) Chap. 1, Section 2(bu) Chap. 1, Section 2(bz) Chap. 2, Section 2(a) and (b) Chap. 2, Section 2(a)(v), 2(a)(v)(I)(1), 2(b)(iii) and 2(b)(xxi) Chap. 2, Section 2(b)(i)(D)(V) Chap. 2, Section 2(b)(iv)(G) Chap. 2, Section 2(b)(xix) Chap. 4, Section 2(c)(i)(A) Chap. 4, Section 2(c)(xi)(F) Chap. 4, Section 2(c)(xi)(G) Chap. 4, Section 2(j) Chap. 4, Section 2(j)(i)(A) Chap. 4, Section 2(j)(ii) Chap. 4, Section 2(j)(iii) Chap. 4, Section 2(j)(iii)(B) Chap. 4, Section 2(j)(iii)(C)(I) Chap. 4, Section 2(j)(iii)(C)(II) Chap. 4, Section 2(j)(iii)(C)(III) Chap. 4, Section 2(j)(iii)(C)(v) Chap. 4, Section 2(j)(iii)(D) Chap. 4, Section 2(j)(iv) Chap. 4, Section 2(j)(v) Chap. 4, Section 2(j)(vi) Chap. 4, Section 2(j)(vii) Chap. 4, Section 2(j)(viii)

Original amendment submission date	Date of final publication	Citation/description
		Chap. 4, Section 2(m) Chap. 4, Section 2(n)(ii)(B)(2) Chap. 4, Section 2(x) Chap. 5, Section 7(a)(ii) Chap. 12, Section 1(a)(v) Chap. 18, Section 3(c)(xvii), Section 3(d)(vi)(A), Section 3(d)(x) Appendix A, Appendix IV

[FR Doc. 03–27878 Filed 11–4–03; 8:45 am]
BILLING CODE 4310–05–U

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100, 117 and 165

[USCG–2003–16436]

Quarterly Listings; Safety Zones, Security Zones, Special Local Regulations and Drawbridge Operation Regulations

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary rules issued.

SUMMARY: This document provides required notice of substantive rules issued by the Coast Guard and temporarily effective between July 1, 2003 and September 30, 2003, that were not published in the **Federal Register**. This quarterly notice lists temporary local regulations, drawbridge operation regulations, security zones, and safety zones, all of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This notice is effective November 5, 2003.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. Documents indicated in this notice will be available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20593–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. You may electronically access the public docket for this notice on the Internet at *http://www.dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: For questions on this notice contact Lt. Jeff Bray, Office of Regulations and Administrative Law, telephone (202) 267–2830. For questions on viewing, or on submitting material to the docket, contact Andrea M. Jenkins, Program Manager, Docket Operations, telephone 202–366–0271.

SUPPLEMENTARY INFORMATION: Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. Safety zones may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. Security zones limit access to prevent injury or damage to vessels, ports, or waterfront facilities and may also describe a zone around a vessel in motion. Special local regulations are issued to enhance the safety of participants and spectators at regattas and other marine events. Drawbridge operation regulations authorize changes to drawbridge schedules to accommodate bridge repairs, seasonal vessel traffic, and local public events. Timely publication of these rules in the **Federal Register** is often precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the beginning of the effective period, mariners were personally notified of the contents of these special local regulations, drawbridge operation regulations, security zones, or safety zones by Coast Guard officials' on-scene prior to any enforcement action. However, the Cost Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these special local regulations, security zones, safety zones and temporary drawbridge operation regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. The safety zones, special local regulations, security zones and drawbridge operation regulations listed in this notice have been exempted from review under Executive Order 12866, Regulatory Planning and Review, because of their emergency nature, or limited scope and temporary effectiveness.

The following rules were placed in effect temporarily during the period from July 1, 2003, through September 30, 2003, unless otherwise indicated.

S. G. Venckus,
Chief, Office of Regulations and Administrative Law.

DISTRICT QUARTERLY REPORT—3RD QUARTER 2003

District docket	Location	Type	Effective date
01–03–014	Hingham, MA	Safety Zone	7/5/2003
01–03–018	Lynn Fourth of July Fireworks, Lynn MA	Safety Zone	7/3/2003
01–03–067	Middletown, CT	Safety Zone	7/4/2003
01–03–072	Police Athletics Fireworks, Westport, CT	Safety Zone	7/3/2003
01–03–073	Norwalk Fireworks Display, Norwalk, CT	Safety Zone	7/3/2003
01–03–074	Riverfest 2003, Hartford, CT	Safety Zone	7/5/2003
01–03–075	Stratford Fireworks Display, Stratford, CT	Safety Zone	7/3/2003

DISTRICT QUARTERLY REPORT—3RD QUARTER 2003—Continued

District docket	Location	Type	Effective date
01–03–076	Town of Norwick Fireworks, Norwick, CT	Safety Zone	7/3/2003
01–03–078	Coast Guard Activities New York	Safety Zone	8/9/2003
01–03–079	Branford, CT	Safety Zone	7/27/2003
01–03–084	Old Black Point Beach Fireworks, Niantic, CT	Safety Zone	8/16/2003
01–03–085	Port Jefferson, NY	Safety Zone	8/15/2003
01–03–088	Summer Music Fireworks, Waterford, CT	Special Local Reg	8/16/2003
01–03–089	Salem Heritage Days Fireworks, Salem, MA	Safety Zone	8/16/2003
01–03–090	South Boston, MA	Safety and Security	9/15/2003
05–03–076	Northeast River, North East, MD	Special Local Reg	7/3/2003
05–03–077	Atlantic Ocean, Assawoman Bay, OC, MD	Safety Zone	7/4/2003
05–03–079	Atlantic Ocean, Ocean City, MD	Safety Zone	7/4/2003
05–03–080	Atlantic Ocean, Isle of Wight Bay, OC, MD	Safety Zone	7/4/2003
05–03–081	Chesa, Bay, James River, Newport News, VA	Safety Zone	7/4/2003
05–03–082	Patuxent River, Solomons, MD	Special Local Reg	7/4/2003
05–03–083	Middle River, Baltimore County, MD	Special Local Reg	7/5/2003
05–03–085	Atlantic Ocean, Chesapeake & Delaware Canal	Security Zone	7/2/2003
05–03–086	Atlantic Ocean, Chesa. Bay, Linkhorn Bay, VA	Safety Zone	7/4/2003
05–03–087	Atlantic Ocean, Chesa. Bay, Chicka. River, VA	Safety Zone	7/4/2003
05–03–088	Atlantic Ocean, Chesa. Bay, Piankatank R., VA	Safety Zone	7/4/2003
05–03–089	Atlantic Ocean, Chesapeake Bay, VA	Safety Zone	7/4/2003
05–03–094	Georgetown Channel, Potomac River, Wash, D.C	Safety/Security Zone	7/4/2003
05–03–096	Norfolk Harbor Reach, VA	Security Zone	7/12/2003
05–03–097	Atlantic Ocean, Atlantic City, NJ	Special Local Reg	7/20/2003
05–03–100	Intracoastal Waterway, VA	Safety Zone	7/21/2003
05–03–104	Pamlico River, Washington, NC	Special Local Reg	8/1/2003
05–03–106	Chesapeake Bay, Hampton Roads, VA	Security Zone	7/24/2003
05–03–109	Sunset Lake, Wildwood Crest, NJ	Special Local Reg	9/27/2003
05–03–114	Ocean City, MD	Safety Zone	8/6/2003
05–03–115	Chesapeake Bay, Hampton, VA	Safety Zone	8/7/2003
05–03–120	Intracoastal Waterway, VA	Safety Zone	8/4/2003
05–03–123	Patapsco River and Tributaries, MD	Safety/Security Zone	8/10/2003
05–03–127	Chesapeake Bay, Hampton Roads, VA	Security Zone	8/20/2003
05–03–128	Martins Creek, Tullytown, PA	Special Local Reg	9/20/2003
05–03–134	Chesapeake Bay, Hampton, VA	Safety Zone	8/28/2003
05–03–135	Chesapeake Bay, Hampton Roads, VA	Security Zone	9/1/2003
05–03–136	Chesapeake Bay, Hampton Roads, VA	Security Zone	8/31/2003
05–03–137	Chesapeake Bay, Hampton Roads, VA	Security Zone	9/7/2003
05–03–138	Chesapeake Bay, Hampton Roads, VA	Security Zone	9/14/2003
05–03–139	Chesapeake Bay, Hampton Roads, VA	Security Zone	9/20/2003
05–03–140	Chesapeake Bay, Hampton Roads, VA	Security Zone	9/24/2003
05–03–141	Chesapeake Bay, Hampton Roads, VA	Security Zone	9/28/2003
05–03–142	All Waters Within Capt. of Port Wilmington	Safety Zone	9/16/2003
05–03–143	Hurricane Isabel Port Condition Yankee	Safety Zone	9/17/2003
05–03–144	Chesapeake Bay and Its Tributaries	Safety Zone	9/18/2003
05–03–145	Delaware River and Bay, Schuylkill River	Safety Zone	9/18/2003
05–03–146	Strategic Booming Exercise in Corson's Inlet	Safety Zone	9/25/2003
05–03–147	Captain of the Port Zone Hampton Roads, VA	Safety Zone	9/17/2003
05–03–148	Chesapeake Bay, Hampton Roads, VA	Security Zone	9/25/2003
05–03–149	COTP Wilmington Zone	Safety Zone	9/22/2003
05–03–152	Patapsco River, Baltimore, MD	Safety Zone	9/26/2003
09–03–119	Milwaukee River, Milwaukee, WI	Safety Zone	9/20/2003
09–03–221	Lake Michigan, Dune Acres, IN	Safety Zone	7/5/2003
09–03–234	Muskego Air Fair, Muskego, MI	Safety Zone	7/3/2003
09–03–237	Lake Michigan, Chicago, IL	Safety Zone	7/4/2003
09–03–239	Put-in-Bay, OH, Lake Erie	Safety Zone	7/4/2003
09–03–240	Eagle Creek Marina, Lake Ontario, Kendall, NY	Safety Zone	7/5/2003
09–03–242	Lake Ontario, Olcott Harbor, Olcott, NY	Safety Zone	7/3/2003
09–03–243	Rocky River, Ohio, Lake Erie	Safety Zone	7/5/2003
09–03–244	Lake Michigan, Chicago, IL	Safety Zone	7/13/2003
09–03–246	Sheboygan, WI	Safety Zone	7/15/2003
09–03–247	Port Washington, WI	Safety Zone	7/27/2003
09–03–251	New Buffalo, MI	Safety Zone	8/2/2003
09–03–252	CG Festival Venetian Parade, Grand Haven, MI	Safety Zone	7/26/2003
09–03–255	Oswego Harbor, Oswego, NY	Safety Zone	7/26/2003
09–03–262	Elgin, IL	Safety Zone	8/14/2003
09–03–263	Presque Isle Bay, Erie, PA	Safety Zone	8/16/2003
09–03–264	Cleveland, OH	Safety Zone	8/29/2003
09–03–266	Lake Michigan, Frankfort, MI	Safety Zone	9/2/2003
09–03–267	Niagra River, Buffalo, NY	Safety Zone	9/6/2003
09–03–269	Head of the Cuyahoga Regatta, Cleveland, OH	Safety Zone	9/20/2003
09–03–270	Fox River, Green Bay, WI	Safety Zone	9/5/2003

DISTRICT QUARTERLY REPORT—3RD QUARTER 2003—Continued

District docket	Location	Type	Effective date
09–03–271	Trenton Channel, MI	Safety Zone	9/27/2003
09–03–272	Motor Vessel Vancouverborg, WI	Safety Zone	9/13/2003
09–03–273	Marinette, WI	Safety Zone	9/20/2003
09–03–274	River Raisin, Monroe, MI	Security Zone	9/15/2003
09–03–276	COTP Detroit Zone, Renaissance Center	Security Zone	9/28/2003
09–03–282	Green Bay, WI	Safety Zone	7/25/2003
09–03–298	Tall Ships Challenge 2003, Muskegon, MI	Safety Zone	8/6/2003
09–03–301	Milwaukee, WI	Safety Zone	8/30/2003
09–03–302	Milwaukee, WI	Safety Zone	8/31/2003
11–03–002	China Basin, San Francisco, CA	Drawbridge Reg	7/27/2003
13–03–019	Fireworks Display in Coos, Bay, OR	Safety Zone	7/4/2003
13–03–020	Puget Sound, WA	Security Zone	7/14/2003
13–03–024	Milwaukee, OR	Safety Zone	7/26/2003
13–03–030	Portland, OR	Security Zone	8/21/2003
13–03–031	Kennewick, WA	Security Zone	8/22/2003
13–03–032	Portland, OR	Security Zone	8/21/2003
13–03–033	Lake Washington, WA	Security Zone	8/22/2003

COTP QUARTERLY REPORT—3RD QUARTER 2003

COTP docket	Location	Type	Effective date
Charleston 03–140	Charleston Harbor, Cooper River, SC	Security Zone	9/2/2003
Charleston 03–142	Charleston, SC	Safety Zone	9/17/2003
Corpus Christi 03–002	Corpus Christi Ship Channel, Corpus Christi	Safety Zone	8/28/2003
Corpus Christi 03–005	Corpus Christi, TX	Safety Zone	9/2/2003
Houston-Galveston 03–005	Galveston, TX	Safety Zone	9/16/2003
Huntington 03–001	Marietta, OH	Safety Zone	7/4/2003
Huntington 03–003	River M 0.0 TO 4.0, Charleston, WV	Security Zone	9/15/2003
Jacksonville 03–097	St. Johns River, Palatka, FL	Safety Zone	7/4/2003
Jacksonville 03–098	Indian River, 4th of July Celeb, Cocoa, FL	Safety Zone	7/4/2003
Jacksonville 03–099	Intracoastal Waterway, Melbourne, FL	Safety Zone	7/4/2003
Jacksonville 03–100	St. Johns River, Jacksonville, FL	Safety Zone	7/4/2003
Jacksonville 03–101	St. Johns River, Orange Park, Jacksonville, FL	Safety Zone	7/4/2003
Jacksonville 03–102	St. Johns River, Orange Park, FL	Safety Zone	7/4/2003
Jacksonville 03–103	Halifax River, Ormond Beach, FL	Safety Zone	7/4/2003
Jacksonville 03–104	Atlantic Ocean, Daytona Beach, FL	Safety Zone	7/4/2003
Jacksonville 03–105	Matanzas River, St. Augustine, FL	Safety Zone	7/4/2003
Jacksonville 03–106	Atlantic Ocean, Jacksonville, FL	Safety Zone	7/4/2003
Jacksonville 03–107	Atlantic Ocean, Cocoa Beach, FL	Safety Zone	7/4/2003
Jacksonville 03–108	W. Lake Tohopekaliga, Kissimmee, FL	Safety Zone	7/4/2003
Jacksonville 03–109	Sanford Marina, Lake Monroe Har., Sanford, FL	Safety Zone	7/4/2003
Jacksonville 03–110	Lake Eustis, FL	Safety Zone	7/5/2003
Jacksonville 03–111	Lake Dora, Mount Dora, FL	Safety Zone	7/4/2003
Jacksonville 03–125	Sisters Creek, Jacksonville, FL	Safety Zone	7/19/2003
LA–LB 03–003	Water Ski Races, Long Beach, CA	Safety Zone	9/6/2003
Louisville 03–005	Louisville, KY	Safety Zone	7/27/2003
Louisville 03–006	Aurora, IN	Safety Zone	8/23/2003
Louisville 03–010	Ohio River, M 602.0 to 604.0, Louisville, KY	Safety Zone	9/20/2003
Louisville 03–011	Ohio River, M 469.5 to 470.5, Cincinnati, OH	Safety Zone	9/21/2003
Louisville 03–014	Cincinnati, OH	Security Zone	9/30/2003
Memphis 03–002	Fort Smith, AR	Safety Zone	7/4/2003
Miami 03–089	Viscayan 4th of July Fireworks Display	Safety Zone	7/4/2003
Miami 03–090	Fort Lauderdale Yacht Club, 4th of July	Safety Zone	7/4/2003
Miami 03–091	American Legion 4th of July Fireworks Display	Safety Zone	7/4/2003
Miami 03–092	Fisher Island 4th of July Fireworks Display	Safety Zone	7/4/2003
Miami 03–101	City of West Palm Beach 4th of July Fireworks	Safety Zone	7/4/2003
Miami 03–102	Bayside Park 4th of July Fireworks Display	Safety Zone	7/4/2003
Mobile 03–012	Pascagoula River, Hwy 90, Pascagoula, MS	Safety Zone	7/8/2003
Mobile 03–014	Mississippi Sound, Pascagoula, MS	Safety Zone	7/28/2003
Mobile 03–015	Apalachicola Bay, Eastpoint, FL	Safety Zone	7/30/2003
Mobile 03–016	Gulf of Mexico, Orange Beach, AL	Safety Zone	8/24/2003
Mobile 03–018	300 Yards East and West of Mile Marker 8	Safety Zone	9/3/2003
New Orleans 03–017	LaPlace, LA	Safety Zone	7/3/2003
New Orleans 03–018	Casino Magical Canal, Bay St. Louis, MS	Safety Zone	7/3/2003
New Orleans 03–019	Donaldsonville, LA	Safety Zone	7/3/2003
New Orleans 03–020	Vadalia Bridge, High Way 84, Natchez, MS	Safety Zone	7/4/2003
New Orleans 03–021	Yazoo Diversion Canal, Vicksburg, MS	Safety Zone	7/4/2003
New Orleans 03–022	Shreveport, LA	Safety Zone	7/4/2003

COTP QUARTERLY REPORT—3RD QUARTER 2003—Continued

COTP docket	Location	Type	Effective date
New Orleans 03–023	Luling, LA	Safety Zone	7/3/2003
New Orleans 03–025	Gulf of Mexico	Safety Zone	7/11/2003
New Orleans 03–026	Venice, LA	Safety Zone	7/11/2003
New Orleans 03–028	Baton Rouge, LA	Safety Zone	8/21/2003
Paducah 03–014	Upper Miss. River, Cape Girardeau, MO	Safety Zone	7/4/2003
Paducah 03–015	Knoxville, TN—Boomsday, Tennessee River Mile	Safety Zone	8/31/2003
Paducah 03–016	Riverfest 2003, Cumberland River M 125.2	Safety Zone	9/6/2003
Paducah 03–017	Ohio River, M 932.0 to 935.0, Paducah, KY	Safety Zone	9/8/2003
Paducah 03–018	Cumberland River M 191.0 to 192.5, Nashville	Security Zone	9/8/2003
Pittsburgh 03–007	Pittsburgh, PA	Safety Zone	7/11/2003
Pittsburgh 03–011	Pittsburgh, PA	Safety Zone	7/18/2003
Pittsburgh 03–012	Pittsburgh, PA	Safety Zone	7/27/2003
Pittsburgh 03–013	Pittsburgh, PA	Safety Zone	7/26/2003
Pittsburgh 03–015	Pittsburgh, PA	Safety Zone	8/2/2003
Pittsburgh 03–016	Ohio River M 0.0 to M 0.2, Pittsburgh PA	Safety Zone	9/6/2003
Pittsburgh 03–017	Pittsburgh, PA	Security Zone	7/28/2003
Pittsburgh 03–018	Allegheny River M 0.3 to M 0.7, Pittsburgh	Safety Zone	9/13/2003
Pittsburgh 03–020	Monongahela River M 2.2 to M 3.1, Pittsburgh	Safety Zone	9/6/2003
Port Arthur 03–010	Neches River, Beaumont, TX	Safety Zone	7/4/2003
Port Arthur 03–011	Sabine-Neches Canal, Port Arthur, TX	Safety Zone	7/4/2003
Port Arthur 03–012	Port Arthur Ship Canal, Port Arthur, TX	Safety Zone	7/4/2003
Port Arthur 03–013	Port Arthur Ship Canal, Port Arthur, TX	Safety Zone	7/4/2003
Port Arthur 03–015	Sabine Jetty Channel, Sabine, TX	Safety Zone	7/16/2003
Port Arthur 03–016	Sabine Jetty Channel, Sabine, TX	Safety Zone	7/20/2003
Port Arthur 03–017	Neches/Sabine Ship Channel, Beaumont, TX	Safety Zone	7/23/2003
Port Arthur 03–018	Neches and Sabine Ship Channel, Beaumont, TX	Safety Zone	7/23/2003
Port Arthur 03–019	Neches River, Beaumont, TX	Safety Zone	7/25/2003
Port Arthur 03–021	Sabine Pass, TX	Safety Zone	9/9/2003
Port Arthur 03–022	Outer Bar Channel, Sabine Pass, TX	Safety Zone	9/11/2003
San Diego 03–026	Waters Surrounding CG Activities San Diego, CA	Security Zone	7/8/2003
San Diego 03–028	San Diego, CA	Safety Zone	8/5/2003
San Diego 03–029	San Diego Bay, San Diego, CA	Security Zone	8/14/2003
San Juan 03–120	San Juan Bay, San Juan, Puerto Rico	Safety Zone	7/4/2003
Savannah 03–116	Brunswick River, Brunswick, GA	Safety Zone	7/9/2003
Savannah 03–117	Brunswick River, Brunswick, GA	Safety Zone	8/16/2003
Savannah 03–122	Savannah River, Savannah, GA	Safety Zone	7/4/2003
Savannah 03–123	Harbortown (Calibogue Sound), SC	Safety Zone	7/4/2003
Savannah 03–124	Skull Creek, Hilton Head Island, SC	Safety Zone	7/4/2003
Savannah 03–126	Savannah River, Savannah, GA	Security Zone	7/13/2003
Savannah 03–133	Savannah River, Savannah, GA	Security Zone	8/5/2003
Savannah 03–135	Savannah River, Savannah, GA	Security Zone	8/15/2003
Savannah 03–139	Savannah River, Savannah, GA	Security Zone	8/26/2003
Savannah 03–140	Savannah River, Savannah, GA	Security Zone	9/4/2003
Savannah 03–143	Brunswick River, Brunswick, GA	Safety Zone	9/12/2003
SF Bay 03–017	SF Bay, Oakland Inner Harbor, Oakland, CA	Safety Zone	7/4/2003
SF Bay 03–020	San Francisco Bay, San Francisco, CA	Safety Zone	8/8/2003
SF Bay 03–022	SF Bay, San Francisco, CA	Safety Zone	9/15/2003
SF Bay 03–022	San Francisco Bay, San Francisco, CA	Safety Zone	9/18/2003
St Louis 03–001	Illinois River M 162.2 to 163.0, Peoria IL	Safety Zone	7/4/2003
St Louis 03–002	Fair St. Louis 2003, St Louis, MO	Safety Zone	7/3/2003
St Louis 03–004	Upper Miss. River M 556.1 to 557.1	Safety Zone	7/4/2003
St Louis 03–005	Upper Miss. River M 454.5 to 455.5 Mus., IA	Safety Zone	7/4/2003
St Louis 03–006	Upper Miss. River M 383.0 to 384.0	Safety Zone	7/4/2003
St Louis 03–008	Upper Miss. River 518.5 to 519.5, Clinton, IA	Safety Zone	7/2/2003
St Louis 03–009	Upper Miss. River M 383.0 to 384.0	Safety Zone	7/4/2003
St Louis 03–010	Missouri River, M 28.2–29.0, St. Charles, MO	Safety Zone	7/4/2003
St Louis 03–011	Missouri River, Atchison, KS	Safety Zone	7/26/2003
St Louis 03–012	Hermann, MO	Safety Zone	7/4/2003
St Louis 03–013	Jefferson City, MO	Safety Zone	7/4/2003
St Louis 03–014	Chillicothe, IL	Safety Zone	7/4/2003
St Louis 03–015	Missouri River, M 373.0–374.0, Riverside	Safety Zone	9/20/2003
St Louis 03–016	Missouri River, M 650.5 to 651.5. Blair, NE	Safety Zone	9/6/2003
St Louis 03–018	Upper Miss. River M 480.0 to 482.0, Davenport	Safety Zone	8/20/2003
St Louis 03–019	Upper Miss. River M 483.0 to 488.2, Moline	Safety Zone	8/23/2003
St Louis 03–020	Upper Miss. River M 165.0 to 168.0, St. Louis	Safety Zone	8/22/2003
St Louis 03–021	Illinois River 59.0 to 61.0, Valley City	Safety Zone	8/25/2003
St Louis 03–022	Upper Miss. River M 158.0 to 162.0, MO	Safety Zone	8/25/2003

DISTRICT QUARTERLY REPORT—ADDITIONAL ITEMS PREVIOUS QUARTERS

District docket	Location	Type	Effective date
01–02–049	Thames River, New London, CT	Special Local Reg.	6/8/2002
01–02–137	Quonset Point, RI to Groton, CT	Safety Zone	11/20/2002
01–03–061	Barnum Festival Fireworks, Bridgeport, CT	Special Local Reg.	6/27/2003
01–03–068	Cape Cod Canal, MA	Drawbridge Op. Reg.	6/16/2003
05–01–066	Hampton Roads, VA	Reg Nav Area	12/15/2002
05–02–007	Elk River, Chesapeake Bay, MD	Safety Zone	2/25/2002
05–02–034	Chesapeake Bay, Hampton Roads, VA	Safety Zone	6/3/2002
05–03–034	Amtrak Railroad Bridge, Susquehanna River	Safety Zone	3/22/2003
05–03–051	Norfolk Harbor, Elizabeth River, Norfolk	Special Local Reg.	6/21/2003
05–03–064	Chesapeake Bay, Hampton Roads	Security Zone	6/8/2003
05–03–068	Ocean City, Maryland	Safety Zone	6/16/2003
05–03–084	Atlantic Ocean, Chesapeake & Delaware Canal	Security Zone	5/29/2003
07–02–015	San Juan, Puerto Rico	Security Zone	3/1/2002
07–02–063	Savannah River, City Front Channel, Savannah	Safety Zone	7/5/2002
07–02–108	Savannah River, Savannah, GA	Security Zone	8/30/2002
07–02–111	Savannah River, Savannah, GA	Security Zone	9/13/2002
07–02–121	Savannah River, Savannah, GA	Security Zone	9/28/2002
09–01–105	Oswego Harbor, Oswego, NY	Safety Zone	7/29/2001
09–02–519	Navy Pier, Lake Michigan, Chicago Harbor, IL	Safety Zone	9/25/2002
09–03–211	St. Clair River, Michigan	Safety Zone	4/21/2003
09–03–225	Harborfest 2003, South Haven, MI	Safety Zone	6/14/2003
13–03–015	Seattle National Maritime Week Tugboat Race	Special Local Reg.	5/10/2003

COTP QUARTERLY REPORT—ADDITIONAL ITEMS PREVIOUS QUARTERS

COTP docket	Location	Type	Effective date
Louisville 03–001	Ohio River, M 460 to 480	Security Zone	3/31/2003
Miami 02–135	Port of Miami, FL	Safety Zone	11/29/2002
Miami 03–103	Port of Miami, Miami, FL	Safety Zone	6/27/2003
Miami 03–112	Atlantic Ocean, Fort Lauderdale, FL	Safety Zone	6/26/2003
Mobile 01–012	COTP Mobile, AL Area of Responsibility	Safety Zone	9/18/2001
Mobile 03–010	Arlington Channel Turning Basin, Mobile, AL	Security Zone	3/22/2003
New Orleans 03–003	LWR Mississippi River, M 94 to 96	Safety Zone	1/25/2003
New Orleans 03–007	LWR Mississippi River	Security Zone	3/24/2003
New Orleans 03–013	Red River, M 88.0 to 89.0, Pineville, LA	Safety Zone	5/3/2003
New Orleans 03–016	Chalmette, LA	Safety Zone	6/10/2003
Paducah 03–004	Tennessee River, M 446 to 454.6	Safety Zone	2/15/2003
Paducah 03–013	Tennessee River, M 446 to 475	Safety Zone	5/6/2003
Pittsburgh 03–002	Pittsburgh, PA	Safety Zone	4/7/2003
Pittsburgh 03–006	Allegheny River M 0.3 to M 0.7, Pittsburgh	Safety Zone	5/24/2003
Pittsburgh 03–008	Allegheny River, Pittsburgh, PA	Safety Zone	6/6/2003
Port Arthur 03–008	Port Arthur Ship Canal, Port Arthur, TX	Safety Zone	6/16/2003
PWS 03–003	Prince William Sound, Alaska	Security Zone	3/22/2003
San Juan 03–062	San Juan, Puerto Rico	Security Zone	4/10/2003
Savannah 02–090	Savannah River, Savannah, GA	Safety Zone	7/10/2002
Savannah 02–110	Savannah River, International Trade	Safety Zone	9/11/2002
Savannah 03–111	Brunswick River, Brunswick, GA	Safety Zone	6/26/2003
SF Bay 02–018	Sacramento River, Sacramento, CA	Safety Zone	8/3/2002
Tampa 03–006	Tampa, Saint Petersburg, Port Manatee, FL	Security Zone	2/28/2003

[FR Doc. 03–27859 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–03–043]

RIN 1625–AA09

Drawbridge Operating Regulation; St. Croix River, Hudson, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation governing the operation of the Hudson Railroad Drawbridge, across the St. Croix River, mile 17.3 at Hudson, Wisconsin. This deviation allows the drawbridge to remain closed to navigation for six intervals starting at 8 a.m., November 3, 2003, and ending at 8 a.m., December 11, 2003, Central Standard Time. The deviation is

necessary to facilitate maintenance work on the bridge that is essential to the continued safe operation of the drawbridge.

DATES: This temporary deviation is effective from 8 a.m., November 3, 2003, until 8 a.m., December 11, 2003.

ADDRESSES: Materials referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obr), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, Commander (obr), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103–2832, (314) 539–3900, extension 2378.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company requested a temporary deviation on September 25, 2003 for the operation of the drawbridge to allow the bridge owner time for preventative maintenance. Presently, the draw opens on signal for passage of river traffic; except that from December 15 through March 31, the draw opens on signal if at least 24 hours notice is given. This deviation allows the bridge to remain closed to navigation for six intervals from 8 a.m. until 4 p.m. daily on November 3–7, 2003; from 8 a.m. until 4 p.m. daily on November 10–14, 2003; from 8 a.m. until 4 p.m. daily on November 17–21, 2003; from 8 a.m. until 4 p.m. daily on November 24–28, 2003; from 8 a.m., December 1 until 8 a.m. December 4, 2003; and from 8 a.m., December 8 until 8 a.m. December 11, 2003. Vessels not exceeding the vertical clearance of the drawbridge may pass under the drawbridge during repairs. There are no alternate routes for vessels transiting through mile 17.3, St. Croix River. The drawbridge will open for emergencies during the repair periods with a two-hour advance notice.

The Hudson Railroad Drawbridge provides a vertical clearance of 17.1 feet above normal pool in the closed to navigation position. Navigation on the waterway consists primarily of recreational watercraft. In order to repair structural steel components and replace the Conley Joints the bridge must be kept inoperative and in the closed to navigation position. This deviation has been coordinated with waterway users. No objections were received.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 29, 2003.

Roger K. Wiebusch,

Bridge Administrator.

[FR Doc. 03–27860 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 60

[SIP No. MT–001–0047a, WY–001–0010a, WY–001–0011a, WY–001–0012a; FRL–7573–2]

Approval and Promulgation of Air Quality Implementation Plans; States of Montana and Wyoming; Revisions to the Administrative Rules of Montana; New Source Performance Standards for Wyoming and Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and NSPS delegation.

SUMMARY: EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the Governor of Montana on October 28, 2002. The October 28, 2002 submittal revises the Administrative Rules of Montana (ARM) by updating the Incorporation by Reference rules, deleting the definition for volatile organic compounds (VOCs), and making other minor corrections to the rules. The October 28, 2002 submittal also makes revisions to the Yellowstone County Air Pollution Control Program (YCAPCP). EPA is only approving the revisions to the section of the YCAPCP that have been approved into the SIP. The intended effect of this action is to make these revisions federally enforceable. We are also announcing that on June 24, 2003, we updated the delegation of authority for the implementation and enforcement of the New Source Performance Standards (NSPS) to the State of Montana.

On August 9, 2000, August 2, 2001 and June 30, 2003, the State of Wyoming submitted revisions to the NSPS in the Wyoming Air Quality Standards and Regulations and requested delegation of the NSPS. We are announcing that on August 13, 2003, we delegated the authority for the implementation and enforcement of the NSPS to the State of Wyoming. In addition, we are updating the ''Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]'' table to add entries for newly delegated NSPS subparts for the State of Montana and the State of Wyoming. These actions are being taken under sections 110 and 111 of the Clean Air Act (CAA).

DATES: This rule is effective on January 5, 2004 without further notice, unless EPA receives adverse comment by December 5, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments may be submitted by mail to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in sections (I)(B)(1)(i) through (iii) of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, EPA, Region 8, 999 18th Street, Suite 300, Mailcode 8P–AR, Denver, Colorado 80202, (303) 312–6144, e-mail *dygowski.laurel@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. 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 [MT–001–0047, WY–001–0010, WY–001–0011, WY–001–0012]. 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 Air and Radiation Program, EPA Region 8, 999 18th Street, Suite 300, Denver, CO. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. You may view the public rulemaking file at the

Regional Office, Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays. Copies of the Incorporation by Reference material are also available at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–108 (Mail Code 6102T), 1301 Constitution Ave. NW., Washington, DC 20460.

2. *Copies of the State submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency.* Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

3. *Electronic Access.* You may access this **Federal Register** document electronically through the Regulations.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 MT–001–0047, WY–001–0010, WY–001–0011, WY–001–0012'' 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). Please send any comments to *long.richard@epa.gov* and *dygowski.laurel@epa.gov* and include the text ''Public comment on proposed rulemaking MT–001–0047, WY–001–0010, WY–001–0011, WY–001–0012'' 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'' (see below), EPA's e-mail system will automatically capture 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. *Regulations.gov.* Your use of Regulations.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at *http://www.regulations.gov,* then click on the button ''TO SEARCH FOR REGULATIONS CLICK HERE'' and select Environmental Protection Agency as the agency name to search on. 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: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Please include the text ''Public comment on proposed rulemaking MT–001–0047, WY–001–0010, WY–001–0011, WY–001–0012'' in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier.* Deliver your comments to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., 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.

II. Summary of SIP Revision

A. Montana October 28, 2002 submittal

On October 28, 2002, the Governor of Montana submitted revisions to its (SIP). The specific revisions to the SIP contained in the October 28, 2002 submittal are explained below.

1. ARM 17.8.102—Incorporation by Reference

ARM 17.8.102 was revised to update the dates of documents which are incorporated by reference. These revisions are necessary to allow the State to include the most recent editions of State rules and federal regulations. ARM 17.8.102(a) was revised to change the incorporation by reference of the Code of Federal Regulations (CFR) from the July 1, 2000 to the July 1, 2001 edition. ARM 17.8.102(d) was revised to change the incorporation by reference of the ARM from the December 31, 2000 to the December 31, 2001 edition. EPA believes these revisions are minor and we are approving them into the SIP.

2. ARM 17.8.101, ARM 17.8.801, ARM 17.8.901—Definitions

In ARM 17.8.101(41), 17.8.801(29) and 17.8.901(20), the state definition for ''volatile organic compounds'' (VOCs) that is equivalent to the federal definition is deleted and replaced by an incorporation by reference to the federal regulation of the same definition in 40 CFR 51.100(s). The reason for incorporating by reference the definition for VOCs is that EPA frequently revises the federal definition, which means the State must frequently revise its definition to reflect these changes. By incorporating by reference the federal definition, the State will not have to change its definition when the EPA revises the federal definition. EPA believes these revisions are consistent with the federal definition and we are approving them into the SIP.

3. ARM 17.8.302—Incorporation by Reference

ARM 17.8.302(1)(f) is revised by deleting the reference to a specific **Federal Register** notice (66 FR 3179) for new federal pulp mill emission standards for hazardous air pollutants. The standards have now been codified in the CFR and the State is incorporating by reference 40 CFR part 63, where the standards were codified. The EPA believes these revisions are consistent with the federal requirements and we are approving them into the SIP.

4. ARM 17.8.401—Definitions

Minor changes were made to this section to correct a typographical error in a reference to another ARM section. Specifically, 17.8.401(1)(b)(v) references (a)(iii) and should reference (1)(a)(iii). EPA believes that these revisions are minor, consistent with the federal requirements, and we approving them into the SIP.

5. ARM 17.8.1005—Additional Conditions of Air Quality Pre-Construction Permits

ARM 17.8.1005(6) has been revised to correct a reference to another air quality rule. ARM 17.8.1005(6) references ARM 17.8.906(6) through (8). This reference should be ARM 17.8.906(7) through (9). EPA believes that these revisions are minor, consistent with the federal requirements, and we approving them into the SIP.

6. Yellowstone County Air Pollution Control Program

This section of the submittal contains numerous revisions to the YCAPCP. We are only acting on the minor revision to Regulation No. 002—Open Burning Restrictions, as the other revisions are to sections of the YCAPCP that have never been approved into the SIP. The revision to Regulation No. 002—Open Burning Restrictions, corrects a reference to another air quality rule. Specifically, in part (H)(4)(b)(i), the reference to ARM 16.14.5 should refer to 17.50.5—Solid Waste Management. EPA believes that these revisions are minor, consistent with the federal requirements, and we approving them into the SIP.

7. Announcement of NSPS Delegation

Pursuant to the State's October 28, 2002 submittal, which updated the effective date of the incorporated NSPS, on June 24, 2003, EPA updated the delegation of authority for the implementation and enforcement of the NSPS to the State. Also, we are updating the ''Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]'' table in 60.4(c) by adding entries for newly delegated NSPS subparts. The June 24, 2003 letter of delegation to the State follows:

Honorable Judy Martz,
Governor of Montana, State Capitol, Helena, Montana 59620–0801

Dear Governor Martz: On October 28, 2002, the State submitted a revision to the Administrative Rules of Montana (ARM) 17.8.102. Specifically, the State revised its rules to incorporate the July 1, 2001 Code of Federal Regulations. This revision, in effect, updates the citation of the incorporated Federal New Source Performance Standards (NSPS) to July 1, 2001.

Subsequent to States adopting NSPS regulations, EPA delegates the authority for the implementation and enforcement of those NSPS, so long as the State's regulations are equivalent to the Federal regulations. EPA reviewed the pertinent statutes and regulations of the State of Montana and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of Montana. Therefore, pursuant to Section 111(c) of the Clean Air Act (Act), as amended, and 40 CFR part 60, EPA hereby delegates its authority for the implementation and enforcement of the NSPS to the State of Montana as follows:

(A) Responsibility for all sources located, or to be located, in the State of Montana subject to the standards of performance for new stationary sources promulgated in 40 CFR part 60. The categories of new stationary sources covered by this delegation are all NSPS subparts in 40 CFR part 60, as in effect on July 1, 2001. Note this delegation does not include the emission guidelines in subparts Cb, Cc, Cd, and Ce. These subparts require state plans which are approved under a separate process pursuant to Section 111(d) of the Act.

(B) Not all authorities of NSPS can be delegated to States under Section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) Approving equivalency determinations and alternative test methods, (2) decision making to ensure national consistency, and (3) EPA rulemaking to implement. Therefore, of the NSPS of 40 CFR part 60 being delegated in this letter, the enclosure lists examples of sections in 40 CFR part 60 that cannot be delegated to the State of Montana.

(C) The DEQ and EPA will continue a system of communication sufficient to guarantee that each office is always fully informed and current regarding compliance status of the subject sources and interpretation of the regulations.

(D) Enforcement of the NSPS in the State will be the primary responsibility of the DEQ. If the DEQ determines that such enforcement is not feasible and so notifies EPA, or where the DEQ acts in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Act, as amended, with respect to sources within the State of Montana subject to NSPS.

(E) The State of Montana will at no time grant a variance or waiver from compliance with NSPS regulations. Should DEQ grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable Federal regulation and initiate enforcement action against the source pursuant to section 113 of the Act. The granting of such relief by the DEQ shall also constitute grounds for revocation of delegation by EPA.

(F) If at anytime there is a conflict between a State regulation and a Federal regulation (40 CFR part 60), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

(G) If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the DEQ.

(H) Acceptance of this delegation of presently promulgated NSPS does not

commit the State of Montana to accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's request of October 28, 2002.

(I) Upon approval of the Regional Administrator of EPA Region VIII, the Director of DEQ may subdelegate his authority to implement and enforce the NSPS to local air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

(J) The State of Montana must require reporting of all excess emissions from any NSPS source in accordance with 40 CFR 60.7(c).

(K) Performance tests shall be scheduled and conducted in accordance with the procedures set forth in 40 CFR part 60 unless alternate methods or procedures are approved by the EPA Administrator. Although the Administrator retains the exclusive right to approve equivalent and alternate test methods as specified in 40 CFR 60.8(b)(2) and (3), the State may approve minor changes in methodology provided these changes are reported to EPA Region VIII. The Administrator also retains the right to change the opacity standard as specified in 40 CFR 60.11(e).

(L) Determinations of applicability such as those specified in 40 CFR 60.5 and 60.6 shall be consistent with those which have already been made by the EPA.

(M) Alternatives to continuos monitoring procedures or reporting requirements, as outlined in 40 CFR 60.13(i), may be approved by the State with the prior concurrence of the Regional Administrator.

(N) If a source proposes to modify its operation or facility which may cause the source to be subject to NSPS requirements, the State shall notify EPA Region VIII and obtain a determination on the applicability of the NSPS regulations.

(O) Information shall be made available to the public in accordance with 40 CFR 60.9. Any records, reports, or information provided to, or otherwise obtained by, the State in accordance with the provisions of these regulations shall be made available to the designated representatives of EPA upon request.

(P) All reports required pursuant to the delegated NSPS should not be submitted to the EPA Region VIII office, but rather to the DEQ.

(Q) As 40 CFR part 60 is updated, Montana should revise its regulations accordingly and in a timely manner and submit to EPA requests for updates to its delegation of authority.

EPA is approving Montana's request for NSPS delegation for all areas within the State except for the following: lands within the exterior boundaries of the Northern Cheyenne, Rocky Boys, Blackfeet, Crow, Flathead, Fort Belknap, and Fort Peck Indian Reservations; and any other areas which are Indian Country within the meaning of 18 U.S.C. 1151.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of Montana will be deemed to accept all the terms of this delegation. EPA will publish an information notice in the **Federal Register** in the near future to inform the public of this delegation, in which this letter will appear in its entirety.

If you have any questions on this matter, please contact me or have your staff contact Richard Long, Director of our Air and Radiation Program, at (303) 312–6005.

Sincerely yours,

Robert E. Roberts,
Regional Administrator

Enclosures

cc: Jan Sensibaugh, Director, Montana Department of Environmental Quality, John Wardell, 8MO

Enclosure to Letter Delegating NSPS in 40 CFR Part 60,

Effective Through July 1, 2001, to the State of Montana

EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED

40 CFR Subparts	Section(s)
A	60.8(b)(2) and (b)(3), and those sections throughout the standards that reference 60.8(b)(2) and (b)(3); 60.11(b) and (e).
Da	60.45a.
Db	60.44b(f), 60.44b(g) and 60.49b(a)(4).
Dc	60.48c(a)(4).
Ec	60.56c(i), 60.8.
J	60.105(a)(13)(iii) and 60.106(i)(12).
Ka	60.114a.
Kb	60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).
O	60.153(e).
S	60.195(b).
DD	60.302(d)(3).
GG	60.332(a)(3) and 60.335(a).
VV	60.482–1(c)(2) and 60.484.
WW	60.493(b)(2)(i)(A) and 60.496(a)(1).
XX	60.502(e)(6).
AAA	60.531, 60.533, 60.534, 60.535, 60.536(i)(2), 60.537, 60.538(e) and 60.539.
BBB	60.543(c)(2)(ii)(B).
DDD	60.562–2(c).
GGG	60.592(c).
III	60.613(e).
JJJ	60.623.
KKK	60.634.
NNN	60.663(f).
QQQ	60.694.
RRR	60.703(e).
SSS	60.711(a)(16), 60.713(b)(1)(i) and (ii), 60.713(b)(5)(i), 60.713(d), 60.715(a) and 60.716.

EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED—Continued

40 CFR Subparts	Section(s)
TTT	60.723(b)(1), 60.723(b)(2)(i)(C), 60.723(b)(2)(iv), 60.724(e) and 60.725(b).
VVV	60.743(a)(3)(v)(A) and (B), 60.743(e), 60.745(a) and 60.746.
WWW	60.754(a)(5).

In the June 24, 2003 letter of delegation to the State of Montana, we mistakenly did not indicate that two of the NSPS subparts in the July 2001 version of the CFR could not be delegated to the State. Subparts BBBB and DDDD contain emission guidelines, which are not delegated to the state, but require state plans that are approved under a separate process pursuant to Section 111(d) of the CAA. On September 8, 2003, we notified the State that we mistakenly did not include Subparts BBBB and DDDD in their letter of delegation as Subparts that could not be delegated. We will be taking action on the State plans under Section 111(d) of the CAA at a later time.

B. Wyoming August 9, 2000, August 7, 2001 and June 30, 2003 Submittals

On August 9, 2000, August 7, 2001 and June 30, 2003, the State of Wyoming submitted revisions to the NSPS in Chapter 5, Section 2 of the Wyoming Air Quality Standards and Regulations. The revisions update the incorporation by reference date of the federal NSPS and request delegation of the authority to implement and enforce the NSPS to the State. EPA is announcing that on August 13, 2003, we issued a letter delegating the responsibility for the implementation and enforcement of the of the NSPS to the State of Wyoming. Also, we are updating the ''Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]'' table in 60.4(c) by adding entries for newly delegated NSPS subparts. The August 13, 2003 letter of delegation to the State follows:

John V. Corra, Director
Department of Environmental Quality, 122 West 25th Street, Cheyenne, WY 82002

Dear Mr. Corra: On June 30, 2003, the State submitted a revision to the Wyoming Air Quality Standards and Regulations. Specifically, the State revised Chapter 5, Section 2, New Source Performance Standards, to incorporate the July 1, 2001 Code of Federal Regulations. This revision, in effect, updates the citation of the incorporated Federal New Source

Performance Standards (NSPS) to July 1, 2001.

Subsequent to States adopting NSPS regulations, EPA delegates the authority for the implementation and enforcement of those NSPS, so long as the States' regulations are equivalent to the Federal regulations. EPA reviewed the pertinent statutes and regulations of the State of Wyoming and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of Wyoming. Therefore, pursuant to Section 111(c) of the Clean Air Act (Act), as amended, and 40 CFR part 60, EPA hereby delegates its authority for the implementation and enforcement of the NSPS to the State of Wyoming as follows:

(A) Responsibility for all sources located, or to be located, in the State of Wyoming subject to the standards of performance for new stationary sources promulgated in 40 CFR part 60. The categories of new stationary sources covered by this delegation are all NSPS subparts in 40 CFR part 60, as in effect on July 1, 2001, except subparts BBBB and DDDD. Note this delegation does not include the emission guidelines in subparts Cb, Cc, Cd, and Ce. These subparts require state plans which are approved under a separate process pursuant to Section 111(d) of the Act.

(B) Not all authorities of NSPS can be delegated to States under Section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) Approving equivalency determinations and alternative test methods, (2) decision making to ensure national consistency, and (3) EPA rulemaking to implement. Therefore, of the NSPS of 40 CFR part 60 being delegated in this letter, the enclosure lists examples of sections in 40 CFR part 60 that cannot be delegated to the State of Wyoming.

(C) The DEQ and EPA will continue a system of communication sufficient to guarantee that each office is always fully informed and current regarding compliance status of the subject sources and interpretation of the regulations.

(D) Enforcement of the NSPS in the State will be the primary responsibility of the DEQ. If the DEQ determines that such enforcement is not feasible and so notifies EPA, or where the DEQ acts in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Act, as amended, with respect to sources within the State of Wyoming subject to NSPS.

(E) The State of Wyoming will at no time grant a variance or waiver from compliance with NSPS regulations. Should DEQ grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable Federal regulation and initiate enforcement action against the source pursuant to section 113 of the Act. The granting of such relief by the DEQ shall also constitute grounds for revocation of delegation by EPA.

(F) If at any time there is a conflict between a State regulation and a Federal regulation (40 CFR part 60), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

(G) If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the DEQ.

(H) Acceptance of this delegation of presently promulgated NSPS does not commit the State of Wyoming to accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's request of June 30, 2003.

(I) Upon approval of the Regional Administrator of EPA Region 8, the Director of DEQ may subdelegate his authority to implement and enforce the NSPS to local air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

(J) The State of Wyoming must require reporting of all excess emissions from any NSPS source in accordance with 40 CFR 60.7(c).

(K) Performance tests shall be scheduled and conducted in accordance with the procedures set forth in 40 CFR part 60 unless alternate methods or procedures are approved by the EPA Administrator. Although the Administrator retains the exclusive right to approve equivalent and alternate test methods as specified in 40 CFR 60.8(b)(2) and (3), the State may approve minor changes in methodology provided these changes are reported to EPA Region 8. The Administrator also retains the right to change the opacity standard as specified in 40 CFR 60.11(e).

(L) Determinations of applicability such as those specified in 40 CFR 60.5 and 60.6 shall be consistent with those which have already been made by the EPA.

(M) Alternatives to continuous monitoring procedures or reporting requirements, as outlined in 40 CFR 60.13(i), may be approved by the State with the prior concurrence of the Regional Administrator.

(N) If a source proposes to modify its operation or facility which may cause the source to be subject to NSPS requirements, the State shall notify EPA Region 8 and obtain a determination on the applicability of the NSPS regulations.

(O) Information shall be made available to the public in accordance with 40 CFR 60.9. Any records, reports, or information provided to, or otherwise obtained by, the State in accordance with the provisions of these regulations shall be made available to the designated representatives of EPA upon request.

(P) All reports required pursuant to the delegated NSPS should not be submitted to the EPA Region 8 office, but rather to the DEQ.

(Q) As 40 CFR part 60 is updated, Wyoming should revise its regulations accordingly and in a timely manner and submit to EPA requests for updates to its delegation of authority.

EPA is approving Wyoming's request for NSPS delegation for all areas within the State except for the following: Lands within the exterior boundaries of the Wind River Indian Reservation; and any other areas which are ''Indian Country'' within the meaning of 18 U.S.C. 1151.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of Wyoming will be deemed to accept all the terms of this delegation. EPA will publish an information notice in the **Federal Register** in the near future to inform the public of this delegation, in which this letter will appear in its entirety.

If you have any questions on this matter, please contact me or have your staff contact Richard Long, Director of our Air and Radiation Program, at (303) 312–6005, or toll-free at 1–800–227–8917.

Sincerely,

Robert E. Roberts,
Regional Administrator

Enclosures

cc: Dan Olson, Administrator, Air Quality Division

Enclosure to Letter Delegating NSPS in 40 CFR Part 60, Effective Through July 1, 2001, to the State of Wyoming

Examples of Authorities in 40 CFR Part 60 Which Cannot Be Delegated

40 CFR subparts	Section(s)
A	60.8(b)(2) and (b)(3), and those sections throughout the standards that reference 60.8(b)(2) and (b)(3); 60.11(b) and (e).
Da	60.45a.
Db	60.44b(f), 60.44b(g) and 60.49b(a)(4).
Dc	60.48c(a)(4).
Ec	60.56c(i), 60.8
J	60.105(a)(13)(iii) and 60.106(i)(12).
Ka	60.114a.
Kb	60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).
O	60.153(e).
S	60.195(b).
DD	60.302(d)(3).
GG	60.332(a)(3) and 60.335(a).
VV	60.482–1(c)(2) and 60.484.
WW	60.493(b)(2)(i)(A) and 60.496(a)(1).
XX	60.502(e)(6).
AAA	60.531, 60.533, 60.534, 60.535, 60.536(i)(2), 60.537, 60.538(e) and 60.539.
BBB	60.543(c)(2)(ii)(B).
DDD	60.562–2(c).
GGG	60.592(c).
III	60.613(e).

EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED—Continued

40 CFR subparts	Section(s)
JJJ	60.623.
KKK	60.634.
NNN	60.663(f).
QQQ	60.694.
RRR	60.703(e).
SSS	60.711(a)(16), 60.713(b)(1)(i) and (ii), 60.713(b)(5)(i), 60.713(d), 60.715(a) and 60.716.
TTT	60.723(b)(1), 60.723(b)(2)(i)(C), 60.723(b)(2)(iv), 60.724(e) and 60.725(b).
VVV	60.743(a)(3)(v)(A) and (B), 60.743(e), 60.745(a) and 60.746.
WWW	60.754(a)(5).

III. Final Action

EPA is approving the following revisions to the Montana SIP submitted on October 28, 2002: Revisions to ARM 17.8.101, 102, 302, 401, 801, 901 and 1005. EPA is also approving the revisions to the YCAPCP, Regulation No. 002—Open Burning Restrictions. We are announcing that on June 24, 2003 and on August 13, 2003, we updated the delegation of authority for the implementation and enforcement of the NSPS to the State of Montana and the State of Wyoming, respectively. We are also updating the ''Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]'' table in 60.4(c) by adding entries for newly delegated NSPS subparts.

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act. The Montana SIP revisions and the Montana and Wyoming NSPS delegations that are the subject of this document do not interfere with the maintenance of the NAAQS or any other applicable requirement of the Act because of the following: (1) The update to the incorporation by reference, as well as amending the definition of VOCs, allows the State of Montana to include the most recent version of federal regulations; and (2) the NSPS delegations for Montana and Wyoming meet the requirements of section 111(c) of the CAA and 40 CFR part 60. Therefore, section 110(l) requirements are satisfied.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments be filed. This rule will be effective January 5, 2004 without further notice unless the Agency receives adverse comments by December 5, 2003. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. 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. 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 January 5, 2004. 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

40 CFR Part 52

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

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Dry cleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Grains, Graphic arts industry, Household appliances, Insulation, Intergovernmental relations, Iron, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Tires, Urethane, Vinyl, Waste treatment and disposal, Wool, Zinc.

Dated: October 1, 2003.

Robert E. Roberts,

Regional Administrator, Region 8.

■ 40 CFR parts 52 and 60 are 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 BB—Montana

■ 2. Section 52.1370 is amended by adding paragraph (c)(59) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(59) On October 28, 2002, the Governor of Montana submitted revisions to the Administrative Rules of Montana (ARM). The State revised its Incorporation by Reference rules (ARM 17.8.102, 17.8.302) and revised the definition of volatile organic compounds to incorporate by reference the federal regulation (ARM 17.8.101, 17.8.801, 17.8.901). Additional minor changes were made to ARM 17.8.401, 17.8.1005 and the Yellowstone County Air Pollution Control Program Regulation No. 002.

(i) Incorporation by reference.

(A) Administrative Rules of Montana (ARM) sections 17.8.101(41), 17.8.102(a) and (d), 17.8.302(1)(f), 17.8.401(1)(b)(v), 17.8.801(29), 17.8.901(20) and 17.8.1005(6), effective 6/28/02.

(B) Yellowstone County Air Pollution Control Program, Regulation No. 002, (H)(4)(b)(i), effective June 7, 2002.

PART 60—[AMENDED]

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601 as amended by the Clean Air Act Amendments of 1990, Pub. L. 101–549, 104 Stat. 2399 (November 15, 1990; 402, 409, 415 of the Clean Air Act as amended, 104 Stat. 2399, unless otherwise noted).

Subpart A—General Provisions

■ 2. Section 60.4 (c) is amended by adding entries for subparts ''AAAA'' and ''CCCC'' in the table entitled ''Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]'' to read as follows:

§ 60.4 Address.

* * * * *

(c) * * *

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS [(NSPS) FOR REGION VIII]

Subpart	CO	MT	ND	SD	UT	WY
* * *		*	*	*		*
AAAA—Small Municipal Waste Combustors		(*)				(*)
CCCC—Commercial and Industrial Solid Waste Incineration Units.		(*)				(*)

* Indicates approval of the state regulation.

[FR Doc. 03–27265 Filed 11–4–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Parts 232, 281, 287, 295, 298, 310, 355, 380 and 390

[Docket Number: MARAD–2003–16238]

RIN 2133–AB56

Electronic Options for Transmitting Certain Information Collection Responses to MARAD

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Interim Final Rule with request for comments.

SUMMARY: The Maritime Administration (MARAD) is publishing this interim final rule to immediately offer electronic submission options and to solicit comments from respondents regarding the offering of electronic options for submission of information that is collected from them under the approved information collections identified in this interim final rule. These information collections are needed by MARAD in order to conduct business between MARAD and the respondents. This action is part of MARAD's implementation of the Government

Paperwork Elimination Act (GPEA). Questions about transmitting one information collection will not necessarily impact transmission decisions on another collection unless that same comment is made and is determined to be applicable for another collection.

DATES: This interim final rule is effective November 5, 2003. However, MARAD will consider comments received not later than December 5, 2003.

ADDRESSES: Comments should refer to the docket number that appears on the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at *http://dmses.dot.gov/submit.* Note that all comments received will be posted without change including any personal information provided in the comment. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Richard Weaver, Director, Office of Management and Information Services, Maritime Administration, MAR–310, Room 7301, 400 Seventh Street, SW., Washington, DC 20590; telephone: (202) 366–2811; FAX: (202) 366–3889, or e-mail: *richard.weaver@marad.dot.gov.*

SUPPLEMENTARY INFORMATION: The MARAD recognizes that information technology and the Internet are transforming the ways we communicate with our customers. Also, expanding E-Government is one of five government-wide initiatives in the President's Management Agenda and includes implementation of the Government Paperwork Elimination Act (GPEA). Under the E-Government initiative, agencies are to offer the option for respondents to transmit by electronic means information collections that are required by those agencies whenever such transmission is practicable. Currently, some of the information collections that are prescribed in 46 CFR parts 200–499 are accepted by MARAD only in paper form or do not lend themselves to electronic transmission. Accordingly, MARAD is soliciting comments on the information collections identified in this interim final rule in order to determine which collections could be transmitted by an electronic medium.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This interim final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12886 and, therefore, was not reviewed by the Office of Management and Budget. This interim final rule is not likely to result in an annual effect on the economy of $100 million or more. This interim final rule is also not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034, February 26, 1979). The costs and benefits associated with this rulemaking are considered to be so minimal that no further analysis is necessary. The economic impact, if any, should be minimal; therefore further regulatory evaluation is not necessary. This interim final rule is intended only to allow timely as well as fair and efficient employment of electronic transmission technologies for the information collections identified in the interim final rule.

Administrative Procedure Act

The Administrative Procedure Act (5 U.S.C. 553) provides an exception to the notice and comment procedures when they are unnecessary or contrary to the public interest. MARAD finds that under 5 U.S.C. 553(b)(3)(B) good cause exists for not providing notice and comment since this interim final rule only implements the Government Paperwork Elimination Act and merely allows the regulated public an opportunity to submit certain required information via electronic means. However, MARAD will accept comments as indicated in the Comments section above.

Regulatory Flexibility Act

MARAD certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities. This interim final rule only provides the electronic option for transmitting responses to MARAD for the information collections identified in the interim final rule.

Federalism

We have analyzed this interim final rule in accordance with the principles and criteria contained in Executive Order 13132 (Federalism) and have determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. These regulations have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Therefore, consultation with State and local officials is not necessary.

Executive Order 13175

MARAD does not believe that this interim final rule will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). Therefore, the funding and consultation requirements of this Executive Order do not apply.

Environmental Impact Statement

We have analyzed this interim final rule for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have concluded that under the categorical exclusions in section 4.05 of Maritime Administrative Order (MAO) 600–1, ''Procedures for Considering Environmental Impacts,'' 50 FR 11606 (March 22, 1985), the preparation of an Environmental Assessment, and an Environmental Impact Statement, or a Finding of No Significant Impact for this interim final rule is not required. This interim final rule involves administrative and procedural regulations that have no environmental impact.

Unfunded Mandates Reform Act of 1995

This interim final rule does not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This interim final rule is the least burdensome alternative that achieves the objective of the rule.

Paperwork Reduction Act

This interim final rule contains information collection requirements covered by OMB approval numbers identified in the interim final rule under 5 CFR part 1320, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

46 CFR Part 232

Maritime Carriers, Reporting and recordkeeping requirements, Uniform System of Accounts.

46 CFR Part 281

Administrative practice and procedure, Grant programs—

transportation, Maritime carriers and Reporting and recordkeeping requirements.

46 CFR Part 287

Fishing vessels, Income taxes, Investments, Maritime carriers, Reporting and recordkeeping requirements, Vessels

46 CFR Part 295

Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 298

Loan programs—transportation, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 310

Grant programs—education, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 355

Citizenship and naturalization, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 380

Administrative practice and procedure, Grant programs—transportation, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 390

Income taxes, Investments, Maritime carriers, Reporting and recordkeeping requirements.

■ Accordingly, 46 CFR Chapter II is amended as follows:

PART 232—UNIFORM FINANCIAL REPORTING REQUIREMENTS

■ 1. The authority citation for part 232 continues to read as follows:

Authority: Sec. 204(b), Merchant Marine Act, 1936, as amended (46 App U.S.C. 1114(b)); 49 CFR 1.66.

■ 2. In § 232.2 revise paragraph (d) to read as follows:

§ 232.2 General instructions.

* * * * *

(d) *Submission of questions.* A contractor may submit in writing, or by electronic options (such as facsimile and Internet), if practicable, any question involving the interpretation of any provision of this part for consideration and decision to the Director, Office of Financial and Rate Approvals, for the Maritime Security Program, or Director, Office of Ship Financing, for the Maritime Loan Guarantee Program (Title XI), Maritime Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Appeals from such interpretation will be in accordance with the interpretation letter.

* * * * *

■ 3. Section 232.6 is amended by revising paragraphs (a) and (b) to read as follows:

§ 232.6 Financial report filing requirement.

(a) *Reporting Frequency and Due Dates.* The contractor shall file a semiannual financial report and an annual financial report, in the format referred to in § 232.1(a)(2) of this part, which MARAD shall make available to the contractor. This Form MA–172 (Revised) shall be prepared in accordance with generally accepted accounting principles and modified to the extent necessary to comply with this regulation. The annual financial report shall be reconciled to the financial statements audited by independent certified public accountants (CPAs) licensed to practice by a state or other political subdivision of the United States, or licensed public accountants licensed to practice by regulatory authority or other political subdivision of the United States on or before December 31, 1970. Both the annual and semiannual financial reports shall be due within 120 days after the close of the contractor's annual or semiannual accounting period. If certified (CPA) statements are not available when required, company certified statements are to be submitted within the due dates, and the CPA statements shall be submitted as soon as available. The respondent may, in place of any Schedule(s) contained in the Form MA–172, submit a schedule or schedules from its audited financial statements, or a computer print-out or schedule, consistent with the instructions provided in the MARAD formats. MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable.

(b) *Certification.* Annual and semiannual reports shall be approved by the Respondent and Official of Respondent whom MARAD may contact regarding the report in the reporting formats prescribed as the MA–172 submission.

* * * * *

PART 281—INFORMATION AND PROCEDURE REQUIRED UNDER LINER OPERATING-DIFFERENTIAL SUBSIDY AGREEMENTS

■ 4. The authority citation for part 281 continues to read as follows:

Authority: Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114. Interpret or apply sec. 606, 49 Stat. 2004, as amended; 46 U.S.C. 1176.

■ 5. Section 281.1 is amended by revising paragraph (f) to read as follows:

§ 281.1 Information and procedure required under liner operating-differential subsidy.

* * * * *

(f) *Current financial reports.* Each operator shall prepare current financial reports as specified in this paragraph and shall submit one copy each to the appropriate Region Director of the Maritime Administration and three copies each to the Director, Office of Financial and Rate Approvals, Maritime Administration, Washington, DC 20590. MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable.

* * * * *

PART 287—ESTABLISHMENT OF CONSTRUCTION RESERVE FUNDS

■ 6. The authority citation for part 287 continues to read as follows:

Authority: Secs. 204, 511, 49 Stat. 1987, as amended, 54 Stat. 1106, as amended; 46 U.S.C. 1114, 1161.

■ 7. Section 287.4 is amended by revising paragraph (a) to read as follows:

§ 287.4 Application to establish fund.

(a) Any person claiming to be entitled to the benefits of section 511 of the Act may make application, in writing, to the Administration for permission to establish a construction reserve fund. The original application shall be executed and verified by the taxpayer, or if the taxpayer is a corporation, by one of its principal officers, in triplicate, and shall be accompanied by eight conformed copies when filed with the Administration. MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable.

* * * * *

PART 295—MARITIME SECURITY PROGRAM (MSP)

■ 8. The authority citation for part 295 continues to read as follows:

Authority: 46 App. U.S.C. 1171 *et seq.*, 46 App. U.S.C. 1114 (b), 49 CFR 1.66.

■ 9. Section 295.11 is amended by revising paragraph (b) introductory text to read as follows:

§ 295.11 Applications.

* * * * *

(b) *Action by the Applicant.* Applicants for MSP Payments shall submit information on the following (**Note:** MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable):

* * * * *

■ 10. Section 295.23 is amended by revising the introductory text to read as follows:

§ 295.23 Reporting requirements.

The Contractor shall submit to the Director, Office of Financial and Rate Approvals, Maritime Administration, 400 Seventh St., SW., Washington, DC 20590, one of the following reports, including management footnotes where necessary to make a fair financial presentation [**Note:** MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable.]:

* * * * *

PART 298—OBLIGATION GUARANTEES

■ 11. The authority citation for part 298 continues to read as follows:

Authority: 46 App. U.S.C. 1114(b), 1271 *et seq.*; 49 CFR 1.66.

■ 12. Section 298.3 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 298.3 Applications.

(a) *Process and certification.* When you apply for a commitment to execute Guarantees, you must:

(1) Complete Form MA–163 and send it to the Secretary, Maritime Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. [**Note:** MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information (excluding closing documents and documents submitted in connection with defaults) to MARAD, if practicable.]

* * * * *

■ 13. Section 298.13 is amended by revising paragraph (c)(2) introductory text to read as follows:

§ 298.13 Financial requirements.

* * * * *

(c)

(2) *Financial Information.* You must provide us with financial statements, prepared in accordance with U.S. generally accepted accounting principles (GAAP), and include notes that explain the basis for arriving at the figures except that for Eligible Export Vessels, your financial statements must be in accordance with GAAP if formed in the U.S., or reconciled to GAAP if formed in a foreign country unless a satisfactory justification is provided explaining the inability to reconcile. The financial statements must include the following [**Note:** MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable.]:

* * * * *

PART 310—MERCHANT MARINE TRAINING

■ 14. The authority citation for part 310 continues to read as follows:

Authority: 46 App. U.S.C. 1295; 49 CFR 1.66.

■ 15. Section 310.57 is amended by revising paragraph (a) to read as follows:

§ 310.57 Application and selection of midshipmen.

(a) *Application.* All candidates shall submit an application for admission to the Academy's Admissions Office. Prospective candidates also should submit an application, but are not considered official candidates until their nominations are received. Candidates shall submit with their applications an official transcript and personality record from the candidate's high school and, if applicable, such records from any school attended after high school graduation. Application forms are available upon request by writing to the Admissions Office at the Academy. MARAD will accept electronic options (such as facsimile and Internet) for transmission of only Part I of required information to MARAD, if practicable.

* * * * *

PART 355—REQUIREMENTS FOR ESTABLISHING UNITED STATES CITIZENSHIP

■ 16. The authority citation for part 355 continues to read as follows:

Authority: Secs. 2, 204, 39 Stat. 729, as amended, 49 Stat. 1987, as amended, 73 Stat. 597, 46 U.S.C. 802, 803, 1114, 11

■ 17. Section 355.1 is amended by revising paragraph (b) to read as follows:

§ 355.1 General.

* * * * *

(b) To satisfy the statutory requirements, an Affidavit of U.S. Citizenship of a primary corporation by one of its officers duly authorized to execute such Affidavit, should be submitted. This affidavit should contain facts from which the corporation's citizenship can be determined. MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable.

* * * * *

PART 380—PROCEDURES

■ 18. The authority citation for part 380 continues to read as follows:

Authority: Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114.

■ 19. Section 380.22 is amended by revising paragraphs (b) and (c) to read as follows:

§ 380.22 Responsibility.

* * * * *

(b) With respect to books, records, and accounts which, subject to the provision of paragraph (a) of this section, are to be disposed of upon the expiration of the minimum retention period prescribed herein, there shall be filed with the Records Officer, Maritime Administration, Washington, DC 20590, a written notification, at least thirty (30) days prior to the contemplated disposal, requesting permission to dispose of records. MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable. The request shall be in such form that the books, records, and accounts can be readily identified. Within thirty (30) days after receipt of such notification the Records Officer shall grant approval for disposal, or advise the necessity for continued retention of all or any specified portion thereof. Failure of the Record Officer to reply within the thirty (30) days period following receipt by the Administration of such request shall constitute approval.

(c) Applications for special authority to dispose of certain books, records, and accounts prior to the expiration of prescribed minimum retention periods, and any inquiries as to the interpretation or applicability of this subpart to specific items shall be submitted to the Records Officer, Maritime Administration. MARAD will accept written or electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable. The applicant shall describe in detail the items to be disposed of and explain why continued retention is unnecessary.

■ 20. Section 380.23 is revised to read as follows:

§ 380.23 Supervision of Records.

(a) Contractors and others subject to the provisions of this subpart shall

designate, through formal action, the official company position by title, the incumbent of which shall be responsible for supervision of its document retention and disposal program. Immediately upon designation of the position, a copy of the formal action and name of the incumbent shall be filed with the Records Officer, Maritime Administration. MARAD will accept written or electronic options (such as facsimile and Internet) for transmission of required information, if practicable.

(b) The person in charge of the retention and disposal program shall maintain a record of all books, records, and accounts held in storage, and in such form that the items and their location are readily identifiable. A copy of the written, or by electronic options (such as facsimile and Internet), if practicable, notification requesting permission to dispose of any books, records, and accounts, and the original approval from the Administration, as required in § 380.22(b), together with a statement showing date, place and method of disposal will suffice as a record of such disposed items. These retention and disposal records shall be available at all times for inspection by Administration officials and auditors.

PART 390—CAPITAL CONSTRUCTION FUND

■ 21. The authority citation for part 390 continues to read as follows:

Authority: Secs. 204(b) and 607, Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1114(b) and 1177); 49 CFR 1.66.

22. Section 390.2 is amended by revising paragraph (a)(1) to read as follows:

§ 390.2 Application for an agreement.

(a) *In general*—(1) *Application instructions.* The Maritime Administrator has adopted instructions for making application for an agreement. These instructions are contained in appendix I to this part. MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable.

* * * * *

Dated: October 30, 2003.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 03–27761 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–81–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3337; MM Docket No. 01–255; RM–10265]

Radio Broadcasting Services; Wright City, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making,* 66 FR 52733 (October 17, 2001), this *Report and Order* allots Channel 226A to Wright City, Oklahoma, and provides Wright City with its first local aural transmission service. This document dismisses as unacceptable for consideration a counterproposal filed by Entravision Holdings, LLC, the licensee of Station KTCY(FM), Pilot Point, Texas, proposing to, *inter alia,* upgrade its Channel 285C1 at Station KTCY to Channel 285C0. This document also dismisses a counterproposal filed by Radio One Licenses, Inc. The coordinates for Channel 226A at Wright City are 34–05–58 North Latitude and 94–58–34 West Longitude. This allotment has a site restriction of 5.0 kilometers northeast of Wright City.

DATES: Effective December 8, 2003.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 01–255, adopted October 22, 2003, and released October 24, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202 863–2893, facsimile 202 863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Wright City, Channel 226A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–27825 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3335; MB Docket No. 03–64, RM–10672]

Radio Broadcasting Services; Lamont and McFarland, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Dana J. Puopolo, allots Channel 247A to Lamont, California, as the community's first local aural transmission service. In order to accommodate the allotment at Lamont, the Audio Division substitutes Channel 282A for vacant Channel 247A at McFarland, California. See 68 FR 15142, March 28, 2003. Channel 247A can be allotted to Lamont, California, consistent with the minimum distance separation requirement of the Commission's Rules, provided there is a site restriction of 6.5 kilometers (4.1 miles) southeast of the community. The reference coordinates for Channel 247A at Lamont are 35–12–23 North Latitude and 118–52–57 West Longitude. Moreover, Channel 282A can be allotted to McFarland, California by using the same reference coordinates as vacant Channel 247A, in conformity with the Commission's Rules, provided there is a site restriction of 10.3 kilometers (6.4 miles) west of the community. The reference coordinates for Channel 282A at McFarland are 35–40–16 North Latitude and 119–20–30 West Longitude. A filing window for Channel 247A at Lamont, California and Channel 282A at McFarland, California, will not be opened at this time. Instead, the issue of opening a filing window for these channels will be addressed by the Commission in a subsequent order.

DATES: Effective December 8, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 03–64, adopted October 22, 2003, and released October 24, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Lamont, Channel 247A, by removing Channel 247A and by adding Channel 282A at McFarland.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–27822 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3229; MB Docket No. 03–182, RM–10757]

Radio Broadcasting Services; Cambria, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Daniel R. Feely, allots Channel 287A to Cambria, California, as the community's third local aural transmission service. *See* 68 FR 49410, August 18, 2003. Channel 287A can be allotted to Cambria, in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The reference coordinates for Channel 287A at Cambria are 35–33–14 North Latitude and 121–05–15 West Longitude. A filing window for Channel 287A at Cambria, California, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective December 8, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 03–182, adopted October 22, 2003, and released October 24, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 287A at Cambria.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–27821 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3338; MB Docket No. 03–12; RM–10627]

Radio Broadcasting Services; Charles Town, WV and Stephens City, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making*, 68 FR 5860 (February 5, 2003), this document reallots Channel 252A from Charles Town, West Virginia, to Stephens City, Virginia, and provides Stephens City with its first local aural transmission service. The coordinates for Channel 252A at Stephens City are 39–07–30 North Latitude and 78–04–26 West Longitude, with a site restriction of 13.3 kilometers (8.3 miles) east of Stephens City, Virginia.

DATES: Effective December 8, 2003.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 03–12, adopted October 22, 2003, and released October 24, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by adding Stephens City, Channel 252A.

■ 3. Section 73.202(b), the Table of FM Allotments under West Virginia, is

amended by removing Charles Town, Channel 252A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–27820 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3230; MB Docket No. 03–174, RM–10754]

Radio Broadcasting Services; Ehrenberg, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Daniel R. Feely, allots Channel 286C2 to Ehrenberg, Arizona, as the community's first local aural transmission service. *See* 68 FR 47285, August 8, 2003. Channel 286C2 can be allotted to Ehrenberg, consistent with the minimum distance separation requirements of the Commission's Rules, provided there is a site restriction 28.8 kilometers (17.9 miles) northeast to avoid short-spacing to the license sites of Station KBUX, Channel 232A, Quartzsite, Arizona and Mexican Station XHMC-FM, Channel 285B, Mexicali, BN. The reference coordinates for Channel 286C2 at Ehrenberg are 33–48–00 North Latitude and 114–19–12 West Longitude. Although concurrence has been requested for Channel 286C2 at Ehrenberg, notification has not been received. If a construction permit is granted prior to the receipt of formal concurrence in the allotment by the Mexican government, the construction permit will include the following condition: ''Use of this allotment is subject to suspension, modification, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the 1992 USA–Mexico FM Broadcast Agreement or if specifically objected to by Mexico's Secretaria de Comunicaciones Y Transportes.'' A filing window for Channel 286C2 at Ehrenberg, Arizona, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective December 8, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 03–174, adopted October 22, 2003, and released October 24, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Ehrenberg, Channel 286C2.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–27819 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3336; MB Docket No. 03–168, RM–10747; MB Docket No. 03–169, RM–10778]

Radio Broadcasting Services; Crowell, TX and Florien, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Charles Crawford, allots Channel 293C3 at Crowell, Texas, as the community's first local aural transmission service. *See* 68 FR 47282, August 8, 2003. Channel 293C3 can be allotted to Crowell in compliance with the Commission's minimum distance separation requirements, provided there is a site restriction of 10.7 kilometers (6.6 miles) west to avoid a short-spacing to the application site of Station KBZS, Channel 292C2, Wichita, Texas. The reference coordinates for Channel 293C3 at Crowell are 34–01–11 North Latitude and 99–49–53 West Longitude. The Audio Division, at the request of Charles Crawford, allots Channel 242A at Florien, Louisiana, as the community's first local aural transmission service. *See* 68 FR 47282, August 8, 2003. Channel 242A can be allotted to Florien in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The reference coordinates for Channel 242A at Florien are 31–26–37 North Latitude and 93–27–26 West Longitude. Filing windows for Channel 293C3 at Crowell, Texas and Channel 242A at Florien, Louisiana will not be opened at this time. Instead, the issue of opening a filing window for these channels will be addressed by the Commission in a subsequent order.

DATES: Effective December 8, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket Nos. 03–168 and 03–169, adopted October 22, 2003, and released October 24, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by adding Florien, Channel 242A.

■ 3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Crowell, Channel 293C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–27818 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 102403A]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Vermilion Snapper; Notification of an Overfished Fishery

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

ACTION: Determination of an overfished fishery.

SUMMARY: NMFS has determined that the Gulf of Mexico vermilion snapper fishery is overfished and has notified the Gulf of Mexico Fishery Management Council (Council) of related responsibilities under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone 727–570–5305, fax 727–570–5583, e-mail *Phil.Steele@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico reef fish fishery is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Council and approved and implemented by NMFS under the authority of the Magnuson-Stevens Act. The FMP is implemented by regulations at 50 CFR part 622.

Determination of Overfished Fishery

NMFS' determination of the status of a stock relative to overfishing and an overfished condition is based on both the rate of removal of fish from the stock through fishing (the exploitation rate) and the current stock size. When the exploitation rate jeopardizes the capacity of a stock to produce its maximum sustainable yield (MSY) on a continuing basis, overfishing is occurring. The exploitation rate is usually expressed in terms of an instantaneous fishing mortality rate (F).

Another important factor for classifying the status of a resource is the current stock level. If a stock's biomass falls below its minimum stock size threshold, the capacity of the stock to produce MSY on a continuing basis is jeopardized, and the stock is considered to be in an overfished condition.

Estimated total landings of Gulf vermilion snapper peaked in the early 1990s and have declined through the late 1990s for both the commercial and recreational sector. Commercial catches dropped 20 percent over this time period while recreational catches declined over 30 percent. Catch per unit effort, an indication of abundance, declined in three different fishing sectors, including the commercial handline fishery, and the western and eastern Gulf paid passenger recreational fishery (headboats). The decline in catch per unit effort was most extreme in the eastern Gulf headboat fishery, with this index dropping over 75 percent in value. Reductions were also seen from 1993 to 1999 in two fishery-independent surveys.

The 2001 vermilion snapper stock assessment evaluated the current condition of the Gulf vermilion snapper stock using two different scientific models: a surplus-production model and a virtual population analysis (VPA). The VPA results varied greatly depending on the inputs to the model. Moreover, vermilion snapper are known to vary widely in their size at age. As a result, the Reef Fish Stock Assessment Panel (RFSAP) concluded that these analyses were highly uncertain and excluded them from consideration of stock status.

The surplus-production models gave consistent results across a wide range of model inputs, with only one scenario (eliminating data from the most recent 3 years) showing significant differences. All other model formulations indicated that vermilion snapper was overfished and experiencing overfishing. The preferred model formulation indicated that this stock experienced a fishing mortality rate in 1999 nearly twice the rate associated with MSY (i.e., $F_{1999}/F_{MSY} = 1.99$). The estimated current biomass of Gulf vermilion snapper was 3.4 million lb (1.5 million kg), which only amounts to 32 percent of the biomass expected at MSY and was just over half the estimated biomass in 1986.

The RFSAP supported the assessment's results indicating that Gulf vermilion snapper are overfished and experiencing overfishing. The Gulf of Mexico's Scientific and Statistical Committee concluded that the RFSAP report represented the best available scientific advice to the Council for establishing catch limits for vermilion snapper.

Section 304(e) of the Magnuson-Stevens Act requires that within 1 year of being notified of the identification of a stock as being overfished, the affected Regional Fishery Management Council must develop measures to end overfishing and rebuild the stock. On October 31, 2003, the Administrator, Southeast Region, NMFS, notified the Council of the overfished status of the Gulf of Mexico vermilion snapper and requested that the Council take appropriate action. The letter to the Council reads as follows:

October 31, 2003
Ms. Bobbi Walker, Chairperson
Gulf of Mexico Fishery
Management Council
3018 U.S. Highway 301, Suite 1000
Tampa, Florida 33619

Dear Ms. Walker:

This is to inform the Gulf of Mexico Fishery Management Council (Council) that, based upon the best available scientific information, the National Marine Fisheries Service (NOAA Fisheries) has determined that the Gulf of Mexico vermilion snapper stock is overfished and undergoing overfishing. This determination is based on the July 2001 Status of the Vermilion Snapper Fishery in the Gulf of Mexico Report (Assessment 5.0), the October 2001 Report of the Reef Fish Stock Assessment Panel, and the Summary of the Standing and Special Reef Fish SSC Meeting from the January 2002 Council meeting. The analyses concluded that vermilion snapper biomass was 32% of the biomass associated with maximum sustainable yields (BMSY) in 2000. This estimate fell well below the minimum stock size threshold of 75% of BMSY. The analyses also concluded that the stock experienced a fishing mortality rate in 1999 of nearly twice the rate associated with MSY (FMSY). Several assessment scenarios were examined, all but one of which gave similar results. These analyses indicate that the vermilion snapper stock is overfished and undergoing overfishing. Dr. Nancy Thompson, Director of the Southeast Fisheries Science Center, will attend the November Council meeting to respond to questions the Council may have regarding the assessment.

The Magnuson-Stevens Fishery Conservation and Management Act requires that within one year of the determination that the stock is overfished the Council must propose a rebuilding plan; however, as pointed out in an April 12, 2002, letter from Dr. Joseph Powers, the Council must take action as soon as possible to end overfishing. The 2001 stock assessment provided guidance on measures necessary to end

overfishing and rebuild the stock within 10 years. It estimates that 40 to 50 percent catch reductions are necessary to end overfishing and to rebuild vermilion snapper. Ongoing efforts have already identified options to achieve these reductions.

We are now required to develop a formal rebuilding plan. I anticipate that a single amendment to the Reef Fish Fishery Management Plan can serve as a rebuilding plan and also enact measures to end overfishing. This administrative strategy could potentially delay efforts to end overfishing of vermilion snapper. Consequently, I am willing to issue an interim rule sooner, if necessary, to end overfishing once suitable regulations have been identified.

I look forward to working with the Council in developing a plan for rebuilding the vermilion snapper stock.

Sincerely yours,

Roy E. Crabtree, Ph.D.
Regional Administrator

Dated: October 30, 2003.

Bruce C. Morehead,

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

[FR Doc. 03–27844 Filed 10–31–03; 2:36 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register

Vol. 68, No. 214

Wednesday, November 5, 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. 2003–CE–27–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Model 1900C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Raytheon Model 1900C airplanes. This proposed AD would require you to replace the 200-amp electrical power current limiter in the landing gear with a 60-amp electrical power circuit breaker. This proposed AD is the result of reports about the inability to automatically lower the landing gear and the inability to operate other related electrical systems. The actions specified by this proposed AD are intended to prevent heat damage to the electrical wiring in and around the landing gear electrical systems components, which could result in the inability to operate critical control systems. Such failure could lead to loss of control of the airplane.

DATES: We must receive any comments on this proposed AD by January 6, 2004.

ADDRESSES: Use one of the following to submit comments on this proposed AD:

- *By mail:* FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–27–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.
- *By fax:* (816) 329–3771.
- *By e-mail: 9-ACE-Docket@faa.gov.* Comments sent electronically must contain ''Docket No. 2003–CE–27–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII.

You may get the service information identified in this proposed AD from Raytheon Aircraft Company, 9709 E. Central, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140.

You may view the AD docket at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–27–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: Bryan Easterwood, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4132; facsimile: (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''AD Docket No. 2003–CE–27–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it. We will date-stamp your postcard and mail it back to you.

Are there any specific portions of this proposed AD I should pay attention to? We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. If you contact us through a nonwritten communication and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend this proposed AD in light of those comments and contacts.

Discussion

What events have caused this proposed AD? We have received a report where the landing gear would not extend using normal operations and another report where certain electrical system components on the left generator and the center bus became inoperable.

The 200-amp current limiter, which protects the landing gear power wiring, did not operate correctly. This caused heat damage to the wiring in the landing gear power relay and surrounding electrical systems components.

The electrical system components that this condition potentially could affect include prop deice, surface deice, flaps, and left-hand windshield anti-ice.

Installing a 60-amp circuit breaker will protect the landing gear motor and associated circuitry from welding of the landing gear power relay contacts and sticking.

What are the consequences if the condition is not corrected? If not corrected, this condition could result in heat damage to the electrical wiring in and around the landing gear electrical systems components. Such a condition could lead to loss of control of the airplane.

Is there service information that applies to this subject? Raytheon has issued Mandatory Service Bulletin SB 24–2616, Rev. 1, Revised: April, 2002.

What are the provisions of this service information? The service bulletin includes procedures for incorporating a modification kit that replaces the 200-amp current limiter in the landing gear motor with a 60-amp circuit breaker.

FAA's Determination and Requirements of This Proposed AD

What has FAA decided? We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. Therefore, we are proposing AD action.

What would this proposed AD require? This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

How does the revision to 14 CFR part 39 affect this proposed AD? On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to 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 would this proposed AD impact? We estimate that this proposed AD affects 25 airplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish this proposed modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
12 workhours × $65 per hour = $780	$672	$780 + $672 = $1,452	$1,452 × 25 = $36,300.

Regulatory Findings

Would this proposed AD impact various entities? We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed 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 proposed AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''AD Docket No. 2003–CE–27–AD'' in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Raytheon Aircraft Company: Docket No. 2003–CE–27–AD

When Is the Last Date I Can Submit Comments on This Proposed AD?

(a) We must receive comments on this proposed airworthiness directive (AD) by January 6, 2004.

What Other ADs Are Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

(c) This AD affects Model 1900C airplanes, serial numbers UB–1 through UB–35, that are certificated in any category.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of reports about the inability to automatically lower the landing gear and the inability to operate other related electrical systems. The actions specified in this AD are intended to prevent heat damage to the electrical wiring in and around the landing gear electrical systems components, which could result in the inability to operate critical control systems. Such failure could lead to loss of control of the airplane.

What Must I Do To Address This Problem?

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

Actions	Compliance	Procedures
Incorporate Kit No. 114–3036–1, which replaces the 200-amp landing gear electrical power current limiter with a 60-amp circuit breaker.	Within the next 600 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.	In accordance with Raytheon Service Bulletin SB 24–2616, Rev. 1, Revised: April, 2002.

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. Send your request to the Manager, Wichita Aircraft Certification Office (ACO), FAA. For information on any already approved alternative methods of compliance, contact Bryan Easterwood, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Wichita, Kansas 67209; telephone: (316) 946–4132; facsimile: (316) 946–4107.

How Do I Get Copies of the Documents Referenced in This AD?

(g) You may get copies of the documents referenced in this AD from Raytheon Aircraft Company, 9709 E. Central, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 30, 2003.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–27798 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–73–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Inc. Model Otter DHC–3 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier Inc. (formerly deHavilland Inc.) Model Otter DHC–3 airplanes that have turbine engines

installed per one of three supplemental type certificates (STC). This proposed AD would prohibit you from operating any affected airplane with these engine and propeller configurations unless a new STC for an elevator servo-tab with a redundant control linkage is installed. This proposed AD also allows the option of future installations of one of three STCs if a new STC for an elevator servo-tab with a redundant control linkage is also installed. This proposed AD is the result of reports of the control rod to the servo trim tab system detaching from the servo trim tab, which caused the servo trim tab to flutter on airplanes with a turbine engine installed. We are issuing this proposed AD to prevent a single failure of the elevator servo trim tab system, which could cause severe elevator flutter. Such failure could lead to possible loss of control of the airplane.

DATES: We must receive any comments on this proposed AD by December 15, 2003.

ADDRESSES: Use one of the following to submit comments on this proposed AD:

- By mail: FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–73–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.
- *By fax:* (816) 329–3771.
- By e-mail: 9–ACE–7–Docket@faa.gov. Comments sent electronically must contain ''Docket No. 2000–CE–73–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII.

You may get the service information identified in this proposed AD from:

- For STC No. SA3777NM: A.M. Luton 3025 Eldridge Avenue, Bellingham, Washington, 98225; telephone (360) 671–7817; facsimile (360) 671–7820.
- For STC No. SA09866SC: Texas Turbine Conversions, Inc., 8955 CR 135, Celina Texas 75009; telephone: (972) 382–4402; facsimile: (972) 382–4402.
- For STC No. SA09857SC: Canada Turbine Conversions, Inc., Lot 16, 105081 Highway 11, Pine Falls MB ROE 1MO, Canada.
- For STC No. SA01059SE: American Aeromotives, Inc. (American Aeromotives), 3025 Eldridge Avenue, Bellingham, Washington 98225, telephone: (360) 671–7817; facsimile: (360) 671–7820.

You may view the AD docket at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–73–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:

- For STC No. SA3777NM or STC No. SA01059SE: Richard Simonson, Aerospace Engineer, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW, Renton, Washington 98055; telephone: (425) 917–6507; facsimile: (425) 917–6590.
- For STC No. SA09866SC: Richard Karanian, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, Special Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0190; telephone: (817) 222–5195; facsimile: (817) 222–5959.
- For STC No. SA09857SC: Peter W. Hakala, Aerospace Engineer, FAA, Special Certification Office, Rotorcraft Directorate, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0190; telephone: (817) 222–5145; facsimile: (817) 222–5785.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES.** Include ''AD Docket No. 2000–CE–73–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it. We will date-stamp your postcard and mail it back to you.

Are there any specific portions of this proposed AD I should pay attention to? We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. If you contact us through a nonwritten communication and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend this proposed AD in light of those comments and contacts.

Discussion

What events have caused this proposed AD? The FAA has received several reports of situations where pilots of Bombardier Inc. Model Otter DHC–3 airplanes with installed turbine engines have experienced buffeting of the elevators. All pilots declared an emergency and safely landed their aircraft.

Investigation found that the control rod to the servo trim tab system detached from the servo trim tab and caused the servo trim tab to flutter. In all cases, the aircraft had been modified with a Pratt and Whitney PT6A–135 or a PT6A–34 turbine engine per STC No. SA3777NM.

The certification basis for STC SA3777NM includes freedom from flutter and control reversal and divergence, required by 14 CFR 23.629(f)(1). Further review reveals that this requirement was not complied with when the STC was issued. Subsequent to the issuance of the STC, single failures of the control system for the servo tab began causing the servo tab to flutter. The failures were attributed to the increased velocity and airflow over the servo tab caused by the turbine conversion.

As a method of compliance with 14 CFR 23.629(f)(1), American Aeromotives has identified the installation of STC No. SA01059SE (a new elevator servo-tab and redundant control linkage) on aircraft modified with a Pratt and Whitney PT6A–34/–135 turbine engine per STC No. SA3777NM.

FAA has inspected affected airplanes with STC No. SA09866SC or STC No. SA09857SC installed and confirmed that the same unsafe condition exists. At this time, neither of these two STC holders has identified a method of compliance with 14 CFR 23.629(f)(1).

As a method of compliance with 14 CFR 23.629(f)(1), FAA has identified the installation of STC No. SA01059SE (a new elevator servo-tab and redundant control linkage) on aircraft modified with STC No. SA09866SC or STC No. SA09857SC.

What are the consequences if the condition is not corrected? A single failure of the elevator servo trim tab system could cause severe elevator flutter and lead to possible loss of control of the airplane.

Is there service information that applies to this subject? American Aeromotives has issued Service Letter No. AAI–DHC3–02.01, Revision No: IR, dated April 9, 2002.

What are the provisions of this service information? The service letter includes procedures for incorporating STC No. SA01059SE, which includes a new elevator servo-tab and redundant control linkage.

FAA's Determination and Requirements of This Proposed AD

What has FAA decided? We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. Therefore, we are proposing AD action.

What would this proposed AD require? This proposed AD would prohibit you from operating any affected airplane that incorporates STC No. SA3777NM, STC No. SA09866SC, or STC No. SA09857SC without incorporation of STC No. SA01059SE.

How does the revision to 14 CFR part 39 affect this proposed AD? On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to 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 would this proposed AD impact? We estimate that this proposed AD affects 32 airplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish this proposed modification (on Model DHC–3 airplanes with a turbine engine) for installing STC No. SA01059SE, a new elevator servo-tab and redundant control linkage. We have no way of determining the number of airplanes that may need such modification:

Labor cost	Parts cost	Total cost per airplane
20 workhours × $65 per hour = $1,300	$3,000	$1,300+$3,000 = $4,300.

Compliance Time of This Proposed AD

What would be the compliance time of this proposed AD? The compliance time of this proposed AD is within 3 calendar months or 250 hours time-in-service after the effective date of this AD whichever occurs first.

Why is the compliance time of this proposed AD presented in both hours TIS and calendar time? A single failure of the elevator servo trim tab system is a direct result of airplane operation with a turbine engine installed. For example, a single failure of the elevator servo trim tab system could occur on an affected airplane within a short period of airplane operation while you could operate another affected airplane for a considerable amount of time without experiencing a single failure of the elevator servo trim tab system. Therefore, to assure that a single failure of the elevator servo trim tab system is detected and corrected in a timely manner without inadvertently grounding any of the affected airplanes, we are using a compliance time based upon both hours TIS and calendar time.

Regulatory Findings

Would this proposed AD impact various entities? We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD 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.

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed 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 proposed 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. 2000–CE–73–AD'' in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier Inc.: Docket No. 2000–CE–73–AD.

When Is the Last Date I Can Submit Comments on This Proposed AD?

(a) We must receive comments on this proposed airworthiness directive (AD) by December 15, 2003.

What Other ADs Are Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

(c) This AD affects any Model Otter DHC–3 airplane (all serial numbers) that:

(1) Has a turbine engine installed per:

(i) Supplemental Type Certificate (STC) No. SA3777NM (A.M. Luton installation of Pratt and Whitney PT6A–34/–135 engine);

(ii) STC No. SA09866SC (Texas Turbines Conversions, Inc. installation of Honeywell TPE–331 engine); or

(iii) STC No. SA09857SC (Canada Turbine Conversions, Inc. installation of Walter M601E–11 engine); and

(2) Is certificated in any category.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of reports of the control rod to the servo trim tab system detached from the servo trim tab causing the servo trim tab to flutter on airplanes with a turbine engine installed. The actions specified in this AD are intended to prevent a single failure of the elevator servo trim tab system causing severe elevator flutter. Such failure could lead to possible loss of control of the airplane.

What Must I Do To Address This Problem?

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

Actions	Compliance	Procedures
(1) Do not operate any airplane that has a turbine engine installed per: STC No. SA3777NM, SA09866SC, or SA09857SC and DOES NOT have a new elevator servo-tab and redundant control linkage per STC No. SA01059SE.	As of 3 calendar months or 250 hours time-in-service after the effective date of this AD, whichever comes first.	Not Applicable.
(2) You may install at the same time a turbine engine per STC No. SA3777NM, SA09866SC, or SA09857SC and a new elevator servo-tab and redundant control linkage per STC No. SA01059SE.	Prior to further flight as of the effective date of this AD.	Per STC No. SA3777NM and American Aeromotives, Inc. DHC–3 Otter Service Letter No. AAI–DHC3–02.01, Revision No. IR, dated April 9, 2002.
(3) You may operate an affected airplane installed with a turbine engin per STC No. SA3777NM, SA09866SC, or SA09857SC if you install a new elevator servo-tab and redundant control linkage per STC No. SA01059SE.	Within 3 calendar months or 250 hours time-in-service after the effective date of this AD, whichever occurs first.	Per American Aeromotives, Inc. DHC–3 Otter Service Letter No. AAI–DHC3–02.01, Revision No. IR, dated April 9, 2002.
(4) Do not install a turbine engine per STC No. SA3777NM, SA09866SC or SA09857SC, unless you have installed a new elevator servo-tab and redundant control linkage per STC No. SA01059SE.	As of the effective date of this AD.	Not Applicable.

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. Send your request to the Manager, Seattle Aircraft Certification Office (ACO), FAA. For information on any already approved alternative methods of compliance, contact:

(1) For STC No. SA3777NM or STC No. SA01059SE: Richard Simonson, Aerospace Engineer, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW, Renton, Washington 98055; telephone: (425) 917–6507; facsimile: (425) 917–6590.

(2) For STC No. SA09866SC: Richard Karanian, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, Special Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0190; telephone: (817) 222–5195; facsimile: (817) 222–5959.

(3) For STC No. SA09857SC: Peter W. Hakala, Aerospace Engineer, FAA, Special Certification Office, Rotorcraft Directorate, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0190; telephone: (817) 222–5145; facsimile: (817) 222–5785.

How Do I Get Copies of the Documents Referenced in This AD?

(g) You may get copies of the documents referenced in this AD from (for STC No. SA3777NM) A.M. Luton, 3025 Eldridge Avenue, Bellingham, Washington, 98225; telephone (360) 671–7817; facsimile (360) 671–7820 (for STC No. SA09866SC) Texas Turbine Conversions, Inc., 8955 CR 135, Celina Texas 75009; telephone: (972) 382–4402; facsimile: (972) 382–4402; (for STC No. SA09857SC) Canada Turbine Conversions, Inc., Lot 16, 105081 Highway 11, Pine Falls MB ROE 1MO, Canada; and (for STC No. SA01059SE) American Aeromotives, Inc., 3025 Eldridge Avenue, Bellingham, Washington 98225, telephone: (360) 671–7817; facsimile: (360) 671–7820. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 29, 2003.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–27847 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–16147; Airspace Docket No. 03–AGL–17]

Proposed Modification of Class D Airspace; Rapid City, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to modify Class D airspace at Rapid City, SD. Instrument Flight Rules (IFR) Category E circling procedures have become necessary at Ellsworth AFB, Rapid City, SD. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing these approach procedures. This action would increase the area of the existing controlled airspace for Ellsworth AFB, Rapid City, SD.

DATES: Comments must be received on or before December 29, 2003.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket Number FAA–2003–16147/ Airspace Docket No. 03–AGL–17, at the beginning of your comments. You may also submit comments on the internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this document must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–16147/Airspace Docket No. 03–AGL–17.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class D airspace at Rapid City, SD, for Ellsworth AFB. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class D airspace areas extending upward from the surface of the earth are published in paragraph 5000 of FAA Order 7400.9L dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 the Class E designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

* * * * *

Paragraph 5000 Class D airspace.

AGL SDD Rapid City Ellsworth AFB, SD [Revised]

Rapid City, Ellsworth AFB, SD
(Lat. 44°08′42″ N., long. 103°06′13″ W.)
Rapid City Regional Airport, SD
(Lat. 44°02′43″ N., long 103°03′27″ W

That airspace extending upward from the surface to and including 5,800 feet MSL and within a 5.9-mile radius of Ellsworth AFB to the Rapid City Regional Airport 4.4-mile radius, excluding that airspace south of a line between the intersection of the Ellsworth AFB 4.7-mile radius and the Rapid City Regional Airport 4.4-mile radius. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on October 9, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–27752 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–146692–03]

RIN 1545–BC59

Mortgage Revenue Bonds

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that provide guidance regarding the limitation on the effective rate of mortgage interest for purposes of mortgage revenue bonds issued by State and local governments. This document also contains a notice of public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by January 7, 2004. Outlines of topics to be discussed at the public hearing scheduled for January 28, 2004, at 10 a.m., must be received by January 7, 2004.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–146692–03), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–146692–03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically to the IRS Internet site at *http://www.irs.gov/regs.* The public hearing will be held in the Auditorium,

Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Michael P. Brewer, (202) 622–3980; concerning submissions of comments, the hearing, and requests to be placed on the building access list to attend the meeting, Treena V. Garrett, (202) 622–3401 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 103(a) of the Internal Revenue Code of 1986 (Code) provides that, generally, interest on any State or local bond is not included in gross income. However, this exclusion does not apply to any private activity bond that is not a qualified bond.

A. Mortgage Revenue Bonds

Section 141(e)(1) provides that a qualified mortgage bond or a qualified veterans' mortgage bond (together, mortgage revenue bonds) issued under section 143 may be a qualified bond.

Sections 143(a)(2)(A)(ii) and 143(b) provide, in part, that for an issue to be an issue of qualified mortgage bonds or qualified veterans' mortgage bonds, respectively, the issue must satisfy the requirements of section 143(g). Section 143(g)(1) provides that an issue will meet the requirements of section 143(g) if the issue satisfies the requirements of section 143(g)(2) and, in the case of an issue 95 percent or more of the net proceeds of which are to be used to provide residences for veterans, if the issue satisfies the requirements of section 143(g)(3).

Section 143(g)(2)(A) provides that an issue will meet the requirements of section 143(g)(2) only if the excess of (1) the effective interest rate on the mortgages provided under the issue, over (2) the yield on the issue, is not greater than 1.125 percentage points.

Section 143(g)(2)(B)(i) provides that in determining the effective rate of interest on any mortgage for purposes of section 143(g)(2), all fees, charges, and other amounts borne by the mortgagor that are attributable to the mortgage or the bond issue are taken into account.

Section 143(g)(2)(B)(ii) provides that, for purposes of determining the effective rate of mortgage interest, the following items (among others) shall be treated as borne by the mortgagor: (1) All points or similar charges paid by the seller of the property; and (2) the excess of the amounts received from any person other than the mortgagor by any person in connection with the acquisition of the mortgagor's interest in the property over the usual and reasonable acquisition costs of a person acquiring like property when owner-financing is not provided through the use of mortgage revenue bonds.

Section 143(g)(2)(B)(iii) provides that, for purposes of determining the effective rate of mortgage interest, the following items shall not be taken into account: (1) Any expected rebate of arbitrage profits; and (2) any application fee, survey fee, credit report fee, insurance charge, or similar amount to the extent such amount does not exceed amounts charged in such area in cases when owner-financing is not provided through the use of mortgage revenue bonds. The exclusion for application fees, survey fees, credit report fees, insurance charges, or similar amounts does not apply to origination fees, points, or similar amounts.

In the case of an issue 95 percent or more of the net proceeds of which are to be used to provide residences for veterans, section 143(g)(3) provides that certain earnings on nonpurpose investments must either be paid or credited to mortgagors, or paid to the United States, in certain circumstances.

In the Tax Reform Act of 1986, Pub. L. No. 99–514 (the 1986 Act), Congress reorganized sections 103 and 103A of the Internal Revenue Code of 1954 (1954 Code) regarding tax-exempt bonds into sections 103 and 141 through 150 of the Code. Congress intended that to the extent not amended by the 1986 Act, all principles of pre-1986 Act law would continue to apply to the reorganized provisions. 2 H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II–686 (1986), 1986–3 (Vol. 4) C.B. 686.

Interpreting section 103A(i)(2)(B)(iii) of the 1954 Code, which is substantially identical to section 143(g)(2)(B)(iii) of the Code, § 6a.103A–2(i)(2)(ii)(C) of the Temporary Income Tax Regulations provides the following: ''For example, amounts paid for FHA, VA, or similar private mortgage insurance on an individual's mortgage need not be taken into account so long as such amounts do not exceed the amounts charged in the area with respect to a similar mortgage that is not financed with qualified mortgage bonds. Premiums charged for pool mortgage insurance will be considered amounts in excess of the usual and reasonable amounts charged for insurance in cases where owner financing is not provided through the use of qualified mortgage bonds.'' Pool mortgage insurance is not defined in the regulations.

B. Qualified Guarantees

Under § 1.148–4(f), for purposes of computing yield on an issue, fees paid for a qualified guarantee for the issue are treated as additional interest on the issue. In general, a guarantee is a qualified guarantee if: (1) As of the date the guarantee is obtained, the issuer reasonably expects that the present value of the fees for the guarantee will be less than the present value of the expected interest savings on the issue as a result of the guarantee; (2) the arrangement creates a guarantee in substance; and (3) the fees for the guarantee do not exceed a reasonable, arm's-length charge for the transfer of credit risk. The regulations provide that the guarantee of a loan of proceeds of an issue, as opposed to a guarantee of the issue, may constitute a qualified guarantee, but this rule does not apply to guarantees of mortgages financed with mortgage revenue bonds.

Explanation of Provisions

A. Pool Mortgage Insurance

Recently, questions have arisen regarding whether an issuer should be required to treat the portion of the interest payments on a pool of mortgages used to pay fees for a guarantee of a pass-through security backed by the pool of mortgages as an amount borne by the mortgagors that must be taken into account in determining the effective rate of interest on the mortgages for purposes of section 143(g). Taking the guarantee fees into account results in a higher effective rate of interest on the mortgages than if the fees were not taken into account.

The IRS and Treasury Department have determined that the guarantee fees should not be treated as amounts borne by the mortgagors that must be taken into account in determining the effective rate of interest on the mortgages for purposes of section 143(g). An issuer may achieve substantially the same result as not taking the guarantee fees into account in computing the effective rate of interest on the mortgages by substituting a qualified guarantee on the bonds for the guarantee of the pool of mortgages. If an issuer does not take the mortgage guarantee fees into account in computing the effective rate of interest on the mortgages, the difference between the bond yield and the effective rate on the mortgages is reduced because the effective rate on the mortgages is reduced. A qualified guarantee of the bonds accomplishes the same result by increasing bond yield, rather than reducing the effective rate of interest on the mortgages. Issuers should not be required to change the form of their transactions in these circumstances.

Accordingly, to the extent the amounts charged for a guarantee of a pool of mortgages do not exceed amounts charged in the area in cases when owner-financing is not provided through the use of mortgage revenue bonds, the proposed regulations provide that such amounts are not treated as borne by the mortgagors and are not taken into account in determining the effective rate of interest on the mortgages for purposes of section 143(g).

B. Proposed Regulations

The proposed regulations create a new § 1.143(g)–1. The proposed regulations provide that an issue satisfies the requirements of section 143(g) only if the issue meets the requirements of § 1.143(g)–1(b) and, in the case of an issue 95 percent or more of the net proceeds of which are to be used to provide residences for veterans, the issue also meets the requirements of § 1.143(g)–1(c). The requirements of section 143(g) and the proposed regulations are applicable in addition to the requirements of section 148 and §§ 1.148–0 through 1.148–11.

The proposed regulations provide that an issue shall be treated as meeting the requirements of § 1.143(g)–1(b) only if the excess of (1) the effective rate of interest on the mortgages financed by the issue, over (2) the yield on the issue, is not greater over the term of the issue than 1.125 percentage points.

In determining the effective rate of interest on any mortgage, the proposed regulations provide that all fees, charges, and other amounts borne by the mortgagor that are attributable to the mortgage or to the bond issue are taken into account. Such amounts include points, commitment fees, origination fees, servicing fees, and prepayment penalties paid by the mortgagor.

The proposed regulations provide that items that are treated as borne by the mortgagor and are taken into account in calculating the effective rate of interest also include: (1) All points, commitment fees, origination fees, or similar charges borne by the seller of the property; and (2) the excess of any amounts received from any person other than the mortgagor by any person in connection with the acquisition of the mortgagor's interest in the property over the usual and reasonable acquisition costs of a person acquiring like property where owner-financing is not provided through the use of mortgage revenue bonds.

The proposed regulations further provide that the following items are not treated as borne by the mortgagor and are not taken into account in calculating the effective rate of interest: (1) Any expected rebate of arbitrage profit; and (2) any application fee, survey fee, credit report fee, insurance charge or similar settlement or financing cost to the extent such amount does not exceed amounts charged in the area in cases where owner-financing is not provided through the use of mortgage revenue bonds.

With respect to insurance charges, the proposed regulations provide that amounts paid for Federal Housing Administration, Veterans' Administration, or similar private mortgage insurance on an individual's mortgage, or amounts paid for pool mortgage insurance on a pool of mortgages, are not taken into account so long as such amounts do not exceed the amounts charged in the area with respect to a similar mortgage, or pool of mortgages, that is not financed with mortgage revenue bonds. Moreover, for this purpose, amounts paid for pool mortgage insurance include amounts paid to an entity (for example, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or other mortgage insurer) to directly guarantee the pool of mortgages financed with the bonds, or to guarantee a pass-through security backed by the pool of mortgages financed with the bonds.

The proposed regulations do not provide guidance regarding all aspects of the application of section 143(g)(2). The proposed regulations provide that to the extent not inconsistent with the 1986 Act or subsequent law, the provisions of § 6a.103A–2(i)(2) (other than paragraphs (i)(2)(i) and (i)(2)(ii)(A) through (C)) apply to provide additional rules relating to compliance with the requirement that the effective rate of mortgage interest not exceed the bond yield by more than 1.125 percentage points.

The proposed regulations also do not provide guidance regarding the application of section 143(g)(3). The proposed regulations provide that to the extent not inconsistent with the 1986 Act or subsequent law, the provisions of § 6a.103A–2(i)(4) apply to provide guidance regarding the application of section 143(g)(3).

Proposed Effective Dates

The proposed regulations will apply to bonds sold on or after the date of publication of final regulations in the **Federal Register**, that are subject to section 143. Issuers may also apply the proposed regulations in whole, but not in part, to bonds sold on or after November 5, 2003 and before the date of publication of final regulations in the **Federal Register**, that are subject to section 143. In addition, issuers may apply the proposed regulations in whole, but not in part, to any bonds that are sold before November 5, 2003, and subject to section 143. Finally, subject to the applicable effective dates for the corresponding statutory provisions, issuers may apply the proposed regulations in whole, but not in part, to any bonds that are subject to section 103A(i) of the 1954 Code.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the IRS. The IRS and Treasury Department request comments on all aspects of the proposed regulations. Comments are also requested on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for January 28, 2004, at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the lobby more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, *see* the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit written comments by January 7, 2004, and submit an outline of the topics to

be discussed and the amount of time to be devoted to each topic by January 7, 2004.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Timothy L. Jones and Michael P. Brewer, Office of Associate Chief Counsel (Tax-exempt and Government Entities), IRS, and Bruce M. Serchuk, Office of Tax Policy, Treasury Department. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

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

Par. 2. Section 1.143(g)–1 is added to read as follows:

§ 1.143(g)–1 Requirements related to arbitrage.

(a) *In general.* Under section 143, for an issue to be an issue of qualified mortgage bonds or qualified veterans' mortgage bonds (together, mortgage revenue bonds), the requirements of section 143(g) must be satisfied. An issue satisfies the requirements of section 143(g) only if such issue meets the requirements of paragraph (b) of this section and, in the case of an issue 95 percent or more of the net proceeds of which are to be used to provide residences for veterans, such issue also meets the requirements of paragraph (c) of this section. The requirements of section 143(g) and this section are applicable in addition to the requirements of section 148 and §§ 1.148–0 through 1.148–11.

(b) *Effective rate of mortgage interest not to exceed bond yield by more than 1.125 percentage points*—(1) *Maximum yield.* An issue shall be treated as meeting the requirements of this paragraph (b) only if the excess of the effective rate of interest on the mortgages financed by the issue, over the yield on the issue, is not greater over the term of the issue than 1.125 percentage points.

(2) *Effective rate of interest.* (i) In determining the effective rate of interest on any mortgage for purposes of this paragraph (b), there shall be taken into account all fees, charges, and other amounts borne by the mortgagor that are attributable to the mortgage or to the bond issue. Such amounts include points, commitment fees, origination fees, servicing fees, and prepayment penalties paid by the mortgagor.

(ii) Items that shall be treated as borne by the mortgagor and shall be taken into account in calculating the effective rate of interest also include:

(A) All points, commitment fees, origination fees, or similar charges borne by the seller of the property; and

(B) The excess of any amounts received from any person other than the mortgagor by any person in connection with the acquisition of the mortgagor's interest in the property over the usual and reasonable acquisition costs of a person acquiring like property when owner-financing is not provided through the use of mortgage revenue bonds.

(iii) The following items shall not be treated as borne by the mortgagor and shall not be taken into account in calculating the effective rate of interest:

(A) Any expected rebate of arbitrage profit under paragraph (c) of this section; and

(B) Any application fee, survey fee, credit report fee, insurance charge or similar settlement or financing cost to the extent such amount does not exceed amounts charged in the area in cases when owner-financing is not provided through the use of mortgage revenue bonds. For example, amounts paid for Federal Housing Administration, Veterans' Administration, or similar private mortgage insurance on an individual's mortgage, or amounts paid for pool mortgage insurance on a pool of mortgages, are not taken into account so long as such amounts do not exceed the amounts charged in the area with respect to a similar mortgage, or pool of mortgages, that is not financed with mortgage revenue bonds. For this purpose, amounts paid for pool mortgage insurance include amounts paid to an entity (for example, the Government National Mortgage Association, the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation, or other mortgage insurer) to directly guarantee the pool of mortgages financed with the bonds, or to guarantee a pass-through security backed by the pool of mortgages financed with the bonds.

(C) The following example illustrates the provisions of this paragraph (b)(2)(iii):

Example. Housing Authority X issues bonds intended to be qualified mortgage bonds under section 143(a). At the time the bonds are issued, X enters into an agreement with a group of mortgage lending institutions (lenders) under which the lenders agree to originate and service mortgages that meet certain specified requirements. After originating a specified amount of mortgages, each lender issues a ''pass-though security'' (each, a PTS) backed by the mortgages and sells the PTS to X. Under the terms of the PTS, the lender pays X an amount equal to the regular monthly payments on the mortgages (less certain fees), whether or not received by the lender (plus any prepayments and liquidation proceeds in the event of a foreclosure or other disposition of any mortgages). FNMA guarantees the timely payment of principal and interest on each PTS. From the payments received from each mortgagor, the lender pays a fee to FNMA for its guarantee of the PTS. The amounts paid to FNMA do not exceed the amounts charged in the area with respect to a similar pool of mortgages that is not financed with mortgage revenue bonds. Under this paragraph (b)(2)(iii), the fees for the guarantee provided by FNMA are an insurance charge because the guarantee is pool mortgage insurance. Because the amounts charged for the guarantee do not exceed the amounts charged in the area with respect to a similar pool of mortgages that is not financed with mortgage revenue bonds, the amounts charged for the guarantee are not taken into account in computing the effective rate of interest on the mortgages financed with X's bonds.

(3) *Additional rules.* To the extent not inconsistent with the Tax Reform Act of 1986, Public Law 99–514 (the 1986 Act), or subsequent law, § 6a.103A–2(i)(2) (other than paragraphs (i)(2)(i) and (i)(2)(ii)(A) through (C)) of this chapter applies to provide additional rules relating to compliance with the requirement that the effective rate of mortgage interest not exceed the bond yield by more than 1.125 percentage points.

(c) *Arbitrage and investment gains to be used to reduce costs of owner-financing.* As provided in section 143(g)(3), certain earnings on nonpurpose investments must either be paid or credited to mortgagors, or paid to the United States, in certain circumstances. To the extent not inconsistent with the 1986 Act or subsequent law, § 6a.103A–2(i)(4) of this chapter applies to provide guidance relating to compliance with this requirement.

(d) *Effective Dates*—(1) *In general.* Except as otherwise provided in this section, § 1.143(g)–1 applies to bonds sold on or after the date of publication

of final regulations in the **Federal Register**, that are subject to section 143. Issuers may apply § 1.143(g)–1, in whole, but not in part, to bonds sold on or after November 5, 2003 and before the date of publication of final regulations in the **Federal Register**, that are subject to section 143.

(2) *Permissive retroactive application in whole.* Except as provided in paragraph (d)(4) of this section, an issuer may apply § 1.143(g)–1, in whole, but not in part, to any bonds that are sold before November 5, 2003, and subject to section 143.

(3) *Bonds subject to the Internal Revenue Code of 1954.* Except as provided in paragraph (d)(4) of this section, and subject to the applicable effective dates for the corresponding statutory provisions, an issuer may apply § 1.143(g)–1, in whole, but not in part, to any bonds that are subject to section 103A(i) of the Internal Revenue Code of 1954.

(4) *Special rule for pre-July 1, 1993 bonds.* To the extent that an issuer applies this section to any bonds pursuant to paragraph (d)(2) or (d)(3) of this section, § 6a.103A–2(i)(3) of this chapter also applies to the bonds if the bonds were issued before July 1, 1993.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 03–27866 Filed 11–4–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–108524–00]

RIN–1545–AY28

Section 1446 Regulations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a notice of proposed rulemaking.

SUMMARY: This document contains a correction to a notice of proposed rulemaking that was published in the **Federal Register** on September 3, 2003 (68 FR 52466) regarding the obligation of a partnership to pay a withholding tax on effectively connected taxable income allocable under section 704 to a foreign partner.

FOR FURTHER INFORMATION CONTACT: David J. Sotos at (202) 622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are the subject of these corrections are under section 704 of the Internal Revenue Code.

Need for Correction

As published, this notice of proposed rulemaking contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of notice of proposed rulemaking (REG–108524–00), which is the subject of FR. Doc. 03–22175, is corrected as follows:

1. On page 52469, column 2, in the preamble, under the paragraph heading ''Special Rules for Tiered Trust or Estate Structures—§ 1.1446–3(d)(2)(iii)'', first paragraph, line 4, the language ''1446(d) to provide that a foreign trust's'' is corrected to read ''1446(d) to provide that amounts withheld on a foreign trust's''.

§ 1.1461–1 [Corrected]

2. On page 52483, column 1, § 1.1461–1, paragraph (a)(1), line 13, the language ''under § 11446–4(g). The previous two'' is corrected to read ''under § 1.1446–4(g). The previous two.''

Cynthia E. Grigsby,

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

[FR Doc. 03–27865 Filed 11–4–03; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 60

[SIP NO. MT–001–0047b, WY–001–0010b, WY–001–0011b, WY–001–0012b; FRL–7573–3]

Approval and Promulgation of Air Quality Implementation Plans; States of Montana and Wyoming; Revisions to the Administrative Rules of Montana; New Source Performance Standards for Wyoming and Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to take direct final action approving State Implementation Plan (SIP) revisions submitted by the Governor of Montana on October 28, 2002. The October 28, 2002 submittal revises the Administrative Rules of Montana (ARM) by updating the Incorporation by Reference rules, deleting the definition for volatile organic compounds (VOCs), and making other minor corrections to the rules. The October 28, 2002 submittal also makes revisions to the Yellowstone County Air Pollution Control Program (YCAPCP). EPA is only approving the revisions to the section of the YCAPCP that has been approved into the SIP.

EPA is also announcing that on June 24, 2003 and August 13, 2003, we updated the delegation of authority for the implementation and enforcement of the New Source Performance Standards (NSPS) to the State of Montana and the State of Wyoming, respectively. The intended effect of this action is to make these revisions federally enforceable. This action is being taken under sections 110 and 111 of the Clean Air Act. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Written comments must be received on or before December 5, 2003.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions (sections (I)(B)(1)(i) through (iii) of the **SUPPLEMENTARY INFORMATION** section) described in the direct final rule which is located in the Rules Section of this **Federal Register**. Copies of the documents relevant to this

action are available for public inspection Monday through Friday, 8 a.m. to 4 p.m., excluding federal Holidays, at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, EPA, Region 8, 999 18th Street, Suite 300, Mailcode 8P–AR, Denver, Colorado, 80202, (303) 312–6144, e-mail dygowski.laurel@epa.gov.

SUPPLEMENTARY INFORMATION: *See* the information provided in the direct final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

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

Dated: October 1, 2003.

Robert E. Roberts,

Regional Administrator, Region 8.

[FR Doc. 03–27266 Filed 11–4–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3227; MB Docket No. 03–223, RM–10813]

Radio Broadcasting Services; Greenville, LaGrange, and Waverly Hall, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Audio Division requests comments on a petition jointly filed by Cox Radio, Inc., its wholly-owned subsidiary CXR Holdings, Inc., and Davis Broadcasting, Inc., of Columbus, proposing the downgrade of Channel 239C3 to Channel 239A at Greenville, Georgia, the reallotment of Channel 239A to Waverly Hall, Georgia, and the modification of Station WKZJ(FM)'s license accordingly; and the reallotment Channel 281C1 from LaGrange to Greenville, Georgia, as a replacement service, and the modification of Station WALR–FM's license accordingly. Channel 239 can be reallotted to Waverly Hall in compliance with the Commission's minimum distance separation requirements with a site restriction of 14 kilometers (8.7 miles) south at petitioners' requested site. The coordinates for Channel 239A at Waverly Hall are 32–33–58 North Latitude and 84–41–03 West Longitude. *See* **SUPPLEMENTARY INFORMATION,** *infra.*

DATES: Comments must be filed on or before December 15, 2003, reply comments on or before December 30, 2003.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Kevin F. Reed, Esq. Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Ave. NW., Suite 800, 200006–1809 (Counsel for Cox Radio & CXR Holdings, Inc.); and Howard A. Topel, Esq., Leventhal, Senter & Lerman, PLLC, 2000 K Street, NW., Suite 600, Washington, DC 20036–1809 (Counsel for Davis Broadcasting, of Columbus).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–223, adopted October 22, 2003, and released October 24, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals, II, 445 12th Street, SW., Room CY–B402, Washington, DC 20054, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

Likewise, Channel 281C1 can be reallotted to Greenville at Station WALR–FM's presently authorized site. The coordinates for Channel 281C1 at Greenville are 33–24–43 North Latitude and 84–50–03 West Longitude. In accordance with Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest for the use of Channel 239A at Waverly Hall, Georgia, or Channel 281C1 at Greenville, Georgia, or require petitioners to provide equivalent class channels for the use of other interested parties.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 239C3 and by adding Channel 281C1 at Greenville, by removing La Grange, Channel 281C1, and by adding Waverly Hall, Channel 239A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–27824 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3228; MB Docket No. 03–222; RM–10812]

Radio Broadcasting Services; Charlotte and Grand Ledge, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Rubber City Radio Group (''Petitioner''), licensee of Station WQTX(FM), Channel 224A, Charlotte, Michigan. The petition proposes to switch Station WQTX(FM) from Channel 224A to Channel 225A, to change Station WQTX(FM)'s community of license from Charlotte to Grand Ledge, Michigan, and to provide Grand Ledge with its first local aural transmission service. The coordinates for requested Channel 225A at Grand Ledge, Michigan, are 42–42–17 NL and 84–37–20 WL, with a site restriction of

11.5 kilometers (7.2 miles) southeast of Grand Ledge. Petitioner's reallotment proposal complies with the provisions of Section 1.420(i) of the Commission's Rules, and therefore, the Commission will not accept competing expressions of interest in the use of Channel 225A at Grand Ledge, Michigan, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before December 15, 2003, and reply comments on or before December 30, 2003.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW, Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners' counsel, as follows: Erwin G. Krawnow, Esq, Shook, Hardy & Bacon; 600 14th Street, NW.; Suite 800; Washington, DC 20005–2004.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–222, adopted October 22, 2003, and released October 24, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW, CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *See* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Grand Ledge, Channel 225A, and removing Charlotte, Channel 224A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–27823 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket No. RSPA–98–4868; Notice 2]

Notice of Public Meeting and Request for Comments

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

ACTION: Notice of public meeting and request for comments.

SUMMARY: This notice announces a public meeting and an opportunity to submit written comments on the safety regulation of gas and hazardous liquid gathering lines. Congress has directed RSPA to define ''gathering line'' for gas and hazardous liquid pipeline transportation and, if appropriate, define as ''regulated gathering line'' those rural gathering lines that, because of specific physical characteristics, should be regulated. The gas pipeline regulations do not clearly distinguish gathering lines from production facilities and transmission lines. This lack of clarity has caused many disputes between government and industry over whether the regulations cover particular pipelines. The current definition of hazardous liquid gathering has worked well. We will consider all public comments in developing future proposals on gathering lines.

DATES: The public meeting will occur Wednesday, November 19, 2003, from 1 pm to 5 pm, and Thursday, November 20, 2003, from 8 am to 5 pm.

ADDRESSES: The meeting will take place at the Omni Austin Hotel, 700 San Jacinto Blvd, Austin, Texas 78701 (phone: 512–476–3700). If you want to make an oral presentation, please notify Janice Morgan by November 14, 2003, by phone (202–366–2392) or by e-mail (*janice.morgan@rspa.dot.gov*), and state the approximate length of your presentation. In addition, you may submit written comments to the docket by December 19, 2003. Late filed comments will be considered as far as practicable. You may submit written comments by mail or delivery to the Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. It is open from 10 am to 5 pm, Monday through Friday, except Federal holidays. All written comments should identify the docket and notice numbers stated in the heading of this notice. Anyone wanting confirmation of mailed comments must include a self-addressed stamped postcard. You may also submit written comments to the docket electronically by logging onto the following Web address: *http://dms.dot.gov.* Click on ''Comment/Submissions'' to begin.

Privacy Act Information. 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 for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

General Information. You may contact the Dockets Facility by phone at (202) 366–9329 for copies of this notice or other material in the docket. All materials in this docket may be found electronically at *http://dms.dot.gov/search.* Once you reach this address, type in the last four digits of the docket number shown in the heading of this notice, and click on ''search.'' You will then be connected to all relevant information. General information about RSPA's programs may be obtained at this address: *http://rspa.dot.gov.*

FOR FURTHER INFORMATION CONTACT: DeWitt Burdeaux by phone at 405–954–7220 or by e-mail at *dewitt_burdeaux@tsi.jccbi.gov* regarding the subject matter of this notice.

SUPPLEMENTARY INFORMATION:

Background

Gas Gathering Line Definition. RSPA's gas pipeline safety regulations in 49 CFR part 192 apply to pipelines used in the gathering, transmission, or distribution of gas, except gathering

lines in rural locations and certain offshore pipelines (§ 192.1). As defined in § 192.3, ''gathering line'' means ''a pipeline that transports gas from a current production facility to a transmission line or main.'' Although Part 192 does not define ''production facility,'' it does define ''transmission line'' and ''main.'' However, under § 192.3, the definition of ''transmission line'' refers to a pipeline ''other than a gathering line.'' Also, the definition of ''main'' refers to a ''distribution line,'' which means a ''pipeline other than a gathering or transmission line.''

The absence of a production facility definition and the circular logic of the definitions of gathering line, transmission line, and distribution line have made it difficult to determine the beginning and end of gathering lines covered by part 192. It is also difficult to determine which pipelines are exempt from part 192 as rural gathering lines. Inspectors from RSPA's five regional offices have often disagreed with pipeline operators across the nation over whether pipelines are gathering or transmission lines. In 1986, RSPA asked the National Association of Pipeline Safety Representatives (NAPSR), an association of state pipeline safety officials, for comments on the gathering line problem. Responses from NAPSR members showed that in the 30 states where gathering lines exist, there are at least 2,800 gathering operators and 111,000 miles of gathering lines (as interpreted by the states). NAPSR members from five states, with about 54 percent of gathering-line operators and 75 percent of the mileage, said they had disagreements with operators over classifying rural pipelines as gathering lines or transmission lines. Members from three of these States said the disagreements were too numerous to list. One NAPSR member recalled many disagreements with two major gas gathering and transmission pipeline operators over where a gathering line ends. Another NAPSR member related continuing disagreements over the classification of various segments of pipeline operated by one of the largest gas gathering line operators in the United States.

The difficulty of identifying gas gathering lines not only affects government enforcement of the Part 192 safety standards, but it also affects other program areas. RSPA annually collects user fees from gas pipeline operators to recoup regulatory program costs. However, by law, these fees are only assessable for costs related to transmission lines. In addition, the Pipeline Safety Improvement Act of 2002 (Pub. L. 107–355; Dec. 17, 2002) requires operators to provide to RSPA, certain geospatial data and other information for use in the National Pipeline Mapping System. However, gathering and distribution lines are specifically excluded from this requirement.

Seeking to resolve the gas gathering line interpretive problem, RSPA proposed to amend the Part 192 gathering line definition (Docket PS–122; 56 FR 48505; Sept. 25, 1991).[1] However, because the public response was generally unfavorable; with industry commenters disputing the significance of the problem and alleging wholesale reclassification of lines, RSPA delayed final action pending the collection and consideration of further information. Meanwhile, Congress amended the pipeline safety law, directing RSPA to define the term ''gathering line'' for both gas and hazardous liquid pipelines, and define as ''regulated gathering line'' those rural gathering lines that, because of specific physical characteristics, should be regulated.[2] In furtherance of the proceeding begun in 1991 and the Congressional directive, RSPA opened an internet discussion of the gathering line issue, which focused on a definition offered by Gas Processors Association (Docket No. RSPA–98–4868; 64 FR 12147; Mar. 11, 1999). The discussion, which involved 100 participants, included a comprehensive treatment by the American Petroleum Institute for a coalition of trade associations.[3] However, RSPA and NAPSR were concerned that the coalition's suggested gathering line definition was based on certain ''furthermost downstream'' points that are subject to change. As a stopgap, while continuing to decide on a suitable alternative to the 1991 gathering line proposal, RSPA published an advisory bulletin interpreting the end of gas gathering based on court precedent and

[1] The proposal was: ''Gathering line'' means, except as provided in paragraph (4), any pipeline or part of a connected series of pipelines used to transport gas from a well or the first production facility where gas is separated from produced hydrocarbons, whichever is farther downstream, to an applicable endpoint described in paragraph (1), (2), or (3) below:

(1) The inlet of the first natural gas processing plant used to remove liquified petroleum gases or other natural gas liquids.

(2) If there is no natural gas processing plant, the point where custody of the gas is transferred to others who transport it by pipeline to:

(i) a distribution center;

(ii) a gas storage facility; or

(iii) an industrial consumer.

(3) If there is no natural gas processing plant or point where custody of the gas is so transferred, the last point downstream where gas produced in the same production field or two adjacent production fields is commingled.

(4) A gathering line does not include any part of a pipeline that transports gas downstream—

(i) from the end points in (1), (2), or (3) in this Section;

(ii) from a production facility, if no end point exists; or

(iii) in any interstate transmission facility subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act (15 U.S.C. 717 et seq.).

[2] The specific provisions are in 49 U.S.C. 60101(b):

Gathering Lines.—(1)(A) Not later than October 24, 1994, the Secretary shall prescribe standards defining the term ''gathering line''. (B) In defining ''gathering line'' for gas, the Secretary—(i) shall consider functional and operational characteristics of the lines to be included in the definition; and (ii) is not bound by a classification the Commission establishes under the Natural Gas Act (15 U.S.C. 717 et seq.). (2)(A) Not later than October 24, 1995, the Secretary, if appropriate, shall prescribe standards defining the term ''regulated gathering line''. In defining the term, the Secretary shall consider factors such as location, length of line from the well site, operating pressure, throughput, and the composition of the transported gas or hazardous liquid, as appropriate, in deciding on the types of lines that functionally are gathering but should be regulated under this chapter because of specific physical characteristics. (B)(i) The Secretary also shall consider diameter when defining ''regulated gathering line'' for hazardous liquid. (ii) The definition of ''regulated gathering line'' for hazardous liquid may not include a crude oil gathering line that has a nominal diameter of not more than 6 inches, is operated at low pressure, and is located in a rural area that is not unusually sensitive to environmental damage.

[3] The coalition suggested the following definition of ''gathering line'':

(a) means any pipeline or part of a connected series of pipelines used to

(1) transport gas from the furthermost downstream point in a production operation to the furthermost downstream of the following endpoints, with possible intermediate deliveries to other production operations, pipeline facilities, farm taps, or residential/commercial/industrial end users:

(A) the inlet of the furthermost downstream natural gas processing plant, other than a natural gas processing plant located on a transmission line,

(B) the outlet of the furthermost downstream gathering line gas treatment facility,

(C) the furthermost downstream point where gas produced in the same production field or separate production fields is commingled,

(D) the outlet of the furthermost downstream compressor station used to lower gathering line operating pressure to facilitate deliveries into the pipeline from production operations or to increase gathering line pressure for delivery to another pipeline, or

(E) the connection to another pipeline downstream of:

(i) the furthermost downstream endpoint identified in (A), (B), (C) or (D), or (in the absence of such endpoint)

(ii) the furthermost downstream production operation; or

(2) transport gas from a point other than in a production operation exclusively to points in or adjacent to one or more production operations or gathering facility sites for use as fuel, gas lift, or gas injection gas within those operations; and

(b) does not include a natural gas processing plant.

historical interpretation (ADB–02–06; 67 FR 64447; Oct. 18, 2002).[4]

Hazardous Liquid Gathering Line Definition. RSPA's hazardous liquid pipeline safety regulations in 49 CFR part 195 apply to the transportation by pipeline of hazardous liquid (petroleum, petroleum products, and anhydrous ammonia) and carbon dioxide (in a supercritical state), except gathering lines in rural areas and certain other pipelines (§ 195.1). The term ''gathering line'' is defined in § 195.2 as ''a pipeline 219.1 mm (8⅝ in) or less nominal outside diameter that transports petroleum from a production facility.'' Section 195.2 also defines ''production facility'' and ''rural area'' without reference to the gathering line definition. RSPA has had little difficulty applying these definitions to identify gathering lines subject to Part 195 or those excluded from Part 195 because of location in rural areas.

Purpose of Meetings and Request for Comment

RSPA, working with NAPSR, is continuing to assess the acceptability of the present definitions of gas and hazardous liquid gathering lines and related definitions for purposes of determining the beginning and end of gathering. We are particularly concerned about the impreciseness of the gas definition. We are inviting new public input to this process, which we hope will be informed by the history of previously proposed definitions and their shortcomings.

We also are considering the need to establish safety regulations for onshore gas and hazardous liquid gathering lines in rural areas. While Congress initially exempted these lines from Federal regulation, it has granted RSPA authority to regulate rural gathering lines whose physical characteristics pose a special risk to the public. We are interested in receiving ideas on what situations would make it appropriate to regulate the safety of rural gathering lines, and what those regulations should be. Potential commenters should keep in mind that the pipeline industry's consensus standards in ASME B31.4 and ASME B31.8 apply to rural gathering lines.

As stated in more detail above, we invite interested persons to attend the public meetings and present oral or written statements about any of the topics discussed in this notice. Written statements not presented at the meeting may be submitted to the docket. If necessary, we may limit the time for oral presentations so that everyone who requests an opportunity to speak may do so. Those who do not request time for presentations may have an opportunity to speak as time allows.

We are especially interested in receiving comments on the following:

1. The point where gas production ends and gas gathering begins.

2. The point where gas gathering ends and gas transmission or distribution begins.

3. In defining ''regulated gathering line,'' whether we should consider factors besides those that Congress specified (*see* footnote 2). For example, should we consider population density (by census or house count), or for hazardous liquid lines, potential for environmental damage.

4. Whether Part 195 should apply to rural gathering lines that operate at more than 20 percent of specified minimum yield strength, or that could adversely affect an ''unusually sensitive area'' as defined in § 195.6. (Note that certain crude oil gathering lines are, by law, exempt from safety regulation (see footnote 2)).

5. If you recommend safety regulations for rural gas or hazardous liquid gathering lines, to which rural lines would the regulations apply and why, approximately how many miles would be covered by the regulations, and what would be the estimated cost per mile of complying with the regulations.

6. The approximate mileage of rural gathering lines not now covered by Part 195.

7. Whether safety regulations for gas or hazardous liquid rural gathering lines operating at low stress (*e.g.*, 20 percent or less of specified minimum yield strength) or a specified pressure for plastic lines should be fewer and possibly less stringent than regulations for other rural gathering lines.

There will be an open session for questions and answers before the close of the meeting. Additional meetings are being planned, and dates and places will be announced in future notices.

Authority: 49 U.S.C. Chapter 601 and 49 CFR 1.53.

Issued in Washington, DC, on October 30, 2003.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 03–27858 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–60–P

[4] ADB–02–6:

To: Owners and Operators of Natural Gas Pipeline Facilities.

Subject: Standards for classifying natural gas gathering lines.

Purpose: To inform operators of the standards OPS currently uses to classify natural gas gathering lines.

Advisory: Standards for classification of natural gas gathering lines.

Until OPS completes its rulemaking to better define natural gas gathering lines (Docket No. RSPA–98–4868), OPS will continue to classify lines according to the four-point standard established through court precedent and historical interpretation. OPS will also continue to classify lines that pose unique difficulties of classification on a case-by-case basis. In brief, in the most common situation, gathering begins at or near the well head. In most cases, the gathering process terminates at the outlet of a processing plant. A processing plant is defined by the extraction of heavy ends from the natural gas. If there is no upstream processing plant, the gathering process terminates at the outlet of a pipeline compressor. For the purposes of determining the termination point of the gas gathering process, OPS does not consider a well head compressor (field compressor) to be a pipeline compressor. If there is no processing plant or pipeline compressor, the point at which the gathering process ends is where two or more well pipleines converge. If none of these points applies, the gas gathering termination point is where there is a change in ownership of the pipeline. These points are determined on a case-by-case basis considering the location of the pipeline in relation to population density, major traffic areas, and environmentally sensitive areas. To summarize, OPS considers the termination of gas gathering to be:

(1) The outlet of a processing plant that extracts heavy ends from the natural gas;

(2) The outlet of a pipeline compressor (not including a well head compressor);

(3) The point where two or more well pipelines converge; or

(4) The point where there is a change in ownership of the pipeline.

Notices

Federal Register

Vol. 68, No. 214

Wednesday, November 5, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (PAC) will meet on December 3 and 4, 2003, in Eureka, California. The purpose of the meeting is to discuss issues relating to implementing the Northwest Forest Plan (NWFP).

DATES: The meeting will be held from 1 p.m. to 5 p.m. on December 3, 2003, and from 8:30 a.m. to noon on December 4, 2003.

ADDRESSES: The meeting will be held at the Six Rivers National Forest Supervisor's Office Conference Room, 1330 Bayshore Way, Eureka, CA.

FOR FURTHER INFORMATION CONTACT: Phebe Brown, Committee Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA 95988, (530) 934–1137; EMAIL *pybrown@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Regional Ecosystem Office (REO) update; (2) Forest Service Region 5 Northwest Forest Plan Review summary and update; (3) Update on planning for a Province fire ecology/fuels treatment workshop; (4) Presentation on NWFP monitoring; (5) Aquatic Conservation Subcommittee repot and recommendations; (6) Redwood National Park issues; (7) Presentation on Stewardship contracting; (8) Presentation on Pillsbury hazardous fuels reduction project; (9) Fish and Wildlife Service Jobs in the Woods Program; and (10) Public comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: October 30, 2003

Phebe Y. Brown,

Staff Coordinator.

[FR Doc. 03–27790 Filed 11–4–03; 8:45 am]

BILLING CODE 3410–11–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, DC, from Monday through Wednesday, November 17–19, 2003, at the times and location noted below.

DATES: The schedule of events is as follows:

Monday, November 17, 2003

10–11 a.m. Executive Committee
11–Noon Planning and Budget Committee
1:30–3 p.m. Ad Hoc Committee on Public Outreach
3–4:30 Outdoor Developed Areas Ad Hoc Committee (Closed)
4:30–5:30 ADA and ABA Accessibility Guidelines Committee of the Whole (Closed)

Tuesday, November 18, 2003

9–Noon ADA and ABA Accessibility Guidelines Committee of the Whole (Closed)
1:30–5 p.m. Passenger Vessels Ad Hoc Committee (Closed)

Wednesday, November 19, 2003

8:30–10 a.m. Technical Programs Committee
10–Noon Public Rights-of-Way Ad Hoc Committee (Closed)
1:30–3 p.m Board Meeting (Parts Closed)
3–5 p.m. Public Rights-of-Way Ad Hoc Committee (Closed)

ADDRESSES: The meetings will be held at the Marriott at Metro Center, 775 12th St. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–0001 (voice) and (202) 272–0082 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items:

Open Meeting

- Approval of the July 9, 2003 Board Meeting Minutes
- Executive Committee Report
- Planning and Budget Committee Report
- Ad Hoc Committee on Outreach Report
- Technical Programs Committee Report
- Election of Vice Chair

Closed Meeting

- ADA and ABA Accessibility Guidelines Amendments and Cost Assessment
- Outdoor Developed Areas
- Passenger Vessels Accessibility Guidelines
- Public Rights-of-Way Accessibility Guidelines

All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings. Persons attending Board meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 03–27807 Filed 11–4–03; 8:45 am]

BILLING CODE 8150–01–P

BROADCASTING BOARD OF GOVERNORS

Submission for OMB; Comment Request

AGENCY: The Broadcasting Board of Governors.

ACTION: Submission for OMB review; comment request.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces that the information collection activity titled, ''Interviews and Other Audience Research for Radio and TV Marti'' has been forwarded to

the Office of Management and Budget (OMB) for review and comment. The Broadcasting Board of Governors (BBG) is requesting reinstatement of this collection for a three-year period and approval of a revision to the burden hours.

The information collection activity involved with this program is conducted pursuant to the mandate given to the BBG (formerly the United States Information Agency) in accordance with Public Law 98–111, the Radio Broadcasting to Cuba Act, dated, October 4, 1983, to provide for the broadcasting of accurate information to the people of Cuba and for other purposes. This act was then amended by Public Law 101–246, dated, February 16, 1990, which established the authority for TV Marti.

DATES: Comments must be submitted on or before December 5, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Jeannette Giovetti, the BBG Clearance Officer, BBG, M/AO, Room 1657A–1, 330 Independence Avenue, SW., Washington, DC 20237, telephone (202) 205–9692, e-mail address *JGiovett@ibb.gov;* or Mr. David Rostker, the OMB Desk Officer for BBG, via fax at (202) 395–7285 or by e-mail at: *David_Rostker@omb.eop.gov.*

Copies: Copies of the Request for Clearance (OMB 83–I), supporting statement, and other documents that have been submitted to OMB for approval may be obtained from the BBG Clearance Officer or the OMB Desk Officer for BBG.

SUPPLEMENTARY INFORMATION: An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on August 29, 2003, Volume 68, Number 168, Page 51963.

Public reporting burden for this proposed collection of information is estimated to average .30 minutes (.50 of an hour) per response for field survey respondents (700), and 240 minutes (4 hours) for Focus Group Study respondents (48), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses are voluntary and respondents will be required to respond only one time. Comments are requested on the proposed information collection concerning:

(a) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information has practical utility;

(b) The accuracy of the Agency's burden estimates;

(c) Ways to enhance the quality, utility, and clarity of the information collected; and

(d) Ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Send comments regarding this burden estimate or any other aspect of this collection of information to Ms. Jeannette Giovetti, the BBG Clearance Officer, BBG, M/AO, Room 1657A–1, 330 Independence Avenue, SW., Washington, DC 20237, telephone (202) 205–9692, e-mail address *JGiovett@ibb.gov;* or to Mr. David Rostker, the OMB Desk Officer for BBG, via fax at 202–395–7285 or by e-mail at: *David_Rostker@omb.eop.gov.*

Current Actions: BBG is requesting reinstatement of this collection for a three-year period and approval for a revision to the burden hours.

Title: Interviews and Other Audience Research for Radio and TV Marti.

Abstract: Data from this information collection are used by BBG's Office of Cuba Broadcasting (OCB) in fulfillment of its mandate to evaluate effectiveness of Radio and TV Marti operations by estimating the audience size and composition for broadcasts; and assess signal reception, credibility and relevance of programming through this research.

Proposed Frequency of Responses:

No. of Respondents—700 Field Study + 48 Group Study = 748.

Recordkeeping Hours—.50 Field Study + 4 Group Study = (350)+(192) = Total Annual Burden—542.

Dated: October 30, 2003.

Carol F. Baker,

Director of Administration.

[FR Doc. 03–27780 Filed 11–4–03; 8:45 am]

BILLING CODE 8610–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give all interested parties an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD SEPTEMBER 22, 2003–OCTOBER 27, 2003

Firm name	Address	Date petition accepted	Product
Automatic Machine Products Co., Inc	17 Wall Street, Attleboro, MA 02703	09/26/03	Valves and screw machine parts and assemblies used in refrigerators and air conditioners.
Central Tools, Inc	456 Wellington Avenue, Cranston, RI 02910.	10/27/03	Precision measuring tools for the automotive industry.
Cotta Transmission Co., LLC	1301 Prince Hall Drive, Beloit, WI 53411	10/07/03	Gear boxes for non-vehicle use.
Fend Corp. dba J. Custom Supply Company.	6141 Highway 19, Zachary, LA 70791	10/14/03	Cable assemblies.
Higgins Acquisition, Inc. dba Venture Products, Inc.	1511 Main Street, Oran, MO 63771	10/01/03	Golf and baseball caps.
MPI, Incorporated	165 Smith Street, Poughkeepsie, NY 12601.	10/02/03	Injection molding machines for processing thermoplastics.
Melron Corporation	8110 Technology Drive, Schofield, WI 54476.	10/15/03	Cast architectural metal hardware—handles, latches and strike plates for windows.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD SEPTEMBER 22, 2003–OCTOBER 27, 2003—Continued

Firm name	Address	Date petition accepted	Product
Mark VII Equipment, Inc	5981 Tennyson Street, Arvada, CO 80003.	10/20/03	Car wash systems—mechanical appliances for projecting, dispersing or spraying liquids or powders.
Norit Americas, Inc	3200 West University Ave., Marshall, TX 75671.	09/23/03	Activated carbon.
Peerless Pottery, Inc	671 North Lincoln Avenue, Rockport, IN 47635.	10/27/03	Vitreous china bathroom fixtures—water closets, urinals and lavatories.
Porter Medical Products, Inc	1609 S. SR 15–A, Deland, FL 32720	09/29/03	Surgical aortic punches for cardiac bypass surgery.
Southwest Textiles, Inc	P.O. Box 710, Abernathy, TX 79311	09/22/03	Cotton yarn.
Stanley Jeans Corp. dba Earl's Apparel, Inc.	908 South 4th Street, Crockett, TX 75835	09/22/03	Men's trousers of cotton.
Shuford Mill, Inc	P.O. Box 2228 Hickory, NC 28603	10/15/03	Yarns of woven cotton, poly-cotton, polyester and acrylic.
Trailmate, Inc	2359 Trailmate Drive, Sarasota, FL 34243.	09/26/03	Recreational specialty cycles including edgers and high-level lawn mowers.
Tricon Timber, LLC	126 Highway 135, Saint Regis, MT 59866	10/22/03	Coniferous lumber studs.
USCOA International Corporation	160 Coco Street, St. George, SC 29477	10/20/03	Doormats of cocoa fiber.
Zero Defects, Inc	1420 East Third Avenue, Post Falls, ID 83854.	10/22/03	Wire harnesses for power supply distribution boards.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm. Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

(The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.)

Dated: October 27, 2003.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 03–27792 Filed 11–4–03; 8:45 am]

BILLING CODE 3510–24–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588–862]

Notice of Final Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 5, 2003.

FOR FURTHER INFORMATION CONTACT: Timothy Finn or Michele Mire at (202) 482–0065 or (202) 482–4711, respectively, Office of AD/CVD Enforcement IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that high and ultra-high voltage ceramic station post insulators (HVSPs) from Japan are being, or are likely to be, sold in the United States at less than fair value (LFTV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Background

On June 6, 2003, the Department of Commerce (the Department) issued its preliminary determination in the above-captioned antidumping investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 35627 (June 16, 2003) (*Preliminary Determination*). *See* also *Notice of Initiation of Antidumping Duty Investigation: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 4169 (January 28, 2003) (*Initiation Notice*).

Since the preliminary determination, the following events have occurred. We gave interested parties an opportunity to comment on the preliminary determination. No case or rebuttal briefs were submitted. On June 20, 2003, NGK Insulators, Ltd. (NGK), the respondent, requested that the Department postpone the final determination the full sixty days as permitted by the statute and the Department's regulations. On June 23, 2003, the Department postponed the final determination until no later than 135 days after the publication of the preliminary determination in the **Federal Register**. *See* 68 FR 39897 (July 3, 2003).

Scope of Investigation

The scope of this investigation covers station post insulators manufactured of porcelain, of standard strength, high strength, or extra-high strength,[1] solid

[1] Station post insulators are manufactured in various styles and sizes, and are classified primarily according to the voltage they are designed to withstand. Under the governing industry standard issued by the Institute of Electrical and Electronic Engineers, the voltage spectrum is divided into three broad classes: ''medium'' voltage (i.e., less than or equal to 69 kilovolts), ''high'' voltage (i.e., from 115 to 230 kilovolts), and ''extra-high'' or

core or cavity core, single unit or stacked unit, assembled or unassembled, and with or without hardware attached, rated at 115 kilovolts (kV) voltage class and above (550 kV Basic Impulse Insulation Level and above), including, but not limited to, those manufactured to meet the following American National Standards Institute, Inc. standard class specifications: T.R.- 286, T.R.-287, T.R.-288, T.R.-289, T.R.-291, T.R.-295, T.R.-304, T.R.- 308, T.R.-312, T.R.-316, T.R.-362 and T.R.-391. Subject merchandise is classifiable under subheading 8546.20.0060 of the Harmonized Tariff Schedule of the United States (HTSUS) Annotated. While the HTSUS subheading is provided for convenience and customs purposes, the written description above remains dispositive as to the scope of the investigation.

Analysis of Comments Received

As noted above, there were no case or rebuttal briefs submitted in this investigation, nor was a hearing held in this investigation.

Use of Facts Available

In the *Preliminary Determination*, the Department applied total adverse facts available to the mandatory respondent, NGK, because NGK chose not to participate in the investigation. See *Preliminary Determination* at 35628. Specifically, the Department assigned NGK a dumping margin of 105.80 percent, the estimated dumping margin rate in the petition. *See Initiation Notice* at 4171. Also, the Department used the petition margin of 105.80 percent as the ''all others'' rate. *See Preliminary Determination* at 35629. Interested parties did not comment on the Department's use of adverse facts available in the *Preliminary Determination*, nor did they comment on the Department's choice of facts available. For this final determination, we are continuing to apply total adverse facts available to NGK.

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Bureau of Customs and Border Protection (BCBP) to continue to suspend liquidation of all entries of high and ultra-high voltage ceramic station post insulators from Japan that are entered, or withdrawn from warehouse, for consumption on or after June 16, 2003, the date of publication of the *Preliminary Determination*. BCBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following percentage margins exist for the period October 1, 2001 through September 30, 2002:

Manufacturer/Exporter	Weighted-Average Percent Margin
NGK	105.80
All Others	105.80

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing BCBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: October 29, 2003.

James J. Jochum,

Assistant Secretaryfor Import Administration.

[FR Doc. 03–27861 Filed 11–4–03; 8:45 am]

BILLING CODE 3510–DS–S

''ultra-high'' voltage (i.e., greater than 230 kilovolts).

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or e-mail at *oetca@ita.doc.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination of whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, DC 20230, or transmitted by e-mail to *oetca@ita.doc.gov*. Information submitted by any person is exempt from

disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 03–00007.'' A summary of the application follows.

Summary of the Application

Applicant: The Great Lakes Fruit Exporters Association, LLC, (GLFEA), 4949 North Branch Road, Benton Harbor, MI 49022, Contact: Denise Yockey, Telephone: (517) 336–4626.

Application No.: 03–00007.

Date Deemed Submitted: October 21, 2003.

GLFEA is a Limited Liability Company formed under the laws of the state of Michigan. Members (in addition to applicant): Greg Orchards and Produce, Inc. Benton Harbor, MI; Riveridge Produce Marketing, Inc., Sparta, MI; North Bay Produce, Inc., Traverse City, MI; Applewood Orchards, Inc., Deerfield, MI; Heeren Brothers Inc., d/b/a/ Heeren Brothers Produce, Grand Rapids, MI; Greenridge Fruit, Inc., Grand Rapids, MI; Jack Brown Produce, Inc., Sparta, MI; BelleHarvest Sales, Inc., Belding, MI; A.J.'s Produce Inc., Casnovia, MI; Appltree Marketing LLC, Ada, MI.

GLFEA seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

Export Trade

1. Products

Fresh Apples.

2. Services

All export-related services, including, but not limited to, international market research, marketing, advertising, sales promotion, brokering, handling, transportation, common marking and identification, communication and processing of foreign orders to and for Members, financing, export licensing and other trade documentation, warehousing, shipping, legal assistance, foreign exchange and taking title to goods.

3. Technology Rights

Technology Rights, including, but not limited to, patents, trademarks, copyrights and trade secrets that relate to Products and Services.

4. Export Trade Facilitation Services (as They Relate to the Export of Products, Services and Technology Rights)

Export Trade Facilitation Services, including, but not limited to, professional services and assistance relating to: Government relations; State and Federal export programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping and export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation services; and the formation of shippers' associations.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. With respect to the sale of Products and Services, licensing of Technology Rights and provisions of Export Trade Facilitation Services, GLFEA on its own or on behalf of any of its members may:

a. Establish sale prices, minimum sale prices, target sale prices and/or minimum target sale prices and other terms of sale in export markets;

b. Conduct marketing and distribution of fresh apples in export markets;

c. Conduct promotion of fresh apples;

d. Agree on quantities of fresh apples to be sold provided that each member shall be required to dedicate only that quantity or quantities as each Member shall independently determine.

e. Allocate geographic areas or countries in the export markets and/or customers in export markets among members.

f. Refuse to quote prices for fresh apples, or to market or sell fresh apples, to or for any customers in the export markets, or any countries or geographic areas in the export markets.

g. Enter into exclusive and nonexclusive agreements appointing one or more export intermediaries for the sales of fresh apples with price, quantity, territorial and/or customer restrictions as provided above.

2. GLFEA and it Members may exchange and discuss the following information:

a. Information about sale and marketing efforts for the export markets, activities and opportunities for sales of fresh apples in the export markets, selling strategies for the export markets, sales for the export markets, contract and spot pricing in the export markets, projected demands in the export markets for fresh apples, customary terms of sale in the export markets, prices and availability of fresh apples from competitors for sale in the export markets, and specifications for fresh apples by customers in the export markets.

b. Information about the price, quality, quantity, source, and delivery dates of fresh apples available from the Members to export.

c. Information about terms and conditions of contracts for sale in the export markets to be considered and/or bid on by The Great Lakes Fruit Exporters Association and its Members.

d. Information about joint bidding or selling arrangements for the export markets and allocations of sales resulting from such arrangements among the Members.

e. Information about expenses specific to exporting to and within the export markets, including without limitation, transportation, trans-or intermodel shipments, insurance, inland freights to port, port storage, commissions, export sales, documentation, financing, customs, duties, and taxes.

f. Information about U.S. and foreign legislation and regulations, including Federal marketing order programs, affecting sales for the export markets.

g. Information about The Great Lakes Fruit Exporters Association or its Members' export operations, including without limitation, sales and distribution networks established by The Great Lakes Fruit Exporters Association or its Members in the export markets, and prior export sales by Members (including export price information).

h. Information about export customer credit terms and credit history.

3. The Great Lakes Fruit Exporters Association and its Members may meet to engage in the activities described in paragraphs 1 and 2 above.

Definitions

1. ''Supplier'' means a person who produces, provides, or sells a Product and/or Service.

Dated: October 29, 2003.

Jeffrey C. Anspacher,

Director, Office of Export Trading Company Affairs.

[FR Doc. 03–27722 Filed 11–4–03; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Termination of Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Request for Panel Review of the less than fair value determination made by the International Trade Administration, respecting Certain Durum Wheat and Hard Red Spring Wheat from Canada (Secretariat File No. USA–CDA–2003–1904–04).

SUMMARY: Pursuant to the Notice of Termination of the Request for Panel Review by the complainants, the panel review is terminated as of October 31, 2003. A panel has not been appointed to this panel review. Pursuant to Rule 71(2) of the *Rules of Procedure for Article 1904 Binational Panel Review*, this panel review is terminated.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was requested and terminated pursuant to these Rules.

Dated: October 31, 2003.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. 03–27863 Filed 11–4–03; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904 NAFTA Panel Reviews; Decision of the Committee

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce

ACTION: Notice of completion of extraordinary challenge.

SUMMARY: On October 30, 2003 the Extraordinary Challenge Committee (ECC) issued its decision in the matter of Gray Portland Cement and Clinker from Mexico, Secretariat File No. ECC–2000–1904–01USA.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was conducted in accordance with these Rules.

SUPPLEMENTARY INFORMATION: On March 23, 2000, the Office of the United States Trade Representative filed a Request for an Extraordinary Challenge Committee to review decisions dated July 18, 1999 and November 10, 1999, with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping duty administrative review determination made by the International Trade Administration, respecting Gray Portland Cement and Clinker from Mexico. This determination was published in the **Federal Register** (65 FR 9243) on February 24, 2000. The NAFTA Secretariat assigned Secretariat File Number ECC–2000–1904–01USA to this request.

Committee Decision: The Committee concluded that the petitioners here, the United States and the STCC, have failed to demonstrate either that the Binational Panel ''manifestly exceeded its powers, authority or jurisdictions'' or that the Panel's determination on the single issue raised in the petition ''threatens the integrity of the Binational Panel review process.'' Inasmuch as these criteria have not been met, the petition is denied and the June 18, 1999 decision of the Binational Panel will not be disturbed.

The Committee Members are hereby discharged from their duties effective October 30, 2003.

Dated: October 30, 2003.

Caratina L. Alston,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 03–27862 Filed 11–4–03; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 103003C]

Marine Mammals; File No. 1048–1717

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

ACTION: Receipt of application and notice of availability of draft environmental assessment.

SUMMARY: Notice is hereby given that Dr. Peter J. Stein, Scientific Solutions, Inc., Nashua, New Hampshire, has applied in due form for a permit to take the marine mammal species listed below for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before December 5, 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; www.nmfs.noaa.gov/prot_res; andSouthwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

FOR FURTHER INFORMATION CONTACT: Dr. Tammy Adams or Carrie Hubard, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The applicant requests a permit to expose gray whales (*Eschrtictius robustus*) migrating offshore of central California to low-powered high-frequency active sonar, henceforth referred to as ''whale-finder sonar systems,'' while simultaneously recording any reactions of the animals to the sound. In addition to the target species, which is not listed under the ESA, the applicant also requests authorization for unintentional ''takes'' of the following non-target marine mammals that may be within the range of the whale-finder sonar systems: endangered blue whales (*Balaenoptera musculus*), endangered fin whales (B. physalus), endangered humpback whales (*Megaptera novaeangliae*), minke whales (*B. acutorostrata*), endangered sei whales (*B. borealis*), endangered sperm whales (*Physeter macrocephalus*), harbor porpoise (*Phocoena phocoena*), Dall's porpoise (*Phocoenoides dalli*), Pacific white-sided dolphins (*Lagenorhynchus obliquidens*), bottlenose dolphins (*Tursiops truncatus*), Risso's dolphins (*Grampus griseus*), short-beaked common dolphins (*Delphinus delphis*), northern right whale dolphins (*Lissodephis borelais*), killer whales (*Orcinus orca*), short-finned pilot whales (*Globicephala macrorhynchus*), Baird's beaked whales (*Berardius bairdii*), mesoplodont beaked whales (*Mesoplodon spp.*), Cuvier's beaked whales (*Ziphius cavirostris*), California sea lions (*Zalophus californianus*), harbor seals (*Phoca vitulina*), threatened Guadalupe fur seals (*Arctocephalus townsendi*), northern elephant seals (*Mirounga angustirostris*), northern fur seals (*Callorhinus ursinus*), and threatened Steller sea lions (*Eumetopias jubatus*). The objectives of the proposed research are to gather data on the reflectivity of whales, determine the probability of detection out to one mile, and determine what, if any, reaction the animals may have to high frequency active sonars designed to detect marine mammals. The purpose of the proposed research is to validate and improve the ability of whale-finder sonar systems to detect marine mammals without adversely affecting them.

A draft EA has been prepared to examine whether significant environmental impacts could result from issuance of the proposed scientific research permit. The draft EA is available for review and comment simultaneous with the scientific research permit application.

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.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: October 31.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 03–27846 Filed 11–4–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Legal Processes

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 5, 2004.

ADDRESSES: Direct all written comments to Susan K. Brown, Records Officer, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division, 703–308–7400, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313, Attn: CPK 3 Suite 310; by e-mail at *susan.brown@uspto.gov;* or by facsimile at 703–308–7407.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Office of General Counsel, USPTO, P.O. Box 1450, Alexandria, VA 22313–1450; or by telephone at 703–308–2000.

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of this collection is to cover information requirements related to civil actions and claims involving both current and former employees of the United States Patent and Trademark Office (USPTO). The rules for these legal processes may be found under 37 CFR part 104, which outlines procedures for service of process, employee testimony and production of documents in legal proceedings, employee indemnification, and filing claims against the USPTO under the Federal Tort Claims Act (28 U.S.C. 2672) and the corresponding Department of Justice regulations (28 CFR art 14). The public may also petition the Office of General Counsel under 37 CFR 104.3 to waive or suspend these rules in extraordinary cases.

The procedures under 37 CFR part 104 ensure that service of process intended for current and former employees of the USPTO is handled properly. The public uses this collection to submit information required by USPTO regulations covering legal processes, including service of process, employee testimony and production of documents in legal proceedings, employee indemnification, and claims under the Federal Tort Claims Act. There are no forms provided by the USPTO for this collection. For filing tort claims, the public may use Standard Form 95 ''Claim for Damage, Injury, or Death,'' which is provided by the Department of Justice and approved by

the Office of Management and Budget (OMB) under OMB Control Number 1105–0008.

This information collection was previously approved by OMB in March 2001 in conjunction with a proposed rulemaking by the USPTO entitled ''Legal Processes,'' published in the **Federal Register** on December 22, 2000 (Vol. 65, No. 247). The final rule notice was published in the **Federal Register** on September 12, 2001 (Vol. 66, No. 177).

II. Method of Collection

By mail or hand delivery to the USPTO.

III. Data

OMB Number: 0651–0046.

Form Number(s): None.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; not-for-profit institutions; farms; the Federal Government; and State, local or tribal governments.

Estimated Number of Respondents: 157 responses per year.

Estimated Time Per Response: The USPTO estimates that it will take the public from 5 minutes (0.08 hours) to 1 hour to gather the necessary information, prepare the appropriate documents, and submit the information required for the legal processes in this collection.

Estimated Total Annual Respondent Burden Hours: 29 hours per year.

Estimated Total Annual Respondent Cost Burden: $8,054 per year. The USPTO expects that the information in this collection will be prepared by attorneys and former employees, except for the requests for employee indemnification, which generally come from professional and supervisory staff. Since many of the former employees affected by this collection are attorneys, the attorney rate will be used for former employees as well. Using the professional rate of $286 per hour for associate attorneys in private firms, the USPTO estimates that the respondent cost burden for attorneys and former employees submitting the information in this collection will be $8,008 per year. Using the estimate of $45.99 per hour for professional and supervisory staff, the USPTO expects that the respondent cost burden for submitting requests for employee indemnification will be $46 per year. Therefore, the respondent cost burden for this collection will be $8,054 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Petition to Waive Rules	30 minutes	5	3
Service of Process	5 minutes	120	10
Forwarding Service	10 minutes	5	1
Employee Testimony and Production of Documents in Legal Proceedings	30 minutes	15	8
Forwarding Demands	10 minutes	5	1
Report of Unauthorized Testimony	30 minutes	1	1
Report of Possible Indemnification Cases	30 minutes	3	2
Employee Indemnification	30 minutes	1	1
Tort Claims	1 hour	2	2
Total		157	29

Estimated Total Annual Non-hour Respondent Cost Burden: $727 per year. There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of filing fees and postage costs.

This collection has filing fees associated with the petition to waive or suspend the legal process rules under 37 CFR 104.3. The filing fee for this petition is $130. There are no other filing fees associated with this information collection. The USPTO estimates that the total filing costs associated with this collection will be $650 per year.

Customers may incur postage costs when submitting the information in this collection to the USPTO by mail. The USPTO estimates that the average first-class postage cost for a mailed submission will be 49 cents and that up to 157 submissions will be mailed to the USPTO per year. The total estimated postage cost for this collection is $77 per year.

The total non-hour respondent cost burden for this collection in the form of filing fees and postage costs is $727 per year.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways 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, *e.g.*, the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 30, 2003.

Susan K. Brown,

Records Officer, USPTO, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division.

[FR Doc. 03–27793 Filed 11–4–03; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Headquarters, Air Force Reserve Officer Training Corps (AFROTC), Maxwell Air Force Base, Alabama.

ACTION: Notice.

In compliance with section 3503(c)(2)(A) of the Paperwork Reduction Act of 1995, Headquarters Air Force Reserve Officer Training Corps announces the proposed reinstatement of a public information

collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received within 60 days of this notice.

ADDRESSES: Written comments and recommendations on the proposed information collections should be sent to HQ AFROTC/RRU, 551 East Maxwell Boulevard, Maxwell AFB AL 36112–6106. Comments can also be submitted via e-mail to *margaret.taylor@maxwell.af.mil*.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed collection or to obtain a copy of the proposal and associated collection instruments, please write to the above addresses or call (334) 953–2528.

Title, Associated Form, and OMB Number: Application for AFROTC Membership, OMB Number 0701–0105.

Affected Public: College students who apply to join Air Force ROTC.

Annual Burden Hours: 4,000 (12,000 responses at 20 minutes each).

Number of Responses: 12,000.

Responses Per Respondent: 1.

Average Burden Per Response: 20 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: Respondents are college students who apply for membership in Air Force ROTC. The collected data is used to determine whether or not an applicant is eligible to join the Air Force ROTC program and, if accepted, the enrollment status of the applicant within the program. Upon acceptance into the program, the collected information is used to establish personal records for Air Force ROTC cadets. Eligibility for membership cannot be determined if this information is not collected.

Pamela Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 03–27731 Filed 11–4–03; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Headquarters, Air Force Reserve Officer Training Corps (AFROTC), Maxwell Air Force Base, Alabama.

ACTION: Notice.

In compliance with Section 3503(c)(2)(A) of the Paperwork Reduction Act of 1995, Headquarters Air Force Reserve Officer Training Corps announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received within 60 days of this notice.

ADDRESSES: Written comments and recommendations on the proposed information collections should be sent to HQ AFROTC/RRU, 551 East Maxwell Boulevard, Maxwell AFB AL 36112–6106. Comments can also be submitted via e-mail to *margaret.taylor@maxwell.af.mil.*

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed collection or to obtain a copy of the proposal and associated collection instruments, please write to the above addresses or call (334) 953–2528.

Title, Associated Form, and OMB Number: Air Force ROTC College Scholarship Application, OMB Number 0701–0101.

Affected Public: High school seniors and recent graduates who apply for an Air Force ROTC scholarship.

Annual Burden Hours: 8,500 (17,000 responses at 30 minutes each).

Number of Responses: 17,000.

Responses Per Respondent: 1.

Average Burden Per Response: 30 minutes.

Frequency: Annual.

SUPPLEMENTARY INFORMATION: Respondents will be high school seniors and recent graduate who apply for an Air Force ROTC college scholarship. This application will require approximately 30 minutes to complete. Respondents will have the option of completing the application on the Air Force ROTC internet homepage. Submitted data will be evaluated by Air Force ROTC College Scholarship Program selection boards to determine eligibility and to select individuals for the award of a college scholarship.

Pamela Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 03–27733 Filed 11–4–03; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given of the forthcoming AFSOC Advisory Group Meeting. The purpose of this meeting is to advise the Commander, AFSOC on its technological focus and capabilities. Because of classified and contractor-proprietary information will be discussed, this meeting will be closed to the public.

DATES: November 12–14, 2003.

ADDRESSES: AFSOC/CC 100 Bartley Street, Hurlburt Field Florida.

FOR FURTHER INFORMATION CONTACT: Major Tim Kelly, Air Force Scientific Advisory Board Secretariat, 1180 Air Force Pentagon, Rm 5D982, Washington DC 20330–1180, (703) 697–4811.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 03–27732 Filed 11–4–03; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information

collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by November 7, 2003. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before January 5, 2004.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: October 30, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: Consolidated State Performance Report.

Abstract: This information collection package contains the Consolidated State Performance Report (CSPR) . The Elementary and Secondary Education Act (ESEA), in general, and its provision for submission of consolidated plans, in particular (*see* section 9302 of the No Child Left Behind (NCLB), emphasize the importance of cross-program coordination and integration of federal programs into educational activities carried out with State and local funds. States would use this instrument for reporting on activities that o

Additional Information: The request for an emergency review of Part I of the No Child Left Behind (NCLB) Consolidated State Performance Report is being made to enable the Department to meet reporting requirements of NCLB. Section 1111(h)(5) of NCLB requires the Secretary to submit to Congress an annual report that provides national and State-level information that is derived from State reports mandated by Section 1111(h)(4). The statute requires that the first annual report cover the 2002–2003 school year. The earliest time that States can submit all these data to the Department is this fall, and to provide annual and timely information to the Congress the Department will need to submit its report this winter. For the Secretary's report to be an annual report, as the statute requires, the Secretary must report information on the 2002–2003 school year during the 2003–2004 school year. For the Department to review all the required data elements from the States, prepare its report to Congress, and distribute its annual report during the 2003–2004 school year, the Department must receive the State data no later than December 2003. The Department spent months of collaborating on this collection, and the collection received recent approval from the Secretary's office. Due to this unanticipated event, we are requesting OMB clearance of Part I of the Consolidated State Performance Report by October 31, 2003.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 52.

Burden Hours: 22,304.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2356. When you access the information collection, click on ''Download Attachments ''to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at her e-mail address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–27760 Filed 11–4–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Notice of Availability of a Financial Assistance Solicitation

AGENCY: National Energy Technology Laboratory, Department of Energy.

ACTION: Notice of availability of a financial assistance solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Solicitation No. DE–PS26–04NT15450–0 entitled, ''Oil Exploration and Production Program Solicitation.'' The primary mission of the Department of Energy (DOE)—National Oil Program, implemented through the National Energy Technology Laboratory (NETL)'s National Petroleum Technology Office (NPTO) in Tulsa, OK, is to conduct oil related research and development activities. The purpose is to expand the knowledge base through which industry can bring additional oil reserves and new technology options into the marketplace in a cost-effective and environmentally acceptable manner. The goal of this Oil Exploration and

Production Program Solicitation is to support research that supplements and complements but does not duplicate or displace private and other public research and development efforts. The objective of the solicitation is to select midterm type research projects that will focus on cost effectively improving current technologies.

DATES: The solicitation will be available on the ''Industry Interactive Procurement System'' (IIPS) webpage located at *http://e-center.doe.gov* on or about October 30, 2003. Applicants can obtain access to the solicitation from the address above or through DOE/NETL's Web site at *http://www.netl.doe.gov/business.*

FOR FURTHER INFORMATION CONTACT: Juliana L. Heynes, MS 921–107, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 10940, MS 921–107, Pittsburgh, PA 15236, E-mail Address: *heynes@netl.doe.gov,* Telephone Number: 412–386–4872.

SUPPLEMENTARY INFORMATION: The goals of the Department of Energy's Fossil Energy Oil Program are derived from the National need for increased oil production as a part of the national security, requirements for Federal lands stewardship and increased protection of the environment. The core research program of NETL continues to support these goals through carefully selected projects from similar program solicitations. Approximately two-thirds of all the oil discovered in the United States remains in the ground. This effort will provide further development of technologies to recover the remaining reserves in the domestic arena. Technological advances can also be applied by companies in foreign reserves, increasing global supplies as well. The program supports the National Energy Policy goals to increase domestic oil exploration through continued partnership with public and private entities and to promote enhanced oil recovery from existing wells through new technology. By providing support to the development of improved and new technologies in three specific areas, the results should improve oil recovery and increase hydrocarbon reserves. This will augment the domestic oil supply. Applications submitted to any Area of Interest or technical topic must contain a minimum of 20% cost share. Approximately twelve million dollars ($12,000,000) is expected to be available for new awards under this announcement. It is anticipated that six million dollars ($6,000,000) will be available during Fiscal Year 2004. (**Note:** The limit on participation by an M&O contractor for an individual project under this solicitation cannot exceed 25% of the total project cost).

This solicitation has *three separate Areas of Interest:*

Area 1—Drilling Technology for High Speed Downhole Motors

Area 1 is limited to one technical topic. Applications in Area 1 will be for projects designed to develop high-speed downhole motors suitable for drilling with high speed bits in the harsh downhole drilling environment. The Oil Program has a drilling program that is currently focused mainly on microhole drilling and applications. However, the area of high speed bit development is progressing steadily and it was recognized that a suitable downhole motor will be necessary to fully develop the capabilities of the high speed bits in multiple applications. Current long-term research efforts are looking for solutions to drilling in deep wells and hard rock. High speed drilling holds the potential to reduce drilling costs and produce a smaller environmental footprint. The need for a downhole motor to operate with these bits will be required in the near future. It is anticipated these bits and motors will be employed in directional, slimhole and coiled tubing drilled wells. The drilling program will look to enhance this developing area of research.

Area 2—Advanced Diagnostics and Imaging Technology

Area 2 is comprised of three separate technical topics: (A) Subsurface Imaging; (B) Regional Study and Basin Analysis; and (C) Reservoir Characterization and Management.

The Advanced Diagnostics and Imaging Systems (ADIS) Program is an integral part of the DOE/FE mission and strategy. ADIS is directed toward cross-cutting interdisciplinary research to develop advanced and innovative technologies applied to the incremental recovery of the estimated 160 billion barrels of existing and undiscovered technically recoverable oil from onshore and offshore waters of the United States (USGS, 1995, MMS, 1996).

Uncertainty concerning the physical and chemical nature of oil reservoirs is one of the most severe technological barriers to increasing the economic oil recovery from existing and undiscovered fields. Oil reservoirs are composed of a wide variety of architectural heterogeneities (*i.e.*, rock facies geometry, diagenetic alterations, fracturing, stratigraphic and structural setting). Porosity, relative permeability, pore and pore throat morphology, capillary forces, miscibility and saturation variations (oil-gas brine plus other displacing fluid/gas compositions, rock-fluid, fluid-gas and fluid-fluid interactions) also contribute to technical recovery barriers. Several of these variables often change between like reservoirs within a single geologic play and change due to temporal and spatial dynamic alterations that occur within a reservoir throughout the exploitation and recovery processes.

The ADIS section of this solicitation supports research designed to quantify the interrelationship of the reservoir rock architecture, fluid-rock, fluid-gas, and fluid-fluid interactions that impact oil productibility from petroleum reservoirs. Research efforts should target geologic formations and associated oil reservoirs within United States basins. Multidisciplinary teaming and active involvement by oil producers and /or service companies, with interests in the application of research results for more efficient recovery of larger volumes of oil from fields within the geologic formations and basin studied, is strongly encouraged. Results of these research and technology developments shall be aggressively transferred to the public and private industry thus allowing for informed decisions related to cost-effective reservoir management and exploitation of like oil reservoirs within the productive formations studied.

Area 3—Reservoir Efficiency Processes

Area 3 is comprised of six separate technical topics: (A) Chemical Flooding; (B) Microbial Flooding; (C) Heavy Oil Recovery; (D) Novel Processes; (E) Reservoir Simulation; and (F) Gas Flooding.

Fossil fuels will likely remain the principal energy sources for most of the world, including the United States, well into the middle of the century. The program shall expand the knowledge base which, with industry, can bring efficient, economically competitive, and environmentally acceptable new fossil energy resources and technology options into the marketplace and improve the United States national security by reducing dependence on imported oil. As an integral part of the Fossil Energy mission and strategy, Production Research is directed toward the development of advanced and innovative technologies for recovering oil from large, currently unrecoverable petroleum resources.

As an integral part of the Fossil Energy mission and strategy, the extraction research of oil is directed toward the development of advanced and innovative technologies for recovering oil from large, currently unrecoverable, petroleum resources.

Primary and secondary recovery operations have been utilized for many years to extract oil from reservoirs.

With continually diminishing United States crude production and increasing dependency on foreign supplies, there is a need to develop oil production from these domestic oil resources. Advanced Recovery Concepts will play a significant role in the exploitation of these domestic resources. New techniques to overcome the problems associated with advanced recovery are needed in order to meet the energy demands of the immediate future. The importance of increasing the petroleum reserves of the United States through the production of oil left in petroleum reservoirs after conventional recovery techniques are used is well known and well documented.

Once released, the solicitation will be available for downloading from the IIPS Internet page. At this Internet site you will also be able to register with IIPS, enabling you to submit an application. If you need technical assistance in registering or for any other IIPS function, call the IIPS Help Desk at (800) 683–0751 or E-mail the Help Desk personnel at *IIPS_HelpDesk@e-center.doe.gov.* The solicitation will only be made available in IIPS, no hard (paper) copies of the solicitation and related documents will be made available. Telephone requests, written requests, E-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation.

Issued in Pittsburgh, PA on October 28, 2003.

Dale A. Siciliano,

Director, Acquisition and Assistance Division.

[FR Doc. 03–27827 Filed 11–4–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–30–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 30, 2003.

Take notice that on October 22, 2003, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Fourteenth Revised Sheet No. 40, to become effective on December 1, 2003.

Algonquin states that the filing is being made to revise its Fuel Reimbursement Percentages (FRPs) for the calendar period beginning December 1, 2003, pursuant to section 32 of the General Terms and Conditions of its FERC Gas Tariff. Algonquin further states that it has used actual data for the last 24-month period ending July 31, 2003, since the prior 12-month period includes a winter period during which Algonquin's market area experienced severe weather conditions, resulting in unusually high levels of Company Use Gas on Algonquin's system.

Algonquin states that copies of the filing were mailed to all affected customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary''. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00178 Filed 11–4–03;8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–466–003]

CenterPoint Energy-Mississippi River Transmission Corporation; Notice of Compliance Filing

October 30, 2003.

Take notice that on October 28, 2003, CenterPoint Energy-Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following substitute revised tariff sheets, to be effective on October 1, 2003:

Substitute Fourth Revised Sheet No. 167A
Seventh Revised Sheet No. 170
Original Sheet No. 170A

MRT states that the purpose of this filing is to comply with the Commission's Letter Order dated October 16, 2003.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00177 Filed 11–4–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–011–000]

Chinook Pipeline Company and Omimex Canada Ltd., Applicants; Notice of Application

October 30, 2003.

Take Notice that on October 24, 2003, Chinook Pipeline Company (Chinook) filed in Docket No. CP04–011–000, an application pursuant to Section 3 of the Natural Gas Act (NGA), Part 153 of the regulations of the Federal Energy Regulatory Commission (Commission), Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 0204–112 to transfer from Chinook to Omimex Canada, Ltd. (Omimex) the authorization and Presidential Permit previously issued to Chinook. Chinook requests the Commission to issue an order transferring to Omimex the NGA Section 3 authorization and Presidential Permit to operate and maintain facilities at the international boundary between the United States and Canada in Blaine County, Montana and near Loomis, Saskatchewan, Canada (the Facilities) for the exportation of natural gas to Canada.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10) by the comment date, below. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken; but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Protests and interventions may be filed electronically via the Internet in lieu of paper; *see*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a application will be issued.

Comment Date: November 20, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00166 Filed 11–04–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–33–000]

East-of-California Shippers, Complainant v. El Paso Natural Gas Company, Respondent; Notice of Complaint

October 30, 2003.

Take notice that on October 29, 2003, East-of-California Shippers (EOC Shippers) filed a Complaint Requesting Fast Track Processing pursuant to sections 4(b), 5(a), and 16 of the Natural Gas Act (NGA) Rule 206 of the Commission's Rule of Practice and Procedures, 18 CFR 385.206 against El Paso Natural Gas Company (El Paso). EOC Shippers allege that El Paso: (1) Failed to properly implement a ''California Receipt Service'' in violation of the Commission's May 31, 2002, September 20, 2002, December 26, 2002 and July 9, 2003 Orders in Docket Nos. RP00–336–000 *et al.* and the express terms of El Paso's tariff; (2) imposed an unwritten service condition on the availability of California Receipt Service in violation of section 284.7(c) of the Commission's regulations; and (3) is implementing the California Receipt Service in an unduly discriminatory manner in violation of section 284.7(b) and 284.9(b) of the Commission's regulations, and section 4(b) of the NGA.

Any person desiring to be heard or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. The answer to the complaint and all comments, interventions or protests must be filed on or before the comment date. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. The answer to the complaint, comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: November 13, 2003.

Magalie R Salas,

Secretary.

[FR Doc. E3–00180 Filed 11–4–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENGERY

Federal Energy Regulatory Commission

[Docket No. CP04–10–000]

EnCana Border Pipelines Limited and Omimex Canada, Ltd.; Notice of Application

October 30, 2003.

On October 24, 2003, EnCana Border Pipelines Limited (EnCana Border), formerly 3698157 Canada Ltd., and Omimex Canada, Ltd. (Omimex) filed an application requesting the Commission to issue an order transferring 3698157 Canada Ltd 's NGA Section 3 authorization and Presidential Permit to Omimex to operate and maintain

facilities at the international boundary between the United States and Canada at Reagan, Alberta and Del Bonita, Montana for the importation of natural gas into the United States, all as more fully set forth in the application on file with the Commission and open to public inspection. This filing may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

EnCana Border and Ominex state that the facilities consist of approximately one mile of 4½ inch pipe extending from the interconnection with the EnCana Border system on the northern side of the international boundary between the United States and Canada in a southerly direction to the interconnection with the 4-inch gathering line owned by Northwestern Corporation, formerly Montana Power Gas Company.

EnCana Border and Omimex state that approval of the subject request would facilitate the sale of the facilities to Omimex pursuant to a Purchase and Sale Agreement between EnCana Border and Omimex. The transfer will not affect the underlying use of the Facilities or the services that are currently provided to customers on the Facilities.

Any questions regarding the application should be directed to Stefan M. Krantz, Esquire, Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW., Washington, DC 20037, at (202) 861–9113.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission Orders in the proceeding.

A person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and instructions on the Commission's web site under the ''e-Filing'' link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Comment Date: November 20, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00181 Filed 11–04–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES04–4–000]

Golden Spread Electric Cooperative, Inc.; Notice of Application

October 30, 2003.

Take notice that on October 23, 2003, the Golden Spread Electric Cooperative, Inc. (Golden Spread) submitted an application pursuant to section 204 of the Federal Power Act seeking authorizations to assume long-term loans of $14 million and issue $6 million in long-term debt for the purpose of financing the acquisition of facilities from South Plains Electric Cooperative, Inc., one of its member cooperatives. Both the long-term notes assumed and debt issued will be with the National Rural Cooperative Financing Corporation.

Golden Spread also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: November 20, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00168 Filed 11–04–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–363–007]

North Baja Pipeline, LLC; Notice of Negotiated Rate

October 30, 2003.

Take notice that on October 24, 2003, North Baja Pipeline, LLC (NBP) tendered for filing to be part of its FERC Gas Tariff, Original Volume No. 1 Second Revised Sheet No. 6 and First Revised Sheet No. 8, with an effective date of January 1, 2003.

NBP states that these sheets are being filed to reflect a negotiated rate agreement with Termoelectrica De Mexicali, S. de R.L. de C.V. that went into effect on January 1, 2003.

NBP further states that a copy of this filing has been served on NBP's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary''. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00174 Filed 11–4–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–398–002]

Northern Natural Gas Company; Notice To Place Suspended Rates and Tariff Sheets Into Effect

October 30, 2003.

Take notice that on October 27, 2003, Northern Natural Gas Company (Northern), tendered for filing its motion to place suspended rates and tariff sheets into effect on November 1, 2003.

Also, Northern tendered for filing substitute tariff sheets to remove reference to rates for its new PDD service and changes to its DDVC rates, which are pending Commission action in Northern's Order No. 637 proceeding in Docket No. RP00–404–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before the protest date as shown below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: November 6, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00176 Filed 11–4–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice

October 30, 2003.

Regional Transmission Organizations

[RT01–99–000, RT01–99–001, RT01–99–002 and RT01–99–003]

Bangor Hydro-Electric Company, et al.

[RT01–86–000, RT01–86–001 and RT01–86–002]

New York Independent System Operator, Inc., et al.

[RT01–95–000, RT01–95–001 and RT01–95–002]

PJM Interconnection, L.L.C., et al.

[RT01–2–000, RT01–2–001, RT01–2–002 and RT01–2–003]

PJM Interconnection, L.L.C.

[RT01–98–000]

ISO New England, Inc. New York Independent System Operator, Inc.

[RT02–3–000]

Take notice that PJM Interconnection, L.L.C., New York Independent System Operator, Inc. and ISO New England, Inc. have posted on their internet websites charts and information updating their progress on the resolution of ISO seams.

Any person desiring to file comments on this information should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such comments should be filed on or before the comment date. Comments may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: November 21, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00165 Filed 11–4–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–356–001]

Southern Star Central Gas Pipeline, Inc.; Notice of Compliance Filing

October 30, 2003.

Take notice that on October 27, 2003, Southern Star Central Gas Pipeline, Inc. (Southern Star) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective November 1, 2003.

Southern Star states that the purpose of this filing is to comply with the Commission's Order dated October 6, 2003 permitting Southern Star to become a daily allocation pipeline.

Southern Star states that copies of the transmittal letter and appendices are being mailed to Southern Star's jurisdictional customers and interested state commissions, as well as those parties appearing on the official service list for this docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary link.'' Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00175 Filed 11–4–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENGERGY

Federal Energy Regulatory Commission

[Docket No. RP04–32–000]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

October 30, 2003.

Take notice that on October 24, 2003, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Seventh Revised Sheet No. 40Z, to be effective November 1, 2003.

Transco states that copies of the filing are being mailed to its affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary''. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00179 Filed 11–04–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–552–005, et al.]

New York Independent System Operator, Inc., et al.; Electric Rate and Corporate Filings

October 29, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. New York Independent System Operator, Inc.

[Docket Nos. ER03–552–005 and ER03–984–003]

Take notice that on October 23, 2003, the New York Independent System Operator, Inc. (NYISO) tendered for filing a compliance filing in connection with the Commission's September 22, 2003, Order in Docket No. ER03–552–000, *et al.*

NYISO states that it has served a copy of this filing to all parties listed on the official service list maintained by the Secretary of the Commission in these proceedings and to all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, the New York State Public Service Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: November 13, 2003.

2. PJM Interconnection, L.L.C.

[Docket No. ER03–1117–001]

Take notice that on October 23, 2003, PJM Interconnection, L.L.C. (PJM) in compliance with the Commission's Order, 104 FERC ¶61,321 submitted an explanation justifying the inclusion of the risk profile component in the proposed Default Allocation Assessment formula contained in amendments to the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., filed July 25, 2003, in Docket No. ER03–1117–000.

PJM states that copies of this filing have been served on each person designated on the official service list.

Comment Date: November 13, 2003.

3. NorthWestern Energy

Docket Nos. ER03–1188–001, ER03–1189–001, ER03–1190–001, ER03–1191–001, ER03–1192–001, ER03–1193–001, ER03–1194–001, and ER03–1195–001]

Take notice that on October 23, 2003, NorthWestern Energy, a division of NorthWestern Corporation (NorthWestern), submitted its filing to comply with the Order of the Director,

Division of Tariffs and Market Development—Central issued on September 23, 2003. The compliance filing contains the designation cover sheets required by Order No. 614.

Comment Date: November 13, 2003.

4. Ameren Services Company

[Docket No. ER03–1280–001]

Take notice that on October 23, 2003, Ameren Services Company (ASC) tendered for filing a revised unexecuted Network Integration Transmission Service and Network Operating Agreement between ASC and Citizens Electric Corporation to replace the unexecuted Agreement in Docket No. ER03–1280–000 filed on September 2, 2003.

Comment Date: November 13, 2003.

5. Chanarambie Power Partners LLC

[Docket No. ER03–1340–001]

Take notice that on October 23, 2003, Chanarambie Power Partners LLC filed a revision to its Rate Schedule FERC No. 1 to provide the rate schedule designation information required by FERC's Order No. 614 and to reflect the requested effective date of its rate schedule.

Comment Date: November 13, 2003.

6. Entergy-Koch Trading, LP

[Docket No. ER01–2781–001]

Take notice that on August 29, 2003, Entergy-Koch Trading, LP (EKT), submitted for filing a Notification of a non-material change in the characteristics that the Commission relied upon in granting EKT Market-based rate authority under section 205 of the Federal Power Act.

Comment Date: November 7, 2003.

7. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER04–66–000]

Take notice that on October 23, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing a Notice of Succession of certain Network Integration Transmission Service and Operating Agreements entered into by and between Northern Indiana Public Service Company (NIPSCO) and various transmission customers.

The Midwest ISO has requested waiver of the sixty-day effective date and has requested an effective date of October 1, 2003, the date the provision of transmission services across the transmission facilities of NIPSCO under the various ongoing Network Integration Transmission Service and Operating Agreements commenced under the Midwest ISO OATT.

Midwest ISO states it has served a copy of this filing upon the affected customers. In addition, the Midwest ISO states that it has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all state commissions within the region. The Midwest also states that the filing has been electronically posted on the Midwest ISO's Web site at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: November 13, 2003.

8. American Electric Power Service Corporation

[Docket No. ER04–73–000]

Take notice that on October 23, 2003, the American Electric Power Service Corporation (AEPSC) tendered for filing pursuant to Section 35.15 of the Federal Energy Regulatory Commission's regulations, 18 CFR Section 35.15, a Notice of Termination of an executed Facilities Agreement between Ohio Power Company and DPC Northeast Power, LLC. designated as Service Agreement No. 515 under American Electric Power Operating Companies' Open Access Transmission Tariff.

AEP requests an effective date of October 22, 2003. AEP states that a copy of the filing was served upon DPC Northeast Power LLC and the Public Utilities Commission of Ohio.

Comment Date: November 13, 2003.

9. PacifiCorp

Docket No. ER04–74–000.

Take notice that on October 24, 2003, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations a Notice of Cancellation of PacifiCorp's Rate Schedule No. 343 with Alcoa Power Generating, Inc. (formerly known as Colockum Transmission Company) effective June 30, 2003.

PacifiCorp states that copies of this filing were supplied to Alcoa Power Generating, Inc. (formerly known as Colockum Transmission Company); Public Utility District No. 1 of Chelan County; the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment Date: November 14, 2003.

10. Idaho Power Company

Docket No. ER04–75–000

Take notice that on October 24, 2003, Idaho Power Company (Idaho Power) tendered for filing with the Federal Energy Regulatory Commission a Contract Demand Notice relating to an agreement between Idaho Power and Seattle City Light, FERC Rate Schedule No. 72. Idaho Power seeks an effective date of January 1, 2004.

Comment Date: November 14, 2003.

11. Southern California Edison Company

[Docket No. ER04–76–000]

Take notice that on October 24, 2003, Southern California Edison Company (SCE) tendered for filing an Amended Interconnection Facilities Agreement (Amended Interconnection Agreement) and an Amended Service Agreement For Wholesale Distribution Service (Amended Service Agreement) between Whitewater Hill Wind Partners, LLC (Whitewater) and SCE. SCE states that the Amended Interconnection Agreement reflects the addition of terms and conditions to the Interconnection Agreement to provide for SCE to design, engineer, procure, construct, install, own, operate and maintain, and for Whitewater to pay for, the Distribution System Facilities and Reliability Upgrades associated with the Devers-Garnet-Windpark-Banning-Zanja 115 kV line reconfiguration. SCE states that the Amended Service Agreement reflects the increase in distribution system capacity made available to Whitewater and the change in the point of delivery which will occur upon the in-service date of the line reconfiguration.

SCE states that copies of this filing were served upon the Public Utilities Commission of the State of California and Whitewater.

Comment Date: November 14, 2003.

12. The Dayton Power and Light Company

[Docket No. ER04–77–000]

Take notice that on October 24, 2003, The Dayton Power and Light Company (Dayton), on behalf of Cincinnati Gas and Electric Company (CG&E) and Columbus Southern Power Company (CSP) tendered for filing an Interconnection Agreement between DP&L, CG&E, CSP and East Kentucky Power Cooperative.

Comment Date: November 14, 2003.

13. Wisconsin Electric Power Company and Wisconsin Public Service Corporation

[Docket No. ER04–78–000]

Take notice that on October 24, 2003, Wisconsin Electric Power Company (Wisconsin Electric) and Wisconsin Public Service Corporation (WPS) jointly tendered for filing: (1) Revised

rate schedule sheets in the Control Area Operations Coordination Agreement between Wisconsin Electric and WPS designated as Wisconsin Electric's Rate Schedule FERC No. 99; and (2) a revised Control Area Operations Coordination Agreement between Wisconsin Electric and WPS designated as WPS' First Revised Rate Schedule FERC No. 63. Wisconsin Electric and WPS also jointly tendered cancellation documents to terminate Wisconsin Electric's Rate Schedule FERC No. 77 and WPS' Rate Schedule No. 54.

Wisconsin Electric and WPS request that the Commission waive its notice of filing requirements and allow the revised sheets in both agreements to become effective as of October 24, 2003. Wisconsin Electric and WPS also request that the Commission waive its notice of filing requirements and allow the remainder of the WPS Agreement and the cancellation documents to become effective January 1, 2001.

Wisconsin Electric an WPS state that copies of this filing have been served to the Public Service Commission of Wisconsin.

Comment Date: November 14, 2003.

14. American Electric Power Service Corporation

[Docket No. ER04–79–000]

Take notice that on October 24, 2003, the American Electric Power Service Corporation (AEPSC) tendered for filing a Facilities Agreement between Indiana Michigan Power Company and Covert Generating Company, LLC. AEPSC states that the agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff, Third Revised Volume No. 6.

AEP requests an effective date of October 17, 2001. AEP states that a copy of the filing was served upon Covert Generating Company, LLC and the Indiana Utility Regulatory Commission, the Michigan Public Service Commission.

Comment Date: November 14, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00182 Filed 11–04–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–232]

Grand River Dam Authority; Notice of Availability of Environmental Assessment

October 30, 2003.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects' staff has prepared an Environmental Assessment (EA) for Grand River Dam Authority's application for non-project use of project lands and waters for approval to permit Joe Harwood d/b/a Arrowhead Investment & Development Company to expand and modernize an existing marina from 9 existing docks with 111 boat slips and a service station to 11 docks with 175 boats slips and a new service station. The project is located on the Duck Creek arm of Grand Lake O' the Cherokees, on the Grand/Neshoo River in northeastern Oklahoma.

The EA contains the staff's analysis of the potential environmental impacts of the proposal and concludes that approval of the proposal would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is attached to a Commission Order titled ''Order Approving Non-Project Use of Project Property'' issued October 23, 2003 (105 FERC ¶ 61, 100) which is available for review at the Commission in the Public Reference Room, or it may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (prefaced by P-) and excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free (866) 208–3676, or for TTY, contact (202) 502–8659.

For further information, contact Heather Campbell at (202) 502–6182.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00172 Filed 11–04–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 516–319, 321, 326, 329, 330, 331, 332, 333, 354, 355, 356, 357, 358, and 359]

South Carolina Electric & Gas Company; Notice of Availability of Final Environmental Assessment

October 30, 2003.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects staff has reviewed the applications for the sale of 14 parcels of project land adjacent to Lake Murray, the Saluda Hydroelectric Project impoundment, for future private development and has prepared a Final Environmental Assessment (FEA) for the land sales. The parcels of land are located in Lexington, Saluda, and Newberry counties, South Carolina.

The FEA contains the staff's analysis of the potential environmental effects of the proposed sale of certain tracts of land and concludes that SCE&G's proposal to sell the 14 parcels of project land for future private development, with staff recommended measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the FEA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://*

www.ferc.gov using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. For further information, contact Jack Hannula by E-mail at *John.Hannula@ferc.gov* or by phone (202) 502–89.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00173 Filed 11–4–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Declaration of Intention and Soliciting Comments, Motions To Intervene and Protests

October 30, 2003.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI04–1–000.

c. *Date Filed:* October 10, 2003.

d. *Applicant:* Floyd Templin, 61071 Raintree Road, Hidden River Hills, Centreville, MI 49032, telephone (269) 467–7739.

e. *Name of Project:* Lake Templene Hydroelectric Project.

f. *Location:* The Lake Templene Hydroelectric Project would be located in Tps. 6 & 7 S., R. 10 W., Michigan Meridian, on the Prairie River, St. Joseph County, Michigan. The project will not occupy tribal or Federal land.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* John E. Fisher, Lawson-Fisher Associates P.C., 525 West Washington Avenue, South Bend, IN 46601, telephone (574) 234–3167, FAX (574) 236–1330, E-Mail *lfa@lawson-fisher.com*

i. *FERC Contact:* Any questions on this notice should be addressed to Diane M. Murray (202) 502–8838, or E-mail address: *diane.murray@ferc.gov.*

j. *Deadline for filing comments and/or motions:* December 5, 2003.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov.*

Please include the docket number (DI04–1–000) on any comments or motions filed.

k. *Description of Project:* The Lake Templene Hydroelectric Project would consist of: (1) Lake Templene Reservoir and Dam; (2) a proposed turbine/generating unit, with a total rated capacity of 100 kW attached to the dam outlet; and (3) appurtenant facilities. The hydroelectric unit will be tied into the electric utility provided by the City of Sturgis, MI, or Consumer's Energy.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link, select ''Docket#'' and follow the instructions. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00167 Filed 11–04–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Extension of Time To Commence and Complete Construction and Soliciting Comments, Motions To Intervene, and Protests

October 30, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Extension of Time to Commence and Complete Construction.

b. *Project No:* 10395–026.

c. *Date Filed:* September 29, 2003.

d. *Applicant:* City of Augusta, Kentucky.

e. *Name and Location of Project:* The Meldahl Hydroelectric Project is to be located at the U.S. Army Corps of Engineers' Meldahl Locks and Dam on the Ohio River in Bracken County, Kentucky.

f. *Filed Pursuant to:* Public Law 105–213 and sections 4.200c and 4.202a of the Commission's regulations.

g. *Applicant Contact:* James B. Price, Meldahl Hydroelectric, LLC, P.O. Box 903, Gatlinburg, TN 37738, (865) 436–0402.

h. *FERC Contact:* James Hunter, (202) 502–6086.

i. *Deadline for filing comments, protests, and motions to intervene:* December 1, 2003.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–10395) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

j. *Description of Application:* The Applicant requests that the deadline for commencement of project construction be extended to July 31, 2005, as authorized by Public Law 105–213. In support of its request, the Applicant states that it has expended considerable sums on project development and is proposing an amendment of the project design that would substantially reduce the project cost. The deadline for completion of construction would also be extended.

k. This filing is available for review and reproduction at the Commission in the Public Reference Room at 888 First Street, NE, Room 2A, Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov.* using the ''eLibrary'' link. Enter the docket number excluding the last three digits (P–10395) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOSupport@ferc.gov.*. For TTY, call (202) 502–8659. A copy is also available for review and reproduction at the address in item g. above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

o. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00169 Filed 11–4–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

October 30, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12470–000.

c. *Date Filed:* September 11, 2003.

d. *Applicant:* City of Broken Bow, Oklahoma.

e. *Name of Project:* Broken Bow Re-regulating Dam Project.

f. *Location:* On the Mountain Fork River, in McCurtain County, Oklahoma utilizing the Broken Bow Re-regulating Dam which is administered by the U.S. Army Corp of Engineers (Corps).

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Mark Guthrie, City Manager, City of Broken Bow, Oklahoma, 210 N Broadway, Broken Bow, OK 74728, (918) 584–2885.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for Filing Comments, Protests, and Motions To Intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed run-of-river project utilizing the Corps' existing Broken Bow Re-Regulating Dam would consist of: (1) A proposed powerhouse containing a generating unit having an installed capacity of 5 megawatts, (2) a proposed transmission line, and (3) appurtenant facilities.

Applicant estimates that the average annual generation would be 20 gigawatt-hours and would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the

competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies Under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *See* 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filings.

s. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00170 Filed 11–04–03;8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

October 30, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 12473–000.

c. *Date filed:* October 2, 2003.

d. *Applicant:* San Diego County Water Authority.

e. *Name of Project:* Olivenhain-Hodges Pumped Storage Project.

f. *Location:* The project would be located in San Diego County, California, on a planned water conductor system between Olivenhain Reservoir and Lake Hodges.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r

h. *Applicant Contact:* Mr. Timothy M. Smith, San Diego County Water Authority, 4677 Overland Avenue, San Diego, CA 92123, (858) 522–6873.

i. *FERC Contact:* James Hunter, (202) 502–6086.

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing responsive documents:* The Commission directs, pursuant to Section 4.34(b) of the Regulations (*see* Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, motions to intervene, protests, recommendations, terms and conditions, and prescriptions concerning the application be filed with the Commission by November 28, 2003. All reply comments must be filed with the Commission by December 15, 2003.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Project:* The proposed project would consist of: (1) A pump-generating station near the west shoreline of Lake Hodges, 75 feet by 74 feet at grade and a 30-foot-long, 15-foot-wide, 25-foot-high structure above grade, (2) two pump-generating units, each with a rated capacity of 20 megawatts, and (3) bypass facilities consisting of a pressure control valve in the station and 24-inch-diameter piping connecting to the penstock and one of the draft tubes. The average annual

energy production would be 53 gigawatt hours.

m. This filing is available for review and reproduction at the Commission in the Public Reference Room at 888 First Street, NE., Room 2A, Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits (P–12473) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for review and reproduction at the address in item h. above.

n. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

q. All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Magalie R. Salas,

Secretary.

[FR Doc. E3–00171 Filed 11–04–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[TRI–2003–0001; FRL 6723–4]

Toxic Chemical Release Reporting; Community Right-to-Know; Notice of On-Line Dialogue

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; request for public comment.

SUMMARY: EPA will hold an on-line public dialogue on options for reducing the burden on the regulated industry associated with the Toxics Release Inventory (TRI) program. This dialogue serves as Phase 2 of the national Stakeholder Dialogue that the Environmental Protection Agency (EPA) has been conducting with the public on various TRI issues; Phase 1 was launched in September 2002. EPA is seeking suggestions and ideas on a number of burden reduction options including, but not limited to: establishing higher reporting thresholds for small businesses or for certain classes of facilities or chemicals; modifying the eligibility requirements of the Form A Certification Statement to expand its use; creating a new form allowing facilities meeting certain criteria to certify to no significant change in reporting in the current year as measured against a designated baseline year; and using range codes in Section 8 of the Form R. EPA is also soliciting comments on potential enhancements to its TRI–ME reporting software. Instructions for participating in the on-line dialogue are posted at EPA's TRI Web site at *http://www.epa.gov/tri/programs/stakeholders/outreach.htm.* Through this notice EPA is announcing the availability of a paper which is intended to provide background on a number of burden reduction options and help focus stakeholder discussion.

DATES: The Stakeholder Dialogue comment process, identified by the Docket ID No. TRI–2003–0001, will be held until January 5, 2004.

ADDRESSES: The Stakeholder Dialogue Paper will be accessible via the Internet at *http://www.epa.gov/tri/programs/stakeholders/outreach.htm.* Comments, identified by Docket ID No. TRI–2003–0001, may be submitted by these methods: electronically to EDOCKET at *http://www.epa.gov/edocket* (EPA's preferred method) or the U.S. Government's online rulemaking Web site at *http://www.regulations.gov;* e-mailed to *oei.docket@epa.gov;* delivered to EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20004; or mailed to Office of Environmental Information Docket, Mail Code: 28221T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Follow the detailed instructions in Unit I.C. of the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Larry Reisman, Environmental Protection Agency, Office of Environmental Information, Office of Information Analysis and Access, Toxics Release Inventory Program Division; telephone number: (202) 566–0751; fax number: (202) 566–0727; e-mail: *reisman.larry@epa.gov.* For general information on the Toxics Release Inventory contact the Emergency Planning and Community Right-to-Know Hotline at (800) 424–

9346 or (703) 412–9810, TDD (800) 553–7672, *http://www.epa.gov/epaoswer/hotline.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Notice Apply to Me?

You may be interested in this notice if you use data collected under EPCRA section 313, or if you manufacture, process, or otherwise use any of the EPCRA section 313 chemicals and you are required to report annually to EPA their environmental releases and other waste management quantities. Potentially affected categories and entities may include, but are not limited to:

Category	Examples of potentially interested entities
Public	Environmental groups, community groups, researchers.
Industry	SIC major group codes 10 (except 1011, 1081, and 1094), 12 (except 1241), 20 through 39, 4911 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4931 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4939 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. section 6921 *et seq.*), 5169, 5171, or 7389 (limited to facilities primarily engaged in solvents recovery services on a contract or fee basis).
Federal Government	Federal facilities in any SIC code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Copies of Information Associated With This Stakeholder Dialogue Process?

1. Docket. EPA has established an official public docket for this action under Docket ID No. TRI–2003–0001. The official public docket is the collection of materials that is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744, and the telephone number for the OEI Docket is 202–566–1752.

2. Electronic Access. An electronic copy of the issue paper is available from EPA's TRI Web site at *http://www.epa.gov/tri/programs/stakeholders/outreach.htm.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.* On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the **Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at *http://www.epa.gov/homepage/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EDOCKET. You may use EDOCKET at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in Docket ID No. ''TRI–2003–0001''. The stakeholder issue paper and the **Federal Register** notice announcing this stakeholder dialogue are also available on the EDOCKET.

Certain types of information will not be placed in the EDOCKET. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EDOCKET, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EDOCKET online or see 67 FR 38102, May 31, 2002.

C. How and To Whom Do I Submit Comments?

You may access the stakeholder dialogue issue paper, instructions for commenting on burden reduction options, and link to the electronic docket to submit and retrieve comments, from the TRI Stakeholder Outreach Web site at: *http://www.epa.gov/tri/programs/stakeholders/outreach.htm* during the time period specified in this notice.

Commenters are encouraged to use the TRI Stakeholder Outreach Web site

to access the issue paper and the instructions for commenting on burden reduction options. The Outreach Web site also provides a link to the EDOCKET Web site for submission of comments and viewing of all comments submitted.

To assist in the organization of all comments received, commenters are asked to state in the beginning of their comments the specific burden reduction option(s) being addressed. If your comment addresses more than one of the options in the stakeholder paper, please indicate in the beginning of your comment the number associated with each of the options addressed. The stakeholder paper has 6 options. Option 6 requests comment on options not specifically discussed in the stakeholder paper. The stakeholder paper also requests comment on the ongoing Toxics Release Inventory—Made Easy (TRI–ME) software. If your comment addresses this software, please state in the beginning of your comment that it addresses ''TRI–ME.''

You may submit comments electronically, by mail, or through hand delivery/courier. To avoid unnecessary duplication of comments, please submit your comments through only one method of delivery. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD–ROM you submit, and in any cover letter accompanying the disk or CD–ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

a. *EDOCKET.* Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID No. TRI–2003–0001. Please state in the beginning of the comment the specific burden reduction option(s) being addressed by the comment. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

b. *E-mail.* Comments may be sent by electronic mail (e-mail) to *oei.docket@epa.gov,* Attention Docket ID No. TRI–2003–0001. Please state in the beginning of the comment the specific burden reduction option(s) being addressed by the comment. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

c. *Disk or CD–ROM.* You may submit comments on a disk or CD–ROM that you mail to the mailing address identified in Unit I.C.2. Please state in the beginning of the comment the specific burden reduction option(s) being addressed by the comment. These electronic submissions will be accepted in MS Word, WordPerfect, or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: Office of Environmental Information Docket, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. TRI–2003–0001. Please state in the beginning of the comment the specific burden reduction option(s) being addressed by the comment.

3. *By Hand Delivery or Courier.* Deliver your comments to: EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, 20004, telephone: 202–566–1744, Attention Docket ID No. TRI–2003–0001. Please state in the beginning of the comment the specific burden reduction option(s) being addressed by the comment. Such deliveries are only accepted during the Docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address only, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: OEI Document Control Officer, Mail Code: 2822T, U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC, 20460. 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). The EPA will disclose information claimed as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD–ROM, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

II. Background

EPA initiated a Stakeholder Dialogue process in September 2002, to identify improvements to the Toxics Release Inventory (TRI) and to develop opportunities to reduce the burden on reporting facilities. A primary goal of this effort by EPA is to reduce burden associated with TRI reporting while at the same time continuing to provide valuable information to the public consistent with the goals and statutory requirements of the TRI program.

While the TRI program has been very successful, EPA is continuing to seek ways to improve the program. Given the community focus of the TRI program and the broad and varied uses of the TRI data, it is important that EPA receive input from all stakeholders—the states, the reporting community and other businesses, community and environmental groups, researchers, and the public.

Phase 1 took place in the fall of 2002 and focused on the reporting, collecting, processing, and annual release of the TRI data. Specifically, EPA sought comment on ways to: (1) Improve the compliance assistance provided by the TRI program, both at Headquarters and in the Regions, to aid the reporting community; (2) streamline the collection and processing of the 90,000 TRI forms that EPA receives annually; and (3) improve the materials, including the context, documents and tools, that EPA develops for its annual public release of the TRI data to support their use and analysis of the data. EPA has received approximately 200 comments and has implemented several of the suggestions. EPA continues to examine ways to further improve TRI data processing, data release, and compliance assistance in light of the comments received.

Phase 2 of the stakeholder dialogue will focus on reducing the burden associated with the TRI reporting requirements. EPA is looking to more fully explore these broadly outlined options with the intention of identifying a specific burden reduction initiative that effectively lessens the burden on facilities but at the same time ensures that TRI continues to provide communities with the same high level of significant chemical release and other waste management information.

Specifically, comment is being requested on a number of options such as: Higher reporting thresholds for small business; expanded use of the Form A Certification Statement; a new, ''no significant change'' certification statement; and the application of range codes to Section 8 of the Form R. EPA is also engaged in an effort to improve its award-winning Toxics Release Inventory—Made Easy software, and is soliciting comments on specific enhancements that would reduce the burden of TRI reporting. The stakeholder paper describing these and other options for burden reduction is posted on the TRI Web site and is intended to provide background and help focus the stakeholder discussion. Stakeholders are encouraged to comment on any of the specific options discussed in the paper, or as the paper states, stakeholders may comment on options not discussed in the paper.

While the Agency is genuinely interested in pursuing burden reduction, the mere inclusion of an option in this paper does not mean that the Agency has already determined the option to be technically, practically, and legally feasible. Instead, each option included in this paper is intended to encourage thoughtful comment that develops a meaningful burden reduction initiative that is technically, practically, and legally feasible.

Dated: October 30, 2003.

Elaine G. Stanley,

Director, Office of Information Analysis and Access.

[FR Doc. 03–27850 Filed 11–4–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0029; FRL–7328–7]

Fenridazone Potassium; Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces a cancellation order requested by Monsanto Company for their registration of the pesticide product containing methyl 1-(4-chlorophenyl)-1, 4-dihydro-6-methyl-4-oxo-3-pyridazinecarboxylic acid, potassium salt, or fenridazone potassium, and accepted by EPA, pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This order follows up a July 25, 2003, notice of receipt of request for the above mentioned voluntary registration cancellation. In that notice, EPA requested comments on the proposed cancellation and indicated that it would issue an order confirming the cancellation. Any distribution, sale, or use of canceled fenridazone potassium products is permitted only in accordance with the terms of the existing stocks provisions of this cancellation order.

DATES: The cancellations are effective November 5, 2003.

FOR FURTHER INFORMATION CONTACT: Demson Fuller, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number: (703) 308–8062; fax number: (703) 308–7042; e-mail address: *fuller.demson@epamail.epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use fenridazone potassium products. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0029. 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/*. To access RED documents and RED fact sheets electronically, go directly to the REDs table on the EPA Office of Pesticide Programs Home Page at *http://www.epa.gov/pesticides/reregistration/status.htm*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments,

access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

II. Receipt of Request to Cancel Registrations

A. Background

Fenridazone is a dihydro-oxopyridizine pesticide which was registered as a growth regulator used on wheat. The technical registrant, Monsanto Company requested a voluntary cancellation of their registration for the product containing fenridazone potassium.

Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA announced receipt of the request from Monsanto Company in a **Federal Register** Notice published on July 25, 2003 (68 FR 44081) (FRL–7315–6). In that notice, EPA provided a 30–day comment period. The registrant requested the Administrator waive the 180–day comment period provided under FIFRA section 6(f)(1)(c), and EPA granted this request. No public comments were received during the 30–day comment period.

B. Requests for Voluntary Cancellation of Products

Pursuant to FIFRA section 6(f)(1)(A), Monsanto Company has submitted a request for voluntary cancellation of a registration for their product containing fenridazone potassium. The registration for which the cancellation was requested is identified in the following table:

TABLE 1.—PRODUCT REGISTRATION CANCELLATION REQUEST

Company	Registration Number	Product
Monsanto Company	524–453	Hybrex 2lC Chemical Hybridizing Agent

III. Cancellation Order

Pursuant to section 6(f)(1)(A) of FIFRA, EPA is approving the requested cancellation. Accordingly, EPA orders that the registration identified in Table 1, is hereby canceled. Any distribution, sale, or use of existing stocks of the product identified in the table above in a manner inconsistent with the terms of this order or the existing stock provisions in Unit IV. of this **Federal Register** Notice will be considered a violation of section 12(a)(2)(K) of FIFRA and/or section 12(a)(1)(A) of FIFRA.

IV. Existing Stocks Provisions

For purposes of this order, the term ''existing stocks'' is defined, pursuant to EPA's Existing Stocks Policy (56 FR 29362, June 26, 1991) (FRL–3846–4), as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of cancellation.

V. Distribution or Sale by the Registrant

Cancellation orders generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. However, the registrant has stated that the Hybrex 2 LC Chemical Hybridizing product has not been sold since 1989 nor has the chemical ever been distributed. Therefore, no products should be in the channels or trade.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: October 27, 2003.

Betty Shackleford,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 03–27852 Filed 11–4–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0340; FRL–7331–6]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendments by registrants to delete uses in certain pesticide registrations. Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any request on the **Federal Register**.

DATES: The deletions are effective on May 3, 2004, or December 5, 2003 for product registrations 000769–00730, 000829–00285, 005905–00496, 005905–00502, 005905–00510, 007401–00115, 007401–00206, 007401–00273, 035138–00079, 073049–00087, and 073049–00095, unless the Agency receives a written withdrawal request on or before applicable dates given above.

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant on or before applicable dates given above.

ADDRESSES: Written withdrawal requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2003–0340 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: James A. Hollins, Office of Pesticide

Programs (7502C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5761; e-mail address: *hollins.james@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, 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 information in this notice, 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–2003–0340. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

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

C. How and To Whom Do I Submit Written Withdrawal Requests?

1. *Electronically*—i. *E-mail*. E-mail your written withdrawal requests to: James A. Hollins at *hollins.james@epa.gov*, Attention: Docket ID Number OPP–2003–0340.

ii. *Disk or CD–ROM*. Written withdrawal requests on disk or CD–ROM may be mailed to the address in Unit I.C.2. or delivered by hand or courier to the address in Unit I.C.3., Attention: Docket ID Number OPP–2003–0340. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your written withdrawal requests to: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0340.

3. *By hand delivery or courier*. Deliver your written withdrawal requests to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2003–0340. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in certain pesticide registrations. These registrations are listed in Table 1 of this unit by registration number, product name/active ingredient, and specific uses deleted:

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Registration No.	Product Name	Active Ingredient	Delete From Label
000100–00834	Barricade 65WG Herbicide	Prodiamine	Plants grown for cut foliage production
000100–00834	Barricade 65WG Herbicide	Prodiamine	Plants grown for cut foliage production
000228–00068	Riverdale Malathion 5	Malathion	Use in empty grain storage areas
000228–00068	Riverdale Malathion 5	Malathion	Use in empty grain storage areas
000228–00244	Riverdale 50% Malathion E.C.	Malathion	Hog and calf pens; poultry houses; horse and sheep barns; corrals; water troughs; manure piles
000228–00244	Riverdale 50% Malathion E.C.	Malathion	Hog and calf pens, poultry houses; horse and sheep barns; corrals; water troughs; manure piles
000264–00324	SEVIN Brand 99% Technical Carbaryl Insecticide	Carbaryl	Turf/lawn broadcast use with the liquid formulations
000264–00325	SEVIN Brand 97.5% Manufacturing Concentrate	Carbaryl	Turf/lawn broadcast use with the liquid formulations
000264–00328	SEVIN Brand 80% Dust Base Carbaryl Insecticide	Carbaryl	Turf/lawn broadcast use with the liquid formulations

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

Registration No.	Product Name	Active Ingredient	Delete From Label
000769–00730	SEVIN 5% Bait	Carbaryl	Alfalfa, apples, cherries, plums, apricots, citrus fruits, grapes, peaches, pears, peanuts, and tobacco
000829–00285	SA-50 Cutworm and Cricket Bait	Carbaryl	Sugar beets, collards, horseradish, parsley, rutabagas, swiss chard
001022–00562	Chap-Fume	Metam-Sodium	Wood chip use
005905–00496	1.5LB Benfluralin EC	Benfluralin	Peanuts and tobacco
005905–00502	Weed Rhap A4-MCPA	MCPA, diethylamine salt	Rice
005905–00510	MCPA Sodium Salt	MCPA, diethylamine salt	Rice, peas, flax and grain sorghum
007401–00115	Hi-Yield 8 Lb. Malathion Emulsifiable Concentrate	Malathion	Peanuts, soybeans, and sugar beets
007401–00206	Hi-Yield Low Volume Malathion Concentrate	Malathion	Safflower, soybeans, sugar beets, and tomatoes
007401–00273	Hi-Yield Grain Storage Spray	Malathion	Stored peanuts, peanuts going into storage, peanut storage facilities, stored grain, storage facilities, and transportation equipment for grain sorghum, rice, field and garden seeds
019713–00089	Drexel Carbaryl 2L	Carbaryl	Poultry uses
035138–00079	Aero Flying Insect Spray Concentrate	Piperonyl butoxide; Pyrethrins	Livestock uses
045385–00009	Insect Spray	Piperonyl butoxide	Food handling establishments
073049–00087	SBP-1382 Bioallethrin Insecticide Concentrate	Resmethrin; Bioallethrin	Food handling establishments and formulations for treating stored grain
073049–00095	SBP-1382/Bioallethrin Insecticide Concentrate 10-6.25%	Resmethrin; Bioallethrin	Food handling establishments

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before applicable dates indicated in the **DATES** section of this notice to discuss withdrawal of the application for amendment. This 30–or 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency's approval of the deletion.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number.

TABLE 2—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company No.	Company Name and Address
000100	Syngenta Crop Protection, Inc., Box 18300, Greensboro, NC 27419
000228	Nufarm Americas Inc., D/B/A Riverdale - A Nufarm Co., 1333 Burr Ridge Parkway, Suite 125a, Burr Ridge, IL 60527
000264	Bayer Cropscience LP, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709
000769	Value Gardens Supply, LLC, Box 585, St. Joseph, MO 64502

TABLE 2—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Company No.	Company Name and Address
000829	Southern Agricultural Insecticides, Inc., Box 218, Palmetto, FL 34220
001022	IBC Mfg. Co, c/o Gail Early, 416 E. Brooks Rd., Memphis, TN 38109
005905	Helena Chemical Co, 225 Schilling Blvd., Suite 300, Collierville, TN 38017
007401	Brazos Associates, Inc., Agent For: Voluntary Purchasing Group In, 1806 Auburn Drive, Carrollton, TX 75007

TABLE 2—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Company No.	Company Name and Address
019713	Drexel Chemical Co, 1700 Channel Ave.Box 13327, Memphis, TN 38113
035138	Aerochem, Inc., 1396 Lee Lane, Raymond, MS 39154
045385	CTX-Cenol, Inc., Box 472, Twinsburg, OH 44087
073049	Valent Biosciences Corp., 870 Technology Way, Libertyville, IL 60048

III. What is the Agency Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for use deletion must submit the withdrawal in writing to James A. Hollins using the instructions in Unit I.C. The Agency will consider written withdrawal requests postmarked on or before applicable dates indicated in the **DATES** section of this notice.

V. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: October 21, 2003.

Arnold E. Layne,

Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 03–27678 Filed 11–4–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0307; FRL–7325–9]

Experimental Use Permit; Receipt of Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 67979–EUP–G from Syngenta Seeds, Inc. requesting an experimental use permit (EUP) for the plant-incorporated protectant *Bacillus thuringiensis* Cry1Ab protein and the genetic material necessary for its production (via elements of p2062) in corn. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments, identified by docket ID number OPP–2003–0307, must be received on or before December 5, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8715; e-mail address:*mendelsohn.mike@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are interested in agricultural biotechnology or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get 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–2003–0307. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

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

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket

facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD–ROM you submit, and in any cover letter accompanying the disk or CD–ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0307. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2003–0307. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD–ROM*. You may submit comments on a disk or CD–ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0307.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2003–0307. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD–ROM, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD–ROM, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response.

You may also provide the name, date, and **Federal Register** citation.

II. Background

67979–EUP–G. Syngenta Seeds, Inc., P.O. Box 12257, 3054 Cornwallis Road, Research Triangle Park, NC 27709–2257. This application proposes the use of less than 3 grams of Cry1Ab protein in seeds planted from the use of the plant-incorporated protectant *Bacillus thuringiensis* Cry1Ab protein and the genetic material necessary for its production (via elements of p2062) in corn on 294 acres of field corn for breeding and observation, efficacy evaluation, agronomic observation, and inbred and hybrid production. The program is proposed in the States of Arizona, Arkansas, California, Florida, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Nebraska, New Mexico, Ohio, South Dakota, Texas, Wisconsin, and the Commonwealth of Puerto Rico. Tolerance exemptions have been established for residues of the active ingredient in or on corn.

III. What Action is the Agency Taking?

Following the review of the Syngenta Seeds, Inc. application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

IV. What is the Agency's Authority for Taking this Action?

The Agency's authority for taking this action is under 7 U.S.C. 136c.

List of Subjects

Environmental protection, Experimental use permits.

Dated: October 24, 2003.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 03–27677 Filed 11–4–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7583–6]

Toolkit for Assessing Potential Allegations of Environmental Injustice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Public comment period.

SUMMARY: The Office of Environmental Justice seeks public comment on the draft ''Toolkit for Assessing Potential Allegations of Environmental Injustice.'' The toolkit provides tools and other reference materials to assist U.S. Environmental Protection Agency (EPA) personnel in assessing allegations of environmental injustice. Also, the document provides a framework for understanding national policy on the subject of environmental justice.

DATES: Written comments must be received by EPA on or before March 4, 2004.

ADDRESSES: Comments should be addressed to Mr. Barry E. Hill, Director, Office of Environmental Justice, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mailcode 2201A, Ariel Rios South Building, Room 2232, Washington, DC 20460–0001.

FOR FURTHER INFORMATION CONTACT: Marla Hendriksson, Senior Program Analyst, EPA Office of Environmental Justice, (202) 564–1897 or *hendriksson.marla@epa.gov.*

SUPPLEMENTARY INFORMATION: The ''Toolkit for Assessing Potential Allegations of Environmental Injustice'' is available online at: *http://www.epa.gov/compliance/recent/ej.html.* A hardcopy of this document is available upon request.

Dated: October 31, 2003.

Barry E. Hill,

Director, Office of Environmental Justice.

[FR Doc. 03–27851 Filed 11–4–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

October 24, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before January 5, 2004. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Leslie.Smith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Les Smith at (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0095.

Title: Cable Television Annual Employment Report, FCC Form 395–A.

Type of Review: Revision of currently approved collection.

Form Number: FCC 395–A.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,950.

Estimated Time per Response: 0.166 to 2.417 hrs.

Frequency of Response: Recordkeeping; Annual and five year reporting requirements.

Total Annual Burden: 3,128 hours.

Total Annual Cost: None.

Needs and Uses: Following the D.C. Circuit's decision in *MD/DC/DE Broadcasters Association* v. *FCC* (''*Association*'') in January 2001, vacating the FCC's broadcast EEO rules for recruitment, on January 31, 2001, the Commission suspended its EEO program requirements for both broadcasters and Multichannel Video Programming Distributors (MVPD's), including the requirement to file FCC Forms 395–A. and 395–M. The FCC is now revising Form 395–A, Annual Employment Report, to incorporate FCC Form 395–M. The new FCC Form 395–A is a data collection device used to

report industry trends. The report identifies employees by gender, race, and ethnicity in fifteen job categories. The FCC Form 395–A contains a grid which collects data on full and part-time employees and requests a list of employees by job title, indicating the job category and full or part-time status of the position. However, Form 395–A omits the old EEO program report section, which is now in the new FCC Form 396–C, OMB Control No. 3060–1033.

OMB Control Number: 3060–0390.

Title: Broadcast Station Annual Employment Report, FCC Form 395–B.

Form Number: FCC Form 395–B.

Type of Review: Revision of currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 14,000.

Estimated Time per Response: 0.88 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 12,320 hours.

Total Annual Costs: None.

Needs and Uses: FCC Form 395–B is used to compile statistics on the workforce employed by broadcast licensees/permitees. It is filed by all AM, FM, TV, international and low power TV broadcast licensees/permittees that employ five or more full-time employees. The FCC staff use the data to compile a report showing the five-year employment trends in the broadcast industry.

OMB Control Number: 3060–1034.

Title: Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service Broadcast Station Annual Employment Report.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 200.

Estimated Time per Response: 2.0 hours.

Frequency of Response: One time reporting requirement.

Total Annual Burden: 400 hours.

Total Annual Costs: None.

Needs and Uses: In October 2002, the Commission released the First Report and Order (''Order''), Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service, FCC 02–286, MM Docket 99–325, (67 FR 78193). Pursuant to this Order, the Commission selected in-band, on-channel (IBOC) as the technology that permits AM and FM radio broadcasters to introduce digital operations efficiently and rapidly. In addition, provisions of the Order required radio station licensees to provide information relative to implementation of interim hybrid digital operations. Implementation of hybrid digital operations is entirely voluntary. Commercial and noncommercial AM and FM radio stations that choose to begin hybrid digital transmissions shall notify the Commission within 10 days of the commencement of digital operations. The notification letter shall certify that the digital operations conform to applicable rule and standards. Furthermore, implementation of the notification letter eliminates both the need for the FCC staff to issue an STA to the broadcaster and for the broadcaster to file and pay the initial and any subsequent filing fees.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–27734 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

October 28, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before December 5, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments regarding this Paperwork Reduction Act submission to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at (202) 418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0952.

Title: Proposed Demographic Information and Notifications, Second FNPRM, CC Docket No. 98–147 and Fifth NPRM, CC Docket No. 96–98.

Form No: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,400.

Estimated Time Per Response: 2 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Total Annual Burden: 5,600 hours.

Total Annual Cost: N/A.

Needs and Uses: The proposed requirements implemented Section 706 of the Communications Act of 1934, as amended, to promote deployment of advanced services without significantly degrading the performance of other services. In CC Docket No. 98–147, the Commission solicited comment on whether requesting carriers should receive demographic and other information from ILECs to determine whether they wish to collocate at particular remote terminals. In CC Docket 96–98 comments were sought on whether ILECs should provide certain notifications to competing carriers.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–27735 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

October 28, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Pub. L. No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before January 5, 2004. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at (202) 418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0804.

Title: Universal Service–Health Care Providers Universal Service Program.

Form No.: FCC Forms 465, 466, 466–A, and 467.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit, not-for-profit institutions.

Number of Respondents: 12,800.

Estimated Time Per Response: 1.5–2.5 hours.

Frequency of Response: On occasion reporting requirement, and third party disclosure requirement.

Total Annual Burden: 16,000 hours.

Total Annual Cost: N/A.

Needs and Use: The Commission is considering changes to the Rural Health Care universal support mechanism in a pending Order. These potential changes could affect the respondent pool. We are anticipating the possibility of adjusting the total annual responses and burden. Therefore, we are revising FCC Forms 465, 466, 466–A and 467.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–27736 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

October 27, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before January 5, 2004. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Les Smith, Federal Communications Commission, 445 12th Street, SW., Room 1–A804, Washington, DC 20554 or via the Internet to *Leslie.Smith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0213.

Title: Section 73.3525, Agreements for Removing Application Conflicts.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 38.

Estimated Time per Response: 0.25 to 9.0 hours.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 39 hours.

Total Annual Cost: $61,353.

Needs and Uses: 47 CFR 73.3525 requires applicants for a construction permit for a broadcast station to obtain approval from the FCC to withdraw, dismiss, or amend its application when that application is in conflict with another application pending before the FCC. This request should contain a copy of the agreement and an affidavit of each party to the agreement. In the event that the proposed withdrawal of a conflicting application would unduly impede achievement of a fair, efficient, and equitable distribution of radio service, the FCC must issue an order providing further opportunity to apply for the facilities specified in the application(s) withdrawn. Upon release of this order, 47 CFR 73.3525(b) requires that the party proposing withdrawal of its application give notice in a daily newspaper of general circulation published in the community in which the proposed station would have been located. Additionally, within seven days of the last publication of the notice, the applicant proposing to withdraw shall

file with the FCC a statement giving the dates the notice was published, the text of the notice, and the name and location of the newspaper where the notice was published. The newspaper publication gives interested parties an opportunity to apply for the facilities specified in the withdrawn application(s).

OMB Number: 3060–0727.

Title: Section 73.213, Grandfathered Short-Spaced Stations.

Form Numbers: FCC Form 301 and Form 340.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 15.

Estimated Time per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 9 hours.

Total Annual Costs: $10,810.

Needs and Uses: 47 CFR 73.213 requires licensees of grandfathered short-spaced FM stations seeking to modify or relocate their stations to provide a showing demonstrating that there is no increase in either the total predicted interference area or the associated population (caused or received) with respect to all grandfathered stations or increase the interference caused to any individual stations. Applicants must demonstrate that any new area predicted to lose service as a result of interference has adequate service remaining. In addition, licensees are required to serve a copy of any application for co-channel or first-adjacent channel stations proposing predicted interference caused in any area where interference is not currently predicted to be caused upon the licensee(s) of the affected short-spaced station(s). The FCC uses the data to determine if the public interest will be served and that existing levels of interference will not be increased to other licensed stations. Providing copies of application(s) to affected licensee(s) enables potentially affected parties to examine the proposals and to provide the parties with an opportunity to file informal objections against such applications.

OMB Control Number: 3060–0928.

Title: Application for Class A Television Broadcast Station Construction Permit or License, FCC Form 302–CA.

Form Number: FCC 302–CA.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 300.

Estimated Hours per Response: 2 hours.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 600.

Total Annual Cost: $66,000.

Needs and Uses: LPTV stations use FCC Form 302–CA when applying to convert to Class A status and for existing Class A stations to file for a license to cover a construction permit. The Form 302–CA requires a series of certifications by the Class A applicant as prescribed by the CBPA. Licensees are required to provide weekly announcements to their listeners informing them that the applicant has applied for a Class A license and announcing the public's ability to comment on the application prior to Commission action. FCC staff use the data to confirm that the station has met the eligibility standards to convert their licenses to Class A status. The Form 302–CA data are also included any subsequent license to operate the station.

OMB Control Number: 3060–0932.

Title: Application for Authority to Make Changes in a Class A TV Broadcast Station, FCC Form 301–CA.

Form Number: FCC 301–CA.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit entities; Not-for-profit institutions; State, local or tribal government.

Number of Respondents: 300.

Estimated Time per Response: 2 to 5 hours.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 2,100.

Total Annual Costs: $1,709,400.

Needs and Uses: Class A television station licensees use FCC Form 301–CA to make changes in the authorized facilities of their stations. The FCC 301–CA requires applicants to certify compliance with certain statutory and regulatory requirements. Detailed instructions provide additional information about FCC rules and policies. Class A applicants are also subject to third party disclosure requirements under 47 CFR 73.3580, which requires public notice in a local newspaper when filing all applications for major changes in facilities. A copy of this notice must be placed in the public inspection file along with the application. The FCC 301–CA is designed to track the standards and criteria that the Commission applies to determine compliance and to increase the reliability of applicant certifications. Form 301–CA is not intended to be a substitute for familiarity with the Communications Act and FCC regulations, policies, and precedents.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–27737 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

October 17, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before December 5, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments regarding this Paperwork Reduction Act submission to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0743.

Title: Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96–128.

Form No: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 5,145 respondents, 6,345 responses.

Estimated Time Per Response: 29 hours (average).

Frequency of Response: Recordkeeping requirement, third party disclosure requirements, and on occasion, quarterly, annually, and other reporting requirements.

Total Annual Burden: 152,801 hours.

Total Annual Cost: N/A.

Needs and Uses: The Commission promulgated rules and requirements implementing Section 276 of the Telecommunications Act of 1996. Among other things, the rules: (1) Established fair compensation for every completed intrastate and interstate payphone cell; (2) discontinued intrastate and interstate access charge payphone service elements and payments, and intrastate and interstate payphone subsidies from basic exchange services; and (3) adopted guidelines for use by the states in establishing public interest payphones to be located where there would otherwise not be a payphone.

OMB Control No.: 3060–0951.

Title: Service of Petitions for Preemption, 47 CFR Sections 1.1204(b) Note, and 1.1206(a) Note 1.

Form No: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, individuals or household, not-for-profit institutions and State, Local and Tribal Government.

Number of Respondents: 125.

Estimated Time Per Response: .25 hours (15 minutes).

Frequency of Response: On occasion reporting and third party disclosure requirements.

Total Annual Burden: 30 hours.

Total Annual Cost: N/A.

Needs and Uses: These provisions supplement the procedures for filing petitions seeking Commission preemption of state and local government regulation of telecommunications services. They require that such petitions, whether in the form of a petition for rulemaking or a petition for declaratory ruling, be served on all state and local governments the actions for which are cited as the basis for requesting preemption. Thus, in accordance with these provisions, persons seeking preemption must serve their petitions not only on the state or local government whose authority would be preempted, but also on other state or local governments whose actions are cited in the petition.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–27738 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 03–3391]

NYNEX Waiver of Access Charges

AGENCY: Federal Communications Commission.

ACTION: Notice; termination of proceeding.

SUMMARY: This document provides notice of the termination of a proceeding seeking reconsideration of a 1995 Commission order granting NYNEX a waiver of certain parts of the access charge rules. NYNEX (now Verizon) no longer charges the specific access charges at issue in this proceeding, therefore the substantive issues in this proceeding are moot.

DATES: This proceeding will be terminated effective December 5, 2003, unless the Wireline Competition Bureau receives an opposition to the termination prior to that date.

ADDRESSES: Oppositions to the proceeding termination should be mailed to the Commission's Secretary through the Commission's contractor, Natek, Inc., at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Jennifer McKee, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1530.

SUPPLEMENTARY INFORMATION: On May 4, 1995, the Commission released an order in the above-referenced proceeding granting NYNEX a waiver to deaverage the transport interconnection charge (TIC) and recover the carrier common line (CCL) charge on a per-line, rather than a per-minute, basis. AT&T and Teleport filed petitions for reconsideration of this order on June 5, 1995. On October 16, 2003, AT&T filed a request to withdraw both its reconsideration petition and that of Teleport, which is now owned by AT&T. Based on its request to withdraw, AT&T's reconsideration petitions are dismissed without prejudice. 47 CFR 1.748. It appears that there are no pending petitions for reconsideration or applications for review in this proceeding. At this time, Verizon (formerly NYNEX) no longer charges the TIC or the CCL charge at issue in the proceeding, thus the substantive issues in this proceeding are moot. Therefore, the proceeding will be terminated effective December 5, 2003, unless the Wireline Competition Bureau receives an opposition to the termination before that date.

Parties filing oppositions to the termination of this proceeding must file an original and four copies of each filing. The filings should reference the DA number of this Public Notice, DA 03–3391. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

- The filing hours at this location are 8 a.m. to 7 p.m.
- All hand deliveries must be held together with rubber bands or fasteners.
- Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.
- All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Parties are also requested to send a courtesy copy of their oppositions to Jennifer McKee, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission. Courtesy copies may also be sent via e-mail to *jennifer.mckee@fcc.gov*.

Authority: 47 U.S.C. 152, 153, 154, 155, 303, 307, 308, 309, 315, 317; 44 FR 18501, 67 FR 13223, 47 CFR 0.291, 1.749.

Federal Communications Commission.

William F. Maher, Jr.,

Chief, Wireline Competition Bureau.

[FR Doc. 03–27816 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 03–3390]

Tariff Notice Requirements for Non-Dominant Carriers

AGENCY: Federal Communications Commission.

ACTION: Notice; termination of proceeding.

SUMMARY: This document provides notice of the termination of a proceeding seeking review of a 1993 Common Carrier Bureau order denying petitions to reject non-dominant carrier tariff filings on one-day's notice. The Commission's decision permissively to detariff the telecommunications services of competitive local exchange carriers moots the issues in the proceeding.

DATES: This proceeding will be terminated effective December 5, 2003, unless the Wireline Competition Bureau receives an opposition to the termination prior to that date.

ADDRESSES: Oppositions to the proceeding termination should be mailed to the Commission's Secretary through the Commission's contractor, Natek, Inc., at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Jennifer McKee, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1530.

SUPPLEMENTARY INFORMATION: On October 7, 2003, SBC filed a request to withdraw an application for review filed by its predecessor, Southwestern Bell, of the Common Carrier Bureau's (now the Wireline Competition Bureau) order denying petitions to reject non-dominant carriers' tariff filings made on one-day's notice. Based on its request to withdraw, SBC's application for review is dismissed without prejudice. 47 CFR 1.748. Verizon previously withdrew its application for review of this order, therefore it appears that there are no pending applications for review or petitions for reconsideration of the Bureau's order. The Commission's subsequent decision permissively to detariff the telecommunications services of competitive local exchange carriers moots the issues in this proceeding. Therefore, the proceeding will be terminated effective December 5, 2003, unless the Wireline Competition Bureau receives an opposition to the termination before that date.

Parties filing oppositions to the termination of this proceeding must file an original and four copies of each filing. The filings should reference the DA number of this Public Notice, DA 03–3390. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

- The filing hours at this location are 8 a.m. to 7 p.m.
- All hand deliveries must be held together with rubber bands or fasteners.
- Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.
- All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Parties are also requested to send a courtesy copy of their oppositions to Jennifer McKee, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission. Courtesy copies may also be sent via e-mail to *jennifer.mckee@fcc.gov.*

Authority: 47 U.S.C. 152, 153, 154, 155, 303, 307, 308, 309, 315, 317; 44 FR 18501, 67 FR 13223, 47 CFR 0.291, 1.749.

Federal Communications Commission.

William F. Maher, Jr.,

Chief, Wireline Competition Bureau.

[FR Doc. 03–27815 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 03–3389]

Definition of Payphone Customer

AGENCY: Federal Communications Commission.

ACTION: Notice; termination of proceeding.

SUMMARY: This document provides notice of the termination of the petition for reconsideration and joint motion to dismiss a 1993 Common Carrier Bureau order regarding the classification of payphone providers as customers pursuant to AT&T's F.C.C. Tariff No. 1. A settlement agreement between the parties and the passage of time have mooted the issues in the proceeding.

DATES: This proceeding will be terminated effective December 5, 2003, unless the Wireline Competition Bureau receives an opposition to the termination prior to that date.

ADDRESSES: Oppositions to the proceeding termination should be mailed to the Commission's Secretary through the Commission's contractor, Natek, Inc., at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Jennifer McKee, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1530.

SUPPLEMENTARY INFORMATION: On November 15, 1993, the Common Carrier Bureau (now the Wireline Competition Bureau) released an order in the above-referenced proceeding determining that the payphone petitioners Atlantic Telco and Tel & Tel Payphones were not customers for purposes of AT&T's Tariff No. 1. On December 15, 1993, AT&T filed a petition for reconsideration of this order. Subsequently, AT&T and the payphone petitioners entered into a settlement of the dispute underlying the petitioners' request for declaratory ruling, and on April 14, 1994, the parties filed a joint motion to vacate the Bureau's order. In the joint motion, the parties assert that their settlement agreement precludes reconsideration of the Bureau's order and ask the Commission to dismiss the proceeding. We construe the joint motion as a request to withdraw AT&T's petition for reconsideration, and therefore AT&T's petition for reconsideration is dismissed without prejudice. 47 CFR 1.748. The parties' settlement agreement and the passage of time have mooted the remaining issue in this proceeding, the parties' motion to vacate the Bureau's order. Therefore, this proceeding will be terminated effective December 5, 2003, unless the Wireline Competition Bureau receives an opposition to the termination before that date.

Parties filing oppositions to the termination of this proceeding must file an original and four copies of each filing. The filings should reference the DA number of this Public Notice, DA 03–3389. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or

overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

- The filing hours at this location are 8 a.m. to 7 p.m.
- All hand deliveries must be held together with rubber bands or fasteners.
- Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.
- All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Parties are also requested to send a courtesy copy of their oppositions to Jennifer McKee, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission. Courtesy copies may also be sent via e-mail to *jennifer.mckee@fcc.gov.*

Authority: 47 U.S.C. 152, 153, 154, 155, 303, 307, 308, 309, 315, 317; 44 FR 18501, 67 FR 13223, 47 CFR 0.291, 1.749.

Federal Communications Commission.

William F. Maher, Jr.,

Chief, Wireline Competition Bureau.

[FR Doc. 03–27814 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CCB/CPD 98–2; DA 03–3392]

Application of Presubscribed Interexchange Carrier Charge to Discontinued Customers

AGENCY: Federal Communications Commission.

ACTION: Notice; termination of proceeding.

SUMMARY: This document provides notice of the termination of a proceeding seeking review and reconsideration of a 1998 Common Carrier Bureau order granting Sprint's request for a declaratory ruling that local exchange carriers cannot charge long distance carriers presubscribed interexchange charges (PICCs) for lines of subscribers whose service has been discontinued by the long distance carriers. It appears that there are no pending requests for further action in this proceeding, and the phase-out of the PICC largely has mooted the issues in this proceeding.

DATES: This proceeding will be terminated effective December 5, 2003, unless the Wireline Competition Bureau receives an opposition to the termination prior to that date.

ADDRESSES: Oppositions to the proceeding termination should be mailed to the Commission's Secretary through the Commission's contractor, Natek, Inc., at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Jennifer McKee, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1530.

SUPPLEMENTARY INFORMATION: On May 19, 1998, the Common Carrier Bureau (now the Wireline Competition Bureau) released an order in the above-referenced proceeding granting Sprint's request for a declaratory ruling regarding the application of presubscribed interexchange carrier charges (PICCs) to lines of subscribers whose service has been discontinued by an interexchange carrier (IXC). The Bureau held that, so long as the IXC has notified the local exchange carrier that it has discontinued service to a customer, the IXC is not liable for PICCs on the terminated lines. On October 7, 2003, SBC filed a request to withdraw its application for review of the Bureau's order, and on October 16, 2003, AT&T filed a request to withdraw its petition for clarification of the order. Based on their requests to withdraw, SBC's application for review and AT&T's petition for clarification are dismissed without prejudice. 47 CFR 1.748. Sprint previously withdrew its petition for clarification and reconsideration, and MCI previously withdrew its petition for partial reconsideration of this order, therefore it appears that there are no pending applications for review or petitions for reconsideration or clarification of the Bureau's order. Since the Bureau's release of the above-referenced order, the PICC has been phased out substantially, thus the issues in this proceeding largely are moot. Therefore, the proceeding will be terminated effective December 5, 2003, unless the Wireline Competition Bureau receives an opposition to the termination before that date.

Parties filing oppositions to the termination of this proceeding must file an original and four copies of each filing. The filings should reference the file number of this proceeding, CCB/CPD 98–2. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

- The filing hours at this location are 8 a.m. to 7 p.m.
- All hand deliveries must be held together with rubber bands or fasteners.
- Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.
- All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Parties are also requested to send a courtesy copy of their oppositions to Jennifer McKee, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission. Courtesy copies may also be sent via e-mail to *jennifer.mckee@fcc.gov.*

Authority: 47 U.S.C. 152, 153, 154, 155, 303, 307, 308, 309, 315, 317; 44 FR 18501, 67 FR 13223, 47 CFR 0.291, 1.749.

Federal Communications Commission.

William F. Maher, Jr.,

Chief, Wireline Competition Bureau.

[FR Doc. 03–27817 Filed 11–4–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on three continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The collections

are titled: (1) Application for a Bank to Establish a Branch or Move its Main Office or Branch; (2) Application for Consent to Reduce or Retire Capital; and (3) Activities and Investments of Savings Associations.

DATES: Comments must be submitted on or before January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to Steve Hanft, Paperwork Clearance Officer, (202) 898–3907, Legal Division, Room MB–3046, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. All comments should refer to the OMB control number. Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [FAX number (202) 898–3838; Internet address: *comments @ fdic.gov*].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Joseph Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10236, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Steve Hanft, at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collections of information:

1. *Title:* Application for a Bank to Establish a Branch or Move its Main Office or Branch.
OMB Number: 3064–0070.
Frequency of Response: On occasion.
Affected Public: Insured financial institutions.
Estimated Number of Respondents: 1,540.
Estimated Time per Response: 5 hours.
Total Annual Burden: 7,700 hours.
General Description of Collection: Insured State nonmember banks are required by law to obtain the FDIC's prior written consent before they can establish and operate any new domestic branch or move their main office or any branch from one location to another.

2. *Title:* Application for Consent to Reduce or Retire Capital.
OMB Number: 3064–0079.
Frequency of Response: On occasion.
Affected Public: Insured State nonmember banks.
Estimated Number of Respondents: 80.
Estimated Time per Response: 1 hour.
Total Annual Burden: 80 hours.
General Description of Collection: Insured state nonmember banks that propose to change their capital structure must apply for and obtain FDIC's consent to reduce or retire capital.

3. *Title:* Activities and Investments of Savings Associations.
OMB Number: 3064–0104.
Frequency of Response: On occasion.
Affected Public: Insured savings associations.
Estimated Number of Responses: 75.
Estimated Time per Response: 5 hours.
Total Annual Burden: 375 hours.
General Description of Collection: This collection of information is an application submitted by savings associations to the FDIC as part of the process of obtaining exceptions to the restrictions on the powers of savings associations. The restrictions reduce the risk of loss to the deposit insurance funds and eliminate some differences between the powers of state associations and those of federal associations.

Request for Comment

Comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collections should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of these collections. All comments will become a matter of public record.

Dated at Washington, DC this 30th day of October, 2003.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

[FR Doc. 03–27786 Filed 11–4–03; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 009831–021
Title: New Zealand/United States Container Lines Association
Parties:
P&O Nedlloyd Limited;
Hamburg-Sud;
Australia-New Zealand Direct Line;
and Lykes Lines Limited, LLC
Synopsis: The amendment adds Lykes Lines Limited, LLC as a party and corrects the business address of Australia-New Zealand Direct Line.

Agreement No.: 011117–031
Title: United States/Australasia Discussion Agreement
Parties:
P&O Nedlloyd Limited;
Australia-New Zealand Direct Line; Contship Containerlines; Hamburg-Sud; Compagnie Maritime Marfret, S.A.;
Wallenius Wilhelmsen Lines AS;
CMA CGM, S.A.;
Fesco Ocean Management Limited;
A.P. Moller-Maersk A/S;
and Lykes Lines Limited, LLC
Synopsis: The amendment adds Lykes Lines Limited, LLC to the agreement; corrects the business address of Australia-New Zealand Direct Line; and updates Maersk's corporate name.

Agreement No.: 011268–015
Title: New Zealand/United States Interconference and Carrier Discussion Agreement
Parties:
New Zealand/United States Container Lines Association; P&O Nedlloyd Limited;
Hamburg-Sud;
LauritzenCool AB;
Australia-New Zealand Direct Line;
FESCO Ocean Management Ltd.,
A.P. Moller-Maersk A/S;
and Lykes Lines Limited, LLC
Synopsis: The amendment adds Lykes Lines Limited, LLC to the agreement; corrects the business address of Australia-New Zealand Direct Line; and updates Maersk's corporate name.

Agreement No.: 011275–014
Title: Australia/United States Discussion Agreement
Parties:
Hamburg-Sud; P&O Nedlloyd Limited;
Australia-New Zealand Direct Line;

LauritzenCool AB;
Seatrade Group NV;
FESCO Ocean Management Inc.;
A.P. Moller-Maersk A/S; and Lykes Lines Limited, LLC

Synopsis: The amendment adds Lykes Lines Limited, LLC as a party to the agreement; updates the name of Maersk; and corrects the addresses of ANZDL, LauritzenCool, and Seatrade.

Agreement No.: 011407–006
Title: Australia/United States Containerline Association
Parties:
Hamburg-Sud;
P&O Nedlloyd Limited;
Australia-New Zealand Direct Line;
and Lykes Lines Limited, LLC

Synopsis: The amendment adds Lykes Lines Limited, LLC as a party to the agreement and corrects the addresses of Hamburg-Sud and ANZDL.

Agreement Nos.: 011510–022
Title: West African Discussion Agreement
Parties: Atlantic Bulk Carriers, Ltd.;
HUAL A/S;
and P&O Nedlloyd Limited

Synopsis: The amendment deletes P&O Nedlloyd Limited as a party to the agreement effective November 21, 2003.

Agreement No.: 011665–005
Title: Specialized Reefer Shipping Association
Parties:
LauritzenCool AB, NYK Star Reefers, and Seatrade Group NV

Synopsis: The amendment deletes NYK Star Reefers as a party to the agreement.

Agreement No.: 011866
Title: NYK/MP Line Cooperative Working Agreement
Parties: Nippon Yusen Kaisha and MP Line de Mexico,
S.A. de C.V.

Synopsis: The proposed agreement would authorize NYK to charter a ro-ro vessel to MP Line to operate generally between Florida and the U.S. Gulf coast, on the one hand, and Mexico, East coast of Central America, the North coast of South America, and the Caribbean, on the other hand. The agreement would also authorize MP Line to charter space back to NYK on the vessel.

By Order of the Federal Maritime Commission.

Dated: October 31, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–27856 Filed 11–4–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants:

IFE Global Logistics Inc., 100 N. Hill Drive, #15, Brisbane, CA 94005, Officer: Eric C. Datanagan, President (Qualifying Individual)

LA World Express Inc. dba Guangyi USA, 2800 Plaza Del Amo, #202, Torrance, CA 90503, Officers: Raymond Chou, Operating Manager (Qualifying Individual), Glenda Chu, President

Sunwoo International, Inc. dba Gen–X, International Freight Company, 2558 Landmeier Road, Suite C, Elk Grove Village, IL 60007, Officer: Kook Seong Lee, President (Qualifying Individual)

Marine Transport Logistic Inc., 602 20th Street, Brooklyn, NY 11218, Officer: Alla Solovyeva, President (Qualifying Individual)

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicant:

Transporte Medrano, Inc. dba Medrano Express, 134 North Franklin Street, Hempstead, NY 11550–1318, Officers: Jorge A. Medrano, President (Qualifying Individual), Telma Ayala, Vice President

Dated: October 31, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–27855 Filed 11–4–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 28, 2003.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Alpha Financial Group, Inc., Employee Stock Ownership Plan, Toluca, Illinois; to acquire an additional 12.58 percent, for a total of 51.9 percent, of the voting shares of Alpha Financial Group, Inc., Toluca, Illinois, and thereby indirectly acquire Alpha Community Bank, Toluca, Illinois.

Board of Governors of the Federal Reserve System, October 30, 2003.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 03–27762 Filed 11–4–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Government in the Sunshine Meeting; Notice

AGENCY: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:30 a.m., Monday, November 10, 2003.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Director, Office of Board Members; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: October 31, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–27914 Filed 10–31–03; 4:32 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[Docket No. 9307]

Alabama Trucking Association; 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 complaint 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 November 27, 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: Dana Abrahamsen, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2906.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 3.25(f) of the Commission's Rules of Practice, 16 CFR 3.25(f), 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 October 30, 2003), on the World Wide Web, at *http://www.ftc.gov/os/2003/10/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 Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted for public comment an Agreement Containing Consent Order with Alabama Trucking Association, Inc. (''ATA'' or ''Respondent'') to resolve matters charged in an Administrative Complaint issued by the Commission on July 9, 2003. The agreement has been placed on the public record for thirty (30) days for receipt of comments from interested members of the public. The Agreement is for settlement purposes only and does not constitute an admission by ATA that the law has been violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

The Commission's decision to issue its Complaint in this matter was made after considering whether Respondent's activities were protected by the state action defense. As discussed in detail in Section III below, a key element of the state action defense is the extent to which the State supervises private action. The facts developed during staff's investigation pertaining to the extent to which Alabama supervised rates contained in tariffs filed by Respondent are discussed in this Analysis to illustrate how the Commission analyzed Respondent's ability to establish a state action defense.[1]

I. The Commission's Complaint

The Complaint alleged that Respondent Alabama Trucking Association, Inc., a corporation, violated Section 5 of the Federal Trade Commission Act. Specifically, the Complaint alleged that Respondent agreed to engage, and had engaged, in a combination and conspiracy, an agreement, concerted action or unfair and unlawful acts, policies and practices, the purpose or effect of which was to unlawfully hinder, restrain, restrict, suppress or eliminate competition among household goods movers in the household goods moving industry.

Respondent is an association organized for and serving its members, which are approximately 80 household goods movers that conduct business within the State of Alabama. One of the primary functions of ATA is preparing, and filing with the Alabama Public Service Commission, tariffs and supplements on behalf of its members. These tariffs and supplements contain rates and charges for the intrastate transportation of household goods and for related services.

The Complaint alleged that Respondent engaged in initiating, preparing, developing, disseminating, and taking other actions to establish and maintain collective rates, which had the

[1] Settlement in this matter precludes the possibility of a litigated record. Thus, the Commission's understanding of the facts as set forth in this Analysis is based on the record developed during staff's investigation. The Commission has decided to include discussion of the relevant parts of the investigatory record to provide the best guidance it can on the scope of the state action defense and to facilitate comment on the proposed Consent Agreement.

purpose or effect of fixing, establishing or stabilizing rates for the transportation of household goods in the State of Alabama.

The Complaint further alleged that Respondent organized and conducted meetings that provided a forum for discussion or agreement between competing carriers concerning or affecting rates and charges for the intrastate transportation of household goods.

The Complaint further alleged that Respondent's conduct was anticompetitive because it had the effect of raising, fixing, and stabilizing the prices of household goods moves. The acts of Respondent also had the effect of depriving consumers of the benefits of competition.

II. Terms of the Proposed Consent Order

The proposed Order would provide relief for the alleged anticompetitive effects of the conduct principally by means of a cease and desist order barring Respondent from continuing its practice of filing tariffs containing collective intrastate rates.

Paragraph II of the proposed Order bars Respondent from filing a tariff that contains collective intrastate rates. This provision will terminate Respondent's current practice of filing tariffs that contain intrastate rates that are the product of an agreement among movers in the State of Alabama. This paragraph also prohibits Respondent from engaging in activities such as exchanges of information that would facilitate member movers in agreeing on the rates contained in their intrastate tariffs. For example, the order bars Respondent from providing to other carriers certain non-public information.[2] It also bars Respondent from maintaining a tariff committee or agreeing with movers to institute any automatic intrastate rate increases.

Paragraph III of the proposed Order requires Respondent to cancel all tariffs that it has filed that contain intrastate collective rates. This provision will ensure that the collective intrastate rates now on file in the State of Alabama will no longer be in force, allowing for competitive rates in future individual mover tariffs. Paragraph III of the proposed Order also requires Respondent to cancel any provisions in its governing documents that permit it to engage in activities barred by the Order.

Paragraph IV of the proposed Order requires Respondent to send to its members a letter explaining the terms of the Order. This will make clear to members that they can no longer engage in collective rate-making activities.

Paragraphs V and VI of the proposed Order require Respondent to inform the Commission of any change in Respondent that could affect compliance with the Order and to file compliance reports with the Commission for a number of years. Paragraph VII of the proposed Order states that the Order will terminate in 20 years.

III. Opportunity for Modification of the Order

Respondent can seek to modify the proposed Order to permit it to engage in collective rate-making if it can demonstrate that the ''state action'' defense would apply to its conduct.[3] The state action doctrine dates back to the Supreme Court's 1943 opinion in *Parker* v. *Brown*, which held that, in light of the States' status as sovereigns, and given basic principles of federalism, Congress would not have intended the Sherman Act to apply to the activities of States themselves.[4] The defense also has been interpreted in limited circumstances to shield from antitrust scrutiny private firms' activities that are conducted pursuant to state authority. States may not, however, simply authorize private parties to violate the antitrust laws.[5] Instead, a State must substitute its own control for that of the market.

Thus, the state action defense would be available to Respondent only if it could demonstrate that its conduct satisfied the strict two-pronged standard the Supreme Court set out in *California Retail Liquor Dealers Ass'n.* v. *Midcal Aluminum, Inc.*: ''The challenged restraint must be 'one clearly articulated and affirmatively expressed as state policy' '' and ''the policy must be 'actively supervised' by the state itself.' ''[6]

Under the first prong of *Midcal's* two-part test, Respondent would be required to show that the State of Alabama had ''clearly articulated and affirmatively expressed as state policy'' the desire to replace competition with a regulatory scheme. With regard to this prong, it appears that under Alabama law tariffs must be ''just and reasonable.''[7] Respondent would meet its burden if it could show that this or some other provision of Alabama law constitutes a clear expression of state policy to displace competition and allow for collective rate-making among competitors.[8]

Under the second prong of the *Midcal* test, Respondent would be required to demonstrate ''active supervision'' by state officials. The Supreme Court has made clear that the active supervision standard is a rigorous one. It is not enough that the State grants general authority for certain business conduct or that it approves private agreements with little review. As the Court held in *Midcal*, ''The national policy in favor of competition cannot be thwarted by casting such a gauzy cloak of state involvement over what is essentially a private price-fixing arrangement.''[9] Rather, active supervision is designed to ensure that a private party's anticompetitive action is shielded from antitrust liability only when ''the State has effectively made [the challenged] conduct its own.''[10]

In order for state supervision to be adequate for state action purposes, state officials must engage in a ''pointed re-examination'' of the private conduct.[11] In this regard, the State must ''*have and exercise* ultimate authority'' over the challenged anticompetitive conduct.[12] To do so, state officials must exercise ''sufficient independent judgment and control so that the details of the rates or prices have been established as a product of deliberate state intervention, not simply by agreement among private

[2] A state statute requires that carriers file their tariffs with the state and keep them open to public inspection. Ala Code section 37–3–20.

[3] 16 CFR § 2.51. We discuss the state action defense below in some detail. See also Indiana Household Movers and Warehousemen, Inc., File No. 021–0115 (Mar. 18, 2003) (proposed consent order) available at <*http://www.ftc.gov/os/2003/03/indianahouseholdmoversanalysis.pdf;* Iowa Movers and Warehousemen's Association, File No. 021–0115 (Aug. 1, 2003) (proposed consent order) available at *http://www.ftc.gov/os/2003/08/imwaanalysis.htm;* and Minnesota Transport Services Association, File No. 021–0115 (Aug. 1, 2003) (proposed consent order) available at *http://www.ftc.gov/os/2003/08/mtsaanalysis.htm.*

[4] 317 U.S. 341 (1943).

[5] *Parker* v. *Brown*, 317 U.S. at 351 (''[A] state does not give immunity to those who violate the Sherman Act by authorizing them to violate it, or declaring that their action is lawful.'').

[6] 445 U.S. 97, 105 (1980) (''*Midcal*'') (quoting *City of Lafayette* v. *Louisiana Power & Light*, 435 U.S. 389, 410 (1978)). The ''restraint'' in this instance is the collective rate-setting. This articulation of the state action doctrine was reaffirmed by the Supreme Court in *FTC* v. *Ticor Title Insurance Co.* (''*Ticor*''), 504 U.S. 621, 633 (1992), where the Court noted that the gravity of the antitrust violation of price fixing requires exceptionally clear evidence of the State's decision to supplant competition.

[7] Ala. Code section 37–3–19(b)

[8] *United States* v. *Southern Motor Carriers Rate Conference*, 471 U.S. 48, 63–65 (1985).

[9] *Midcal,* 445 U.S. at 105–06.

[10] *Patrick* v. *Burget*, 486 U.S. 94, 106 (1988).

[11] *Midcal*, 445 U.S. at 106. Accord, *Ticor*, 504 U.S. at 634–35; *Patrick* v. *Burget*, 486 U.S. at 100–01.

[12] *Patrick* v. *Burget*, 486 U.S. at 101 (emphases added).

parties.'' [13] One asserting the state action defense must demonstrate that the state agency has ascertained the relevant facts, examined the substantive merits of the private action, assessed whether that private action comports with the underlying statutory criteria established by the state legislature, and squarely ruled on the merits of the private action in a way sufficient to establish the challenged conduct as a product of deliberate state intervention rather than private choice.

IV. General Characteristics of Active Supervision

At its core, the active supervision requirement serves to identify those responsible for public policy decisions. The clear articulation requirement ensures that, if a State is to displace national competition norms, it must replace them with specific state regulatory standards; a State may not simply authorize private parties to disregard Federal laws,[14] but must genuinely substitute an alternative state policy. The active supervision requirement, in turn, ensures that responsibility for the ultimate conduct can properly be laid on the State itself, and not merely on the private actors. As the Court explained in *Ticor*:

> States must accept political responsibility for actions they intend to undertake. * * * Federalism serves to assign political responsibility, not to obscure it. * * * For States which do choose to displace the free market with regulation, our insistence on real compliance with both parts of the *Midcal* test will serve to make clear that the State is responsible for the price fixing it has sanctioned and undertaken to control.[15]

Through the active supervision requirement, the Court furthers the fundamental principle of accountability that underlies federalism by ensuring that, if allowing anticompetitive conduct proves to be unpopular with a State's citizens, the state legislators will not be ''insulated from the electoral ramifications of their decisions.'' [16]

In short, clear articulation requires that a State enunciate an affirmative intent to displace competition and to replace it with a stated criterion. Active supervision requires the State to examine individual private conduct, pursuant to that regulatory regime, to ensure that it comports with that stated criterion. Only then can the underlying conduct accurately be deemed that of the State itself, and political responsibility for the conduct fairly be placed with the State.

Accordingly, under the Supreme Court's precedents, to provide meaningful active supervision, a State must (1) obtain sufficient information to determine the actual character of the private conduct at issue, (2) measure that conduct against the legislature's stated policy criteria, and (3) come to a clear decision that the private conduct satisfies those criteria, so as to make the final decision that of the State itself.

V. Standard for Active Supervision

There is no single procedural or substantive standard that the Supreme Court has held a State must adopt in order to meet the active supervision standard. Satisfying the Supreme Court's general standard for active supervision, described above, is and will remain the ultimate test for that element of the state action defense.

Nevertheless, in light of the foregoing principles, the Commission in this Analysis identifies the specific elements of an active supervision regime that it will consider in determining whether the active supervision prong of state action is met in future cases (as well as in any future action brought by Respondent to modify the terms of this proposed Order). They are three: (1) The development of an adequate factual record, including notice and opportunity to be heard; (2) a written decision on the merits; and (3) a specific assessment—both qualitative and quantitative—of how the private action comports with the substantive standards established by the state legislature. All three elements further the central purpose of the active supervision prong by ensuring that responsibility for the private conduct is fairly attributed to the State. Each will be discussed below.

A. Development of an Adequate Factual Record, Including Notice and Opportunity To Be Heard

To meet the test for active state supervision, in this case Respondent would need to show that the State had in place an administrative body charged with the necessary review of filed tariffs and capable of developing an adequate factual record to do so.[17] In *Ticor,* the Court quoted language from earlier lower court cases setting out a list of organizational and procedural characteristics relevant as the ''beginning point'' of an effective state program:

> [T]he state's program is in place, is staffed and funded, grants to the state officials ample power and the duty to regulate pursuant to declared standards of state policy, is enforceable in the state's courts, and demonstrates some basic level of activity directed towards seeing that the private actors carry out the state's policy and not simply their own policy. * * * [18]

Moreover, that body would need to be capable of compiling, and actually compile, an adequate factual record to assess the nature and impact of the private conduct in question. The precise factual record that would be required would depend on the substantive norm that the State has provided; the critical question is whether the record has sufficient facts for the reviewing body sensibly to determine that the State's substantive regulatory requirements have been achieved. In the typical case in which the State has articulated a criterion of consumer impact, obtaining reliable, timely, and complete economic data would be central to the regulatory board's ability to determine if the State's chosen criterion has been satisfied.[19] Timeliness in particular is an ongoing concern; if the private conduct is to remain in place for an extended period of time, then periodic state reviews of that private conduct using current economic data are important to ensure that the restraint remains that of the State, and not of the private actors.

In Alabama, the State had in place rules and regulations pertaining to, and had staff assigned to review, household goods tariffs. Respondent sent to the State fairly specific written assertions that movers' costs had increased. In addition, the State monitored fuel costs and labor rates as well as the rates contained in the Federal household goods tariff.

Nevertheless, Respondent made no showing that the State had done the necessary research into the economic conditions of the moving industry in Alabama that would enable it to assess the impact of the Respondent's proposal. [20] Moreover, Respondent did

[13] *Ticor,* 504 U.S. at 634–35.

[14] *Parker,* 317 U.S. at 351.

[15] 504 U.S. at 636.

[16] See *New York* v. *United States,* 505 U.S. 144, 168–69 (1992).

[17] At the time of any request for a modification, Respondent will be required to produce evidence of what the state reviewing agency is likely to do in response to collective rate-making. We recognize that this involves some prediction and uncertainty, particularly when the Respondent requests an order modification on the basis of a state review program that might be authorized but not yet operating, as the Respondent will still be under order. In such cases it may be appropriate for the Respondent to show what the state program is designed, directed, or organized to do. If a particular state agency is already conducting reviews in some related area, evidence of its approach to these tasks will be particularly relevant.

[18] *Ticor,* 504 U.S. at 637 (citations omitted).

[19] As the *Ticor* Court held, ''state officials [must] have undertaken the necessary steps to determine the specifics of the price-fixing or ratesetting scheme.'' *Id.* at 638.

[20] *Cf. New England Motor Rate Bureau, Inc.,* 112 F.T.C. 200, 233, 266, 279–80 (1989) (active

Continued

not produce evidence that the State sought independently to verify the accuracy of the financial information submitted by the movers.[21]

Additionally, in assembling an adequate factual record, the procedural value of notice and opportunity to comment is well established. These procedural elements, which have evolved in various contexts through common law, through state and federal constitutional law, and through Administrative Procedure Act rulemakings,[22] are powerful engines for ensuring that relevant facts—especially those facts that might tend to contradict the proponent's contentions—are brought to the state decision-maker's attention. In Alabama, it has been many years since the State has held a hearing to consider the rates contained in the tariff. In addition, many rate increases have been approved without a hearing to consider movers' requests for rate increases and without the opportunity for public comment on proposed rate increases.

B. A Written Decision

A second important element the Commission will look to in determining whether there has been active supervision is whether the state board renders its decision in writing. Though not essential, the existence of a written decision is normally the clearest indication that the board (1) genuinely has assessed whether the private conduct satisfies the legislature's stated standards and (2) has directly taken responsibility for that determination. Through a written decision, whether rejecting or (the more critical context) approving particular private conduct that would otherwise violate the federal antitrust laws, the state board would provide analysis and reasoning, and supporting evidence, that the private conduct furthers the legislature's objectives.[23] In Alabama, the State does not issue written decisions on household goods rates. Many rate increases have been granted without a written explanation of the evidence supporting the increases and without a record of the State's analysis or reasoning in granting the increases.

C. Qualitative and Quantitative Compliance With State Policy Objectives

In determining active supervision, the substance of the State's decision is critical. Its fundamental purpose must be to determine that the private conduct meets the state legislature's stated criteria. Federal antitrust law does not seek to impose federal substantive standards on state decision-making, but it does require that the States—in displacing Federal law—meet their own stated standards. As the *Ticor* Court explained:

> Our decisions make clear that the purpose of the active supervision inquiry is not to determine whether the State has met some normative standard, such as efficiency, in its regulatory practices. Its purpose is to determine whether the State has exercised sufficient independent judgment and control so that the details of the rates or prices have been established as a product of deliberate state intervention, not simply by agreement among private parties. Much as in causation inquiries, the analysis asks whether the State has played a substantial role in determining the specifics of the economic policy. The question is not how well state regulation works but whether the anticompetitive scheme is the State's own.[24]

Thus, a decision by a state board that assesses both qualitatively and quantitatively whether the ''details of the rates or prices'' satisfy the state criteria ensures that it is the State, and not the private parties, that determines the substantive policy. There should be evidence of the steps the State took in analyzing the rates filed and the criteria it used in evaluating those rates. There should also be evidence showing whether the State independently verified the accuracy of financial data submitted and whether it relied on accurate and representative samples of data. There should be evidence that the State has a thorough understanding of the consequences of the private parties' proposed action. Tariffs, for instance, can be complex, and there should be evidence that the State not only has analyzed the actual rates charged but also has analyzed the complex rules that may directly or indirectly impact the rates contained in the tariff.

If the State has chosen to include in its statute a requirement that the regulatory body evaluate the impact of particular conduct on ''competition,'' ''consumer welfare,'' or some similar criterion, then—to meet the standard for active supervision—there should be evidence that the State has closely and carefully examined the likely impact of the conduct on consumers. Because the central purpose of the federal antitrust laws is also to protect competition and consumer welfare,[25] conduct that would run counter to those federal laws should not be lightly assumed to be consistent with parallel state goals. Especially when, as here, the underlying private conduct alleged is price fixing—which, as the *Ticor* Court noted, is possibly the most ''pernicious'' antitrust offense[26]—a careful consideration of the specific monetary impact on consumers is critical to any assessment of an overall impact on consumer welfare. That consideration should include an express quantitative assessment, based on reliable economic data, of the specific likely impact upon consumers.

It bears emphasizing that States need not choose to enact criteria such as promoting ''competition'' or ''consumer welfare''—the central end of federal antitrust law. A State could instead enact some other criterion. Then, the State's decision would need to assess whether that objective had been met.

On the other hand, if a State does not disavow (either expressly or through the promulgation of wholly contrary regulatory criteria) that consumer welfare is state regulatory policy, it should address consumer welfare in its regulatory analysis. In claiming the state action defense, a respondent should demonstrate that the state board, in evaluating arguably anticompetitive conduct, had carefully considered and quantified the likely impact of that conduct on consumers as a central element of deciding whether to approve that conduct.[27]

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supervision not found because, *inter alia*, the State had ''never conducted an economic study of the intrastate trucking industry nor of the effects of its regulatory policy on the intrastate trucking industry within the state''). Although the First Circuit reversed the Commission's decision, *New England Motor Rate Bureau* v. *FTC*, 908 F.2d 1064 (1st Cir. 1990), the First Circuit's standard for active supervision was later found to be ''insufficient'' in *Ticor*. 504 U.S. at 637.

[21] *Cf. United States* v. *Southern Motor Carriers Rate Conference*, 467 F. Supp. 471, 477 (N.D.Ga. 1979), *aff'd*, 702 F.2d 543 (5th Cir. Unit B 1983) (active supervision found where, among other things, the State undertook ''on-site review and verification of motor carrier books and records''), *rev'd on other grounds*, 471 U.S. 48 (1985).

[22] The Administrative Procedure Act defines a rule, in part, as ''the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy.'' 5 U.S.C. 551(4). Actions ''concerned with the approval of 'tariffs' or rate schedules filed by public utilities and common carriers'' are typical examples of rulemaking proceedings. E. Gellhorn & R. Levin, Administrative Law & Process 300 (1997).

[23] A record preserved by other means, such as audio or video recording technology, might also suffice, provided that it demonstrated that the board had (1) genuinely assessed the private conduct and (2) taken direct responsibility. Such an audio or video recording, however, will be an adequate substitute for a written opinion only when it provides a sufficiently transparent and decipherable view of the decision-making proceeding to facilitate meaningful public review and comment.

[24] *Ticor*, 504 U.S. at 634–35.

[25] Indeed, consideration of consumer impact is at the heart of ''[a] national policy'' that preserves ''the free market and * * * a system of free enterprise without price fixing or cartels.'' *Id.* at 632.

[26] *Id.* at 639 (''No antitrust offense is more pernicious than price fixing.'').

[27] This requirement is based on the principle that the national policy favoring competition ''is an essential part of the economic and legal system

In the present case, Alabama has expressly chosen to give significant consideration to, among other state interests, the interests of consumers when determining whether rates are ''just and reasonable'':

> In the exercise of its power to prescribe just and reasonable rates for the transportation of passengers or property by common carriers * * * the commission shall give due consideration, among other things, to
>
> * * * * *
>
> the need, in public interest, of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such service.[28]

Thus, to establish active supervision, Respondent would be obligated to show that the State, when approving the rates at issue, performed an analysis and quantification of whether the rates to consumers were ''at the lowest cost consistent with the furnishing of service.'' Here, there was some indication that a staff member reviewed movers' financial data to determine whether movers' operating ratios were within a specified range of operating ratios.[29] Nevertheless, Respondent did not provide evidence that the State had done any analysis and quantification of whether the rates satisfied the statutory objective.

VI. Opportunity for Public Comment

The standards of active supervision remain those laid out by the Supreme Court in *Midcal* and its progeny. Those standards have been explained in detail above to further illustrate how they would apply should Respondent seek to modify this proposed Order. Applying these standards, the Commission believes, will further the principles of federalism and accountability enunciated by the Supreme Court, will help clarify for States and private parties the reach of federal antitrust law, and will ultimately redound to the benefit of consumers.

These review techniques may also help to show active state supervision in other contexts. In this Analysis we have described particular techniques that can show active supervision in the context of tariff filings. Such filings often involve recurring, concrete acts of private rate setting that tend to automatically trigger review on the occasion of each such filing. As noted above, however, if a rate filing remains in place for a prolonged period of time, the state will have an obligation to review the level of those rates on an ongoing basis. Similarly, there may be other industries where specific events do not trigger a review of private conduct, yet where the state has still displaced competition and therefore the state action defense would apply only where it could be shown that the conduct was being actively supervised. We believe that the review principles described here can be adapted to those circumstances as well. Evidence of active supervision then might be required, not in connection with particular events, but rather on a reasonable periodic basis. That supervision might still involve the elements discussed here, such as notice, analysis in light of the statutory purposes, and a written decision.

The proposed Order has been placed on the public record for 30 days in order to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Agreement and comments received, and will decide whether it should withdraw from the Agreement or make final the Order contained in the Agreement.

By accepting the proposed Order subject to final approval, the Commission anticipates that the competitive issues described in the Complaint will be resolved. The purpose of this analysis is to invite and facilitate public comment concerning the proposed Order. It is not intended to constitute an official interpretation of the Agreement and proposed Order or to modify their terms in any way.

By direction of the Commission, Commissioner Harbour not participating.

Donald S. Clark,

Secretary.

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within which the separate States administer their own laws.'' *id.* at 632.

[28] Ala. Code Section 37–3–19(g).

[29] *Cf. United States* v. *Southern Motor Carriers Rate Conference*, 467 F. Supp. 471, 477 (N.D. Ga. 1979), *aff'd*, 702 F.2d 543 (5th Cir. Unit B 1983) (active supervision established where, among other things, the State reviewed a request for an increase in motor carrier rates by analyzing motor carriers' operating ratios), *rev'd on other grounds*, 471 U.S. 48 (1985).

FEDERAL TRADE COMMISSION

[Docket No. 9308]

Movers Conference of Mississippi, Inc.; 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 complaint 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 November 27, 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: Dana Abrahamsen, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2906.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and section 3.25(f) of the Commission's Rules of Practice, 16 CFR 3.25(f), 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 October 30, 2003), on the World Wide Web, at *http://www.ftc.gov/os/2003/10/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 Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted for public comment an Agreement Containing Consent Order with Movers Conference of Mississippi, Inc. (''MCM'' or ''Respondent'') to resolve matters charged in an Administrative Complaint issued by the Commission on July 9, 2003. The agreement has been placed on the public record for thirty (30) days for receipt of comments from interested members of the public. The Agreement is for settlement purposes only and does not constitute an admission by MCM that the law has been violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

The Commission's decision to issue its Complaint in this matter was made after considering whether Respondent's activities were protected by the state action defense. As discussed in detail in Section III below, a key element of the state action defense is the extent to which the State supervises private action. The facts developed during staff's investigation pertaining to the extent to which Mississippi supervised rates contained in tariffs filed by Respondent are discussed in this Analysis to illustrate how the Commission analyzed Respondent's ability to establish a state action defense.[1]

I. The Commission's Complaint

The Complaint alleged that Respondent Movers Conference of Mississippi, Inc., a corporation, violated Section 5 of the Federal Trade Commission Act. Specifically, the Complaint alleged that Respondent agreed to engage, and had engaged, in a combination and conspiracy, an agreement, concerted action or unfair and unlawful acts, policies and practices, the purpose or effect of which was to unlawfully hinder, restrain, restrict, suppress or eliminate competition among household goods movers in the household goods moving industry.

Respondent is an association organized for and serving its members, which are approximately 39 household goods movers that conduct business within the State of Mississippi. One of the primary functions of MCM is preparing, and filing with the Mississippi Public Service Commission, tariffs and supplements on behalf of its members. These tariffs and supplements contain rates and charges for the intrastate transportation of household goods and for related services.

The Complaint alleged that Respondent engaged in initiating, preparing, developing, disseminating, and taking other actions to establish and maintain collective rates, which had the purpose or effect of fixing, establishing or stabilizing rates for the transportation of household goods in the State of Mississippi.

The Complaint further alleged that Respondent organized and conducted meetings that provided a forum for discussion or agreement between competing carriers concerning or affecting rates and charges for the intrastate transportation of household goods.

The Complaint further alleged that Respondent's conduct was anticompetitive because it had the effect of raising, fixing, and stabilizing the prices of household goods moves. The acts of Respondent also had the effect of depriving consumers of the benefits of competition.

II. Terms of the Proposed Consent Order

The proposed Order would provide relief for the alleged anticompetitive effects of the conduct principally by means of a cease and desist order barring Respondent from continuing its practice of filing tariffs containing collective intrastate rates.

Paragraph II of the proposed Order bars Respondent from filing a tariff that contains collective intrastate rates. This provision will terminate Respondent's current practice of filing tariffs that contain intrastate rates that are the product of an agreement among movers in the State of Mississippi. This paragraph also prohibits Respondent from engaging in activities such as exchanges of information that would facilitate member movers in agreeing on the rates contained in their intrastate tariffs. For example, the order bars Respondent from providing to other carriers certain non-public information.[2] It also bars Respondent from maintaining a tariff committee or agreeing with movers to institute any automatic intrastate rate increases.

Paragraph III of the proposed Order requires Respondent to cancel all tariffs that it has filed that contain intrastate collective rates. This provision will ensure that the collective intrastate rates now on file in the State of Mississippi will no longer be in force, allowing for competitive rates in future individual mover tariffs. Paragraph III of the proposed Order also requires Respondent to cancel any provisions in its governing documents that permit it to engage in activities barred by the Order.

Paragraph IV of the proposed Order requires Respondent to send to its members a letter explaining the terms of the Order. This will make clear to members that they can no longer engage in collective rate-making activities.

Paragraphs V and VI of the proposed Order require Respondent to inform the Commission of any change in Respondent that could affect compliance with the Order and to file compliance reports with the Commission for a number of years. Paragraph VII of the proposed Order states that the Order will terminate in 20 years.

III. Opportunity for Modification of the Order

Respondent can seek to modify the proposed Order to permit it to engage in collective rate-making if it can demonstrate that the ''state action'' defense would apply to its conduct.[3] The state action doctrine dates back to the Supreme Court's 1943 opinion in *Parker* v. *Brown,* which held that, in light of the States' status as sovereigns, and given basic principles of federalism, Congress would not have intended the Sherman Act to apply to the activities of States themselves.[4] The defense also has been interpreted in limited circumstances to shield from antitrust scrutiny private firms' activities that are conducted pursuant to state authority. States may not, however, simply authorize private parties to violate the antitrust laws.[5] Instead, a State must

[1] Settlement in this matter precludes the possibility of a litigated record. Thus, the Commission's understanding of the facts as set forth in this Analysis is based on the record developed during staff's investigation. The Commission has decided to include discussion of the relevant parts of the investigatory record to provide the best guidance it can on the scope of the state action defense and to facilitate comment on the proposed Consent Agreement.

[2] A state statute requires that carriers file their tariffs and make them available to the public. Miss. Code Ann. § 77–7–211.

[3] 16 C.F.R. 2.51. We discuss the state action defense below in some detail. *See also* Indiana Household Movers and Warehousemen, Inc., File No. 021–0115 (Mar. 18, 2003) (proposed consent order) available at *http://www.ftc.gov/os/2003/03/indianahouseholdmoversanalysis.pdf;* Iowa Movers and Warehousemen's Association, File No. 021–0115 (Aug. 1, 2003) (proposed consent order) available at *http://www.ftc.gov/os/2003/08/imwaanalysis.htm;* and Minnesota Transport Services Association, File No. 021–0115 (Aug. 1, 2003) (proposed consent order) available at *http://www.ftc.gov/os/2003/08/mtsaanalysis.htm.*

[4] 317 U.S. 341 (1943).

[5] *Parker* v. *Brown,* 317 U.S. at 351 (''[A] state does not give immunity to those who violate the

substitute its own control for that of the market.

Thus, the state action defense would be available to Respondent only if it could demonstrate that its conduct satisfied the strict two-pronged standard the Supreme Court set out in *California Retail Liquor Dealers Ass'n* v. *Midcal Aluminum, Inc.:* ''the challenged restraint must be 'one clearly articulated and affirmatively expressed as state policy' '' and ''the policy must be 'actively supervised' by the state itself.'' [6]

Under the first prong of *Midcal's* two-part test, Respondent would be required to show that the State of Mississippi had ''clearly articulated and affirmatively expressed as state policy'' the desire to replace competition with a regulatory scheme. With regard to this prong, it appears that under Mississippi law tariffs must be ''just and reasonable.'' [7] Respondent would meet its burden if it could show that these or some other provision of Mississippi law constitutes a clear expression of state policy to displace competition and allow for collective rate-making among competitors.[8]

Under the second prong of the *Midcal* test, Respondent would be required to demonstrate ''active supervision'' by state officials. The Supreme Court has made clear that the active supervision standard is a rigorous one. It is not enough that the State grants general authority for certain business conduct or that it approves private agreements with little review. As the Court held in *Midcal,* ''The national policy in favor of competition cannot be thwarted by casting such a gauzy cloak of state involvement over what is essentially a private price-fixing arrangement.'' [9] Rather, active supervision is designed to ensure that a private party's anticompetitive action is shielded from antitrust liability only when ''the State has effectively made [the challenged] conduct its own.'' [10]

In order for state supervision to be adequate for state action purposes, state officials must engage in a ''pointed re-examination'' of the private conduct.[11] In this regard, the State must ''*have* and *exercise* ultimate authority'' over the challenged anticompetitive conduct.[12] To do so, state officials must exercise ''sufficient independent judgment and control so that the details of the rates or prices have been established as a product of deliberate state intervention, not simply by agreement among private parties.'' [13] One asserting the state action defense must demonstrate that the state agency has ascertained the relevant facts, examined the substantive merits of the private action, assessed whether that private action comports with the underlying statutory criteria established by the state legislature, and squarely ruled on the merits of the private action in a way sufficient to establish the challenged conduct as a product of deliberate state intervention rather than private choice.

IV. General Characteristics of Active Supervision

At its core, the active supervision requirement serves to identify those responsible for public policy decisions. The clear articulation requirement ensures that, if a State is to displace national competition norms, it must replace them with specific state regulatory standards; a State may not simply authorize private parties to disregard federal laws,[14] but must genuinely substitute an alternative state policy. The active supervision requirement, in turn, ensures that responsibility for the ultimate conduct can properly be laid on the State itself, and not merely on the private actors. As the Court explained in Ticor:

> States must accept political responsibility for actions they intend to undertake. * * * Federalism serves to assign political responsibility, not to obscure it. * * * For States which do choose to displace the free market with regulation, our insistence on real compliance with both parts of the Midcal test will serve to make clear that the State is responsible for the price fixing it has sanctioned and undertaken to control.[15]

Through the active supervision requirement, the Court furthers the fundamental principle of accountability that underlies federalism by ensuring that, if allowing anticompetitive conduct proves to be unpopular with a State's citizens, the state legislators will not be ''insulated from the electoral ramifications of their decisions.'' [16]

In short, clear articulation requires that a State enunciate an affirmative intent to displace competition and to replace it with a stated criterion. Active supervision requires the State to examine individual private conduct, pursuant to that regulatory regime, to ensure that it comports with that stated criterion. Only then can the underlying conduct accurately be deemed that of the State itself, and political responsibility for the conduct fairly be placed with the State.

Accordingly, under the Supreme Court's precedents, to provide meaningful active supervision, a State must (1) Obtain sufficient information to determine the actual character of the private conduct at issue, (2) measure that conduct against the legislature's stated policy criteria, and (3) come to a clear decision that the private conduct satisfies those criteria, so as to make the final decision that of the State itself.

V. Standard for Active Supervision

There is no single procedural or substantive standard that the Supreme Court has held a State must adopt in order to meet the active supervision standard. Satisfying the Supreme Court's general standard for active supervision, described above, is and will remain the ultimate test for that element of the state action defense.

Nevertheless, in light of the foregoing principles, the Commission in this Analysis identifies the specific elements of an active supervision regime that it will consider in determining whether the active supervision prong of state action is met in future cases (as well as in any future action brought by Respondent to modify the terms of this proposed Order). They are three: (1) The development of an adequate factual record, including notice and opportunity to be heard; (2) a written decision on the merits; and (3) a specific assessment—both qualitative and quantitative—of how the private action comports with the substantive standards established by the state legislature. All three elements further the central purpose of the active supervision prong by ensuring that responsibility for the private conduct is fairly attributed to the State. Each will be discussed below.

A. Development of an Adequate Factual Record, Including Notice and Opportunity To Be Heard

To meet the test for active state supervision, in this case Respondent

Sherman Act by authorizing them to violate it, or declaring that their action is lawful.'').

[6] 445 U.S. 97, 105 (1980) (''Midcal'') (quoting *City of Lafayette* v. *Louisiana Power & Light,* 435 U.S. 389, 410 (1978)). The ''restraint'' in this instance is the collective rate-setting. This articulation of the state action doctrine was reaffirmed by the Supreme Court in *FTC* v. *Ticor Title Insurance Co.* (''Ticor''), 504 U.S. 621, 633 (1992), where the Court noted that the gravity of the antitrust violation of price fixing requires exceptionally clear evidence of the State's decision to supplant competition.

[7] Miss. Code Ann. § 77–7–151; Miss. Code Ann. § 77–7–221.

[8] *United States* v. *Southern Motor Carriers Rate Conference,* 471 U.S. 48, 63–65 (1985).

[9] *Midcal,* 445 U.S. at 105–06.

[10] *Patrick* v. *Burget,* 486 U.S. 94, 106 (1988).

[11] *Midcal,* 445 U.S. at 106. Accord, Ticor, 504 U.S. at 634–35; *Patrick* v. *Burget,* 486 U.S. at 100–01.

[12] *Patrick* v. *Burget,* 486 U.S. at 101 (emphases added).

[13] *Ticor,* 504 U.S. at 634–35.

[14] *Parker,* 317 U.S. at 351.

[15] 504 U.S. at 636.

[16] *See New York* v. *United States,* 505 U.S. 144, 168–69 (1992).

would need to show that the State had in place an administrative body charged with the necessary review of filed tariffs and capable of developing an adequate factual record to do so.[17] In *Ticor*, the Court quoted language from earlier lower court cases setting out a list of organizational and procedural characteristics relevant as the ''beginning point'' of an effective state program:

> [T]he state's program is in place, is staffed and funded, grants to the state officials ample power and the duty to regulate pursuant to declared standards of state policy, is enforceable in the state's courts, and demonstrates some basic level of activity directed towards seeing that the private actors carry out the state's policy and not simply their own policy * * *.[18]

Moreover, that body would need to be capable of compiling, and actually compile, an adequate factual record to assess the nature and impact of the private conduct in question. The precise factual record that would be required would depend on the substantive norm that the State has provided; the critical question is whether the record has sufficient facts for the reviewing body sensibly to determine that the State's substantive regulatory requirements have been achieved. In the typical case in which the State has articulated a criterion of consumer impact, obtaining reliable, timely, and complete economic data would be central to the regulatory board's ability to determine if the State's chosen criterion has been satisfied.[19] Timeliness in particular is an ongoing concern; if the private conduct is to remain in place for an extended period of time, then periodic state reviews of that private conduct using current economic data are important to ensure that the restraint remains that of the State, and not of the private actors.

In Mississippi, the State had in place rules and regulations pertaining to, and had staff assigned to review, household goods tariffs. In connection with a recent tariff increase request, Respondent sent to the State very general written assertions that movers' costs had increased as well as some assertions regarding specific cost increases. The staff did undertake some review including, for example, checking to see if the cost of packaging material had increased as asserted by movers. In addition, the State monitored Bureau of Labor Statistics printouts giving the national consumer price index and Department of Labor's notices of increases in the national minimum wage.

Nevertheless, Respondent made no showing that the State had done the necessary research into the economic conditions of the moving industry in Mississippi that would enable it to assess the impact of the Respondent's proposal.[20] Moreover, there was no showing that the State sought independently to verify the accuracy of the financial information submitted by the movers.[21]

Additionally, in assembling an adequate factual record, the procedural value of notice and opportunity to comment is well established. These procedural elements, which have evolved in various contexts through common law, through state and federal constitutional law, and through Administrative Procedure Act rulemakings,[22] are powerful engines for ensuring that relevant facts—especially those facts that might tend to contradict the proponent's contentions—are brought to the state decision-maker's attention. In Mississippi, the Public Service Commission did give notice to the public that a hearing was to take place to consider increases in rates and it did hold hearings where witnesses testified about their increased costs.[23] For reasons discussed throughout, however, the mere fact of a hearing will not establish active supervision. To show active supervision, Respondent would need to establish that the State takes additional steps to ensure that it makes the rates its own.

B. A Written Decision

A second important element the Commission will look to in determining whether there has been active supervision is whether the state board renders its decision in writing. Though not essential, the existence of a written decision is normally the clearest indication that the board (1) genuinely has assessed whether the private conduct satisfies the legislature's stated standards and (2) has directly taken responsibility for that determination. Through a written decision, whether rejecting or (the more critical context) approving particular private conduct that would otherwise violate the federal antitrust laws, the state board would provide analysis and reasoning, and supporting evidence, that the private conduct furthers the legislature's objectives.[24]

In Mississippi, the State issued written orders granting requests for price increases.[25] These written orders simply announced the State's decision. The orders did not discuss evidence supporting the increases nor did they provide the State's analysis or reasoning when the State granted rate increases.

C. Qualitative and Quantitative Compliance With State Policy Objectives

In determining active supervision, the substance of the State's decision is critical. Its fundamental purpose must be to determine that the private conduct meets the state legislature's stated

[17] At the time of any request for a modification, Respondent will be required to produce evidence of what the state reviewing agency is likely to do in response to collective rate-making. We recognize that this involves some prediction and uncertainty, particularly when the Respondent requests an order modification on the basis of a state review program that might be authorized but not yet operating, as the Respondent will still be under order. In such cases it may be appropriate for the Respondent to show what the state program is designed, directed, or organized to do. If a particular state agency is already conducting reviews in some related area, evidence of its approach to these tasks will be particularly relevant.

[18] *Ticor*, 504 U.S. at 637 (citations omitted).

[19] As the *Ticor* Court held, ''state officials [must] have undertaken the necessary steps to determine the specifics of the price-fixing or ratesetting scheme.'' *Id.* at 638.

[20] *Cf. New England Motor Rate Bureau, Inc.,* 112 F.T.C. 200, 233, 266, 279–80 (1989) (active supervision not found because, *inter alia,* the State had ''never conducted an economic study of the intrastate trucking industry nor of the effects of its regulatory policy on the intrastate trucking industry within the state''). Although the First Circuit reversed the Commission's decision, *New England Motor Rate Bureau* v. *FTC*, 908 F.2d 1064 (1st Cir. 1990), the First Circuit's standard for active supervision was later found to be ''insufficient'' in *Ticor.* 504 U.S. at 637.

[21] *Cf. United States* v. *Southern Motor Carriers Rate Conference*, 467 F. Supp. 471, 477 (N.D.Ga. 1979), *aff'd,* 702 F.2d 543 (5th Cir. Unit B 1983) (active supervision found where, among other things, the State undertook ''on-site review and verification of motor carrier books and records''), *rev'd on other grounds*, 471 U.S. 48 (1985).

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[23] *See, e.g.*, August 8, 1995, Notice, Public Service Commission of the State of Mississippi, 95–MC–0329, *In Re: Application of Mississippi Movers Conference Filing Supplement No. 2 to Mississippi Movers Conference Tariff No 2;* October 10, 1995, Public Hearing before the Public Service Commission of the State of Mississippi, 95–MC–0329, *In Re Application of Mississippi Movers Conference Filing Supplement No. 2 to Mississippi Movers Conference Tariff No 2.*

[24] A record preserved by other means, such as audio or video recording technology, might also suffice, provided that it demonstrated that the board had (1) genuinely assessed the private conduct and (2) taken direct responsibility. Such an audio or video recording, however, will be an adequate substitute for a written opinion only when it provides a sufficiently transparent and decipherable view of the decision-making proceeding to facilitate meaningful public review and comment.

[25] *See, e.g.*, December 19, 1995, Order, Public Service Commission of the State of Mississippi, 95–MC–0329, *In Re Application of Mississippi Movers Conference Filing Supplement No. 2 to Mississippi Movers Conference Tariff No. 2.*

criteria. Federal antitrust law does not seek to impose Federal substantive standards on state decision-making, but it does require that the States—in displacing federal law—meet their own stated standards. As the *Ticor* Court explained:

> Our decisions make clear that the purpose of the active supervision inquiry is not to determine whether the State has met some normative standard, such as efficiency, in its regulatory practices. Its purpose is to determine whether the State has exercised sufficient independent judgment and control so that the details of the rates or prices have been established as a product of deliberate state intervention, not simply by agreement among private parties. Much as in causation inquiries, the analysis asks whether the State has played a substantial role in determining the specifics of the economic policy. The question is not how well state regulation works but whether the anticompetitive scheme is the State's own.[26]

Thus, a decision by a state board that assesses both qualitatively and quantitatively whether the ''details of the rates or prices'' satisfy the state criteria ensures that it is the State, and not the private parties, that determines the substantive policy. There should be evidence of the steps the State took in analyzing the rates filed and the criteria it used in evaluating those rates. There should also be evidence showing whether the State independently verified the accuracy of financial data submitted and whether it relied on accurate and representative samples of data. There should be evidence that the State has a thorough understanding of the consequences of the private parties' proposed action. Tariffs, for instance, can be complex, and there should be evidence that the State not only has analyzed the actual rates charged but also has analyzed the complex rules that may directly or indirectly impact the rates contained in the tariff.

If the State has chosen to include in its statute a requirement that the regulatory body evaluate the impact of particular conduct on ''competition,'' ''consumer welfare,'' or some similar criterion, then—to meet the standard for active supervision—there should be evidence that the State has closely and carefully examined the likely impact of the conduct on consumers. Because the central purpose of the federal antitrust laws is also to protect competition and consumer welfare,[27] conduct that would run counter to those federal laws should not be lightly assumed to be consistent with parallel state goals. Especially when, as here, the underlying private conduct alleged is price fixing—which, as the *Ticor* Court noted, is possibly the most ''pernicious'' antitrust offense [28]—a careful consideration of the specific monetary impact on consumers is critical to any assessment of an overall impact on consumer welfare. That consideration should include an express quantitative assessment, based on reliable economic data, of the specific likely impact upon consumers.

It bears emphasizing that States need not choose to enact criteria such as promoting ''competition'' or ''consumer welfare''—the central end of federal antitrust law. A State could instead enact some other criterion. Then, the State's decision would need to assess whether that objective had been met.

On the other hand, if a State does not disavow (either expressly or through the promulgation of wholly contrary regulatory criteria) that consumer welfare is state regulatory policy, it should address consumer welfare in its regulatory analysis. In claiming the state action defense, a respondent should demonstrate that the state board, in evaluating arguably anticompetitive conduct, had carefully considered and quantified the likely impact of that conduct on consumers as a central element of deciding whether to approve that conduct.[29]

In the present case, Mississippi has expressly chosen to give significant consideration to, among other state interests, the interests of consumers when determining whether rates are ''just and reasonable'':

> In the exercise of its power to prescribe just and reasonable rates for the transportation of passengers or household goods * * * the commission shall give due consideration, among other factors, to:
>
> * * * * *
>
> the need, in the public interest, of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such services.[30]

Thus, to establish active supervision, Respondent would be obligated to show that the State, when approving the rates at issue, performed an analysis and quantification of whether the rates to consumers were ''at the lowest cost consistent with the furnishing of service.'' Here, however, Respondent did not produce any substantial evidence that the State had done such an analysis or that the State had adopted a method for evaluating movers' rates against the statutory criteria.[31]

In fact, during one Public Service Commission hearing held to consider movers' request for an increase in rates, a mover opposed the proposed increase on the grounds that he and other movers could continue to profitably move customers at the existing rates.[32] The Public Service Commission approved the requested increase in rates without explaining why it rejected this testimony or how it decided that the higher rates were at the ''lowest cost consistent with the furnishing of [moving] services.''

VI. Opportunity for Public Comment

The standards of active supervision remain those laid out by the Supreme Court in Midcal and its progeny. Those standards have been explained in detail above to further illustrate how they would apply should Respondent seek to modify this proposed Order. Applying these standards, the Commission believes, will further the principles of federalism and accountability enunciated by the Supreme Court, will help clarify for States and private parties the reach of federal antitrust law, and will ultimately redound to the benefit of consumers.

These review techniques may also help to show active state supervision in

[26] *Ticor*, 504 U.S. at 634–35.

[27] Indeed, consideration of consumer impact is at the heart of ''[a] national policy'' that preserves ''the free market and * * * a system of free enterprise without price fixing or cartels.'' *Id.* at 632.

[28] *Id.* at 639 (''No antitrust offense is more pernicious than price fixing.'').

[29] This requirement is based on the principle that the national policy favoring competition ''is an essential part of the economic and legal system within which the separate States administer their own laws.'' *Id.* at 632.

[30] Miss. Code Ann. § 77–7–211.

[31] *Cf. United States* v. *Southern Motor Carriers Rate Conference*, 467 F. Supp. 471, 477 (N.D. Ga. 1979), *aff'd*, 702 F.2d 543 (5th Cir. Unit B 1983) (active supervision established where, among other things, the State reviewed a request for an increase in motor carrier rates by analyzing motor carriers' operating ratios), *rev'd on other grounds*, 471 U.S. 48 (1985).

[32] The mover testified as follows:

> ''I think the majority of movers here are making fairly decent money doing this business, some an exception, and I can't answer why because you can make money doing this and there's no problem with that. Any time you buy a box for 50 cents and sell it for $2.20, you're going to make money on that box. * * * I was basically going to say that my company can currently operate profitably based on these rates and provide a good service to the average consumer * * *
>
> ''I don't know how many of my customers have said, even at church when I'm talking to some of my friends and I tell them how much I sell a box for, they just look at me and say you're robbing us, you're just stealing us blind. And granted this is a hard business to make a profit. I'm not one to make a big profit; I just make a steady living, feed my kids, take care of my house, and give my guys good employment. That's all I do. I'm not out to make a million dollars.''

October 10, 1995, Public Hearing before the Public Service Commission of the State of Mississippi, 95–MC–0329, In Re Application of Mississippi Movers Conference Filing Supplement No. 2 to Mississippi Movers Conference Tariff No. 2, at transcript pages 40, 42, 45.

other contexts. In this Analysis we have described particular techniques that can show active supervision in the context of tariff filings. Such filings often involve recurring, concrete acts of private rate setting that tend to automatically trigger review on the occasion of each such filing. As noted above, however, if a rate filing remains in place for a prolonged period of time, the state will have an obligation to review the level of those rates on an ongoing basis. Similarly, there may be other industries where specific events do not trigger a review of private conduct, yet where the state has still displaced competition and therefore the state action defense would apply only where it could be shown that the conduct was being actively supervised. We believe that the review principles described here can be adapted to those circumstances as well. Evidence of active supervision then might be required, not in connection with particular events, but rather on a reasonable periodic basis. That supervision might still involve the elements discussed here, such as notice, analysis in light of the statutory purposes, and a written decision.

The proposed Order has been placed on the public record for 30 days in order to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Agreement and comments received, and will decide whether it should withdraw from the Agreement or make final the Order contained in the Agreement.

By accepting the proposed Order subject to final approval, the Commission anticipates that the competitive issues described in the Complaint will be resolved. The purpose of this analysis is to invite and facilitate public comment concerning the proposed Order. It is not intended to constitute an official interpretation of the Agreement and proposed Order or to modify their terms in any way.

By direction of the Commission, Commissioner Harbour not participating.

Donald S. Clark,

Secretary.

[FR Doc. 03–27812 Filed 11–4–03; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 021 0115]

New Hampshire Motor Transport Association; 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 November 27, 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: Dana Abrahamsen, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2906.

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 October 30, 2003), on the World Wide Web, at *http://www.ftc.gov/os/2003/10/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 Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted for public comment an Agreement Containing Consent Order with New Hampshire Motor Transport Association (''NHMTA'' or ''Respondent''). The Agreement is for settlement purposes only and does not constitute an admission by NHMTA that the law has been violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

I. The Commission's Complaint

The proposed Complaint alleges that Respondent New Hampshire Motor Transport Association, a corporation, has violated and is now violating Section 5 of the Federal Trade Commission Act. Specifically, the proposed Complaint alleges that Respondent has agreed to engage, and has engaged, in a combination and conspiracy, an agreement, concerted action or unfair and unlawful acts, policies and practices, the purpose or effect of which is to unlawfully hinder, restrain, restrict, suppress or eliminate competition among household goods movers in the State of New Hampshire.

Respondent is an association organized for and serving its members, which are approximately 400 firms primarily engaged in the trucking industry, of which approximately 19 members are household goods movers that conduct business within the State of New Hampshire. One of the functions of Respondent is preparing, and filing with the New Hampshire Department of Safety's Bureau of Common Carriers, tariffs and supplements on behalf of members engaged in moving household goods. These tariffs and supplements contain rates and charges for the intrastate and local transportation of

household goods and for related services.

The proposed Complaint alleges that Respondent is engaged in initiating, preparing, developing, disseminating, and taking other actions to establish and maintain tariff rules which have the purpose or effect of fixing, establishing or stabilizing rates for the transportation of household goods in the State of New Hampshire. The proposed Complaint further alleges that Respondent files with the New Hampshire Bureau of Common Carriers tariffs containing rules that institute automatic increases to carriers' rates.

The proposed Complaint further alleges that Respondent's conduct is anticompetitive because it has the effect of raising, fixing, and stabilizing the prices of household goods moves. The acts of Respondent also have the effect of depriving consumers of the benefits of competition.

II. Terms of the Proposed Consent Order

The proposed Order would provide relief for the alleged anticompetitive effects of the conduct principally by requiring Respondent to cease and desist from its practice of filing tariffs containing rules that call for automatic increases in movers' intrastate rates.

Paragraph II of the proposed Order bars Respondent from filing a tariff that contains rules mandating automatic price increases. This provision will terminate Respondent's current practice of filing tariffs that contain such rules that are the product of an agreement among movers in the State of New Hampshire. This paragraph also prohibits Respondent from engaging in activities such as exchanges of information that would facilitate member movers' agreement to include such rules in their intrastate tariffs. For example, the order bars Respondent from providing certain non-public information to member carriers.[1]

Paragraph III of the proposed Order requires Respondent to cancel all tariffs that it has filed that contain rules concerning automatic rate increases. This provision will ensure that the intrastate tariffs containing such rules now on file in the State of New Hampshire will no longer be in force, allowing for future individual mover tariffs. Paragraph III of the proposed Order also requires Respondent to cancel any provisions in its governing documents that permit it to engage in activities barred by the Order.

Paragraph IV of the proposed Order requires Respondent to send a letter explaining the terms of the Order to its members engaged in moving household goods. This will make clear to members that they can no longer engage in activities prohibited by the Order.

Paragraphs V and VI of the proposed Order require Respondent to inform the Commission of any change in Respondent that could affect compliance with the Order and to file compliance reports with the Commission for a number of years. Paragraph VII of the proposed Order states that the Order will terminate in 20 years.

III. Opportunity for Modification of the Order

Should the Commission issue a final Order in this matter, Respondent can seek to modify that Order to permit it to engage in collective action regarding prices if it can demonstrate that the ''state action'' defense would apply to its conduct.[2] The Commission has recently explained in detail the factors it would consider in determining whether the state action defense is met.[3] At present, Respondent would not be able to establish that its conduct is covered by the state action defense because the State of New Hampshire does not actively supervise the tariffs filed by Respondent.

IV. Opportunity for Public Comment

The proposed Order has been placed on the public record for 30 days in order to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Agreement and comments received, and will decide whether it should withdraw from the Agreement or make final the Order contained in the Agreement.

By accepting the proposed Order subject to final approval, the Commission anticipates that the competitive issues described in the proposed Complaint will be resolved. The purpose of this analysis is to invite and facilitate public comment concerning the proposed Order. It is not intended to constitute an official interpretation of the Agreement and proposed Order or to modify their terms in any way.

By direction of the Commission, Commissioner Harbour not participating.

Donald S. Clark,

Secretary.

[FR Doc. 03–27813 Filed 11–4–03; 8:45 am]

BILLING CODE 6750–01–P

[1] A state statute requires carriers to keep their tariffs ''open to public inspection.'' N.H. Rev. Stat. § 375–A:9.

[2] 16 CFR 2.51.

[3] See Analysis of Proposed Consent Order to Aid Public Comment in: Indiana Household Movers and Warehousemen, Inc. (Mar. 18, 2003) available at *http://www.ftc.gov/os/2003/03/indianahouseholdmoversanalysis.pdf;* Iowa Movers and Warehousemen's Association (Aug. 1, 2003) available at *http://www.ftc.gov/os/2003/08/imwaanalysis.htm;* and Minnesota Transport Services Association (Aug. 1, 2003) available at *http://www.ftc.gov/os/2003/08/mtsaanalysis.htm.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–69–03]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503; or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project: Health and Safety Outcomes Related to Work Schedules in Nurses—NEW—The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). The mission of the National Institute for Occupational Safety and Health is to promote safety and health at work for all people through research and prevention.

In the United States, approximately 1.1 million registered nurses work shift schedules to provide essential nursing services that are required around the clock. A recent U.S. Government report indicates that the average nurse works more than 40 hours per week. Both shift work and overtime have been independently associated with increased health and safety risks. Little is known about the combined influence of shift work and overtime. In addition, most previous shift work studies of nurses have used young participants. However, the age of the average working U.S. registered nurse is now 43.3 years and has been increasing over the past 20 years. This aging workforce will be more vulnerable to the adverse health and safety risks associated with shift work and overtime. This study will examine

the combined influence of shift work and overtime on health and safety in the current registered nurse workforce. The study will provide data for work schedule design recommendations. Potential secondary benefits to society will be improved patient outcomes.

Specific Aim 1.—Examine if certain characteristics of shift work schedules, such as shift length (*i.e.* 12-hour, 8-hour shifts), night work, and rotating work schedules are associated with increased health and safety risks.

Specific Aim 2.—Examine how shift work and overtime interact to influence health and safety risks.

Specific Aim 3.—Examine if disturbances of sleep, family life, and social life mediate effects of work schedules on health and safety.

The study is based on the theoretical model by Barton *et al.* (1995) who propose that shift work exerts a negative effect on health and safety outcomes by disturbing sleep, family life, and social life. The study will use a cross-sectional design to survey 1,000 registered nurses who will be randomly selected from 10 large hospitals. Participants will be asked to complete a survey, complete a 7-day sleep/activity diary, provide one set of blood pressure readings, and provide a copy of their work schedule from their hospital records for the previous 3-month period.

The survey includes items for personal characteristics such as age and weight; health history; lifestyle factors such as smoking and alcohol use; sleep characteristics and problems; factors at work and other responsibilities such as child care; work schedule factors; musculoskeletal discomfort; gastrointestinal and cardiovascular symptoms; mood; automobile crashes and near misses; needlestick injuries; and job satisfaction. The study will compute a list of work characteristics based on the actual work start and end times. Statistical modeling will be used to examine characteristics of work schedules associated with increased risk while controlling for demographic, health history, lifestyle, and work-related risk factors. A base model will be developed with significant control variables for each outcome. Work schedule variables will then be added to the base model to test for significant relationships while controlling for co-variants. The annualized burden for this data collection is 1,667 hours.

Form name	Number of respondents	Number of responses/ respondent	Avg. burden/responses (in hours)
3 month overtime diary	1000	6	5/60
7-day sleep/activity diary	1000	7	5/60
Survey	1000	1	35/60

Dated: October 28, 2003.

Gaylon D. Morris,

Acting Director, Executive Secretariat, Centers for Disease Control and Prevention.

[FR Doc. 03–27794 Filed 11–4–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–01–04]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503; or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project: Assessing the Linkages between Dating Violence, Other Peer Violence, and Suicide—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Violence is an important public health problem, particularly among our youth. In the United States, homicide and suicide are the second and third leading causes of death, respectively, for youth aged 15–19 years. There has been a tremendous growth in research on the prevalence, incidence, causes and effects of dating violence, peer violence, and suicide among youth. Various disciplines have contributed to the development of research on the subject including psychology, epidemiology, criminology and public health.

Still, considerable gaps remain in our understanding of the extent to which youth who engage in one type of violent behavior are more likely to engage in other types of violent behavior. Existing research on the linkages across different forms of violent behavior among youth are limited. Research with adults suggests that dating violence and other peer violence are strongly linked, however the strength of this association among adolescents and the degree to which it changes by developmental stage remain unclear. Similarly, regarding the linkages with suicidal behavior, gaps remain in our understanding of the extent to which suicidal behavior varies for those who engage in dating violence versus other peer violence or both types of violence, and how this association varies by age. Also, the extent to which risk for participation in single versus multiple types of violence varies for adolescent males and females is generally not well understood.

Gaps in our understanding of how different types of violent behavior are linked and whether they share common risk factors have limited the ability to design violence prevention and intervention efforts that could address multiple types of violence. Additional information on the linkages among dating violence, other peer violence, and suicidal behavior and how these linkages differ by gender and age is needed to guide the selection, timing, and focus of prevention strategies. This study will increase the knowledge and understanding of the linkages among different types of violence. As a result, CDC will work with a contractor to identify a school district in a high-risk community, identify a sample of students to participate in the study, and develop a questionnaire that will be administered to male and female students at different developmental stages (*i.e.*, 6th, 9th and 12th grade).

The goals of the study are to examine the extent (a) youth engage in multiple types of violence (*i.e.*, dating violence, other peer violence, and suicidal behavior); (b) risk and protective factors

for different types of violence that are unique or shared; (c) linkages across types of violence varied by gender and developmental stage; and (d) other socio-environmental factors which buffer or exacerbate risk for violence. The questionnaires include information about aggressive and violent behaviors (*e.g.*, verbal, coercive, physical, and sexual) that youth use against dating partners and peers; and suicidal thoughts, plans, and attempts. Additionally, the questionnaires will include information about psycho-social and behavioral factors that may buffer or exacerbate risk for violent behavior. The scales used in the questionnaire are original or modified versions of established scales that were developed for use with adolescents.

A better understanding or the linkages among dating violence, other peer violence, and suicidal behavior, and how these linkages differ by gender and age is needed to guide the selection, timing, and focus of prevention strategies. Ultimately, this information will guide CDC in designing programs that reduce multiple forms of violence among adolescents and young adults. The estimated annualized burden is 4624 hours.

Respondents	Number of respondents	Number or responses/ respondent	Average burden/response (in hrs.)
Students (recruitment, students <18 years)	5,882	1	5/60
Parents (permission, students <18 years)	5,882	1	5/60
Students participants	4,500	1	45/60
School administrators	29	1	1
Classroom teachers	240	1	1

Dated: October 24, 2003.

Gaylon D. Morris,

Acting Director, Executive Secretariat, Centers for Disease Control and Prevention.

[FR Doc. 03–27795 Filed 11–4–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–81–03]

Public Comment and Recommendations Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503; or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project: Willingness to Pay Project—NEW—Epidemiology Program Office (EPO), Centers for Disease Control and Prevention (CDC). The mission of the Prevention Effectiveness Branch is to provide information and training to build internal and external capacity in economic and decision sciences. We are requesting clearance for a package that was submitted previously and withdrawn from the program. This pilot project will use quantitative research to develop use informational approaches (educational materials or product labeling) to educate consumers about food safety issues, develop and test survey instruments and test experimental protocols to be used in the main quantitative data collection; the main data collection will be used to provide nationally-representative estimates of consumers' willingness to pay for (a) Publicly-provided reductions in the probability of contracting foodborne illnesses; (b) reductions in severity of symptoms associated with foodborne illnesses, and (c) materials that facilitate private, defensive precautions against foodborne illness during home food preparation (*e.g.*, meat thermometers, antibacterial soaps and cutting boards). The main data collection will also be used to estimate the effect of education programs and product labeling on willingness to pay for the reductions; compare the empirical estimates of the above mentioned consumer willingness to pay derived from a conjoint analysis instrument and a simulated marketplace experiment. Public awareness and stated concern regarding foodborne illnesses have increased rapidly over the past decade. The general public while seemingly well informed and concerned about some relevant food safety issues appears unknowledgeable or ill-informed about emerging issues. The Food Safety Survey data suggest that information provided to consumers at the point of purchase may be a fruitful means of educating the public about food safety, and analyses of consumer purchase data indicate that health-related information provided at the point of purchase can make significant long-term changes in purchasing behavior. While providing health-related information about food has been the focus of major policy initiatives in the last few years, little empirical economic research has attempted to understand the market and welfare effects of different health information policies. In addition, previous research does not address the distribution of effects across different consumers. Policy makers and food manufacturers cannot provide labels that satisfy everyone's information desires while simultaneously catering to consumers' cognitive and time constraints. As a result, policy makers need to understand how different sectors of the consumer population will be affected, particularly those members of the population who face relatively high food safety risks. The lack of information hinders policy makers from making informed decisions on the proper allocation of resources in this area since the benefits or reducing the risk of illness are not well known. Not having the information readily available makes cost-effectiveness and cost-benefit analyses difficult to do as well as resource-intensive. This data collection effort then will reduce this burden by making data available to researchers for use in program and policy evaluation. If this data collection effort were not to take place, agencies will either have to continue to piece together data when conducting economic analyses of food safety policies and regulations, or they will fund a large-scale effort like the one being proposed. Another large-scale effort would be a waste of public funds. Providing consumers information about

the risks and about protective measures allows consumers to more accurately assess how much they would pay for reductions in this risk, but more importantly, it also informs the consumer as to what the risks are and how they can protect themselves. This information is important since the consumer is the last line of defense in the campaign against foodborne illnesses. The total burden hours are 1,000.

Instrument	Number of respondents	Number of responses/ respondent	Hours per response
Mail survey	3,000	1	20/60

Dated: October 28, 2003.

Gaylon D. Morris,

Acting Director, Executive Secretariat, Centers for Disease Control and Prevention.

[FR Doc. 03–27796 Filed 11–4–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 1999N–1852]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; ''Draft Guidance for Industry: Reports on the Status of Postmarketing Studies—Implementation of Section 130 of the Food and Drug Administration Modernization Act of 1997''

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by December 5, 2003.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

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 compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Draft Guidance for Industry: Reports on the Status of Postmarketing Studies—Implementation of Section 130 of the Food and Drug Administration Modernization Act of 1997

FDA is requesting OMB approval under the PRA (44 U.S.C. 3507) for the reporting requirements contained in the draft guidance for industry entitled ''Reports on the Status of Postmarketing Studies—Implementation of Section 130 of the Food and Drug Administration Modernization Act of 1997.'' The draft guidance provides recommendations on these topics:

- Procedures, content, and format for submitting a postmarketing study status report for an approved human drug or licensed biological product;
- Timeframes for FDA's review of postmarketing studies; and
- Information about postmarketing studies that will be available to the public.

The draft guidance is intended to assist applicants in meeting the requirements of section 130 of the Food and Drug Administration Modernization Act of 1997. Section 506B ''Reports of Postmarketing Studies'' of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 356b) provides FDA with additional authority for monitoring the progress of postmarketing studies that drug and biologics applicants have made a commitment to conduct. Postmarketing studies are those studies conducted after approval to gather information about approved drug or biologics products. Such studies are used to gather additional information about product safety, efficacy, or optimal use.

Under 506B(a) of the act, an applicant who has entered into an agreement with FDA to conduct a postmarketing study is required to provide the agency with an annual report on the status of the study until the study is completed or terminated. The annual report must address the progress of the study or the reasons for the failure of the applicant to conduct the study. Section 506B(c) of the act directs FDA to develop and publish annually in the **Federal Register** a report on the status of postmarketing studies that applicants have made a commitment to conduct and for which status reports have been submitted. In the **Federal Register** of October 30, 2000 (65 FR 64607), the agency published a final rule to implement section 506B of the act. The final rule made several changes to the regulations for approved human drugs and licensed biological products.

The draft guidance is intended to provide information on the following topics: (1) Procedures concerning the submission of postmarketing study status reports; (2) the content and format of a postmarketing study status report; (3) timeframes for FDA's review of postmarketing study reports; and (4) information about postmarketing studies that will be available to the public. The draft guidance applies to postmarketing studies for approved human drug products and licensed biological products that meet the definition of ''drug'' under the act. It does not apply to biological products that meet the definition of medical ''device'' under the act, or to veterinary drug products, which will be addressed separately.

In addition to the information collection provisions covered by the October 30, 2000, final rule, the guidance recommends an additional reporting requirement. The draft guidance proposes that applicants with postmarketing study commitments submit with their annual report a redacted version of each status report that already has been formatted and completed for submission. The draft guidance requests that applicants redact complete reports to the extent necessary to protect trade secrets or to conceal individual patient identifiers. FDA will use this redacted report for release to the public on its Web site and in the report on the status of postmarketing studies required under section 506B(c) of the act. FDA will accept the redacted version of the applicant's status report either in an electronic format compatible with FDA's electronic database or in hard copy.

Respondents to this information collection are applicants holding approved applications for human drugs and licensed biological products that are required or have committed to conduct postmarketing studies.

Based on agency data, there are approximately 152 drug applicants who are required or who have committed to conduct approximately 935 postmarketing studies, and approximately 44 applicants holding approved biologics license applications who are required or who have committed to conduct approximately 223 postmarketing studies. The agency assumes that all of the estimated 196 respondents would voluntarily submit approximately 1,158 redacted versions of each study in their annual status reports. Based on FDA experience, the agency estimates that an applicant would expend a total of 0.5 hours preparing a redacted version of each study in the status report that already has been formatted and completed for submission.

In the **Federal Register** of April 4, 2001 (66 FR 17912), FDA announced the availability of the draft guidance and requested comments for 60 days on the information collection. No comments were received that pertained to information collection estimates.

FDA estimates the burden of this collection of information as shown in table 1 of this document. The estimates have been updated from the April 4, 2001, notice to reflect current data.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

Title	No. of Respondents	No. of Responses per Respondent	Total Responses	Hours per Response	Total Hours
Center for Drug Evaluation and Research	152	approx. 6	935	0.5	467.50
Center for Biologics Evaluation and Research	44	approx. 5	223	0.5	111.50
Total					579

Dated: October 29, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–27717 Filed 11–4–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines) published in the **Federal Register** on April 11, 1988 (53 FR 11970), and revised in the **Federal Register** on June 9, 1994 (59 FR 29908) and on September 30, 1997 (62 FR 51118). A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from HHS' National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov*.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2, Room 815, Rockville, Maryland 20857; (301) 443–6014 (voice), (301) 443–3031 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards that laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection.

To maintain that certification, a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines, the following laboratories meet the minimum standards set forth in the Mandatory Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016 (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400.

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–6870 (Formerly: Jewish Hospital of Cincinnati, Inc.).

Baptist Medical Center-Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917.

Diagnostic Services Inc., dba DSI, 12700 Westlinks Dr., Fort Myers, FL 33913, 239–561–8200/800–735–5416.

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2661/800–898–0180

(Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.).

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310.

Dynacare Kasper Medical Laboratories*, 10150–102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780–451–3702/800–661–9876.

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 662–236–2609.

Express Analytical Labs, 3405 7th Ave., Suite 106, Marion, IA 52302, 319–377–0500.

Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4, 519–679–1630.

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6225.

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Laboratory Specialists, Inc.).

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845 (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.).

Laboratory Corporation of America Holdings, 7207 N. Gessner Rd., Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Dr., Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 10788 Roselle St., San Diego, CA 92121, 800–882–7272 (Formerly: Poisonlab, Inc.).

Laboratory Corporation of America Holdings, 1120 Stateline Rd. West, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734.

MAXXAM Analytics Inc.*, 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (Formerly: NOVAMANN (Ontario) Inc.).

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Dr., Minneapolis, MN 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

Northwest Drug Testing, a division of NWT Inc., 1141 E. 3900 S., Salt Lake City, UT 84124, 801–293–2300/800–322–3361 (Formerly: NWT Drug Testing, NorthWest Toxicology, Inc.).

One Source Toxicology Laboratory, Inc., 1705 Center St., Deer Park, TX 77536, 713–920–2559 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134.

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891 x8991.

PharmChem Laboratories, Inc., 4600 N. Beach, Haltom City, TX 76137, 817–605–5300 (Formerly: PharmChem Laboratories, Inc., Texas Division; Harris Medical Laboratory).

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627.

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590/800–729–6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–824–6152 (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750 (Formerly: Associated Pathologists Laboratories, Inc.).

Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010 (Formerly: SmithKline Beecham Clinical Laboratories; International Toxicology Laboratories).

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520 (Formerly: SmithKline Beecham Clinical Laboratories).

Scientific Testing Laboratories, Inc., 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130.

Sciteck Clinical Laboratories, Inc., 317 Rutledge Rd., Fletcher, NC 28732, 828–650–0409.

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227.

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x276.

Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507/800–279–0027.

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520 (Formerly: St. Lawrence Hospital & Healthcare System).

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.

Sure-Test Laboratories, Inc., 2900 Broad Ave., Memphis, TN 38112, 901–474–6026.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273.

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260.

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

The following laboratory's certification was suspended on October 6, 2003:

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31602, 912–244–4468.

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA)

effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on June 9, 1994 (59 FR 29908), and on September 30, 1997 (62 FR 51118). After receiving DOT certification, the laboratory will be included in the monthly list of HHS certified laboratories and participate in the NLCP certification maintenance program.

Dated: October 30, 2003.

Anna Marsh,

Acting Executive Officer, SAMHSA.

[FR Doc. 03–27797 Filed 11–4–03; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2003–16345]

Notice Requesting Comment on the Imposition of the Aviation Security Infrastructure Fee

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice; request for comments.

SUMMARY: TSA seeks comment on possible changes to the way it sets the Aviation Security Infrastructure Fee (ASIF), which is a fee imposed on air carriers and foreign air carriers to help pay the Government's costs of providing civil aviation security services. Beginning in fiscal year 2005, TSA may set the per-carrier fee based on each carrier's market share or other appropriate factors. TSA seeks comments on issues such as how to impose the ASIF, and whether, when, and how often the ASIF should be adjusted.

DATES: Submit comments by January 5, 2004.

ADDRESSES: *Comments Submitted by Mail or In Person:* Address written, signed comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001.

Comments that include trade secrets, confidential commercial or financial information, or sensitive security information (SSI) should not be submitted to the public regulatory docket. Please submit such comments separately from other comments. Comments containing trade secrets, confidential commercial or financial information, or SSI should be appropriately marked as containing such information and submitted by mail to the individual listed in **FOR FURTHER INFORMATION CONTACT.**

Comments Filed Electronically: You may also submit comments through the Internet at *http://dms.dot.gov.* Please be aware that anyone is able to search the electronic form of all comments received into any of these dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the applicable Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477) or you may visit *http://dms.dot.gov.*

Reviewing Comments In the Docket: All submissions to the public docket may be viewed in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

See **SUPPLEMENTARY INFORMATION** for format and other information about comment submissions.

FOR FURTHER INFORMATION CONTACT: Randall Fiertz, Office of Revenue, Transportation Security Administration Headquarters, West Building, Floor 5, TSA–14, 601 South 12th Street, Arlington, VA 22202; e-mail: *TSA-Fees@dhs.gov,* telephone: 571–227–2323.

SUPPLEMENTARY INFORMATION:

Comments Invited

The TSA invites interested persons to submit written comments, data, or views on the issues described in this notice, including comments relating to the economic, environmental, energy, or federalism impacts. *See* **ADDRESSES** above for information on where to submit comments.

Do not submit to the public regulatory docket any comments that you believe include trade secrets, confidential commercial or financial information, or sensitive security information (SSI) governed by 49 CFR part 1520. Such comments should be appropriately marked as containing such information and submitted by mail to the individual listed in **FOR FURTHER INFORMATION CONTACT.** When a commenter properly designates and submits confidential commercial or financial information or information the submitter considers to be a trade secret, TSA does not place it in the public docket and TSA will handle it in accordance with applicable safeguards and restrictions on access. TSA will hold it in a separate file to which the public does not have access, and place a note in the public docket that TSA has received such materials from the commenter. If TSA receives a request to examine or copy this information, TSA would treat the request as any other request under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the Department of Homeland Security's FOIA regulation found in 6 CFR part 5.

With each comment, please include your name and address, identify the docket number at the beginning, and give the reason for each comment, including any supporting data. You may submit comments and material electronically, in person, or by mail as provided under **ADDRESSES,** but please submit your comments and material by only one means. If you submit comments by mail or delivery, submit them in two copies, in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing.

If you want the TSA to acknowledge receipt of your comments, include with your comments a self-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Except for comments properly submitted as containing confidential information or SSI, we will file in the public docket all comments we receive. The docket is available for public inspection before and after the comment closing date.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late to the extent practicable.

Document Availability

You can get an electronic copy using the Internet by—

(1) Searching the Department of Transportation's electronic Docket

Management System (DMS) web page (*http://dms.dot.gov/search*);

(2) Accessing the Government Printing Office's web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html;* or

(3) Visiting the TSA's Law and Policy web page at *http://www.tsa.dot.gov/public/index.jsp.*

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number.

Background

Section 118 of the Aviation and Transportation Security Act (ATSA) (Pub. L. 107–71, November 19, 2001), as codified in 49 U.S.C. 44940, authorized TSA to impose fees known as the September 11th Security Fee and the Aviation Security Infrastructure Fee (ASIF) to help pay TSA's costs of providing civil aviation security services. In imposing these fees, TSA must ensure they are reasonably related to TSA's costs of providing services rendered. 49 U.S.C. 44940(b).

TSA has imposed the September 11th Security Fee and the ASIF through regulations that appear at 49 CFR parts 1510 and 1511. The September 11th Security Fee is a fee in the amount of $2.50 per enplanement imposed by TSA on passengers of domestic and foreign air carriers in air transportation and intrastate air transportation originating at airports in the United States. This fee is limited to $2.50 per enplanement for up to two enplanements (or up to $5) per one-way trip or four enplanements (or up to $10) per round trip. 49 CFR 1510.5(a).

Section 118 of the ATSA authorizes TSA to impose the ASIF to the extent that the September 11th Security Fee is insufficient to pay TSA's costs of providing civil aviation security services. Specifically, the annual aggregate amount of the ASIF may not exceed the difference between TSA's estimate of the total cost of providing civil aviation security services listed in 49 U.S.C. 44940(a)(1) and TSA's estimate of its September 11th Security Fee collections. 49 U.S.C. 44940(a)(2)(A).

In addition, section 118 provides that through the end of fiscal year 2004, the amount of ASIF collected by TSA from the carriers, both overall and per carrier, cannot exceed the carriers' aggregate and individual costs, respectively, for screening passengers and property in calendar year 2000. 49 U.S.C. 44940(a)(2)(B)(i), (ii). Beginning in fiscal year 2005, TSA is authorized to change the way the per-carrier limit is determined. TSA may set the limit based on market share or other appropriate measure in lieu of the carriers' actual screening costs in calendar year 2000. 49 U.S.C. 44940(a)(2)(B)(iii).

In setting the ASIF at its current level, TSA solicited information from all carriers engaged in air transportation and intrastate air transportation in 2000 on their calendar year 2000 costs related to screening passengers and property. Within the parameters of section 44940(a) and (b), TSA set the ASIF at the maximum allowable amount by requiring each carrier engaged in air transportation and intrastate air transportation to remit to TSA, on a monthly basis, an amount equal to 8.333 percent of the total amount that the carrier indicated in its calendar year 2000 screening costs submission. Consistent with section 44940, TSA determined that those carriers currently engaged in air transportation and intrastate air transportation, but with no costs for screening passengers and property in calendar year 2000, are not subject to the imposition of the ASIF at this time.

After TSA initially imposed the ASIF through issuance of an interim final rule on February 20, 2002 (66 FR 7926), the agency received various comments and correspondence suggesting that this formula for imposing each carrier's ASIF should be adjusted. Reasons given for this proposed adjustment include: (1) The ASIF does not adequately take into account the economic hardship faced by the aviation industry since September 11, 2001; (2) the ASIF does not take into account any growth or reduction in a carrier's business since calendar year 2000; (3) the ASIF provides an unfair advantage to new carriers; (4) the ASIF rewards carriers who spent less on security in 2000; (5) the ASIF discriminates against smaller carriers who had higher costs for the same services; (6) basing the ASIF on calendar year 2000 costs prioritizes industry stability over individual equity; and (7) the ASIF does not pass on to the carriers any savings achieved by the Government due to economies of scale, consolidation of overhead, and by other means. TSA will respond fully to these and other comments on the ASIF, as well as issue a regulatory evaluation and any necessary regulatory amendments, when we finalize the interim final rule.

Request for Comments

TSA is requesting public comment to assist the agency in determining whether to change the way it sets the per-carrier limit for the ASIF in fiscal year 2005 and for subsequent years, whether on the basis of market share or another factor(s).

Due to the carriers' various sizes, business models, and other factors, there are many ways to define both what the ''market'' is and what constitutes a carrier's ''share'' of the market. For example, a carrier's market share could be based on its passenger enplanements, passenger revenue miles, tickets sold, revenues, or other factors or combinations of factors. Therefore, TSA seeks input into: (1) Whether to adjust the current system of determining each carrier's ASIF limitation based on its screening-related costs in calendar year 2000; (2) when to make such an adjustment; (3) how to determine the new basis for the per-carrier limitation on imposition of the ASIF; and (4) how often imposition of the ASIF should be updated based on the new factors. TSA seeks proposals on factors for TSA to consider in reaching each of these determinations. This input may also address procedural details, such as how to deal with carriers exiting and entering the market between updates of the per-carrier imposition of the fee, or how to collect and confirm relevant market data, from whom, and how often. TSA also seeks any other information that the commenter believes would be helpful to TSA in considering this matter.

Issued in Arlington, VA, on October 30, 2003.

James M. Loy,

Administrator.

[FR Doc. 03–27782 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–62–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4820–N–44]

Notice of Proposed Information Collection: Comment Request; Multifamily Default Status Report

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, 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:* January 5, 2004.

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: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or *Wayne_Eddins@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Beverly J. Miller, Director, Office of Multifamily Asset Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–3730 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting 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 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 the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Multifamily Default Status Report.

OMB Control Number, if applicable: 2502–0041.

Description of the need for the information and proposed use: Mortgagees use this information collection to notify HUD that a project owner is more than 30 days past due on the mortgage payment. To avoid an assignment of acquisition, HUD and the mortgagor would develop a plan for reinstating the loan. HUD Field Office and Headquarters staff use the data to: (a) Monitor mortgage compliance with HUD's loan servicing procedures and assignments; and (b) avoid mortgage assignments in the future. This information is submitted electronically via the Internet.

Agency form numbers, if applicable: HUD–92426.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of burden hours needed to prepare the information collection is 1,814: the number of respondents is 90 generating approximately 10,890 annual responses; the frequency of response is on occasion; and the estimated time needed to prepare the response is 10 minutes.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1994, 44 U.S.C., Chapter 35, as amended.

Dated: October 28, 2003.

Sean G. Cassidy,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 03–27784 Filed 11–4–03; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4820–N–45]

Notice of Proposed Information Collection: Comment Request; Uniform Physical Standards & Physical Inspection Requirements for Certain HUD Housing, Administrative Process for Assessment of Insured and Assisted Properties

AGENCY: Officer of the Assistant Secretary for Housing-Federal Housing Commissioner, 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:* January 5, 2004.

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: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or *Wayne_Eddins@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Beverly J. Miller, Director, Office of Multifamily Asset Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–3730 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting 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 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 the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Uniform Physical Standards & Physical Inspection Requirements or Certain HUD Housing, Administrative Process for Assessment of Insured and Assisted Properties.

OMB Control Number, if applicable: 2502–0369.

Description of the need for the information and proposed use: The uniform physical condition standards are intended to ensure that HUD program participants meet their legal obligations to maintain HUD properties in a condition that is decent, safe, sanitary, and in good repair.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of burden hours needed to prepare the information collection is 9,000; the number of respondents is 9,000 generating approximately 9,000 annual responses; the frequency of response is annually; and the estimated time needed to prepare the response is 1 hour.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: October 28, 2003.

Sean G. Cassidy,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 03–27785 Filed 11–4–03; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–05; N–75747]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and public purpose lease/conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The City of Las Vegas proposes to use the land for a public park.

Mount Diablo Meridian

T. 20S., R. 60E., Sec. 12
W½NW¼NW¼NW¼, SW¼NWNW¼,
W½SE¼NW¼NW¼,
W½NW¼SW¼NW¼.
Containing 25 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe and will subject to:

1. All valid and existing rights.

2. Those rights for public utility purposes which have been granted to Nevada Power Company by Permit No's. N–75351 & N–74487, Las Vegas Valley Water District by permit No. N–66292–01, and Southwest Gas Corporation by permit No. N–75403, under the Act of October 26, 1978 (FLPMA).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada. Upon publication of this notice in the **Federal Register** the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register,** interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the Field Manager, Las Vegas Field Office, Las Vegas, Nevada 89130.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a public park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factors not directly related to the suitability of the land for a public park.

Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register.** The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: August 7, 2003.

Sharon DiPinto,

Acting Assistance Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 03–27845 Filed 11–4–03; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention to Request Clearance of Collection of Information—Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service, Land and Water Conservation Fund State Assistance and Urban Park and Recreation Recovery Programs.

ACTION: Notice of submission to the Office of Management and Budget (OMB) and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3507) and 5 CFR 1320, Reporting and Recordkeeping Requirements, the National Park Service (NPS) invites public comments on eight proposed information collection requests (ICR) for the Land and Water Conservation Fund (LWFC) and Urban Park and Recreation Recovery (UPARR) grant programs. The NPS also is asking for comments on (1) the practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology. Comments are invited on the following:

1. *LWCF Description and Notification (DNF) Form.* The DNF is necessary to provide data input into the NPS Automated Project information system which provides timely data on projects funded over the life of the LWCF program.

2. *LWCF Program Performance Report.* As required by OMB Circular A–102, grantees must submit performance reports which describe the status of the work required under the project scope.

3. *LWCF project Agreement and Amendment Form.* The Project Agreement and Amendment forms set forth the obligations assumed by the State through its acceptance of Federal assistance under the LWCF Act and any special terms and conditions.

4. *LWCF On-Site Inspection Report.* The On-site Inspection Reports are used to insure compliance by grantees with applicable Federal law and program guidelines, and to insure the continued viability of the funded site.

5. *LWCF Conversion of Use Provisions.* To convert assisted sites to other than public outdoor recreation.

LWCF project sponsors must provide relevant information necessary to comply with Section 6(f)(3) of the LWCF Act of 1965 and 36 CFR 59.3.

6. *UPARR Project Performance Report.* As required by OMB Circular A–102, grant recipients must submit performance reports which describe the status of the work required under the project scope.

7. *UPARR Conversion of Use Provisions.* To convert assisted sites to other than public outdoor recreation, UPARR project sponsors must provide relevant information necessary to comply with the section 1010 of the UPARR Act of 1978 and 36 CFR 72.

8. *UPARR Project Agreement and Amendment Form.* The Project agreement and amendment forms set forth the obligations assumed by grant recipients through their acceptance of Federal Assistance under the UPARR Act and any special terms and conditions.

DATES: Public comments on these eight proposed ICRs will be accepted on or before January 5, 2004.

ADDRESSES: Send a copy of your comments to: Michael D. Wilson, Chief, Recreation Programs Division, National Park Service, 1849 C St., NW. Org. Code 2225, Washington, DC 20240–0001.

All responses to this notice will be summarized and included in the requests for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. Copies of the proposed information collection requirements and explanatory material may be obtained by contacting Mr. Michael D. Wilson at the above address.

FOR FURTHER INFORMATION CONTACT: Michael D. Wilson at (202) 354–6905.

Title: LWCF Description and Notification Form (DNF).
Form: NPS 10–903.
OMB Number: 1024–0031.
Expiration Date: February 29, 2004.
Type of Request: Data Input.
Description of Need: Provision of computer data.
Description of Respondents: 56 State Governments, DC and Territories.
Estimated Annual; Reporting Burden: 115 hours.
Estimated Average Burden Hours Per Response: 0.25 hours.
Estimated Frequency of Response: 450 nationwide.

Title: LWCF Program Performance Report.
Form: None.
OMB Number: 1024–0032.
Expiration Date: February 29, 2004.
Type of Request: Performance report describing project status.
Description of Need: For monitoring project status.
Description of Respondents: 56 State Governments, DC and Territories.
Estimated Annual; Reporting Burden: 700 hours.
Estimated Average Burden Hours Per Response: 1.0 hours.
Estimated Frequency of Response: 700 nationwide.

Title: LWCF Project Agreement and Amendment Forms.
Form: NPS 10–902 and 10–902a, respectively.
OMB Number: 1024–0033.
Expiration Date: February 29, 2004.
Type of Request: Grant agreement.
Description of Need: Sets forth conditions of the grant award and subsequent amendments.
Description of Respondents: 56 State Governments, DC and Territories.
Estimated Annual Reporting Burden: 450 hours.
Estimated Average Burden Hours Per Response: 1.0 hours.
Estimated Frequency of Response: 450 nationwide.

Title: LWCF On-Site Inspection Report.
Form: None.
OMB Number: 1024–0034
Expiration Date: February 29, 2004.
Type of Request: Site condition/comment checklist.
Description of Need: To assure program/grant/Federal compliance.
Description of Respondents: 56 State Governments, DC and Territories.
Estimated Annual Reporting Burden: 3,700 hours.
Estimated Average Burden Hours Per Response: 0.5 hours.
Estimated Frequency of Response: 7,400 nationwide.

Title: LWCF Conversion of Use Provisions.
Form: None.
OMB Number: 1024–0047
Expiration Date: February 29, 2004.
Type of Request: Application to substitute replacement property for the funded site.
Description of Need: Compliance with LWCF Act Section 6(f)(3).
Description of Respondents: 56 State Governments, DC and Territories.
Estimated Average Burden Hours Per Response: 1,750 hours.
Estimated Frequency of Response: 35 hours.
Estimated Frequency of Response: 50 nationwide.

Title: UPARR Project Performance Report.
Form: None.
OMB Number: 1024–0028
Expiration Date: February 29, 2004.
Type of Request: Performance report describing project status.
Description of Need: For monitoring project status.
Description of Respondents: Urban cities and counties.
Estimated Annual Reporting Burden: 248 hours.
Estimated Average Burden Hours Per Response: 1.5 hours.
Estimated Frequency of Response: 164 nationwide.

Title: UPARR Conversion of Use Provisions.
Form: None.
OMB Number: 1024–0048.
Expiration Date: February 29, 2004.
Type of Request: Application to substitute replacement property for the funded site.
Description of Need: Compliance with UPARR Act Section 1010.
Description of Respondents: Urban cities and counties.
Estimated Annual Reporting Burden: 75 hours.
Estimated Average Burden Hours Per Response: 25 hours.
Estimated Frequency of Response: 3 nationwide.

Title: UPARR Project Agreement and Amendment Forms.
Form: NPS 10–912 and 10–915, respectively.
OMB Number: 1024–0089.
Expiration Date: February 29, 2004.
Type of Request: Grant agreement.
Description of Need: Sets forth conditions of the grant award and subsequent amendments.
Description of Respondents: Urban cities and counties.
Estimated Annual Reporting Burden: 20 hours.
Estimated Average Burden Hours Per Response: 1.0 hours.
Estimated Frequency of Response: 20 nationwide.

Dated: September 24, 2003.

Leonard E. Stowe,

NPS Information Collection Clearance Officer, WASO, Administrative Program Center.

[FR Doc. 03–27718 Filed 11–4–03; 8:45 am]

BILLING CODE 4312–53–M

DEPARTMENT OF THE INTERIOR

National Park Service

30 Day Notice of Submission of Request for Final Clearance of Information Collection, Special Park Use Applications (Portions of 36 CFR 1–7, 13, 20, 34) to OMB, and Request for Public Comment To Be Sent to OMB Within 30 Days

AGENCY: National Park Service, Interior.

ACTION: Notice of submission to OMB and request for comments.

SUMMARY: Under the Provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3507) and 5 CFR, part 1320 Reporting and Record Keeping Requirements, this notice announces the National Park Service (NPS) submission to OMB and request for final clearance of three (3) information collections forms (OMB control number 1024–0026). These information collections are associated with permits implementing provisions of the agency regulations pertaining to the use of public lands. The information gathered is used to determine the presence or absence of derogation of the resource and allow the park manager to make a valued judgment as to whether or not to allow or deny the requested permit. The uses considered under these information collection applications generally include but are not limited to special events, filming and photography, and grazing in parks where such activity is authorized by law.

DATES: Public comments of this final notice must be received by December 5, 2003 to be assured of consideration.

The bureau solicits public comments as to:

(1) Whether the collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility;

(2) The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) The quality, utility, and clarity of the information to be collected; and

(4) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

ADDRESSES: Send comments to: Desk Officer for the Interior Department, OMB Office of Information and Regulatory Affairs, via facsimile at (202) 395–6566, or via e-mail at *OIRA_DOCKET@omb.eop.gov.* Also send a copy of your comments to Leonard Stowe, National Park Service, 1849 C Street, NW. (2605), Washington, DC 20240. All comments will become a matter of public record. Copies of the above mentioned forms may be obtained from the internet at: *http://www.nps.gov/policy/DOrders/Permitforms.pdf.*

All comments will become a matter of public record. Copies of the above mentioned forms may be obtained from the Internet at: *http://www.nps.gov/policy/DOrders/Permitforms.pdf.*

FOR FURTHER INFORMATION CONTACT: Lee Dickinson, Special Park Uses Program Manager, National Park Service at (202) 513–7092.

SUPPLEMENTARY INFORMATION:

(1) *Title:* Special Park Uses Application Forms.

(2) *Form Numbers:* 10–930, 10–931, 10–932.

(3) *OMB Number:* 1024–0026.

(4) *Expiration Date:* September 30, 2006.

(5) *Type of Request:* Extension of currently approved collection.

(6) *Description of Need:* Collection of information allows park managers to determine approval or denial of requested permit.

(7) *Estimated number of Applicants:* 18,600.

(8) *Estimated number of Responses:* 18,600.

(9) *Estimated Total Annual Burden:* 11,150 hours.

(10) Non-hour cost of $50 per response for filing fee.

Analysis of Comments Regarding the 60-Day Federal Register Notice

There were no comments received from the public on the proposed regulations during the 60-day public comment period that closed March 7, 2003. One internal respondent suggested some grammatical changes, which have been made. The forms were first approved in September 2000. No comments concerning the forms have been received in the last 3 years.

Dated: October 7, 2003.

Leonard E. Stowe,

Acting NPS Information Collection Clearance Officer.

[FR Doc. 03–27719 Filed 11–4–03; 8:45 am]

BILLING CODE 4312–53–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 18, 2003.

Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by November 20, 2003.

Carol D. Shull,

Keeper of the National Register of Historic Places.

Arizona

Mohave County

Peach Springs Trading Post, 863 W AZ 66, Peach Springs, 03001196

Schoolhouse at Truxton Canyon Training School, AZ 66, Valentine, 03001197

Illinois

Champaign County

Virginia Theater, 203 W. Park Ave., Champaign, 03001201

Cook County

Des Plaines Theater, 1476 Miner St., Des Plaines, 03001198

Crawford County

Harper, John B., House, 102 N. Lincoln, Palestine, 03001199

De Witt County

Magill House, 100 N. Center St., Clinton, 03001202

Henry County

Atkinson Hall, 108 W. Main St., Genesco, 03001203

Kane County

Riverbank Laboratories, 1512 Batavia Ave., Geneva, 03001204

Kendall County

Steward, Lewis, House, 611 E. Main St., Plano, 03001200

Maryland

Baltimore Independent city

Home of the Friendless, 1313 Druid Hill Ave., Baltimore (Independent City), 03001205

Massachusetts

Bristol County

Shawmut Diner, (Diners of Massachusetts MPS) 943 Shawmut Ave., New Bedford, 03001208

Towne Street Historic District, Towne St., E of Jackson St., North Attleborough, 03001210

Middlesex County

Buck's Corner Historic District, (First Period Buildings of Eastern Massachusetts TR) 216 Wildwood St., 580,584,588,590,602,603,604 Woburn St., Wilmington, 03001209

Monarch Diner, (Diners of Massachusetts MPS) 246 Appleton St., Lowell, 03001207

Worcester County

Chadwick Square Diner, (Diners of Massachusetts MPS) 95 rear Prescott St., Worcester, 03001206

Nebraska

Cedar County

Hartington Hotel, 202 North Broadway, Hartington, 03001219

Saints Philip and James Parochial School, 89039 570 Ave., Wynot, 03001211

Saline County

Sokol, Telocvicna Jednota ''T.J.'', Hall, 12th St. and Norman Ave., Crete, 03001214

Sheridan County

Fritz, Lee and Gottliebe, House, 132 North Oak, Gordon, 03001213

Wisconsin

Brown County

Union House Hotel, 200 North Broadway, De Pere, 03001216

Dane County

Dahle, Henry L. and Sarah, House, 312 S. Fourth St., Mount Horeb, 03001218

Dahle, Herman B. and Anne Marie, House, 200 N. Second St., Mount Horeb, 03001217

Green County

Steinman, John C. and Barbara, House, 330 S. Monroe St., Monticello, 03001215

Jefferson County

Saint Bernard's Church Complex, 100,108 S. Church St., 111 S. Montgomery St., Watertown, 03001221

South Washington Street Historic District, Odd numbered 201–309 S. Church St. and S. Washington St. from Emmet St. to West St., Watertown, 03001220

[FR Doc. 03–27720 Filed 11–4–03; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 11, 2003. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by November 20, 2003.

Carol D. Shull,

Keeper of the National Register of Historic Places.

California

Solano County

Saint Vincent's Hill Historic District, Roughly bounded by Mare Island Way almost to Sonoma Blvd. and from Quincy Alley to Kissel Alley, Vallejo, 03001168

Connecticut

Fairfield County

Glenville School, 449 Pemberwick Rd., Greenwich, 03001169

New Haven County

St. Luke's Episcopal Church, 111–113 Whalley Ave., New Haven, 03001170

Florida

Hernando County

Chinsegut Hill Manor House, 22495 Chinsegut Hill Rd., Brooksville, 03001171

Kansas

Sedgwick County

Wichita Historic Warehouse and Jobbers District, Bounded by the elevated RR tracks, Douglas and Washington Aves. and 2nd St., Wichita, 03001172

Maryland

Baltimore Independent City

Gay Street Historic District (Cast Iron Architecture of Baltimore MPS), Bounded by N. Gay, Fallsway, Low and N. Exeter Sts., Baltimore, 03001173

Prince George's County

North Brentwood Historic District, Roughly bounded by 39th Pl., Allison St., Rhode Island Ave. and Webster St., North Brentwood, 03001174

Massachusetts

Middlesex County

Church Street Historic District, 72–150 and 117–135 Church St., 4 Central St., Wilmington, 03001175

Gowing—Sheldon Historic District, 642 and 643 Woburn St., Wilmington, 03001176

High Street Historic District, Even nos. 8–72 High St. except 20A and 20R, plus nos. 31, 47, 57 and 67., Wilmington, 03001177

Worcester County

Miss Worcester Diner (Diners of Massachusetts MPS), 302 Southbridge St., Worcester, 03001178

New York

New York County

Decker Building, 33 Union Square W., New York, 03001179

Oregon

Lake County

Lake County Round Sale Barn, 3531 S. 6th St., Lakeview, 03001180

Lane County

Ball, Abraham and Phoebe, House (Residential Architecture of Eugene, Oregon MPS), 1312 Lincoln St., Eugene, 03001181

Lincoln County

Archeological Site No. 35–LNC–54 (Native American Archeological Sites of the Oregon Coast MPS), Address Restricted, Yachats, 03001182

Archeological Site No. 35–LNC–55 (Native American Archeological Sites of the Oregon Coast MPS), Address Restricted, Yachats, 03001183

Archeological Site No. 35–LNC–56 (Native American Archeological Sites of the Oregon Coast MPS), Address Restricted, Yachats, 03001184

Archeological Site No. 35–LNC–57 (Native American Archeological Sites of the Oregon Coast MPS), Address Restricted, Yachats, 03001185

Multnomah County

St. Johns Signal Tower Gas Station, 8302 N. Lombard St., Portland, 03001186

Pennsylvania

Carbon County

Nesquehoning High School, 120–124 E. Catawissa St., Nesquehoning, 03001187

Chester County

Fricks Locks Historic District, End of Fricks Lock Rd., approx. 1000 ft. E. of Sanatoga Rd. (East Coventry Township), Pottstown, 03001188

St. Peters Village Historic District, E. & W. sides of St. Peters Rd. between School Rd. and Rock Run Rd. (Warwick Township), St. Peters, 03001189

Greene County

Colver—Rogers Farmstead, E. of L.R. 30055 at T–159 (Morgan Township), Jefferson, 03001191

Lancaster County

Franklin and Marshall College Campus Historic District, College Avenue, Lancaster, 03001190

Washington County

Dager—Wonsettler Farmstead, 1044 National Park, ½ mi. NW of Jct. PA 519 and U.S. 40 (Amwell Township), Glyde, 03001192

Tennessee

Shelby County

Dixie Greyhound Bus Lines Complex, 525 N. Main St., Memphis, 03001193

Virginia

Charlotte County

Wade Archeological Site (44CH0062), 1035 Fort Hill Trail, Randolph, 03001194

[FR Doc. 03–27721 Filed 11–4–03; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs; U.S. National Administrative Office; North American Agreement on Labor Cooperation; Notice of Request for Comment

AGENCY: Office of the Secretary, Labor.

ACTION: Notice.

SUMMARY: Article 10(1)(a) of the North American Agreement on Labor Cooperation (NAALC) calls for the Council for the Commission for Labor Cooperation to review the operation and effectiveness of the NAALC. The Council completed a review of the Agreement in 1998, for the period 1994–1998, and issued a report titled ''Review of the North American Agreement on Labor Cooperation''. In that report, the Council agreed to undertake a second review in the year 2002. The U.S. National Administrative Office is seeking public comment for the purpose of that report.

DATES: Written comments on the operation and effectiveness of the NAALC should be submitted by December 5, 2003.

ADDRESSES: Send written comments to the U.S. National Administrative Office, U.S. Department of Labor, Room S–5205, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Lewis Karesh, Acting Director, U.S. National Administrative Office, Department of Labor, 200 Constitution Avenue, NW., Room S–5205, Washington, DC 20210. Telephone: (202) 693–4900 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The North American Agreement on Labor Cooperation (NAALC) was signed by the Presidents of the United States of America and of the United Mexican States, and the Prime Minister of Canada in September 1993 and entered into force on January 1, 1994. Article 10(1)(a) of the NAALC provides that the Council shall ''oversee the implementation and develop recommendations on the further elaboration of this Agreement and, to this end, the Council shall, within four years after the date of entry into force of this Agreement, review its operation and effectiveness in light of experience * * *.'' The Council carried out the first review of the Agreement in 1998 and issued a report titled ''Review of the North American Agreement on Labor Cooperation''. In that report, the Council agreed to undertake a second comprehensive review in the year 2002. As part of the review, the U.S. National Administrative Office is seeking public comments on the operation and effectiveness of the NAALC from 1999 to the present. Written comments plus an electronic version (preferred in Microsoft Word format) may be sent to the U.S. National Administrative Office.

A text of the NAALC can be obtained at the following Internet address: *http://www.dol.gov/ILAB/regs/naalc/naalc/htm.* A text of the first four years review can be obtained at the following Internet address: *http://www.naalc.org/english/publications/review.htm* or by calling (202) 693–4900.

Signed at Washington, DC, on October 28, 2003.

Lewis Karesh,

Acting Director, U.S. National Administrative Office.

[FR Doc. 03–27831 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Request Submitted for Public Comment; Prohibited Transaction Exemption 88–59 Residential Mortgage Financing Arrangements Involving Employee Benefit Plans

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employee Benefits Security Administration is soliciting comments on the proposed extension of the information collection provisions of Prohibited Transaction Class Exemption 88–59.

A copy of the information collection request (ICR) can be obtained by contacting the individual shown in the Addresses section of this notice.

DATES: Written comments must be submitted to the office shown in the Addresses section on or before January 5, 2004.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693–8410, FAX (202) 693–4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Class Exemption 88–59 provides an exemption from prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 (ERISA) and from certain taxes imposed by the Internal Revenue Code of 1986. The exemption permits, under certain conditions, an employee benefit plan to provide mortgage financing to purchasers of residential dwelling units. The mortgage financing may be either by making or participating in loans directly to purchasers or by purchasing mortgage loans or participation interests in mortgage loans originated by a third party. Plan investments in real estate mortgage loans typically involve a continuing relationship between the seller of the mortgage loan and the plan for purposes of servicing the mortgage loan investment. This provision of services by the seller creates a party in interest relationship between such servicer and the investing plan. Accordingly, any subsequent purchase of mortgage loans from such existing party in interest service provider results in a prohibited transaction.

By requiring that records pertaining to the exempted transaction be maintained for the duration of any loan made pursuant to Prohibited Transaction Class Exemption 88–59, this ICR insures that the exemption is not abused, the rights of the participants and beneficiaries are protected, and that compliance with the exemption's conditions can be confirmed. The exemption affects participants and beneficiaries of the plans that are involved in such transactions as well as the seller of the mortgage loan.

II. Review Focus

The Department of Labor (Department) is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The Office of Management and Budget's (OMB) approval of this ICR will expire on January 31, 2004. After considering comments received in response to this notice, the Department intends to submit the ICR to OMB for continuing approval. No change to the existing ICR is proposed or made at this time.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Prohibited Transaction Class Exemption 88–59; Residential Mortgage Financing Arrangements.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0095.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 420.

Responses: 2100.

Average Response Time: 5 minutes.

Estimated Total Burden Hours: 175.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: October 30, 2003.

Gerald B. Lindrew

Deputy Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 03–27829 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Request Submitted for Public Comment; Prohibited Transaction Exemption 75–1—Broker—Dealers, Reporting Dealers, Banks Engaging in Securities Transactions

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employee Benefits Security Administration is soliciting comments on the proposed extension of the information collection provisions of Prohibited Transaction Class Exemption 75–1.

A copy of the information collection request (ICR) can be obtained by contacting the individual shown in the Addresses section of this notice.

DATES: Written comments must be submitted to the office shown in the Addresses section on or before January 5, 2004.

ADDRESSES: Gerald B. Lindrew, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Washington, DC 20210, (202) 693–8410, Fax (202) 693–4745 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

Prohibited Transaction Class Exemption 75–1 provides an exemption from prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 (ERISA). The exemption permits, under certain conditions, an employee benefit plan to purchase securities from broker-dealers' personal inventories of stocks, from underwriting syndicates in which a plan fiduciary is a member, from banks, from reporting dealers, and from a market makers even if a market-maker is a plan fiduciary. The exemption also permits, under certain conditions, a plan to accept an extension of credit from a broker-dealer for the purpose of facilitating settlement of a securities transaction.

By requiring that records pertaining to the exempted transaction be maintained for six years, this ICR insures that the exemption is not abused, the rights of the participants and beneficiaries are protected, and that compliance with the exemption's conditions can be confirmed. The exemption affects participants and beneficiaries of the plans that are involved in such transactions as well as certain broker-dealers, reporting dealers, banks, underwriting syndicates, and market makers.

II. Review Focus

The Department of Labor (Department) is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The Office of Management and Budget's (OMB) approval of this ICR will expire on January 31, 2004. After considering comments received in response to this notice, the Department intends to submit the ICR to OMB for continuing approval. No change to the existing ICR is proposed or made at this time.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Prohibited Transaction Class Exemption 75–1—Broker-Dealers, Reporting Dealers, Banks Engaging in Securities Transactions.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0092.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 10,750.

Responses: 10,750.

Average Response time: 5 minutes.

Estimated Total Burden Hours: 896.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: October 30, 2003.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 03–27830 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,686]

AVI Corporation, Queensbury, New York; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 26, 2003 in response to a petition filed by a company official on behalf of workers at AVI Corporation, Queensbury, New York.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 25th day of September, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–27842 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,067]

Chalup SetNet Operation, Homer, Alaska; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 1, 2003 in response to a petition filed by a company official on behalf of workers of the Chalup SetNet Operation, Homer, Alaska.

The investigation revealed that the subject firm did not separate or threaten to separate a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974. Significant number or proportion of the workers means that at least three workers in a firm with a workforce of fewer than 50 workers would have to be affected. Separations by the subject firm did not meet this threshold level; consequently the investigation has been terminated.

Signed at Washington, DC this 8th day of October 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–27834 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 17, 2003.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 17, 2003.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 20th day of October 2003.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted Between 09/29/2003 and 10/03/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
53,037A	Fishing Vessel (F/V) Miss Julie (Comp)	Palmer, AK	09/29/2003	08/25/2003
53,037	Fishing Vessel (F/V) Big Dog (Comp)	Palmer, AK	09/29/2003	08/25/2003
53,038	Coats and Clark, Inc. (Comp)	Toccoa, GA	09/29/2003	09/26/2003
53,039	Planar Systems, Inc. (Comp)	Beaverton, OR	09/29/2003	09/23/2003
53,040	Bowling Green Spinning Co. (Comp)	Bowling Green, SC	09/29/2003	09/19/2003
53,041	Tecumseh Products (Wkrs)	Paris, TN	09/29/2003	09/22/2003
53,042	Solon Manufacturing Co. (Comp)	Rhinelander, WI	09/29/2003	09/24/2003
53,043	Honeywell Airframe Systems (Comp)	Torrance, CA	09/29/2003	09/26/2003
53,044	Intermet Foundry (USWA)	Lynchburg, VA	09/29/2003	09/17/2003
53,045	PA Machine Works, Inc. (Comp)	Aston, PA	09/29/2003	09/10/2003

APPENDIX—Continued

[Petitions Instituted Between 09/29/2003 and 10/03/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
53,046	Quality Home Fashions (Comp)	Richfield, NC	09/29/2003	09/19/2003
53,047	Martinawtomatic (Wkrs)	Rockford, IL	09/29/2003	09/05/2003
53,048	General Shoelace Co. (Wkrs)	Lincolnton, NC	09/29/2003	09/22/2003
53,049	Visteon Systems, LLC (Wkrs)	Lansdale, PA	09/30/2003	09/29/2003
53,050	Sappi Fine Paper (Comp)	Allentown, PA	09/30/2003	09/29/2003
53,051	JacksonLea (Comp)	Santa Fe Spgs., CA	09/30/2003	09/26/2003
53,052	Rohm and Haas Company (Wkrs)	Philadelphia, PA	09/30/2003	09/03/2003
53,053	F. Ziegler Enterprises, Ltd. (Wkrs)	Fond du Lac, WI	09/30/2003	09/25/2003
53,054	Doe Run Company (The) (Comp)	Annapolis, MO	09/30/2003	09/23/2003
53,055	Leonard Electric Products Co. (Comp)	Brownsville, TX	09/30/2003	09/17/2003
53,056	Toshiba America Information Systems, Inc. (Comp)	Irvine, CA	09/30/2003	09/26/2003
53,057	Lucent Technologies (Wkrs)	Phoneniz, AZ	09/30/2003	09/26/2003
53,058	Seagate Technology, Inc. (Wkrs)	Oklahoma City, OK	09/30/2003	09/26/2003
53,059	Rockwell Automation (Comp)	Gallipolis, OH	09/30/2003	09/26/2003
53,060	G. Leblanc Corporation (Comp)	Elkhorn, WI	09/30/2003	09/23/2003
53,061	Consul Risk Management (Wkrs)	Acton, MA	09/30/2003	09/28/2003
53,062	Wallner Tool, Inc. (MN)	Maple Grove, MN	09/30/2003	09/29/2003
53,063	J.L. Williams Co. (Wkrs)	Nampa, ID	09/30/2003	09/29/2003
53,064	ATMI Ecosys (CA)	Napa, CA	09/30/2003	09/39/2003
53,065	Red Devil, Inc. (Comp)	Union, NJ	09/30/2003	09/30/2003
53,066	Fishing Vessel (F/V) Deborah Renee (Comp)	Clarkston, WA	10/01/2003	09/30/2003
53,067	Chalup Setnet Operation (Comp)	Homer, AK	10/01/2003	09/20/2003
53,068	Fishing Vessel (F/V) Aquarius (Comp)	Kodiak, AK	10/01/2003	09/29/2003
53,069	Fishing Vessel (F/V) Family Pride (Comp)	Kodiak, AK	10/01/2003	09/30/2003
53,070	Home Products International (Comp)	Eagan, MN	10/01/2003	09/30/2003
53,071	A and E Products Groups, LP (Wkrs)	Ringtown, PA	10/01/2003	09/15/2003
53,072	Congress Industries (USWA)	Hawthorne, NJ	10/01/2003	09/04/2003
53,073	OK–1 Manufacturing, Inc. (Comp)	Altus, OK	10/01/2003	09/26/2003
53,074	Finisar Corporation (Wkrs)	Hayward, CA	10/01/2003	09/23/2003
53,075	Tescom Crp. (Wkrs)	Elk River, MN	10/01/2003	09/25/2003
53,076	Griffin Manufacturing, Inc. (MA)	Fall River, MA	10/01/2003	09/26/2003
53,077	DuPont Teijin Films (Comp)	Florence, SC	10/01/2003	09/30/2003
53,078	Yahoo, Inc. (Wkrs)	Sunnyvale, CA	10/01/2003	09/25/2003
53,079	Electronic Data Systems (Wkrs)	Troy, MI	10/01/2003	09/30/2003
53,080	Arland Tool and Mfg., Inc. (Comp)	Sturbridge, MA	10/01/2003	09/25/2003
53,081	Robert Manufacturing (Comp)	Ranch Cucamonga, CA	10/01/2003	09/08/2003
53,082	Dekko Heating Technologies, Inc. (Comp)	Afton, IA	10/01/2003	09/25/2003
53,083	Evy of California, Inc. (CA)	Los Angeles, CA	10/01/2003	09/22/2003
53,084	Eaton/Cutler Hammer (Wkrs)	Watertown, WI	10/01/2003	09/23/2003
53,085	Joe Greene Design and Co., LLC (Comp)	Hickory, NC	10/01/2003	09/22/2003
53,086	Harlyn Textile Mills, Inc. (Comp)	New York, NY	10/01/2003	09/19/2003
53,087	Manchester Tool Company (USWA)	Akron, OH	10/01/2003	09/18/2003
53,088	L.B. Smith (Comp)	Camp Hill, PA	10/01/2003	09/22/2003
53,089	East Coast Hydraulics (IAM)	Camp Hill, PA	10/01/2003	09/22/2003
53,090	MBU, Inc. (NY)	New York, NY	10/01/2003	09/19/2003
53,091	Standard Textile Co., Inc. (Comp)	Enterprise, AL	10/01/2003	09/23/2003
53,092	Jan Sew Manufacturing (Comp)	Crossville, TN	10/01/2003	09/15/2003
53,093	William Carter Company (Wkrs)	Griffin, GA	10/01/2003	09/17/2003
53,094	Eastman Machine Company (UAW)	Buffalo, NY	10/01/2003	09/19/2003
53,095	Collins and Aikman (GMP)	St. Joseph, MI	10/01/2003	09/20/2003
53,096	H. Warshow and Sons, Inc. (Wkrs)	Milton, PA	10/01/2003	09/17/2003
53,097	Phycomp/Yageo America (Wkrs)	El Paso, TX	10/01/2003	09/18/2003
53,098	Alcoa Composition Foils (Wkrs)	Pevely, MO	10/01/2003	09/20/2003
53,099	Border Apparel (Wkrs)	El Paso, TX	10/01/2003	09/29/2003
53,100	Computer Sciences Corporation (Wkrs)	Bethlehem, PA	10/01/2003	09/24/2003
53,101	Heil Company (USWA)	Lancaster, PA	10/01/2003	09/16/2003
53,102	Carbone Kirkwood LLC (Comp)	Cleveland, OH	10/02/2003	09/30/2003
53,103	Microdyne (Wkrs)	Torrance, CA	10/02/2003	09/23/2003
53,104	Webb Wheel Products (Comp)	Cullman, AL	10/02/2003	09/25/2003
53,105	American and Efird, Inc. (Comp)	Maiden, NC	10/02/2003	10/01/2003
53,106	Tree Source Industries, Inc. (Wkrs)	Portland, OR	10/02/2003	09/30/2003
53,107	Rapid Mold Solutions, Inc. (Wkrs)	Erie, PA	10/02/2003	09/10/2003
53,108	Hon Company (The) (Wkrs)	South Gate, CA	10/02/2003	09/22/2003
53,109	Hickory Throwing Co. (Comp)	Hickory, NC	10/02/2003	09/29/2003
53,110	Zorlu Manufacturing Co., LLC (Wkrs)	Warrenton, GA	10/02/2003	09/24/2003
53,111	Liberty Cut and Sew (Comp)	Stuart, VA	10/02/2003	09/24/2003
53,112	Stora Enso North America (Comp)	Wisconsin Rapid, WI	10/02/2003	09/26/2003
53,113	Davis Lumber Co. (Wkrs)	Rush, KY	10/02/2003	09/30/2003
53,114	Process Chemicals, LLC (Wkrs)	Greer, SC	10/02/2003	09/30/2003
53,115	Perfect Circle Division, DANA Corp. (UAW)	Muskegon, MI	10/02/2003	09/29/2003

APPENDIX—Continued

[Petitions Instituted Between 09/29/2003 and 10/03/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
53,116	Cogent Power (Comp)	Bridgeport, CT	10/02/2003	10/02/2003
53,117	Quality Investsment Castings, Inc. (Comp)	Fleetwood, PA	10/02/2003	09/23/2003
53,118	SPX Contech Metal Forging (UAW)	Dowagiac, MI	10/02/2003	09/29/2003
53,119	Orrco, Inc. (Comp)	Killbuck, OH	10/02/2003	10/01/2003
53,120	DVDA Inc. and D'Angelis Designs, Inc. (Comp)	New York, NY	10/02/2003	09/28/2003
53,121	Photronics, Inc. (Comp)	Milpitas, CA	10/03/2003	09/10/2003
53,122	North Pacific Processors, Inc. (Comp)	Cordova, AK	10/03/2003	09/03/2003
53,123	Reed-Rico PCC Industrial Products (Comp)	Holden, MA	10/03/2003	09/10/2003
53,124	American Bag Corp. (Comp)	Winfield, TN	10/03/2003	09/17/2003
53,125	Ranco North America (Comp)	Brownsville, TX	10/02/2003	09/23/2003
53,126	Siemens Energy and Automation (Comp)	Lebanon, OH	10/03/2003	09/23/2003
53,127	Ault, Inc. (Comp)	Minneapolis, MN	10/03/2003	10/02/2003
53,128	Wilson Sporting Goods (Comp)	Springfield, TN	10/03/2003	10/01/2003
53,129	Bayer (PACE)	W. Haven, CT	10/03/2003	10/01/2003
53,130	Oregon Woodworking (Comp)	Bend, OR	10/03/2003	10/01/2003
53,131	Thermotek, Inc. (Wrks)	Carrollton, TX	10/03/2003	09/27/2003
53,132	Authentic Fitness Corp. (CA)	Bell, CA	10/03/2003	10/01/2003
53,133	Charlotte Trimming Co. (Comp)	Charlotte, NC	10/03/2003	10/01/2003
53,134	Dan River, Inc. (Wkrs)	Ft. Valley, CA	10/03/2003	10/03/2003
53,135	Castle Rubber LLC (Comp)	E. Butler, PA	10/03/2003	10/03/2003
53,136	Edgerton Forge, Inc. (IBB)	Edgerton, OH	10/03/2003	10/02/2003
53,137	Weave Corp. (Wkrs)	Denver, PA	10/03/2003	09/10/2003
53,138	Amhil Enterprises, Inc. (Wkrs)	Dickson, TN	10/03/2003	09/30/2003
53,139	Totally Traditional, Inc. (Wrks)	Monroe, LA	10/03/2003	10/02/2003
53,140	Gammerler US Corp. (Comp)	Hanover Park, IL	10/03/2003	09/29/2003
53,141	Atlas Model Railroad (NJ)	Hillside, NJ	10/03/2003	10/02/2003
53,142	Century Furniture Ind. (Comp)	Hickory, NC	10/03/2003	09/30/2003
53,143	ERNI Components, Inc. (Comp)	Chester, VA	10/03/2003	09/30/2003
53,144	Thomas Moser Cabinetmakers (Comp)	Auburn, ME	10/03/2003	09/23/2003
53,145	General Aluminum Manufacturing Co. (UAW)	Hudson, MI	10/03/2003	09/26/2003
53,146	MetalForming Technologies, Inc. (UAW)	Pinconning, MI	10/03/2003	09/26/2003
53,147	EaglePicher (UAW)	Hillsdale, MI	10/03/2003	09/26/2003

APPENDIX

[Petitions Instituted Between 10/06/2003 and 10/10/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
53,148	Avanex (Wkrs.)	Fremont, CA	10/06/2003	09/24/2003
53,149	Arch Chemicals, Inc. (Wkrs.)	Lake Charles, LA	10/06/2003	10/03/2003
53,150	Rayovac Corp (Wkrs)	Fennimore, WI	10/06/2003	10/02/2003
53,151	Cole Hersee Company (Comp.)	Boston, MA	10/06/2003	10/03/2003
53,152	FMC Measurement Solutions (union)	Erie, PA	10/06/2003	09/19/2003
53,153	Metal Process Asst. (Comp.)	Northwich, CT	10/06/2003	10/01/2003
53,154	International Stone Products (Comp.)	Barre, VT	10/06/2003	10/03/2003
53,155	Brazeway, Inc. (IA)	DeWitt, IA	10/06/2003	10/06/2003
53,156	Halmade Apparel, Inc. (Comp.)	Roanoke, VA	10/06/2003	09/30/2003
53,157	F/V TRI–K (Comp.)	Palmer, AK	10/06/2003	10/02/2003
53,158	Zawick Manufacturing (UNITE)	Hellertown, PA	10/07/2003	10/06/2003
53,159	General Mills (Wkrs)	Eden Prairie, MN	10/07/2003	09/16/2003
53,160	Biddle Precision (Wkrs)	Sheridan, IN	10/07/2003	09/10/2003
53,161	ATC Distribution (PA)	McKees Rock, PA	10/07/2003	10/07/2003
53,162	Spherion Corp. (TX)	Victoria, TX	10/07/2003	10/03/2003
53,163	Zapata Industries, Inc. (IUOE)	Muskogee OK	10/07/2003	10/03/2003
53,164	Agilent Technologies (Wkrs)	Loveland, CO	10/07/2003	09/26/2003
53,165	Thermal Ceramics RPG (UNITE)	Elgin, IL	10/07/2003	10/01/2003
53,166	ArvinMeritor, Inc. (Comp)	Chickasha, OK	10/07/2003	10/01/2003
53,167	Wirco Castings, Inc. (Comp)	New Athens, IL	10/08/2003	10/07/2003
53,168	Allegheny Foundry Co. (Wkrs)	Pittsburgh, PA	10/08/2003	09/30/2003
53,169	Dresser, Inc. (Comp)	Bradford, PA	10/08/2003	09/25/2003
53,170	Tex Tech Industries (Wkrs)	N. Monmouth, ME	10/08/2003	09/26/2003
53,171	IPMC Acquisitions LLC (PACE)	Detroit, MI	10/08/2003	09/30/2003
53,172	Meadwestvaco (CT)	Enfield, CT	10/08/2003	10/06/2003
53,173	E.I. Du Pont de Nemours and Co., Inc. (Comp)	Athens, GA	10/08/2003	09/24/2003
53,174	Sinclair Collins/Parker Hannifin (USWA)	Akron, OH	10/08/2003	10/01/2003
53,175	Ciber IT Solutions (Comp)	Fairport, NY	10/08/2003	09/29/2003
53,176	TCI Machinery, Inc. (Comp)	Gastonia, NC	10/08/2003	09/30/2003
53,177	Agilent Technologies (Wkrs)	Loveland, CO	10/08/2003	09/29/2003

APPENDIX—Continued

[Petitions Instituted Between 10/06/2003 and 10/10/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
53,178	Solectron Global Services (Wkrs)	Beaverton, OR	10/08/2003	10/02/2003
53,179	Kulicke and Soffa Industries, Inc. (Comp)	Willow Grove, PA	10/08/2003	10/03/2003
53,180	3M Company (Comp)	Columbia, MO	10/08/2003	09/26/2003
53,181	Nutec Bickley (BIK Corp.) (Wkrs)	Bensalem, PA	10/08/2003	10/06/2003
53,182	RMH Teleservices (Wkrs)	Wilkes Barre, PA	10/08/2003	10/06/2003
53,183	Group Seven Systems, Inc. (Comp)	Lenoir, NC	10/08/2003	10/03/2003
53,184	Wolverine Tube, Inc. (Comp)	Booneville, MS	10/08/2003	10/07/2003
53,185	Lawson Software (MN)	St. Paul, MN	10/08/2003	10/06/2003
53,186	Arlon (Comp)	E. Providence, RI	10/08/2003	09/29/2003
53,187	Harriet and Henderson Yarns, Inc. (Comp)	Henderson, NC	10/08/2003	10/04/2003
53,188	Caliendo Savio Enterprise, Inc., (Comp)	New Berlin, WI	10/08/2003	10/07/2003
53,189	Campbell Foundry (NJ)	Harrison, NJ	10/08/2003	10/07/2003
53,190	Carriage House Co., Inc., (Wkrs)	Streator, IL	10/08/2003	09/26/2003
53,191	Snap-tite, Inc., (Comp)	Erie, PA	10/08/2003	09/10/2003
53,192	Telect, Inc. (Comp)	Sugar Hill, GA	10/08/2003	09/09/2003
53,193	F/V Eldorado (Comp)	Mt. Vernon, WA	10/08/2003	10/02/2003
53,194	Penn Union Corporation (Wkrs)	Edinboro, PA	10/09/2003	10/07/2003
53,195	Solectron (Comp)	Creedmoor, NC	10/09/2003	09/25/2003
53,196	Texas Instruments (Comp)	Attleboro, MA	10/09/2003	10/06/2003
53,197	Annjon Dress (Comp)	New York, NY	10/09/2003	10/08/2003
53,198	Celanese Acetate (Wkrs)	Narrows, VA	10/09/2003	10/03/2003
53,199	Eudora Garment Corp. (AR)	Eudora, AR	10/09/2003	10/03/2003
53,200	Louisiana Pacific (Comp)	Belgrade, MT	10/09/2003	10/08/2003
53,201	Louisiana Pacific Corp. (Wkrs)	Sandpoint, ID	10/09/2003	10/08/2003
53,202	Arctic Cat (MN)	Thief River Fal, MN	10/09/2003	10/08/2003
53,203	Vibren Technologies (MA)	Boxborough, MA	10/09/2003	09/04/2003
53,204	CDI Corp. (Wkrs)	Corvallis, OR	10/09/2003	09/26/2003
53,205	Lear Corp. (Wkrs)	Lewistown, PA	10/09/2003	10/08/2003
53,206	GE Industrial Systems (Comp)	Shreveport, LA	10/10/2003	10/09/2003
53,207	Extrasport (Wkrs)	Miami, FL	10/10/2003	10/03/2003
53,208	Randolph Knitting, Inc. (Comp)	Ramseur, NC	10/10/2003	10/06/2003
53,209	Computer Sciences Corp. (Wkrs)	E. Hartford, CT	10/10/2003	09/22/2003
53,210	Connector Service Corp. (Comp)	Dallas, TX	10/10/2003	10/09/2003
53,211	Rogers Corporation (Comp)	S. Windham, CT	10/10/2003	10/06/2003
53,212	Heraeus Quartztech, Inc. (Comp)	Austin, TX	10/10/2003	10/08/2003
53,213	Viking Engineered Cast Products (Wkrs)	Cedar Falls, IA	10/10/2003	10/02/2003
53,214	Rhodia Chemicals (Wrks)	Chicago Heights, IL	10/10/2003	09/22/2003
53,215	Kingsport Foundry and Mfg. Corp. (Comp)	Kingsport, TN	10/10/2003	09/29/2003
53,216	Henry I. Siegel Co., Inc. (Comp)	Nashville, TN	10/10/2003	10/07/2003
53,217	Rexnord (Wkrs)	New Berlin, WI	10/10/2003	10/10/2003

[FR Doc. 03–27832 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,996]

Fishing Vessel (F/V) Claudia H., Homer, Alaska; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 26, 2003 in response to a petition filed by a company official on behalf of workers of Fishing Vessel (F/V) Claudia H., Homer, Alaska.

The investigation revealed that the subject firm did not separate or threaten to separate a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974. Significant number or proportion of the workers means that at least three workers in a firm with a workforce of fewer than 50 workers would have to be affected. Separations by the subject firm did not meet this threshold level; consequently the investigation has been terminated.

Signed at Washington, DC this 8th day of October 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–27835 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,899]

Fishing Vessel (F/V) Double Dare, Kinai, Alaska; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 23, 2003 in response to a petition filed by a company official on behalf of workers of Fishing Vessel (F/V) Double Dare, Kinai, Alaska.

The investigation revealed that the subject firm did not separate or threaten to separate a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974. Significant number or proportion of the workers means that at least three

workers in a firm with a workforce of fewer than 50 workers would have to be affected. Separations by the subject firm did not meet this threshold level; consequently the investigation has been terminated.

Signed at Washington, DC this 8th day of October 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–27836 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,724]

Fishing Vessel (F/V) Ruthie, Petersburg, Alaska; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 3, 2003 in response to a petition filed by a company official on behalf of workers of Fishing Vessel (F/V) Ruthie, Petersburg, Alaska.

The investigation revealed that the subject firm did not separate or threaten to separate a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974. Significant number or proportion of the workers means that at least three workers in a firm with a workforce of fewer than 50 workers would have to be affected. Separations by the subject firm did not meet this threshold level; consequently the investigation has been terminated.

Signed at Washington, DC this 25th day of September 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–27840 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,713]

Gilbert Brothers Fisheries, Kodiak, Alaska; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 2, 2003 in response to a petition filed by a company official on behalf of workers of Gilbert Brothers Fisheries, Kodiak, Alaska.

The investigation revealed that the subject firm did not separate or threaten to separate a significant number or proportion of workers as required by Section 222 of the Trade Act of 1974. Significant number or proportion of the workers means that at least three workers in a firm with a workforce of fewer than 50 workers would have to be affected. Separations by the subject firm did not meet this threshold level; consequently the investigation has been terminated.

Signed at Washington, DC this 25th day of September 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–27841 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 17, 2003.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than November 17, 2003.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 7th day of October 2003.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted Between 09/15/2003 and 09/26/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
52,857	Hart Tackle Co., LLC (Comp)	Stratford, OK	09/15/2003	08/22/2003
52,858	Wetsel-Oviatt Lumber Co. (Comp)	El Dorado Hills, CA	09/15/2003	08/25/2003
52,859	Prestige Products, Inc. (MN)	MInneapolis, MN	09/15/2003	09/15/2003
52,860	Olympic Tool and Engineering, Inc. (Comp)	Shelton, WA	09/15/2003	08/26/2003
52,861	Intermet (Comp)	Radford, VA	09/15/2003	09/09/2003
52,862	Paxar Corporation (Comp)	Lenoir, NC	09/16/2003	08/25/2003
52,863	Thantex Specialties (Comp)	Abbeville, SC	09/16/2003	08/27/2003
52,864	Cooper-Atkins Corporation (Comp)	Middlefield, CT	09/16/2003	08/19/2003
52,865	Washington Logistics, Inc. (IBT)	Olympia, WA	09/17/2003	09/11/2003
52,866	Dyno Nobel (Comp)	Ulster Park, NY	09/17/2003	09/09/2003
52,867	Pittsfield Woolen Yarns Co., Inc. (Comp)	Pittsfield, ME	09/17/2003	09/04/2003

APPENDIX—Continued

[Petitions Instituted Between 09/15/2003 and 09/26/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
52,868	Badorf Shoe Co., Inc. (Comp)	Lititz, PA	09/17/2003	09/09/2003
52,869	Clayson Knitting Co., Inc. (Comp)	Star North, NC	09/17/2003	09/04/2003
52,870	Shell International E and P (Comp)	Houston, TX	09/17/2003	09/04/2003
52,871	General Mills (Comp)	Eden Prairie, MN	09/17/2003	09/09/2003
52,872	Becton Dickinson (Comp)	Holdrege, NE	09/17/2003	09/11/2003
52,873	Progress Casting Group, Inc. (Comp)	Plymouth, MN	09/17/2003	09/08/2003
52,874	PMW Illinois, Inc. (Comp)	Carlinville, IL	09/17/2003	09/10/2003
52,875	Lucent Technologies (Wkrs)	Naperville, IL	09/17/2003	09/05/2003
52,876	Excel Finishing Corp. (Comp)	Ridgewood, NY	09/17/2003	09/08/2003
52,877	Sonoco Flexible Packaging (Comp.)	Fulton, NY	09/22/2003	09/09/2003
52,878	Cid Hosiery Mill, Inc. (Comp.)	Lexington, NC	09/22/2003	09/16/2003
52,879	Jan-Sew (Comp.)	Crossville, TN	09/22/2003	09/15/2003
52,880	Dayton Superior (Comp.)	Birmingham, AL	09/22/2003	09/18/2003
52,881	Mohican Mills (Comp.)	Lincolnton, NC	09/22/2003	09/18/2003
52,882	APW-Erie, Inc. (Comp.)	Erie, PA	09/22/2003	06/17/2003
52,883	Interceptor (Comp.)	Kodiak, AK	09/22/2003	09/11/2003
52,884	Fishing Vessel (F/V) Confidence (Comp.)	Sitka, AK	09/22/2003	09/12/2003
52,885	U.S. Tsubaki (Comp.)	Holyoke, MA	09/22/2003	09/18/2003
52,886	Savane International Corp. (Comp.)	El Paso, TX	09/22/2003	09/11/2003
52,887	Connie Rose Manufacturing (Comp.)	Philadelphia, PA	09/22/2003	09/17/2003
52,888	Santoko America, Inc. (Comp.	Tolleson, AZ	09/22/2003	09/09/2003
52,889	Fox River Paper Co. (R.B.)	Appleton, WI	09/22/2003	09/18/2003
52,890	Alagold Corporation (Comp.)	Montgomery, AL	09/22/2003	09/16/2003
52,891	C.O.W. Ind Inc. (Comp.)	Columbus, OH	09/22/2003	09/22/2003
52,892	Fishing Vessel (F/V) Sea Comber (Comp.)	Sitka, AK	09/22/2003	08/21/2003
52,893	R and J (Comp)	Kasilof, AK	09/23/2003	09/08/2003
52,894	Fishing Vessel (F/V) Desperado (Comp)	Wasilla, AK	09/23/2003	08/24/2003
52,895A	Fishing Vessel (F/V) Village Idiot (Comp.)	Fairbanks, AK	09/23/2003	08/26/2003
52,895	Fishing Vessel (F/V) Madam Ching (Comp)	Fairbanks, AK	09/23/2003	08/26/2003
52,896	Rubicon (Comp)	Kodiak, AK	09/23/2003	09/09/2003
52,897	Alchemist, Inc. (Comp)	Southeast, AK	09/23/2003	09/22/2003
52,898	State of Alaska Commercial Fisheries (Comp)	Kodiak, AK	09/23/2003	09/19/2003
52,899	F/V Double Dare (Comp)	Kalama, WA	09/23/2003	09/10/2003
52,900	F/V Wolf Chief (Comp)	Ketchikan, AK	09/23/2003	09/12/2003
52,901	Snap-On Tools (Wkrs)	Mr. Carmel, IL	09/23/2003	08/29/2003
52,902	Buffalo China (GMP)	Buffalo, NY	09/23/2003	09/04/2003
52,903	Straits Steel and Wire (Comp)	Ludington, MI	09/23/2003	09/08/2003
52,904	York International (UAW)	York, PA	09/23/2003	09/09/2003
52,905	RadioShack Corp. (Comp)	Ft. Worth, TX	09/23/2003	09/10/2003
52,907	Dycraftsmen, Inc. (UNITE)	Tourton, MA	09/23/2003	08/29/2003
52,908	Coastal Apparel, LLC (Comp)	Tabor City, NC	09/23/2003	09/05/2003
52,909	Dolly, Inc. (Wkrs)	Tipp City, OH	09/23/2003	08/28/2003
52,910	Safer Textiles Processing (NJ)	Newark, NJ	09/23/2003	09/10/2003
52,911	International Paper (Wkrs)	Orange, TX	09/23/2003	09/11/2003
52,912	Boise Cascade (WCIW)	Yakima, WA	09/23/2003	09/04/2003
52,913	Spectrulite Consortium, Inc. (USWA)	Madison, IL	09/23/2003	09/15/2003
52,914	Gates Corporation (Comp)	Elizabethtown, KY	09/23/2003	09/10/2003
52,915	Advanced Design and Knits, Inc. (Comp)	Copiague, NY	09/23/2003	08/30/2003
52,916	Rite Industries, Inc. (Comp)	High Point, NC	09/23/2003	09/04/2003
52,917	Hooven-Allison (Wkrs)	Xenia, OH	09/23/2003	08/21/2003
52,918	Nationwide Title Clearing, Inc. (Wkrs)	Palm Harbor, FL	09/23/2003	09/09/2003
52,919	Keller Furniture (Comp)	Corydon, IN	09/23/2003	09/05/2003
52,920	Sony Ericsson Mobile Communications (Wkrs)	RTP, NC	09/23/2003	09/10/2003
52,921	Federal Mogul Corp. (Comp)	Sumter, SC	09/23/2003	09/10/2003
52,922	Curtis Fine Papers (Comp)	Adams, MA	09/23/2003	09/08/2003
52,923	Delphi Chassis (USWA)	Dayton, OH	09/23/2003	09/04/2003
52,924	Techneglas, Inc. (GMP)	Columbus, OH	09/23/2003	09/09/2003
52,925	SKF USA, Inc. (Comp)	Altoona, PA	09/23/2003	09/11/2003
52,926	Standard Mercerizing and Specialty Yarn (UNI)	Chattanooga, TN	09/23/2003	09/15/2003
52,927	Railway Handle Corp. (Comp)	Kenbridge, VA	09/23/2003	09/12/2003
52,928	Northrop Grumman Interconnect Tech. (Comp)	Springfield, MO	09/23/2003	09/09/2003
52,929	Kaydon Corporation (Comp)	Sumter, SC	09/23/2003	09/15/2003
52,930	Carolina Mills (Comp)	Maiden, NC	09/23/2003	09/10/2003
52,931	PCS Nitrogen (BCTGM)	Millington, TN	09/23/2003	09/02/2003
52,932	Fishing Vessel (F/V) Erika (Comp)	Kodiak, AK	09/24/2003	09/06/2003
52,933	Ashland Chemicals (Wkrs)	San Antonio, TX	09/24/2003	09/12/2003
52,934	Lego Systems, Inc. (Wkrs)	Enfield, CT	09/24/2003	08/15/2003
52,935	Agilent Technologies (Wkrs)	Loveland, CO	09/24/2003	08/20/2003
52,936	Cook Communications Ministries (Comp)	Elgin, IL	09/24/2003	09/22/2003
52,937	Nestle Waters (Comp)	Tamarac, FL	09/24/2003	09/11/2003

APPENDIX—Continued

[Petitions Instituted Between 09/15/2003 and 09/26/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
52,938	AFOP (Alliance Fiber Optics, Inc.) (Wkrs)	Sunnyvale, CA	09/24/2003	08/27/2003
52,939	TRTL Enterprise, LLC (Wkrs)	Monmouth, OR	09/24/2003	08/22/2003
52,940	Motor Coach Industries (Wkrs)	Roswell, MN	09/24/2003	09/14/2003
52,941	Grede Foundries, Inc. (WI)	Milwaukee, WI	09/24/2003	09/16/2003
52,942	Innovative Marketing Strategies (Comp)	Pittsburg, KS	09/24/2003	09/16/2003
52,943	Composites Solutions, Inc (Wkrs)	W. Columbia, SC	09/24/2003	08/28/2003
52,944	Chiquola Fabrics, LLC (Comp)	Kingsport, TN	09/24/2003	09/15/2003
52,945	SMTC Manufactureing Corp. of MA (Comp)	Franklin, MA	09/24/2003	08/29/2003
52,946	Arkansas Metal Castings (Wkrs)	Ft. Smith, AR	09/24/2003	07/30/2003
52,947	Kueruschield Manufacturing Co. (Wkrs)	Columbia, MO	09/24/2003	09/04/2003
52,948	US Steel (Comp)	Gary, IN	09/24/2003	09/09/2003
52,949	Pacific Scientific (Wkrs)	Rockford, IL	09/24/2003	09/08/2003
52,950	Alva Distributing, Inc. (Comp)	Albermarle, NC	09/24/2003	09/10/2003
52,951	Durrell Corp. (Wkrs)	Alliance, OH	09/24/2003	08/29/2003
52,952	Old Time Cutting (NJ)	Passaic, NJ	09/24/2003	09/10/2003
52,953	Briggs Plumbing Products, Inc. (Comp)	Flora, IN	09/24/2003	09/12/2003
52,954	Federal Mogul Corp. (Wkrs)	Spartan, TN	09/24/2003	09/12/2003
52,955	Andritz, Inc. (Comp)	Murcy, PA	09/24/2003	09/05/2003
52,956	SEMCO (FL)	Ocala, FL	09/24/2003	09/12/2003
52,957	STMicroelectronics (Wkrs)	Raleigh, NC	09/24/2003	09/05/2003
52,958	EDS (Wkrs)	Flint, MI	09/24/2003	09/11/2003
52,959	Maxxim Medical, Inc. (Comp)	Honea Path, SC	09/24/2003	09/19/2003
52,960	Rosenbluth International (Comp)	Kannapolis, NC	09/24/2003	09/11/2003
52,961	IPAC Fabrics (Wkrs)	Lewiston, ME	09/24/2003	09/05/2003
52,962	Pa-Ted Spring Co., Inc. of NC (Comp)	Belmont, NC	09/24/2003	09/03/2003
52,963	Chicago Cold Rolling, LLC (Wkrs)	Portage, IN	09/24/2003	09/08/2003
52,964	Phelps Dodge Mining Co. (Comp)	Tyrone, NM	09/24/2003	09/03/2003
52,965	Agri Beef Co. (ID)	Boise, ID	09/24/2003	09/11/2003
52,966	Andrew Corp. (Wkrs)	Dallas, TX	09/24/2003	08/27/2003
52,967	Alphabet Division (Comp)	Mebane, NC	09/25/2003	09/20/2003
52,968	Snap-On, Inc. (Comp)	Kenosha, WI	09/25/2003	08/20/2003
52,969	Agilent Technologies (Comp)	Liberty Lake, WA	09/25/2003	09/16/2003
52,970	Miller Casket Co. (Wkrs)	Jermyn, PA	09/25/2003	09/23/2003
52,971	Goodyear Tire and Rubber Co. (Wkrs)	Cartersville, GA	09/25/2003	09/24/2003
52,972	Exfo-Gnubi (Wkrs)	Addison, TX	09/25/2003	09/09/2003
52,973	Cortina Fabrics (Comp)	Swepsonville, NC	09/25/2003	09/24/2003
52,974	Corning (Wkrs)	Bedford, MA	09/25/2003	09/16/2003
52,975	Fall River Paper and Supply Corp. (Comp)	New Bedford, MA	09/25/2003	09/17/2003
52,976	Upholstery Fabric Mill of GA, Inc. (Comp)	Jasper, GA	09/25/2003	09/19/2003
52,977	Minnesota Rubber (Comp)	Watertown, SD	09/25/2003	09/11/2003
52,978	Carmel Textiles, Inc. (Wkrs)	Hialeah, FL	09/25/2003	08/28/2003
52,979	Conoco Phillips (Wkrs)	Odessa, TX	09/25/2003	08/25/2003
52,980	Worcester Gear Work, Inc. (Wkrs)	Worcester, MA	09/25/2003	09/09/2003
52,981	Oce Groupware Tech. (Wkrs)	Boise, ID	09/25/2003	09/22/2003
52,982	Glaxo Smith Kline Pharmaceuticals (Comp)	Piscataway, NJ	09/25/2003	09/12/2003
52,983	Escod Ind. (Wkrs)	N. Myrtle Beach, SC	09/25/2003	09/16/2003
52,984	Sanmina—SCI (Comp)	Carrollton, TX	09/25/2003	09/17/2003
52,985	Canon USA Semiconductor Div. (Wkrs)	San Antonio, TX	09/25/2003	09/18/2003
52,986	Alcoa Fijikura, Ltd (Wkrs)	Duncan, SC	09/25/2003	09/15/2003
52,987	SACM Textiles, Inc. (Wkrs)	Lyman, SC	09/25/2003	09/24/2003
52,988	Simplot Meat Products (Wkrs)	Nampa, ID	09/25/2003	09/23/2003
52,989	Standard Textile Co., Inc. (Comp)	Enterprise, AL	09/25/2003	09/23/2003
52,990	Murata Machinery USA, Inc. (Comp)	Charlotte, NC	09/25/2003	09/08/2003
52,991	Select Elastics of America (Wkrs)	McAllen, TX	09/25/2003	09/22/2003
52,992	Planto Furniture Mfg., Co., Inc. (Comp)	San Antonio, TX	09/25/2003	09/22/2003
52,993	Chas W. House and Sons, Inc. (Wkrs)	Unionville, CT	09/25/2003	09/16/2003
52,994	Scotts (Wkrs)	Temecula, CA	09/25/2003	09/05/2003
52,995	Pressed Steel Tank (USWA)	W. Allis, WI	09/25/2003	09/23/2003
52,996	F/V Claudia H (Comp)	Mt. Vernon, WA	09/26/2003	09/23/2003
52,997	F/V Valeta H. (Comp)	Point Baker, AK	09/26/2003	09/23/2003
52,998	Saint-Gobian Calmar (CA)	City of Industr, CA	09/26/2003	09/25/2003
52,999	Ace Packaging Systems (PACE)	Newport, MI	09/26/2003	09/20/2003
53,000	VF Jeanswear Limited Partnership (Comp)	Ada, OK	09/26/2003	08/27/2003
53,001	S.E.T., Inc. (IA)	Dubuque, IA	09/26/2003	09/20/2003
53,002	AKZ0 Nobel Coatings, Inc. (Wkrs)	Carney's Point, NJ	09/26/2003	09/05/2003
53,003	Honeywell International (Comp)	Albuquerque, MN	09/26/2003	09/18/2003
53,004	Xerox Corporation (UNITE)	Webster, NY	09/26/2003	09/15/2003
53,005	Canton Drop Forge (Wkrs)	Canton, OH	09/26/2003	09/12/2003
53,006	Intertape Polymer Group (Wkrs)	Brighton, CO	09/26/2003	09/18/2003
53,007	Contempora Fabrics, Inc. (Comp)	Lumberton, NC	09/26/2003	09/04/2003

APPENDIX—Continued

[Petitions Instituted Between 09/15/2003 and 09/26/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
53,008	Martens Manufacturing LLC (Comp)	Kingsford, MI	09/26/2003	09/23/2003
53,009	W.B. Place (Wkrs)	Hartford, WI	09/26/2003	09/22/2003
53,010	New Generation Yarn (Wkrs)	Gibsonville, NC	09/26/2003	09/15/2003
53,011	General Dynamics (WA)	Moses Lake, WA	09/26/2003	09/24/2003
53,012	Nitram, Inc. (Comp)	Tampa, FL	09/26/2003	09/23/2003
53,013	American Uniform Co. (Comp)	Robbinsville, NC	09/26/2003	09/19/2003
53,014	Pulaski Furniture (Wkrs)	Pulaski, VA	09/26/2003	09/22/2003
53,015	Texas PMW, Inc. (Comp)	Houston, TX	09/26/2003	09/10/2003
53,016	Accentureanu (Comp)	Anchorage, AK	09/26/2003	09/22/2003
53,017	Sunbeam Products, Inc. (Comp)	Hattiesburg, MS	09/26/2003	09/23/2003
53,018	O.P. Link Handle Co. (Comp)	Salem, IN	09/26/2003	09/12/2003
53,019	Thermal Engineering (Wkrs)	Joplin, MO	09/26/2003	09/15/2003
53,020	Intercontinental Hotels Group (Wkrs)	Cary, NC	09/26/2003	09/25/2003
53,021	Carm Newsome Hosiery, Inc. (Comp)	Ft. Payne, AL	09/26/2003	09/16/2003
53,022	Ideal Forging Corp. (CT)	Southington, CT	09/26/2003	09/24/2003
53,023	Cardinal Glass Industries, Inc. (Comp)	Menomonie, WI	09/26/2003	09/19/2003
53,024	Columbia Cable Co. (Comp)	Columbia, MS	09/26/2003	09/12/2003
53,025	Invensys-Robertshaw (UAW)	Long Beach, CA	09/26/2003	09/18/2003
53,026	Metaldyne Driveline (UAW)	Bedford Hgts., OH	09/26/2003	09/17/2003
53,027	Sennett Steel Corp. (UAW)	Warren, MI	09/26/2003	09/17/2003
53,028	BIC Consumer Products Mfg. Co., Inc. (Comp)	Gaffney, SC	09/26/2003	09/23/2003
53,029	American Electric Lighting (Comp)	Bainbridge, GA	09/26/2003	09/15/2003
53,030	Dayton Superior Corp. (GMPPA)	Miamisburg, OH	09/26/2003	09/18/2003
53,031	Randco Tool and Die, Inc. (Comp)	Meadville, PA	09/26/2003	09/12/2003
53,032	Plastek Group (The) (Wkrs)	Erie, PA	09/26/2003	09/25/2003
53,033	Modern Packaging, Inc. (Comp)	Derk Park, NY	09/26/2003	09/16/2003
53,034	C and C Smith Lumber, Co., Inc. (Comp)	Summerhill, PA	09/26/2003	09/28/2003
53,035	Supreme Bumper, Inc. (Wkrs)	Toledo, OH	09/26/2003	08/25/2003
53,036	ABA–PGI, Inc. (Comp)	Manchester, CT	09/26/2003	09/11/2003

[FR Doc. 03–27833 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,727]

Pryor Fish Camp, Kodiak, Alaska; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 3, 2003 in response to a petition filed by a company official on behalf of workers of Pryor Fish Camp, Kodiak, Alaska.

The Department issued a negative determination applicable to the petitioning group of workers on September 10, 2003 (TA–W–52,697). No new information or change in circumstances is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 25th day of September 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–27839 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,815]

Siemens Energy & Automation, Inc., Lebanon, Ohio; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 11, 2003 in response to a worker petition filed on behalf of workers at Siemens Energy & Automation, Inc., Lebanon, Ohio.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 25th day of September, 2003

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–27838 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,830]

Surgical Specialties Corp., Ada, Oklahoma; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 11, 2003 in response to a worker petition filed on behalf of workers at Surgical Specialties Corp., Ada, Oklahoma

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 25th day of September, 2003

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–27837 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,683]

Thomasville Furniture Industries, Inc. Corporate Office, Thomasville, North Carolina; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 26, 2003 in response to a worker petition which was filed on behalf of workers at Thomasville Furniture Industries, Corporate Office, Thomasville, North Carolina.

An active certification covering the petitioning group of workers is already in effect (TA–W–50,150C, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

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

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–27843 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, 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 requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''Current Population Survey (CPS) Volunteer Supplement.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before January 5, 2004.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (*See* **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

I. Background

The September 2004 CPS Volunteer Supplement will be conducted at the request of the USA Freedom Corps. The Volunteer Supplement will provide information on the total number of individuals in the U.S. involved in unpaid volunteer activities, factors that motivate volunteerism, measures of the frequency or intensity with which individuals volunteer, types of organizations that facilitate volunteerism, and activities in which volunteers participate.

Because the Volunteer Supplement is part of the CPS, the same detailed demographic information collected in the CPS will be available on respondents to the Supplement. Comparisons of volunteer activities will be possible across characteristics such as sex, race, age, and educational attainment of the respondent. It is intended that the Supplement will be conducted annually, if resources permit, in order to gauge changes in volunteerism.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Action

Office of Management and Budget clearance is being sought for the CPS Volunteer Supplement.

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: CPS Volunteer Supplement.

OMB Number: 1220–0176.

Affected Public: Households.

Total Respondents: 112,000.

Frequency: Annually.

Total Responses: 112,000.

Average Time Per Response: 4 minutes.

Estimated Total Burden Hours: 7,467 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

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 also will become a matter of public record.

Signed at Washington, DC, this 23rd day of October, 2003.

Cathy Kazanowski,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 03–27828 Filed 11–4–03; 8:45 am]

BILLING CODE 4510–28–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on November 4, 2003 via conference call. The meeting will begin at 11 a.m., and continue until conclusion of the Board's agenda.

LOCATION: Strickland Brockington Lewis LLP, Midtown Proscenium, Suite 2000, 1170 Peachtree Street, NE., Atlanta, GA 30309.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed

pursuant to a vote of the Board of Directors authorizing the executive session. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. 552b(6), (7) and (9)(b)] and the corresponding provisions of the Legal Services Corporation's implementing regulation [45 CFR 1622.5(e), (f)(4) and (g)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

Matters To Be Considered

Open Session

1. Approval of the agenda.
2. Consider and act on whether to go into executive session.

Closed Session

3. Consider and act on internal personnel matter.

Open Session

4. Consider and act on other business.
5. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION: Patricia Batie, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 295–1500.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie, at (202) 295–1500.

Dated: October 31, 2003.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 03–27945 Filed 11–3–03; 10:45 am]

BILLING CODE 7050–01–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–143]

NASA Advisory Council, Space Science Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC).

DATES: Monday, November 17, 2003, 8:30 a.m. to 5:30 p.m., Tuesday, November 18, 2003, 8:30 a.m. to 6 p.m., and Wednesday, November 19, 2003, 8:30 a.m. to 11 a.m.

ADDRESSES: National Aeronautics and Space Administration, Ames Research Center, NASA Ames Conference Center (NACC), Ball Room, 500 Severyns Avenue, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Ms. Marian R. Norris, Code SB, National Aeronautics and Space Administration, Washington, DC 20546, (202)358–4452.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—NASA presentation and Comments on HST Options

—SScAC Subcommittee Recommendations on HST Options

—Subcommittee Reports on Other Topics

—Briefing on the Status of NASA Sounding Rocket Programs

—Discussion on Selection of Future Space Science Mission Science Centers

—Status Report on the Jupiter Icy Moons Orbiter (JIMO) Science Definition Team

Interested persons wishing to comment in writing on Hubble Space Telescope (HST) servicing and end of life options may send their contributions by U.S. mail to the attention of Marc S. Allen, Code S, NASA Headquarters, Washington, DC 20546, or by e-mail to *marc.allen@nasa.gov*. Contributions received by November 13 will be distributed to Committee members. Brief comments from the public attending the meeting will be heard by the committee, subject to a total agenda time allocation for these comments of 30 minutes.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors to the meeting will be requested to sign a visitor's register.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–27876 Filed 11–4–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until December 5, 2003.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6669, e-mail: *mcnamara@ncua.gov*.

FOR FURTHER INFORMATION: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Community Development Revolving Loan Program for Credit Union Application for Funds.

OMB Number: 3133–0138.

Form Number: None.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Description: NCUA requests this information from credit unions to assess financial ability to repay the loans and to ensure that the funds are used to benefit the institution and the community it serves. The respondents are financial institutions that serve specific membership groups.

Estimated No. of Respondents/ Recordkeepers: 28.

Estimated Burden Hours Per Response: 9 hours.

Frequency of Response: Reporting, on occasion and annually.

Estimated Total Annual Burden Hours: 252 hours.

Estimated Total Annual Cost: $0.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27764 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–518–6669, e-mail: *mcnamara@ncua.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Corporate Credit Union Monthly Call Report.

OMB Number: 3133–0067.

Form Number: NCUA 5310.

Type of Review: Recordkeeping, reporting and monthly.

Description: NCUA utilizes the information to monitor financial conditions in corporate credit unions, and to allocate supervision and examination resources.

Respondents: Corporate credit unions, or ''banker's banks'' for natural person credit unions.

Estimated No. of Respondents/Record keepers: 33.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Monthly.

Estimated Total Annual Burden Hours: 792 hours.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27765 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. (703) 518–6669, e-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Payment on Shares by Public Units and Nonmembers.

OMB Number: 3133–0114.

Form Number: N/A.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: 5 CFR 701.32 limits nonmember and public unit deposits in federally insured credit unions to 20 percent of their shares or $1.5 million, whichever is greater. The collection of information requirement is for those credit unions seeking an exemption from the above limit.

Respondents: Credit Unions seeking an exemption from the limits on share deposits by public unit and nonmember accounts set by 5 CFR 701.32.

Estimated No. of Respondents/ Recordkeepers: 20.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Other. As exemption is requested.

Estimated Total Annual Burden Hours: 40.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27766 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. (703) 518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Part 715, NCUA Rules and Regulations (Existing Parts 701.12 and 701.13).

OMB Number: 3133–0059.

Form Number: NA.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: The rule specifies the minimum annual audit a credit union is required to obtain according to its charter type and asset size, the licensing authority required of persons performing certain audits, the auditing principles that apply to certain audits, and the accounting principles that must be followed in reports filed with the NCUA Board.

Respondents: Federal credit unions.

Estimated No. of Respondents/ Recordkeepers: 12,000.

Estimated Burden Hours Per Response: 5.75 hours.

Frequency of Response: Reporting and annually.

Estimated Total Annual Burden Hours: 100,906 hours.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27767 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. (703) 518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Management Official Interlocks.

OMB Number: 3133–0152.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: Part 711 of NCUA's Rules and Regulations directs federally insured credit unions that want to share a management official with another financial institution to either apply for approval from the NCUA Board or maintain records to show the eligibility for a small market share exemption.

Respondents: All federally insured credit unions.

Estimated No. of Respondents/ Recordkeepers: 1.

Estimated Burden Hours Per Response: 3 hours.

Frequency of Response: Recordkeeping. Upon application.

Estimated Total Annual Burden Hours: 3.

Estimated Total Annual Cost: $0.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27768 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. (703) 518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposals for the following collection of information:

Title: Production of Nonpublic Records and Testimony of Employees in Legal Proceedings.

OMB Number: 3133–0146.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Respondents: Respondents will most likely be persons involved in legal proceedings.

Estimated No. of Respondents/ Recordkeepers: 36.

Estimated Burden Hours Per Response: 2.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 72.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27769 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. (703) 518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Charter Conversions.

OMB Number: 3133–0153.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: Part 708 of NCUA's Rules and Regulations directs credit unions to provide members with information to evaluate a charter conversion proposal. NCUA needs the information to fulfill its statutory duty to administer the membership vote.

Respondents: Federally insured credit unions.

Estimated No. of Respondents/ Recordkeepers: 10.

Estimated Burden Hours Per Response: 20 hours.

Frequency of Response: Reporting, Third Party Disclosure. Other, one time only.

Estimated Total Annual Burden Hours: 200.

Estimated Total Annual Cost: $0.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27770 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for a New Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until December 5, 2003.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. Neil McNamara (703) 518–6447, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. (703) 518–6489, E-mail: *mcnamara@ncua.gov.*

OMB Reviewer: Mr. Joseph F. Lackey (202) 395–4741, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, Neil McNamara, (703) 518–6447.

SUPPLEMENTARY INFORMATION: Proposal for the following new collection of information:

OMB Number: 3133–

Form Number: N/A.

Type of Review: New collection.

Title: 12 CFR 741.11 of NCUA's Rules and Regulations, Foreign Branching.

Description: Section 741.11 contains a provision that any insured credit union must apply for and receive approval from the regional director before establishing a credit union branch outside the United States unless the foreign branch is located on a United States military institution or embassy outside the United States. The application must include (1) a business plan, (2) written approval by the state supervisory agency if the applicant is a state-chartered credit union, and (3) documentation evidencing written permission from the host country to establish the branch that explicitly recognizes NCUA's authority to examine and take any enforcement actions, to include conservatorship and liquidation actions.

Estimated No. of Respondents/ Recordkeepers: 10.

Estimated Burden Hours Per Response: 16 hours.

Frequency of Response: Reporting and other (one time only).

Estimated Total Annual Burden Hours: 160.

Estimated Total Annual Cost: $ 0.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27771 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submissions to OMB for Reinstatement, With Change of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collections of information:

Title: Community Development Revolving Loan Program for Credit Unions Application for Technical Assistance.

OMB Number: 3133–0137.

Form Number: None.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Description: NCUA requests this information from credit unions to ensure that the funds are distributed to aid in providing member services, and enhancing credit union operations.

Respondents: Federal credit unions.

Estimated No. of Respondents/ Recordkeepers: 116.

Estimated Burden Hours Per Response: 1 hour.

Frequency of Response: Reporting and on occasion.

Estimated Total Annual Burden Hours: 116 hours.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27772 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer listed below:

Clearance Officer: Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Leasing—Statistical Documentation Required for a Guarantor of a Residual Value.

OMB Number: 3133–0151.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: Part 714 of NCUA's Rules and Regulations directs federal credit unions to evaluate whether a guarantor of a residual value has the financial resources to meet the guarantee.

Respondents: All Federal credit unions.

Estimated No. of Respondents/ Recordkeepers: 380.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Recordkeeping.

Estimated Total Annual Burden Hours: 760.

Estimated Total Annual Cost: $13,300.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27773 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Written Reimbursement Policy.

OMB Number: 3133–0130.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: Each Federal Credit Union (FCU) must draft a written reimbursement policy to ensure that the FCU makes payments to its director within the guidelines that the FCU has established in advance and to enable examiners to easily verify compliance by comparing the policy to the actual reimbursements.

Respondents: All Federal credit unions.

Estimated No. of Respondents/ Recordkeepers: 6,897.

Estimated Burden Hours Per Response: 1 hour.

Frequency of Response: Other. Once and update.

Estimated Total Annual Burden Hours: 3,462 hours.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27774 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection

request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Designation of Low Income Status.

OMB Number: 3133–0117.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: Under section 107(6) of the Federal Credit Union Act, 12 U.S.C. 1757(6), and § 701.34 of NCUA Regulations, 12 CFR 701.34, credit unions that serve predominantly low-income members can accept nonmember share accounts from any source if the credit union obtains a low income designation from NCUA.

Respondents: Certain credit unions that serve predominantly low income members.

Estimated No. of Respondents/ Recordkeepers: 15.

Estimated Burden Hours Per Response: 15 hours.

Frequency of Response: Recordkeeping and other, once.

Estimated Total Annual Burden Hours: 225 hours.

Estimated Total Annual Cost: $3,600.00.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27775 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: 12 CFR part 708b—Mergers of Federally Insured Credit Unions.

OMB Number: 3133–0024.

Form Number: N/A.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Description: The rule sets forth merger procedures for federally insured credit unions.

Respondents: All credit unions.

Estimated No. of Respondents/Record keepers: 304.

Estimated Burden Hours Per Response: 15 hours.

Frequency of Response: Other. Information disclosures required are made on an on-going basis.

Estimated Total Annual Burden Hours: 4,560.

Estimated Total Annual Cost: $67,853.00.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27776 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Federal Credit Union (FCU) Membership Applications and Denials.

OMB Number: 3133–0052.

Form Number: N/A

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: Article II, section 2 of the FCU Bylaws requires persons applying for membership in an FCU to complete an application. The Federal Credit Union Act directs the FCU to provide the applicant with written reasons when the FCU denies a membership application.

Respondents: All Federal Credit Unions.

Estimated No. of Respondents/ Recordkeepers: 1,722.

Estimated Burden Hours Per Response: 1 hour.

Frequency of Response: Recordkeeping, Reporting and On occasion.

Estimated Total Annual Burden Hours: 1,722.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27777 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: Credit Committee Records.

OMB Number: 3133–0058.

Form Number: N/A.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: The standard FCU Bylaws require an FCU to maintain records of its loan approvals and denials.

Respondents: All Federal Credit Unions.

Estimated No. of Respondents/ Recordkeepers: 6,888.

Estimated Burden Hours Per Response: 8 hours.

Frequency of Response: Recordkeeping. Other, twice a month.

Estimated Total Annual Burden Hours: 55,104 hours.

Estimated Total Annual Cost: $926,298.24.

By the National Credit Union Administration Board on October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27778 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until January 5, 2004.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer listed below:

Clearance Officer: Mr. Neil McNamara, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6669, E-mail: *mcnamara@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request should be directed to Tracy Sumpter at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

Title: 12 CFR Part 703 Investment and Deposit Activities.

OMB Number: 3133–0133.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Description: To ensure that federal credit unions make safe and sound investments, the rule requires that they establish written investment policies and review them annually, document details of the individual investments monthly, ensure adequate broker/dealer selection criteria and record credit decisions regarding deposits in certain financial institutions.

Respondents: Federal credit unions.

Estimated No. of Respondents/ Recordkeepers: 6,147.

Estimated Burden Hours Per Response: 44.82 hours.

Frequency of Response: Recordkeeping. Reporting. On Occasion. Quarterly.

Estimated Total Annual Burden Hours: 275,527 hours.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board October 29, 2003.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–27779 Filed 11–4–03; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities Arts and Artifacts Indemnity Panel Advisory Committee; Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in Room 716, from 9 a.m. to 5:30 p.m., on Monday, November 17, 2003.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after January 1, 2004.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated July 19, 1993, I have determined that the meeting would fall within exemption (4) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact the Acting Advisory Committee Management Officer, Heather Gottry, 1100 Pennsylvania Avenue, NW.,

Washington, DC 20506, or call 202/606–8322.

Heather Gottry,

Acting Advisory Committee Management Officer.

[FR Doc. 03–27788 Filed 11–4–03; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities Advisory Committee; Notice of Meeting

October 30, 2003.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given the National Council on the Humanities will meet in Washington, DC on November 17–18, 2003.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support from and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on November 17–18, 2003, will not be open to the public pursuant to subsections (c)(4),(c)(6) and (c)(9)(B) of section 552b of title 5, United States Code because the Council will consider information that may disclose: trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the session on November 17, 2003 will be as follows:

Committee Meetings

(Open to the Public)
Policy Discussion
9–10:30 a.m.
Challenge Grants/Public Programs—Room 420
Education Programs—Room 507
Preservation and Access—Room 415
Research Programs—Room 315
9:30–10:30 a.m.
Federal/State Partnership—Room 527

(Closed to the Public)

Discussion of specific grant applications and programs before the Council

10:30 a.m. until adjourned
Challenge Grants/Public Programs—Room 420
Education Programs—Room 507
Federal/State Partnership—Room 527
Preservation and Access—Room 415
Research Programs—Room 315
2–3:30 p.m.
Heroes of History Lecture—Room 527

The morning session on November 18, 2003 will convene at 9 a.m., in the 1st Floor Council Room M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

A. Minutes of the Previous Meeting

B. Reports

1. Introductory Remarks
2. Staff Report
3. Congressional Report
4. Budget Report
5. Reports on Policy and General Matters

a. Challenge Grants/Public Programs
b. Education Programs
c. Federal/State Partnership
d. Preservation and Access
e. Research Programs
f. Heroes of History Lecture

The remainder of the proposed meeting will be given to the consideration of specific applications and closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Heather Gottry, Acting Advisory Committee Management Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or by calling (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Heather Gottry,

Acting Advisory Committee, Management Officer.

[FR Doc. 03–27787 Filed 11–4–03; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–36239–ML and ASLBP No. 03–814–01–ML]

Atomic Safety and Licensing Board Panel; In the Matter of CFC Logistics, Inc. (Materials License); Notice of Hearing and of Opportunity To Petition for Leave To Intervene or To Participate as an Interested Governmental Entity

October 30, 2003.

Before Administrative Judges: Michael C. Farrar, Presiding Officer; Dr. Charles N. Kelber, Special Assistant.

In this proceeding, certain named residents of the Quakertown, Pennsylvania area requested a hearing to challenge the application of CFC Logistics, Inc., for an NRC license to operate a cobalt-60 irradiator at the CFC food processing warehouse not far from their residences. By Memorandum and Order issued July 7, 2003, the Commission referred the hearing request to the Atomic Safety and Licensing Board Panel's Chief Administrative Judge for appointment of a Presiding Officer to conduct a 10 CFR part 2, subpart L informal adjudicatory proceeding on the pending matter.

The above-named Presiding Officer and Special Assistant were appointed on July 14, 2003. *See* 68 FR 42,785–86 (July 18, 2003). The NRC Staff issued CFC the requested license on August 27, 2003, subject to the outcome of this adjudicatory proceeding. By Memorandum and Order (LBP–03–20) issued on October 29, 2003, the Presiding Officer granted the hearing request.

In light of the foregoing, please take notice that a hearing will be conducted in this proceeding. As noted above, this hearing will be governed by the informal hearing procedures set forth in 10 CFR part 2, subpart L (10 CFR 2.1201–63). The parties currently designated as participating in this proceeding are three of the Quakertown residents (Andrew Ford, Kelly Helt and Tom Helt) and CFC Logistics, with the precise role of the NRC Staff not yet defined. The hearing will begin with written evidentiary presentations, at a time yet to be determined, on those ''areas of concern'' advanced by the residents and found ''germane'' in the Presiding Officer's October 29 decision. Oral presentations will be at the Presiding Officer's discretion, if needed to create an adequate record for decision. 10 CFR 2.1235.

Further, in accordance with 10 CFR 2.1205(j), (k) and 2.1211(b), please take

notice of the opportunity, within thirty (30) days from the date of publication of this notice of hearing in the **Federal Register**, for (1) any person whose interest may be affected by this proceeding to file a petition for leave to intervene; and for (2) any interested governmental entity to file a request to participate. The following criteria govern those two categories:

- Any petition for leave to intervene must set forth the information required by 10 CFR 2.1205(e), including a detailed description of (1) the interest of the petitioner in the proceeding; (2) how that interest may be affected by the results of the proceeding, including the reasons why the petitioner should be permitted to intervene with respect to the factors set forth in 10 CFR 2.1205(h); (3) the petitioner's areas of concern regarding the application/license; and (4) the circumstances establishing that the petition to intervene is timely in accordance with 10 CFR 2.1205(d).
- Under 10 CFR 2.1211(b), any request to participate by an interested governmental entity must state with reasonable specificity the requestor's areas of concern regarding the CFC activity that is the subject of the application/license.

All prospective participants should be aware that, pursuant to 10 CFR 2.1205(n), the Presiding Officer may take steps ''in the interest of avoiding repetitive factual presentations and argument'' at the hearing, and thus will likely consider consolidating presentations by parties having similar concerns.

In addition, pursuant to 10 CFR 2.1211(a), any person not a party to the proceeding may submit a written ''limited appearance'' statement setting forth his or her position on the issues in this proceeding. These statements do not constitute evidence, but may assist the Presiding Officer and/or parties in the definition of the issues being considered. Persons wishing to submit a written limited appearance statement should send it to the Office of the Secretary (Attention: Docketing and Service Branch), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Two copies of the statement should also be served on the Office of the Atomic Safety and Licensing Board Panel at the same NRC/DC address.

In his October 29, 2003 Order, the Presiding Officer directed that on or before Friday, November 28, 2003, the NRC Staff prepare and submit the hearing file for this proceeding. Once the hearing file is received and any needed prehearing conferences are held, the Presiding Officer will, pursuant to 10 CFR 2.1233, establish a schedule for the filing of written presentations by the above-named residents and by CFC (and perhaps by the NRC Staff), which presentations may be subject to supplementation to accommodate the grant of any intervention petition or request to participate by an interested governmental entity. After receiving the parties' written presentations, the Presiding Officer may, pursuant to 10 CFR 2.1233(a), 2.1235, submit written questions to the parties or any interested governmental entity or provide an opportunity for oral presentations by any party or interested governmental entity, which may include oral questioning of witnesses by the Presiding Officer.

Documents relating to this proceeding are available for public inspection at the Commission's Public Document Room at NRC Headquarters in Rockville, Maryland. Additionally, documents are available electronically through the NRC's Agencywide Documents Access and Management System (ADAMS), with access to the public through the NRC's Internet Web site Public Electronic Reading Room link at *http://www.nrc.gov/reading-rm/adams.html.* Also, general information regarding the conduct of agency adjudicatory proceedings, including the provisions of 10 CFR part 2, subpart L, can be found by accessing the NRC hearing process page at *http://www.nrc.gov/what-we-do/regulatory/adjudicatory/hearing-pro.html.*

Dated: Rockville, Maryland, October 30, 2003.

By the Presiding Officer.

Michael C. Farrar,

Administrative Judge.

[FR Doc. 03–27806 Filed 11–4–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–413]

Duke Energy Corporation; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Duke Energy Corporation (the licensee) to withdraw its October 15, 2003, application for proposed amendment to Facility Operating License No. NPF–35 for the Catawba Nuclear Station, Unit No. 1, located in York County, South Carolina.

The proposed amendment would have revised the Technical Specifications to allow the continued operation of Catawba Unit 1 with only one fully-operable train of the Containment Spray System until midnight on November 9, 2003.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the The Herald newspaper on October 19, 20 and 21, 2003, and the Charlotte Observer newspaper on October 20 and 21, 2003. However, by letter dated October 22, 2003, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated October 15, 2003, and the licensee's letter dated October 22, 2003, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically 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.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by email to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 24th day of October 2003.

For the Nuclear Regulatory Commission.

Sean E. Peters,

Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–27800 Filed 11–4–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–272 and 50–311]

PSEG Nuclear, LLC; Notice of Issuance; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance; correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on October 14, 2003 (68 FR 59228), that incorrectly stated implementation date requirements for Amendment No. 259 to Facility Operating License DPR–70 for the Salem Nuclear Generating Station,

Unit No. 1. The effective date for the license amendment issued on October 1, 2003, should be ''as of its date of issuance and shall be implemented prior to the exit from Refueling Outage 1R16.''

FOR FURTHER INFORMATION CONTACT: Robert Fretz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone (301) 415–1324, e-mail: *rxf@nrc.gov*.

Dated in Rockville, Maryland, this 28th day of October 2003.

For the Nuclear Regulatory Commission.

George F. Wunder,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–27801 Filed 11–4–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–348 and 50–364]

Southern Nuclear Operating Company (SNC), Joseph M. Farley Nuclear Plant, Units 1 and 2; Notice of Opportunity for Hearing Regarding the Application for Renewal of Facility Operating License Nos. NPF–2 and NPF–8 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering an application for the renewal of Operating License Nos. NPF–2 and NPF–8, which authorize the Southern Nuclear Operating Company (SNC) to operate Joseph M. Farley Nuclear Plant, Units 1 and 2, at 2775 megawatts thermal for each unit. The renewed licenses would authorize the applicant to operate Farley Nuclear Plant, Units 1 and 2, for an additional 20 years beyond the period specified in the current licenses. The current operating licenses for Joseph M. Farley Nuclear Plant, Units 1 and 2, will expire on June 25, 2017, and March 31, 2021, respectively.

On September 15, 2003, the Commission's staff received an application from the SNC, filed pursuant to 10 CFR part 54, to renew the Operating License Nos. NPF–2 and NPF–8 for Joseph M. Farley Nuclear Plant, Units 1 and 2, respectively. A Notice of Receipt and Availability of the license renewal application, ''Southern Nuclear Operating Company, Joseph M. Farley Nuclear Plant; Notice of Receipt and Availability of Application for Renewal of Facility Operating License Nos. NPF–2 and NPF–8 for an Additional 20-Year Period,'' was published in the **Federal Register** on October 6, 2003 (68 FR 57715).

The Commission's staff determined that SNC had submitted information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c) that is acceptable for docketing. ''Southern Nuclear Operating Company (SNC), Joseph M. Farley Nuclear Plant, Units 1 and 2; Notice of Acceptance for Docketing of the Application Regarding Renewal of Facility Operating License Nos. NPF–2 and NPF–8 for an Additional 20-Year Period,'' was published in the **Federal Register** on October 30, 2003 (68 FR 61835).

Before issuance of each requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's rules and regulations. In accordance with 10 CFR 54.29, the NRC will issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to (1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB), and that any changes made to the plant's CLB comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants,'' dated May 1996. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be included in a future **Federal Register** notice. As discussed further herein, in the event that a hearing is held, issues that may be litigated will be confined to those pertinent to the foregoing.

Within 30 days from the date of publication of this **Federal Register** notice, the applicant may file a request for a hearing, 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 with respect to the renewal of the licenses in accordance with the provisions of 10 CFR 2.714. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and on the NRC Web site at *http://www.nrc.gov/reading-rm.html*. If a request for a hearing or a petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board (ASLB) designated by the Commission or by the Chairman of the ASLB Panel will rule on the request(s) and/or petition(s), and the Secretary or the designated ASLB will issue a notice of hearing or an appropriate order. In the event that no request for a hearing or petition for leave to intervene is filed by the above date, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR parts 51 and 54, renew the licenses without further notice.

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, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR parts 51 and 54. The petition must 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 that may be entered in the proceeding on the petitioner's interest. The petition must 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 before 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 before the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene that must include a list of the contentions that the petitioner seeks to have litigated in the hearing. 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 each contention and a concise statement of the alleged facts or the expert opinion that supports 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. The 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 action under consideration. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that 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.

Requests for a hearing and petitions for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or it may be delivered to the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2738, by the above date. Because of the continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov*. A copy of the request for hearing and the 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. Again, because of the continuing disruptions in delivery of mail to the 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 Mr. J.B. Beasley, Jr., Vice President, Southern Nuclear Operating Company, P.O. Box 1295, Birmingham, Alabama 35201.

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 ASLB that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Detailed information about the license renewal process can be found under the Nuclear Reactors icon on the NRC's Web page at *http://www.nrc.gov/reactors/operating/licensing/renewal.html*.

A copy of the application to renew the operating licenses for Joseph M. Farley Nuclear Plant, Units 1 and 2, is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852–2738, and on the NRC's Web page at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications/farley.html* while the application is under review. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. A copy of the application to renew the operating licenses for Joseph M. Farley Nuclear Plant, Units 1 and 2, is also available electronically through the NRC's Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession Number ML032721356. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should 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*.

The staff has verified that a copy of the license renewal application for the Joseph M. Farley Nuclear Plant, Units 1 and 2, is also available to local residents near the Farley Nuclear Plant at the Houston Love Memorial Library, 212 West Burdeshaw Street, Dothan, Alabama 36303–4421.

Dated at Rockville, Maryland, this 30th day of October, 2003.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 03–27803 Filed 11–4–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498 and 50–499]

STP Nuclear Operating Company, et al., South Texas Project, Units 1 and 2; Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering the issuance of an order under Section 50.80 of Title 10 of the Code of Federal Regulations (10 CFR) approving the indirect transfer of Facility Operating Licenses Nos. NPF–76 and NPF–80 for South Texas Project (STP), Units 1 and 2, respectively, to the extent held by Texas Genco, LP (Texas Genco).

The application requests the consent of the NRC to the proposed indirect transfer of control of the STP, Units 1 and 2, licenses by virtue of the transfer of ownership of approximately 81 percent of the stock of Texas Genco's parent company, Texas Genco Holdings Inc., from CenterPoint Energy, Inc., to Reliant Resources, Inc. The transaction would result in the indirect transfer of Texas Genco's 30.8 percent undivided ownership interest in STP, Units 1 and 2. In addition to its 30.8 percent undivided ownership interest in STP, Units 1 and 2, Texas Genco holds a corresponding 30.8 percent interest in STP Nuclear Operating Company (STPNOC), a not-for-profit Texas corporation, which is the licensed operator of STP, Units 1 and 2. The application further requests, as necessary, approval of the indirect transfer of control of this 30.8 percent interest in STPNOC, to the extent such indirect transfer requires NRC approval by reason of the transaction described above.

Pursuant to 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto. Before issuance of the proposed Order, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By December 5, 2003, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications,'' of 10 CFR part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon: Mr. John E. Matthews, Morgan, Lewis & Bockius, LLP, 1111 Pennsylvania Avenue, NW., Washington, DC 20004, attorney for the licensee; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: *OGCLT@NRC.gov);* and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held, and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by November 25, 2003, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated September 29, 2003, a nonproprietary version of which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room link 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 accessing the document located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or send an e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 29th day of October 2003.

For the Nuclear Regulatory Commission.

David H. Jaffe,

Senior Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–27802 Filed 11–4–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of draft policy statement and notice of opportunity for public comment.

SUMMARY: This draft policy statement on the treatment of environmental justice (EJ) matters in Nuclear Regulatory Commission (NRC) regulatory and licensing actions is being issued for public comment. It reaffirms that the Commission is committed to full compliance with the requirements of the National Environmental Policy Act (NEPA) in all of its regulatory and licensing actions. The Commission recognizes that the impacts, for NEPA purposes, of its regulatory or licensing actions on certain populations may be different from impacts on the general population due to a community's distinct cultural characteristics or practices. Disproportionately high and adverse impacts of a proposed action that fall heavily on a particular community call for close scrutiny—a hard look—under NEPA. While Executive Order (E.O.) 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations' characterizes these impacts as involving an ''environmental justice'' matter, the NRC believes that an analysis of disproportionately high and adverse impacts needs to be done to fulfill its NEPA obligations to accurately identify and disclose all significant environmental impacts associated with a proposed action. Consequently, while the NRC is committed to the general goals of E.O. 12898, it will strive to meet those goals through its normal and traditional NEPA review process.

DATES: Comments on this draft policy statement should be submitted by January 5, 2004, and will be considered by the NRC before publishing the final policy statement. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Because of continuing disruptions in the delivery of mail to United States Government offices, it is requested that comments also be transmitted to the Secretary of the Commission either by means of facsimile transmission to (301) 415–1101, or by e-mail to *hearingsdocket@nrc.gov.* Comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, Maryland or at NRC's Public Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.*

FOR FURTHER INFORMATION CONTACT: James Lieberman, Special Counsel, Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001. Telephone: (301) 415–2746; fax number: (301) 415–2036; e-mail: *jxl@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In February 1994, President Clinton issued E.O. 12898, ''Federal Actions to Address Environmental Justice in

Minority Populations and Low-Income Populations'' that directed each Federal agency to ''* * * make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations * * *.'' Executive Order No. 12898 (Section 1–101), 59 FR 7629 (Feb. 16, 1994). Although independent agencies, such as the NRC, were only requested to comply with the E.O., NRC Chairman Ivan Selin, in a letter to President Clinton, indicated that the NRC would endeavor to carry out the measures set forth in the E.O. and the accompanying memorandum as part of its efforts to comply with the requirements of NEPA. *See* Letter to President from Ivan Selin, March 31, 1994. Following publication of the Council on Environmental Quality's (CEQ) guidelines [1] in December 1997 on how to incorporate environmental justice in the NEPA review process, the NRC staff in the Office of Nuclear Material Safety and Safeguards (NMSS) and the Office of Nuclear Reactor Regulation (NRR) each developed their own environmental justice guidance with the CEQ guidance as the model. *See* NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs,'' August 22, 2003 (ADAMS Accession No. ML032450279); NRR Office Instruction, LIC–203, Procedural Guidance for Preparing Environmental Assessments and Considering Environmental Issues (June 21, 2001) (ADAMS Accession No. ML011710073).

In 1998, the Commission, for the first time in an adjudicatory licensing proceeding, analyzed the Executive Order in Louisiana Energy Services (LES). *See* Louisiana Energy Services (Claiborne Enrichment Center), CLI–98–3, 47 NRC 77 (1998). In LES, the applicant was seeking an NRC license to construct and operate a privately owned uranium enrichment facility located on 70 acres between two African American communities, Center Springs and Forest Grove. *See id.* at 83. One of the impacts of constructing and operating the facility entailed closing and relocating a parish road bisecting the proposed enrichment facility site. *See id.* The intervenor's contention alleged that the discussion of impacts in the applicant's environmental report was inadequate because it failed to fully assess the disproportionate socioeconomic impacts of the proposal on the adjacent African American communities. *See id.* at 86.

In LES, the Commission held that ''[d]isparate impact analysis is our principal tool for advancing environmental justice under NEPA. The NRC's goal is to identify and adequately weigh, or mitigate, effects on low-income and minority communities that become apparent only by considering factors peculiar to those communities.'' *Id.* at 100. The Commission emphasized that the E.O. did not establish any new rights or remedies; instead, the Commission based its decision on NEPA, stating that ''[t]he only ''existing law'' conceivably pertinent here is NEPA, a statute that centers on environmental impacts.'' *Id.* at 102.

This view was reiterated by the Commission in Private Fuel Storage (PFS). *See* PFS (Independent Spent Fuel Storage Installation), CLI–02–20, 56 NRC 147, 153–55 (2002). In PFS, the Commission stated that environmental justice, as applied at the NRC, ''means that the agency will make an effort under NEPA to become aware of the demographic and economic circumstances of local communities where nuclear facilities are to be sited, and take care to mitigate or avoid special impacts attributable to the special character of the community.'' *Id.* at 156. Recently, questions have been raised concerning the Commission's responsibilities under E.O. 12898. In light of the previous adjudications, the Commission sees a need, and thinks it appropriate, to set out its views and policy on the significance of the E.O. and guidelines of when and how EJ will be considered in NRC's licensing and regulatory actions.

II. Statement of Policy

The Executive Order Does Not Create Any New or Substantive Requirements or Rights

E.O. 12898 does not establish new substantive or procedural requirements applicable to NRC regulatory or licensing activities. Section 6–609 of the E.O. explicitly states that the E.O. does not create any new right or benefit. By its terms, the E.O. provides that it is ''intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right [or] benefit * * * enforceable at law * * *.'' 59 FR at 7632–33 (Section 6–609); see also Presidential Memorandum. Courts addressing EJ issues have uniformly held that the E.O. does not create any new rights to judicial review. *See, e.g., Sur Contra La Contaminacion* v. *EPA,* 202 F.3d 443, 449–50 (1st Cir. 2000). Consequently, it is the Commission's position that the E.O. itself does not provide a legal basis for contentions to be admitted and litigated in NRC licensing proceedings. *See* LES, CLI–98–3, 47 NRC 77; PFS, CLI–02–20, 56 NRC 147.

NEPA, Not the Executive Order, Obligates the NRC To Consider ''Environmental Justice''-Related Issues

The basis for admitting EJ contentions in NRC licensing proceedings stems from the agency's NEPA obligations and had been admitted by an NRC Licensing Board prior to the issuance of the E.O. in 1994. *See* LES, LBP–91–41, 34 NRC at 353. As clearly stated in § 1–101 of the E.O., an agency's EJ responsibilities are to be achieved to the extent permitted by law. *See* 59 FR at 7629 (Section 1–101). The accompanying Presidential Memorandum stated that ''each Federal agency shall analyze the environmental effects * * * of Federal actions, including effects on minority communities and low-income communities, when such analysis is required by [NEPA].'' Memorandum for Heads of All Departments and Agencies (Feb. 11, 1994) (''Presidential Memorandum'').[2] The E.O. simply serves as a reminder to agencies to become aware of the various demographic and economic circumstances of local communities as part of any socioeconomic analysis that might be required by NEPA. *See* 40 CFR 1508.8 and 1508.14 (2003).

The Commission, in LES, has made it clear that EJ issues are only considered when and to the extent required by NEPA. The Commission held that the disparate impact analysis within the NEPA context is the tool for addressing EJ issues and that the ''NRC's goal is to identify and adequately weigh or mitigate effects, on low-income and minority communities'' by assessing impacts peculiar to those communities. LES, CLI–98–3, 47 NRC at 100; see also, PFS, CLI–02–20, 56 NRC at 156. At bottom, EJ is a tool, within the normal NEPA context, to identify communities that might otherwise be overlooked and

[1] Environmental Justice, Guidance Under the National Environmental Policy Act, Council on Environmental Quality (Dec. 10, 1997).

[2] NEPA is the only available statute under which the NRC can carry out the general goals of E.O. 12989. Although the Presidential Memorandum directed Federal agencies to ensure compliance with the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964 for all Federally-funded programs and activities that affect human health or the environment, Title VI is inapplicable to the NRC's regulatory and licensing actions. Likewise, while environmental justice matters may be appropriately addressed during the permitting process under other environmental statutes including the Resource Conservation and Recovery Act, the Clean Water Act, and the Clean Air Act, the NRC does not have permitting authority under those statutes.

identify impacts due to their uniqueness as part of the NRC's NEPA review process.

As part of NEPA's mandate, agencies are required to look at the socioeconomic impacts that have a nexus to the physical environment. See 40 CFR 1508.8 and 1508.14. An ''environmental-justice''-related socioeconomic impact analysis is pertinent when there is a nexus to the human or physical environment or if an evaluation is necessary for an accurate cost-benefits analysis. *See One Thousand Friends of Iowa* v. *Mineta,* 250 F. Supp. 2d 1064, 1072 (S.D. Iowa 2002) (the fact that numerous courts have held that an agency's failure to expressly consider environmental justice does not create an independent basis for judicial review forecloses any argument that NEPA was designed to protect socioeconomic interests alone). Therefore, EJ *per se* is not a litigable issue in our proceedings. The NRC's obligation is to assess the proposed action for significant impacts to the physical or human environment. Thus, admissible contentions in this area are those which allege, with the requisite documentary basis and support as required by 10 CFR part 2, that the proposed action will have significant adverse impact on the physical or human environments that were not considered because the impacts to the community were not adequately evaluated.

Racial Motivation Not Cognizable Under NEPA

Racial motivation and fairness or equity issues are not cognizable under NEPA, and though discussed in the E.O., their consideration would be contrary to NEPA and the E.O.'s limiting language emphasizing that it creates no new rights.[3] The focus of any ''EJ'' review should be on identifying and weighing disproportionately significant and adverse environmental impacts on minority and low-income populations that may be different from the impacts on the general population. It is not a broad ranging or even limited review of racial or economic discrimination. As the Commission explained in LES, ''an inquiry into a license applicant's supposed discriminatory motives or acts would be far removed from NEPA's core interest: 'the physical environment—the world around us * * *'' LES, CLI–98–3, 47 NRC at 102, quoting *Metropolitan Edison Co.* v. *People Against Nuclear Energy,* 460 U.S. 766, 772 (1983). Thus, the EJ evaluation should disclose whether low-income or minority populations are disproportionately impacted by the proposed action.

Environmental Assessments Normally Do Not Include Environmental Justice Analysis

The agency's assessment of environmental justice-related matters have been limited in the context of environmental assessments (EA). Previously, the Commission has stated that absent ''significant impacts, an environmental justice review should not be considered for an EA where a Finding of No Significant Impact (FONSI) is issued unless special circumstances warrant the review.'' SRM-MO21121A (Supplemental)—Affirmation Session: 1. SECY–02–0179—Final Rule: Material Control and Accounting Amendments, Dec. 3, 2002 (ADAMS Accession No. ML023370498).[4] If there will be no significant impact as a result of the proposed action, it follows that an EJ review would not be necessary. However, the agency must be mindful of special circumstances that might warrant not making a FONSI. In most EAs, the Commission expects that there will be little or no offsite impacts and, consequently, impacts would not occur to people outside the facility. However, if there is a clear potential for significant offsite impacts from the proposed action then an appropriate EJ review might be needed to provide a basis for concluding that there are no unique impacts that would be significant. If the impacts are significant because of the uniqueness of the communities, then a FONSI may not be possible and mitigation or an EIS should be considered.

Generic and Programmatic Impact Statements Do Not Include Environmental Justice Analysis

An NRC EJ analysis should be limited to the impacts associated with the proposed action, *i.e.*, the communities in the vicinity of the proposed action. EJ-related issues differ from site to site and normally cannot be resolved generically. Consequently, EJ, as well as other socioeconomic issues, are normally considered in site-specific EISs. Thus, due to the site-specific nature of an EJ analysis, EJ-related issues are usually not considered during the preparation of a generic or programmatic EIS. EJ assessments would be performed as necessary in the underlying licensing action for each particular facility.

Need for Flexibility in NRC's Environmental Justice Analyses

The procedural guidelines for EJ review should allow for flexibility in the analysis to reflect the unique nature of each review. It is important, however, that the NRC be consistent in its approach to this matter and develop clear, defined procedural guidance for identifying minority and low-income communities and assessing the impacts they may experience.

1. Defining Geographic Area for Assessment

One of the first steps the staff takes in its EJ analysis is to identify the geographic area for which it seeks to obtain demographic information. While staff guidance states that the geographic scale should be commensurate with the potential impact area, NMSS and NRR have adopted numeric guidance based on activities that those offices regulate. Under current NMSS procedures, the potentially affected area is normally determined to be a radius of 0.6 miles from the center of the proposed site in urban areas, and four miles if the facility is located in a rural area. NRR normally uses a 50-mile radius that should be examined for licensing and regulatory actions involving power reactors. These distances reflect the different activities regulated by NRR and NMSS and are consistent with the area of potential impacts normally considered in NRC environmental and safety reviews. However, these procedures provide that the distances are guidelines and that the geographic scale should be commensurate with the potential impact area and should include a sample of the surrounding population as the goal is to evaluate the communities, neighborhoods and areas that may be disproportionately impacted.

The Commission recognizes that numerical distances are helpful to characterize the likely extent of impacts for categories of regulatory action. Thus, we are retaining the current procedure as articulated by NMSS and NRR in their respective office guidance since this numeric guidance should be sufficient in most cases to include all areas with an actual or potential for reasonably foreseeable physical, social, cultural, and health impacts.

2. Identifying Low-Income and Minority Communities

Once the impacted area is identified, potentially affected low-income and minority communities should be

[3] Such issues are more appropriately considered under Title VI of the Civil Rights Act. *See* LES, CLI–98–3, 47 NRC at 101–106. The NRC does not have the authority to enforce Title VI in the NRC licensing process.

[4] At least one court supports the view that EJ does not need to be considered in an EA. *See American Bus Ass'n* v. *Slater,* 1999 U.S. Dist. LEXIS 20936, 9 Am. Disabilities Cas. (BNA) 1427 (D.C. Cir. Sept. 10, 1999).

identified. Under current NRC staff guidance, a minority or low-income community is identified if the impacted area's percentage of minority or low-income population significantly exceeds that of the State or County. ''Significantly'' is defined by staff guidance to be 20 percentage points. Additionally, if either the minority or low-income population percentage in the impacted area exceeds 50 percent, environment justice matters are considered in greater detail. As indicated above, numeric guidance is helpful; thus, the staff should continue to use such guidance in identifying minority and low-income communities. The staff's analysis will be supplemented by the results of the EIS scoping review discussed below.

3. Scoping

The NRC will emphasize scoping, the process identified in 10 CFR 51.29, and public participation in those instances where an EIS will be prepared. Reliance on traditional scoping is consistent with the E.O. and CEQ guidance. *See* E.O. 12898, 59 FR at 7632 (Section 5–5); CEQ Guidance at 10–13. CEQ guidance reminds us that ''the participation of diverse groups in the scoping process is necessary for full consideration of the potential environmental impacts of a proposed agency action and any alternatives. By discussing and informing the public of the emerging issues related to the proposed action, agencies may reduce misunderstandings, build cooperative working relationships, educate the public and decision makers, and avoid potential conflicts.'' CEQ Guidance at 12. Thus, it is expected that in addition to reviewing available demographic data, a scoping process will be utilized preceding the preparation of a draft EIS. This will assist the NRC in ensuring that minority and low-income communities, including transient populations, affected by the proposed action are not overlooked and in assessing the potential for significant impacts unique to those communities.

III. Guidelines for Implementation of NEPA as to EJ Issues

- The legal basis for analyzing environmental impacts of a proposed Federal action on minority or low-income communities is NEPA, not Executive Order 12898. The E.O. emphasized the importance of considering the NEPA provision for socioeconomic impacts. The NRC considers and integrates what is referred to as environmental justice matters in its NEPA assessment of particular licensing or regulatory actions.
- In evaluating the human and physical environment under NEPA, effects on low-income and minority communities may only be apparent by considering factors peculiar to those communities. Thus, the goal of an EJ portion of the NEPA analysis is (1) to identify and assess environmental effects on low-income and minority communities by assessing impacts peculiar to those communities; and (2) to identify significant impacts, if any, that will fall disproportionately on minority and low-income communities. It is not a broad ranging review of racial or economic discrimination.
- In developing an EA where a Finding of No Significant Impact is expected it is not necessary to undertake an EJ analysis unless special circumstances warrant the review. Special circumstances arise only where the proposed action has a clear potential for off-site impacts to minority and low-income communities associated with the proposed action. In that case, an appropriate review may be needed to provide a basis for concluding that there are no unique environmental impacts on low-income or minority communities that would be significant.
- EJ-related issues normally are not considered during the preparation of generic or programmatic EISs. In general, EJ-related issues, if any, will differ from site to site and, thus, do not lend themselves to generic resolutions. Consequently, EJ, as well as other socioeconomic issues, are considered in site-specific EISs.
- ''EJ per se'' is not a litigable issue in NRC proceedings. Rather the NRC's obligation is to assess the proposed action for significant impacts to the physical or human environment. Contentions must be made in the NEPA context, must focus on compliance with NEPA, and must be adequately supported as required by 10 CFR part 2 to be admitted for litigation.
- The methods used to define the geographic area for assessment and to identify low-income and minority communities should be clear, yet, allow for enough flexibility that communities or transient populations that will bear significant adverse effects are not overlooked during the NEPA review. Therefore, in determining the geographic area for assessment and in identifying minority and low-income communities in the impacted area, standard distances and population percentages should be used as guidance, supplemented by the EIS scoping process, to determine the presence of a minority or low-income population.
- The assessment of disparate impacts is on minority and low-income populations in general and not to the ''vaguely defined, shifting subgroups within that community.'' *See* PFS, CLI–02–20, 56 NRC 147 (2002).
- In performing a NEPA analysis for an EIS, published demographic data, community interviews and public input through well-noticed public scoping meetings should be used in identifying minority and low-income communities that may receive adverse environmental impacts.

Dated at Rockville, Maryland, this 30th day of October, 2003.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 03–27805 Filed 11–4–03; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48720; File No. SR–NYSE–2003–23]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc. Repealing Exchange Rule 500 and Amending Section 806 of the Listed Company Manual

October 30, 2003.

I. Introduction

On August 20, 2003, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to delete Exchange Rule 500 in its entirety and amend Section 806 of the Exchange's Listed Company Manual regarding the application by an issuer to delist its securities from the Exchange. Notice of the proposed rule change was published for comment in the **Federal Register** on September 10, 2003.[3] The Commission received four comments regarding the proposal.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Securities Exchange Act Release No. 48435 (September 3, 2003), 68 FR 53413 (''Notice'').

[4] *See* letters to Jonathan G. Katz, Secretary, Commission, from Craig S. Tyle, General Counsel, Investment Company Institute (''ICI'') dated October 1, 2003 (''ICI Letter''); John Endean, President, American Business Conference (''ABC''), dated September 30, 2003; Edward S. Knight, Executive Vice President, Nasdaq Stock Market (''Nasdaq''), dated October 6, 2003 (''Nasdaq Letter''); and Junius Peake, Professor, University of Northern Colorado, dated September 29, 2003 (''Peake Letter'').

On October 28, 2003, the NYSE filed Amendment No. 1 to the proposed rule change.[5] This order approves the proposed rule change, as amended.

II. The Amended Proposal

As more fully discussed in the Commission's Notice,[6] the Exchange's amended proposal removes previous requirements that an issuer seeking to voluntarily delist a security from the NYSE obtain approval of its audit committee; notify 35 of its largest shareholders of the proposed delisting; and publish a press release announcing the proposed delisting. Under the amended proposal, the issuer is required only to furnish the Exchange with a certified board resolution evidencing board approval of the delisting.

In simplifying the voluntary delisting process, the amended proposal continues an evolution that began in 1999 when the Exchange amended its Rule 500 to remove the requirement of a shareholder vote (''1999 Amendment'').[7] In approving the 1999 Amendment, the Commission directed the Exchange to review periodically the shareholder notification requirement of NYSE Rule 500 to determine whether it remained warranted and consistent with the protection of investors.

III. Summary of Comments

Two of the commenters supported the proposal,[8] noting that eliminating the delisting requirements in NYSE Rule 500 should create a more level playing field for markets trading securities currently listed on the NYSE by bringing the NYSE's requirements in line with the requirements of other exchanges.[9] The other of these commenters expresses its view that NYSE Rule 500, even after the 1999 Amendment, still represents a significant impediment to delisting by functioning as an anti-competitive tool by which the NYSE has prevented the migration of listed companies to other exchanges.[10]

Two of the commenters argue that the proposal does not go far enough to facilitate voluntary delisting from the Exchange.[11] One of these commenters suggests that the proposal should require the NYSE to approve delisting notifications by issuers in good standing as a routine item.[12] The other commenter suggests that the NYSE clarify two issues in its proposal. First, NYSE should make clear that when an issuer applies to the Commission for voluntary delisting, trading of the stock on the NYSE would be suspended during the pendency of the application. Second, this commenter recommends that NYSE amend the proposal to delete the requirements that the issuer apply for delisting on the Exchange and provide a certification of the resolution of the board of directors regarding delisting.

In response to the concerns expressed by the commenters, NYSE submitted Amendment No. 1 to the proposal. In Amendment No. 1, NYSE proposes to add a representation to clarify its policy with respect to the suspension of securities during the pendency of an issuer's application to delist from the Exchange.

IV. Discussion

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] Specifically, the Commission believes that the amended proposal is consistent with section 6(b)(5) of the Act,[14] which requires, among other things, that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. The Commission also believes the amended proposal is consistent with section 11A(a)(1)(C)(ii) of the Act, which states that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition between exchange markets.[15] Specifically, by reducing the restrictions imposed on issuers that wish to delist their securities from the Exchange, the Commission believes that the amended proposal should remove a significant barrier to intermarket competition within the national market system.

V. Conclusion

For the reasons discussed above, the Commission finds that the amended proposal is consistent with the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[16] that the proposed rule change, as amended (SR–NYSE–2003–23), be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–27854 Filed 11–4–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48697; File No. SR–PCX–2003–58]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Exchange Fees and Charges

October 24, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on October 14, 2003, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[5] *See* letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Esq., Assistant Director, Division of Market Regulation, Commission, dated October 27, 2003 (''Amendment No. 1''). In Amendment No. 1, the NYSE proposes to delete the words ''apply to'' from the rule text and to add the following sentence regarding suspension of trading to the Purpose section of the filing: ''The Exchange notes that in the case of a voluntary transfer to another listed market, the Exchange would suspend trading the security being voluntarily delisted as of the close of business on the trading day preceding the date the issuer has arranged to commence trading in the other market. This is the process followed by other listed markets when an issuer traded there transfers its listing to the Exchange.'' Because this is a technical amendment, it is not subject to notice and comment.

[6] *See supra* note 3, at 7–10. A full description of the proposal is contained in the Notice.

[7] *See* Securities Exchange Act Release No. 41634 (July 21, 1999), 64 FR 40633 (July 27, 1999) (SR–NYSE–97–31).

[8] *See* ICI Letter and ABC Letter, *supra* note 4.

[9] *See* ICI Letter, *supra* note 4.

[10] *See* ABC Letter, *supra* note 4.

[11] *See* Peake Letter and Nasdaq Letter, *supra* note 4.

[12] *See* Peake Letter, *supra* note 4. In addition, this commenter makes several points regarding Commission Rule 12d2–2 under the Act and separating regulation from trading on the NYSE. As neither issue is squarely raised by the proposal, this order will not address those comments.

[13] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78k–1(a)(1)(C)(ii).

[16] *Id.*

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to amend its Schedule of Fees and Charges by eliminating its Order Cancellation Fee. The text of the proposed rule change is set forth below. Proposed new language is in *italics;* proposed deletions are in [brackets].

* * * * *

SCHEDULE OF FEES AND CHARGES FOR EXCHANGE SERVICES

PCX OPTIONS: TRADE-RELATED CHARGES

[ORDER CANCELLATION $1.00 per MFI order canceled

Except as provided herein, the fee only applies to orders canceled through the MFI in any month where the total number of orders canceled through the MFI by the executing Clearing Member exceeds the total number of orders that same firm executed through the MFI in that same month. This fee does not apply to executing Clearing Members canceling less than 500 orders through the MFI in a month. The MFI fee will also not apply to cancel requests on invalid orders (the option has already expired and the Exchange has purged it from its system); invalid symbols (a symbol that does not refer to a valid option traded on the Exchange); or invalid series (a series that is not recognized by or traded on the Exchange).]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has established an Order Cancellation Fee in order to address operational problems and costs resulting from the practice of market participants canceling orders immediately after they place such orders through the Exchange's Member Firm Interface (''MFI'').[3] Recently, the Exchange modified the Fee to exclude invalid orders (the option has already expired and the Exchange has purged it from its system); orders with an invalid symbol (a symbol that does not refer to a valid option traded on the Exchange); or orders with an invalid series (a series that is not recognized or traded by the Exchange).[4] However, despite this modification, the Exchange is still required to include certain orders, such as partial executions with a partial cancellation or a cancel of the balance and partially executed or cancel requests on expired orders in its definition of ''cancelled orders.'' The Exchange notes that the primary purpose of the Fee was to rectify the problem of participants immediately canceling orders and thereby gaming the system. It was not intended to preclude participants from making reasoned business decisions that may result in a cancel order.[5] For this reason, the Exchange no longer believes that the Order Cancellation Fee is the appropriate vehicle to remedy the concern of excessive cancels. It therefore seeks to eliminate it from its Schedule of Fees and Charges.

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act,[6] in general, and section 6(b)(4) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable fees among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and subparagraph (f)(2) of Rule 19b–4[9] thereunder because it changes a fee imposed by the PCX. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2003–58 and should be submitted by November 26, 2003.

[3] *See* Securities Exchange Act Release No. 45262 (January 9, 2002), 67 FR 2266 (January 16, 2002) (Notice of Filing and Immediate Effectiveness of SR–PCX–2001–47).

[4] *See* Securities Exchange Act Release No. 48031 (June 13, 2003), 68 FR 37189 (June 23, 2003) (Notice of Filing and Immediate Effectiveness of SR–PCX–2003–25).

[5] Specifically, PCX represents that a Clearing Member may enter an order into MFI that is partially executed on the Exchange, leaving an unexecuted residual portion of the order in the Clearing Member's system. The Clearing Member must submit a cancel request to delete the unexecuted residual portion of the order from its system. In such situations, PCX does not believe the Clearing Member should be subject to the Order Cancellation Fee (assuming the threshold test for imposing the fee is met), because the Clearing Member is making a reasoned business decision that results in a cancel request. Telephone conversation between Mai Shiver, Senior Attorney, Regulatory Policy, PCX and Gordon Fuller, Counsel to the Assistant Director, and Elizabeth MacDonald, Attorney, Division of Market Regulation, SEC, October 20, 2003.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] *See* 15 U.S.C. 78(b)(3)(C).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–27853 Filed 11–4–03; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before December 5, 2003. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *David_Rostker@omb.eop.gov*, fax number 202–395–7285 Office of Information and Regulatory Affairs, Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Military Reservist Economic Injury Disaster Loan Application.

No: 5R.

Frequency: On Occasion.

Description of Respondents: Business Application for the Pre-Disaster mitigation loan program.

Responses: 98.

Annual Burden: 196.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 03–27871 Filed 11–4–03; 8:45 am]

BILLING CODE 8025–01–P

[11] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Amendment to Federal Register/Vol. 68, No. 88/May 7, 2003/Notices; Trade Policy Staff Committee; Invitation for Non-Governmental Organizations, Corporate Sponsors and Private Foundations To Volunteer Trade Capacity Building Assistance in Support of the U.S.-Central America Free Trade Agreement

AGENCY: Office of the United States Trade Representative, United States Agency for International Development.

ACTION: Request for Submissions to volunteer trade capacity building assistance.

SUMMARY: The United States aims to attract additional resource partners that can legitimately contribute to the trade capacity building efforts in support of the US-Central America Free Trade Agreement (CAFTA). The TPSC gives notice that, on behalf of the U.S. Government, the Office of the United States Trade Representative and the United States Agency for International Development seek to expand the circle of resource partners to non-governmental organizations (NGOs), corporate sponsors and private foundations that are prepared to provide self-funded assistance to conduct trade capacity building efforts in support of the CAFTA subject to (1) the priorities set by Central American countries in their national trade capacity building strategies; (2) the coordination efforts of the U.S. interagency trade capacity working group to, among other reasons, promote transparency; and (3) consistency with U.S. Government policy. Interested parties should present a brief description of their potential contribution. This Request for Submission does not constitute a request for proposals/applications for funding from the United States Trade Representative, the United States Agency for International Development, or any other agency of the United States Government (USG). Any future requests for proposals/applications will be advertised on FedBizOpps or FedGrants, as appropriate. If any assistance opportunities or procurement needs are identified as part of the CAFTA process, such needs will be met by the appropriate USG agency in accordance with its internal procedures.

DATES: Expressions of interest are welcome throughout the CAFTA negotiations.

ADDRESSES: *Submissions by electronic mail: FR0074@ustr.gov* (written comments). *Submissions by facsimile:* Gloria Blue, Executive Secretary, Trade Policy Staff Committee, at 202/395–6143. The public is strongly encouraged to submit documents electronically rather than by facsimile. (*See* requirements for submissions below).

FOR FURTHER INFORMATION CONTACT: For procedural questions, contact Gloria Blue, Executive Secretary, TPSC, Office of the USTR, 1724 F Street, NW., Washington, DC 20508, telephone (202) 395–3475. Substantive questions should be addressed to Tracy Quilter, Director for Trade Capacity Building, Office of the USTR, telephone (202) 395–2839.

SUPPLEMENTARY INFORMATION: The United States has entered into free trade negotiations with five Central American countries: Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. The agreement seeks to eliminate tariffs and other barriers to trade in goods, agriculture, services, and investment between the United States and the five Central American countries. The participants will seek to complete the negotiations by December 2003.

Nine rounds of negotiations are planned in 2003. To date, six have occurred. Negotiating groups cover the following topics: Market access; investment and services; government procurement and intellectual property; labor and environment; and institutional issues such as dispute settlement. A non-negotiating cooperative group on trade capacity building (''TCB Working Group'') has been meeting in parallel with the negotiating groups. The TCB Working Group aims to address, to the extent possible, the needs of the Central American countries for preparing for negotiations, implementation of the agreement and transition to free trade. The USG, in concert with regional institutions such as the Inter-American Development Bank, the World Bank, the Organization of American States, the U.N. Economic Commission for Latin America and the Central American Bank for Economic Integration, has assisted countries in completing national trade capacity building strategies to guide the work of the TCB Working Group. These strategies are intended to identify, define and prioritize each country's needs. The strategies can be found on USTR's Internet server *(http://www.ustr.gov).*

The United States and the Central American countries aim to attract additional resource partners that can legitimately contribute to the trade capacity building efforts in support of the CAFTA. The TPSC gives notice that USTR and USAID, on behalf of the USG, seek to expand the circle of resource

partners to NGOs, corporate sponsors and private foundations that can volunteer to conduct self-funded trade capacity building efforts in support of the CAFTA subject to (1) the priorities set by Central American countries in their national trade capacity building strategies; (2) the coordination efforts of the U.S. interagency trade capacity working group; and (3) consistency with USG policy. The countries seek resource partners that are prepared to provide self-funded (cash or in-kind) assistance for the trade capacity building support that they propose to deliver in the context of these trade initiatives. Interested parties should present a brief description of their potential contribution.

There are two parts to TCB Working Group meetings. The first involves a meeting of exclusively government officials from the United States and CAFTA countries. The second part involves government officials and representatives from resource partners outside the governments such as international financial institutions, non-governmental organizations, foundations and the private sector. Resource partners that volunteer to participate based on their ability to self-fund technical assistance or other trade capacity building services in response to the needs identified by the Central Americans in the CAFTA process may be invited to join the TCB Working Group. Resource partners that are selected to join the TCB Working Group will be welcome to attend the TCB Working Group meetings that are not restricted to government officials and are open to other resource partners. Requests for contract or grant funding from the USG will not be permitted during TCB Working Group meetings.

Submitting Comments: To ensure prompt and full consideration of responses, the TPSC strongly recommends that interested persons make submissions by electronic mail to the following e-mail address: *FR0074@ustr.gov.* Persons making submissions by e-mail should use the following subject line: ''CAFTA TCB Assistance.'' Documents should be submitted as either WordPerfect, MSWord, or text (.TXT) files. Supporting documentation submitted as spreadsheets is acceptable as Quattro Pro or Excel. For any document containing business confidential information submitted electronically, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the character ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the submitter. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Written comments will be placed in a file open to public inspection pursuant to 15 CFR 2003.5, except confidential business information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential business information submitted in accordance with 15 CFR 2003.6 must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top of each page, including any cover letter or cover page, and must be accompanied by a non-confidential summary of the confidential information. All public documents and non-confidential summaries shall be available for public inspection in the USTR Reading Room in Room 3 of the annex of the Office of the USTR, 1724 F Street, NW., Washington, DC 20508. An appointment to review the file may be made by calling (202) 395–6186. The USTR Reading Room is generally open to the public from 10 a.m.–12 p.m. and 1 p.m.–4 p.m., Monday through Friday. Appointments must be scheduled at least 48 hours in advance.

Additional information may be reported in websites or other public announcements related to CAFTA trade capacity building activities.

General information concerning USTR may be obtained by accessing its Internet server *(http://www.ustr.gov).* General information concerning USAID may be obtained by accessing its Internet server *(http://www.usaid.gov).*

Carmen Suro-Bredie,

Chairman, Trade Policy Staff Committee.

[FR Doc. 03–27875 Filed 11–4–03; 8:45 am]

BILLING CODE 3190–W3–U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Invitation for Non-Governmental Organizations, Corporate Sponsors and Private Foundations To Volunteer Trade Capacity Building Assistance in Support of the U.S.-Southern African Customs Union Free Trade Agreement

AGENCIES: Office of the United States Trade Representative, United States Agency for International Development.

ACTION: Request for Submissions to volunteer trade capacity building assistance.

SUMMARY: The United States seeks to attract additional resource partners that can legitimately contribute to the trade capacity building efforts in support of the US-Southern African Customs Union (SACU) Free Trade Agreement (FTA). The Trade Policy Staff Committee (TPSC) gives notice that, on behalf of the U.S. Government, the Office of the United States Trade Representative and the United States Agency for International Development seek to expand the circle of resource partners to non-governmental organizations (NGOs), corporate sponsors and private foundations that are prepared to provide wholly self-funded assistance to conduct trade capacity building efforts in support of the SACU FTA, subject to: (1) The priorities set by the SACU countries in their trade capacity building strategies; (2) the coordination efforts of the U.S. interagency trade capacity working group to, among other things, promote transparency; and (3) consistency with U.S. Government policy. Interested parties should present a brief description of their potential contribution. This Request for Submission does not constitute a request for proposals/applications for funding from the United States Trade Representative, the United States Agency for International Development, or any other agency or department of the U.S. Government (USG). Any requests in the future for proposals or applications will be advertised on FedBizOpps or FedGrants, as appropriate. If any assistance opportunities or procurement needs are identified as part of the SACU process, such needs will be met by the appropriate USG agency in accordance with its internal acquisition and assistance procedures.

DATES: Initial expressions of interest should be forwarded by December 8, 2003. However, expressions of interest are welcome throughout the period of the SACU FTA negotiations.

ADDRESSES: *Submissions by electronic mail: FR0101@ustr.gov* (written comments). *Submissions by facsimile:* Gloria Blue, Executive Secretary, Trade Policy Staff Committee, at 202/395–6143. The public is strongly encouraged to submit documents electronically rather than by facsimile. (See requirements for submissions below).

FOR FURTHER INFORMATION CONTACT: For procedural questions, contact Gloria Blue, Executive Secretary, TPSC, Office

of the USTR, 1724 F Street, NW., Washington, DC 20508, telephone (202) 395–3475. Substantive questions should be addressed to Faraaz Siddiqi, Director for Trade Capacity Building, Office of the USTR, telephone (202) 395–2839.

SUPPLEMENTARY INFORMATION: The United States has entered into negotiations for a free trade agreement with the five SACU countries: Botswana, Namibia, Lesotho, Swaziland and South Africa. The participants seek to reach an agreement that eliminates tariffs and other barriers to trade in goods, agriculture, services, and investment between the United States and the five SACU countries. The participants seek to complete the negotiations by the end of 2004.

Four rounds of negotiations are planned in 2003. To date, two have occurred. Negotiating groups cover the following topics: Market access; investment and services; government procurement and intellectual property; labor and environment; and institutional issues such as dispute settlement. A non-negotiating cooperative group on trade capacity building (''TCB Working Group'') has been meeting in parallel with the negotiating groups. The TCB Working Group seeks to address, to the extent possible, the needs of the SACU countries in preparing for negotiations, implementation of the agreement and transition to free trade. The USG is currently assisting countries in completing trade capacity building strategies to guide the work of the TCB Working Group. Once completed, these strategies are intended to identify, define and prioritize each country's needs.

The United States and the SACU countries seek to attract additional resource partners that can legitimately contribute to the trade capacity building efforts in support of the SACU FTA. The United States and SACU countries seek resource partners that are prepared to provide wholly self-funded (cash or in-kind) assistance for the trade capacity building support that they propose to deliver in the context of these trade initiatives. Interested parties should present a brief description of their potential contribution.

There are two parts to TCB Working Group meetings. The first involves a meeting of exclusively government officials from the United States and SACU countries. The second part involves government officials from the United States and the SACU countries and representatives from resource partners outside the governments, such as international financial institutions, NGOs, corporate sponsors and private foundations. Resource partners that volunteer to participate based on their ability to self-fund technical assistance or self-fund other trade capacity building services in response to the needs identified by the SACU countries in the FTA process may be invited to join the TCB Working Group. Resource partners that are selected to join the TCB Working Group will be welcome to attend the TCB Working Group meetings that are not restricted to government officials and are open to other resource partners. Requests for contract or grant funding from the USG will not be permitted during TCB Working Group meetings.

Submitting Comments: To ensure prompt and full consideration of responses, the TPSC strongly recommends that interested persons make submissions by electronic mail to the following e-mail address: *FR0101@ustr.gov.* Persons making submissions by e-mail should use the following subject line: ''SACU TCB Assistance.'' Documents should be submitted as either WordPerfect, MSWord, or text (.TXT) files. Supporting documentation submitted in spreadsheet form is acceptable in either the Quattro Pro or Excel format. For any document containing business confidential information submitted electronically, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the character ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the submitter. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Written comments will be placed in a file open to public inspection pursuant to 15 CFR 2003.5, except confidential business information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential business information submitted in accordance with 15 CFR 2003.6 must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top of each page, including any cover letter or cover page, and must be accompanied by a non-confidential summary of the confidential information. All public documents and non-confidential summaries shall be available for public inspection in the USTR Reading Room in Room 3 of the annex of the Office of the USTR, 1724 F Street, NW., Washington, DC 20508. An appointment to review the file may be made by calling (202) 395–6186. The USTR Reading Room is generally open to the public from 10 a.m.–12 noon and 1 p.m.–4 p.m., Monday through Friday. Appointments must be scheduled at least 48 hours in advance.

Additional information may be reported in websites or other public announcements related to SACU trade capacity building activities. General information concerning USTR may be obtained by accessing its Internet server (*http://www.ustr.gov*). General information concerning USAID may be obtained by accessing its Internet server (*http://www.usaid.gov*).

Carmen Suro-Bredie,

Chairman, Trade Policy Staff Committee.

[FR Doc. 03–27874 Filed 11–4–03; 8:45 am]

BILLING CODE 3190–W3–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for approval of a new collection. The ICR describes the nature of the information collection and the expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 8, 2003 on page 40730.

DATES: Comments must be submitted on or before December 5, 2003. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Information for the Prevention of Aircraft Collisions on Runways at Towered Airports.

Type of Request: Approval of a new collection.

OMB Control Number: 2120–xxxx.

Form(s): N/A.

Affected Public: A total of 10,000 airport and aircraft operators.

Abstract: Runway incursions are a risk to the public traveling in aircraft. Reduction of runway incursions is listed by the DOT Office of the Inspector General as one of the top ten transportation management improvements needed, the National Transportation Safety Board (NTSB) has selected runway safety as one of their ''most wanted'' transportation safety improvements, and the FAA Administrator has directed that runway safety be one of the FAA's top five safety priorities. FAA has been concentrating on this issue for a decade and progress has been elusive, in part because of a lack of feedback from people working and flying on the runways in the NAS. Feedback from surveys will be used in the prevention of runway collisions and in the reduction of the severity and frequency of runway incursions.

Estimated Annual Burden Hours: An estimated 1,670 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 29, 2003.

Judith D. Street,

FAA Information Collection Clearance Officer, APF–100.

[FR Doc. 03–27755 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Agency Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection information was published on July 25, 2003 on page 44137.

DATES: Comments must be submitted on or before December 5, 2003. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Safe Disposition of Life Limited Aircraft Parts.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0665.

Forms(s) N/A.

Affected Public: A total of 8,000 air carriers and manufacturers.

Abstract: This action responds to the Wendall H. Ford Investment and Reform Act for the 21st Century by requiring that all persons who remove any life-limited aircraft part be required to have a method to prevent the installation of that part after it has reached its life limit. This action reduces the risk of life-limited parts being used beyond their life limits. This action also requires that manufacturers of life-limited parts provide marking instructions, when requested.

Estimated Annual Burden Hours: An estimated 104,000 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington DC, on October 29, 2003.

Judith D. Street,

FAA Information Collection Clearance Officer, APF–100.

[FR Doc. 03–27758 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2003–16227]

Policy and Procedures Concerning the Use of Airport Revenue: Petition of Sarasota-Manatee Airport Authority To Allow Use of Airport Revenue for Direct Subsidy of Air Carrier Operations

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Request for comments.

SUMMARY: This notice requests comments on a petition to amend the current Policy and Procedures Concerning the Use of Airport Revenue (''Revenue Use Policy''). The petitioner Sarasota-Manatee Airport Authority is an airport operator subject to the provisions of the Revenue Use Policy. The petitioner requests that the FAA amend the Revenue Use Policy to permit certain airport operators to use airport revenue for the direct subsidy of commercial air carrier operations under specific and limited circumstances. Currently, the Revenue Use Policy prohibits all airport operators that are the recipient or subject of Federal assistance for airport improvements (''airport sponsors'') from using airport revenue to provide direct subsidies to air carriers for the provision of commercial service. However, the petitioner represents that some airport sponsors have been able to provide either financial subsidies or revenue guarantees to secure air carrier service. These airport sponsors have been general-purpose municipalities that can use funds from non-airport sources. On the other hand, those airport sponsors governed by a special-purpose airport authority cannot provide direct subsidies to air carriers, because all of their funds are considered airport revenue subject to the prohibitions in the Revenue Use Policy. The FAA is publishing for comment the petitioner's suggestion to consider limited use of airport revenue for direct subsidy of air carrier operations to be an ''operating cost'' of the airport under the Revenue Use Policy.

DATES: Comments must be received by January 5, 2003. Comments that are received after that date will be considered only to the extent possible.

ADDRESSES: The proposed policy amendment is available for public review in the Dockets Office, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. The documents have been filed under FAA Docket Number FAA–2003–16227. The Dockets Office is open between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the Nassif Building at the Department of Transportation at the above address. Also, you, may review public dockets on the Internet at *http://www.dms.dot.gov.* Comments on the proposed policy must be delivered or mailed, in duplicate, to: the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number ''FAA Docket No FAA–2003–16227'' at the beginning of your comments. Commenters wishing FAA to acknowledge receipt of their comments must include a preaddressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2003–16277.'' The postcard will be date stamped and mailed to the commenter. You may also submit comments through the Internet to *http://www.dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: David Cushing, Airports Compliance Division, Office of Airport Safety and Standards, AAS–400, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, telephone (202) 267–8348.

SUPPLEMENTARY INFORMATION: The Revenue Use Policy (64 FR 7696); February 16, 1999), was adopted pursuant to the Federal Aviation Administration Authorization Act of 1994, and incorporates provisions of the Federal Aviation Administration Reauthorization Act of 1996. The Revenue Use Policy describes the scope of airport revenue that is subject to the Federal requirements on airport revenue use and lists those requirements. The Revenue Use Policy also describes prohibited and permitted uses of airport revenue and outlines the FAA's enforcement policies and procedures.

Governing Statutes and Policy

Title 49 U.S.C. 47107(b)(1) requires that grant agreements for airport development grants include an assurance that ''the revenues generated by a public airport will be expended for the capital or operating costs of—(A) the airport; (B) the local airport system; or (C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.'' The same requirement is included in 49 U.S.C. 47133, which applies directly to any airport that has received Federal assistance.

Sections V and VI of the Revenue Use Policy, at 64 FR 7718–20, respectively list uses of airport revenue considered to be permitted or prohibited under the above statutes. The list of prohibited uses of airport revenue in section VI B. includes the following:

''12. Direct subsidy of air carrier operations. Direct subsidies are considered to be payments of airport funds to carriers for air service. Prohibited direct subsidies do not include waivers of fees or discounted landing or other fees during a promotional period. Any fee waiver or discount must be offered to all users of the airport, and provided to all users that are willing to provide the same type and level of new services consistent with the promotional offering. Likewise prohibited direct subsidies do not include support for air carrier advertising or marketing of new services to the extent permitted by section V of this Policy Statement.''

The petitioner requests that the FAA amend the above policy statement to permit the limited use of airport revenue for direct subsidies to air carriers, as stated below. The FAA invites comment on the petition and the justification for the requested change in the Revenue Use Policy.

Petitioner's Requested Policy Amendment To Allow Use of Airport Revenue for Direct Subsidy of Air Carrier Operations

The petitioner requests an amendment to the Revenue Use Policy that would ''permit airports that have less than 0.25 percent of the total U.S. passenger boardings to use airport revenues at their discretion for subsidies to air carriers willing to provide service to those airports.'' The petitioner suggests that the following conditions apply to an airport's use of the subsidy:

1. The community must have a minimum population of 200,000 residents in the airport's local county(s).

2. Airport revenues considered for use are not subject to the air carrier agreement in place and do not affect the rate-making methodology of the agreement.

3. Subsidy is limited to new service. New service defined as follows:

- Air carrier not presently at the airport.
- City pair presently served by an air carrier at the applicant airport.

4. Subsidy cannot exceed 12 consecutive months to any air carrier.

5. Air carrier receiving the subsidy must be willing to provide the following:

- Daily scheduled service with a minimum seating capacity of 50 seats.
- Must commit to a minimum of twelve consecutive months of service.

6. Air carrier cannot utilize program more than once at the same airport.

Issued in Washington, DC on October 24, 2003.

David L. Bennett,

Director, Airport Safety and Standards.

[FR Doc. 03–27753 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Prepare an Environmental Impact Statement and Hold Scoping Meetings for Mammoth Yosemite Airport, Mammoth Lakes, CA

AGENCY: Federal Aviation Administration.

ACTION: Notice to hold one (1) public scoping meeting and one (1) governmental and public agency scoping meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for the proposed expansion of Mammoth Yosemite Airport, Mammoth Lakes, California. To ensure that all significant issues related to the proposed action are identified, one (1) public scoping meeting and one (1) governmental and public agency scoping meeting will be held.

FOR FURTHER INFORMATION CONTACT: Camille Garibaldi, Environmental Protection Specialist, San Francisco Airports District Office, Federal Aviation Administration, Western-Pacific Region, 831 Mitten Road, Room 210, Burlingame, California 94010–1303. Telephone: 650/876–2927. Comments on the scope of the EIS should be submitted to the address above and must be received no later than 5 p.m. Pacific Standard Time, on Monday, December 29, 2003.

SUPPLEMENTARY INFORMATION: The FAA will prepare an EIS for the proposed future expansion of Mammoth Yosemite

Airport. Proposed expansion of Mammoth Yosemite Airport has been the subject of a series of environmental analyses pursuant to the National Environmental Policy Act of 1969 (NEPA) and the California Environmental Quality Act of 1970 (CEQA). A Draft Environmental Assessment (EA) was prepared and issued on the current Proposed Airport Expansion Project in October 2000. A Final EA for the Mammoth Yosemite Airport Expansion Project was published in December 2000. The FAA approved the Final EA as a Federal document and issued a Finding of No Significant Impact (FONSI) on December 21, 2000. The Town of Mammoth Lakes issued a Draft Supplement to Subsequent Environmental Impact Report of the 1997 Environmental Impact Report in October 2001. The Final Supplement to Subsequent Environmental Impact Report was certified by the Town of Mammoth Lakes on March 6, 2002. Following FAA's approval of the FONSI in December 2000, additional and supplemental information regarding the proposed project became available. On July 29, 2002, the FAA issued its Record of Decision that re-examined the December 21, 2000, FONSI, and approved the Town of Mammoth Lakes' proposed expansion plan for the airport. Subsequent to the publication of FAA's Record of Decision, litigation was filed against the FAA in two civil cases numbered C02–04621 BZ and C02–04623 BZ in the United States District Court for the Northern District of California. On April 28, 2003, an opinion was issued that requires the FAA to prepare an EIS to further evaluate the Town of Mammoth Lakes' proposed expansion project for Mammoth Yosemite Airport.

Mammoth Yosemite Airport is a limited certificate airport (title 14, Code of Federal Regulations (CFR) § 39.209(a)). The airport is located approximately five miles east of the Town of Mammoth Lakes and north of U.S. Route 395 in Mono County. The airport has one east-west oriented runway (9/27) with a parallel and connecting taxiway system. Runway 9/27 is paved with asphalt and is 7,000 feet long by 100 feet wide. The airport has a field elevation of 7,128-feet above mean sea level. The airport accommodates general aviation aircraft operations including aircraft hangars and outdoor tiedowns. The airport provides facilities that can accommodate commercial airlines, commuter airlines, and airline support/maintenance. The airport has approximately 40-based aircraft and accommodates approximately 6,000 annual aircraft operations.

The FAA is the lead agency responsible for the preparation of the EIS.

proposed to be evaluated in the EIS, additional reasonable alternatives may be evaluated in the EIS as a result of the scoping process.

No Action Alternative: This alternative consists of not implementing any of the Expansion Project's elements. No new development items identified in the Expansion Project would be constructed or implemented.

Proposed Airport Expansion Project Alternative: This alternative consists of implementing the Town of Mammoth Lakes' Proposed Airport Expansion Project including demolition, construction and replacement of various facilities of the airport, primarily in the vicinity of the passenger terminal area and the runway. The primary feature of this alternative is the construction of a 1,200-foot runway extension to the west and widening of the runway 50-feet for a total runway length of 8,200-feet and width of 150-feet. This would require the Town of Mammoth Lakes to purchase the property or obtain a special use permit from the United States Forest Service (USFS) for the additional 25-feet of land to the south and 25-feet of land to the west of Airport property for the runway safety area. A new passenger terminal building and associated facilities would also be constructed. This alternative was identified in the Final EA as the Proposed Action.

A 9,000-Foot Runway Alternative: This alternative extends Runway 9/27 to the west by 2,000 feet to achieve a total runway length of 9,000 feet. Similar to the Proposed Airport Expansion Project this alternative also widens the existing runway from 100-feet to 150-feet, and includes construction of a new passenger terminal building and associated facilities. This would require the Town of Mammoth Lakes to purchase the property or obtain a special use permit from the USFS for the additional 25-feet of land to the south and 825-feet or land to the west of Airport property for the runway safety area.

Develop Another Airport in the Region: This alternative consists of developing the next nearest airport to the Town of Mammoth Lakes in Bishop, CA.

Use Alternative Modes of Transportation: This alternative would utilize other types of transportation modes such as rail, inter-city bus and automobiles to transport skier visitors to the area.

Develop a New Airport in the Region at a Different Site: This alternative consists of construction of a new airport facility instead of further developing the existing facility at Mammoth Yosemite Airport.

Comments and suggestions are invited from Federal, State and local agencies, and other interested parties to ensure that the full range of issues related to the proposed project and the alternatives are addressed and all significant issues are identified. Written comments and suggestions concerning the scope of the EIS may be mailed to the FAA informational contact listed above and must be received no later than 5 p.m., Pacific Standard Time, on Monday, December 29, 2003.

Public Scoping Meetings: The FAA will hold one (1) public and one (1) governmental and public agency scoping meeting to solicit input from the public and various Federal, State and local agencies which have jurisdiction by law or have specific expertise with respect to any environmental impacts associated with the proposed projects. A scoping meeting specifically for governmental and public agencies will be held on Wednesday, December 10, 2003, from 1 p.m. to 4 p.m., Pacific Standard Time, at the Mammoth Lakes Community Center, 1000 Forest Trail, Mammoth Lakes, California. The public scoping meeting will be held at the same location on Wednesday, December 10, 2003, from 6 p.m. to 9 p.m., Pacific Standard Time.

Issued in Hawthorne, California, on October 28, 2003.

Ellsworth L. Chan,

Acting Manager, Airports Division, Western-Pacific Region, AWP–600.

[FR Doc. 03–27756 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Prepare an Environmental Assessment and Conduct Scoping for Proposed Air Traffic Procedural Changes Associated with the Omaha Airspace Redesign

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Intent to Prepare an Environmental Assessment (EA).

SUMMARY: The Federal Aviation Administration (FAA), Central Region, is issuing this notice to advise the

public, pursuant to the National Environmental Policy Act of 1969, as amended (NEPA), 42 U.S.C. 4332(2)(C) that the FAA intends to prepare an EA for the proposed Omaha Airspace Redesign (OAR). While not required for an EA, the FAA is issuing this Notice of Intent to facilitate public involvement. This EA will assess the potential environmental impacts resulting from proposed modifications to air traffic routings in the metropolitan Omaha and surrounding areas. Airports in this area include Omaha, Eppley Airfield (OMA), Offutt Air Force Base, Lincoln Airport (LNK), as well as smaller, primarily general aviation use airports. All reasonable alternatives are being considered including a no action alternative.

FOR FURTHER INFORMATION CONTACT: Donna O'Neill, Airspace Branch, ACE–520, Air Traffic Division, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2560.

SUPPLEMENTARY INFORMATION: The FAA is exploring new routing structures that will improve the safety and efficiency of air traffic control (ATC) operations in the Omaha Terminal Radar Approach Control (TRACON) area. Preliminary operational concepts involve changes internal to the Omaha TRACON airspace structure, as well as changes to Omaha and Lincoln arrival and departure routes that would align with Minneapolis Air Route Traffic Control Center (ARTCC) en route airspace routes. Establishment of standardized, predictable routing reduces pilot and controller workload, thereby increasing overall safety. This will be accomplished by providing predictable and efficient procedural separation for arriving and departing aircraft, reducing the need for controller intervention. In addition, this concept will also allow pilots to take advantage of improved aircraft navigational technologies.

Potential alternatives will encompass new routing proposals that would accommodate aircraft without Area Navigation (RNAV) capability, and without changes to ground based navigational facilities. The Omaha Airspace Redesign encompasses a geographic area of approximately 55 miles around the Omaha Eppley Airfield. The exact study area will be identified in the draft EA.

The FAA will examine methods that will take advantage of new and emerging ATC technologies, and improved performance characteristics of modern aircraft, as well as improvements in navigation capabilities. The proposal will address the merits of alternative airspace design scenarios that safely and efficiently use regional airspace and procedures in and around the Omaha Eppley Airfield and terminal airspace controlled by the Omaha TRACON, as well as facility airspace associated with portions of the Lincoln Airport Traffic Control Tower and Minneapolis ARTCC airspace.

As part of the airspace redesign effort, the FAA will conduct detailed analyses, which will be used to evaluate the potential environmental impacts in the study area. Upon the publication of a draft EA, the FAA will contact and coordinate with federal, state, and local agencies, as well as the public, to obtain comments and suggestions regarding the EA for the proposed project. The EA will assess impacts of reasonable alternatives, including a no action alternative, pursuant to NEPA; FAA Order 1050.1, Policies and Procedures for Assessing Environmental Impacts; DOT Order 5610.1, Procedures for Considering Environmental Impacts; and the President's Council on Environmental Quality (CEQ) Regulations implementing the provisions of NEPA, 40 CFR parts 1500–1508, and other appropriate guidance.

Scoping: While not required for an EA, the FAA will use the scoping process as outlined in the Council on Environmental Quality (CEQ) Regulations and guidelines to facilitate public involvement. Concerned individuals and agencies are invited to express their views in writing. The purpose of the scoping process is: (1) To provide a description of the proposed action, (2) to provide an early and open process to determine the scope of issues to be addressed and to identify potentially significant issues or impacts related to the proposed action that should be analyzed in the EA, (3) to identify other coordination and any permit requirements associated with the proposed action, and (4) to identify and eliminate from detailed study those issues that are not significant or those that have been adequately addressed during a prior environmental review process.

The scoping period begins with this announcement. To ensure that all issues are identified, the FAA is requesting comments and suggestions on the project scope from all interested federal, state and local agencies and other interested parties. In furtherance of this effort, the FAA has established an Intenet Web site that can be accessed at: *http://www.faa.gov/ats/central/oar/oar.html.* Additional information about the Omaha Airspace Redesign can be found at this internet site. Further, the FAA will be maintaining the following telephone number for general information: (816) 329–2560.

DATES: The FAA will accept formal scoping comments through December 12, 2003. Written comments should be directed to the following address: Federal Aviation Administration, 901 Locust, Attn: ACE–520–OAR, Kansas City, MO 64106. Comments will also be accepted electronically via *http://www.faa.gov/ats/nar/central/oar/oar.html.*

Issued in Kansas City, Missouri on: October 20, 2003.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–27757 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2003–63]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Sandy Buchanan-Sumter (202) 267–7271, or Timothy R. Adams (202) 267–8033, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on October 30, 2003.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–8936.

Petitioner: Robert P. Lavery.

Section of 14 CFR Affected: 14 CFR 91.109(a) and (b)(3).

Description of Relief Sought/ Disposition: To permit Robert P. Lavery to conduct certain flight instruction and simulated instrument flights to meet the recent instrument experience requirements in certain Beechcraft airplanes equipped with a functioning thow-over control wheel in place of functioning dual controls. *Grant, 07/30/ 2003, Exemption No. 7571A.*

Docket No.: FAA–2001–8878.
Petitioner: American Airlines Flight Academy.
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).
Description of Relief Sought/ Disposition: To permit American Airlines Flight Academy to substitute a qualified and authorized check airman or aircrew program designee for an FAA inspector to observe a qualifying PIC who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing, subject to certain conditions and limitations. *Grant, 08/ 04/2003, Exemption No. 6916B.*

Docket No.: FAA–2003–14748.
Petitioner: Aviation Services Group, Inc.
Section of 14 CFR Affected: 14 CFR 135.89(b)(3).
Description of Relief Sought/ Disposition: To permit Aviation Services Group, Inc. to operate pressurized aircraft at altitudes above 35,000 feet mean sea level without one pilot at the controls wearing and using an oxygen mask. *Denial, 08/04/2003, Exemption No. 8105.*

Docket No.: FAA–2002–12681.
Petitioner: Mr. Jarle Boe.
Section of 14 CFR Affected: 14 CFR 119.33(b)(1).
Description of Relief Sought/ Disposition: To permit Mr. Boe to conduct commercial passenger or cargo aircraft operations for compensation or hire under part 135 without being a U.S. citizen. *Denial, 08/04/2003, Exemption No. 8106.*

Docket No.: FAA–2003–15395.
Petitioner: Delta Air Lines. Inc.
Section of 14 CFR Affected: 14 CFR 121.440(a) and SFAR 58, paragraph 6(b)(3)(ii)(A).
Description of Relief Sought/ Disposition: To permit Delta to meet line check requirements using an alternative line check program, subject to certain conditions and limitations. *Grant, 08/04/2003, Exemption No. 8107.*

Docket No.: FAA–2002–13688.
Petitioner: Promech, Inc.
Section of 14 CFR Affected: 14 CFR 135.203(a)(1)
Description of Relief Sought/ Disposition: To permit Promech to conduct operations under visual flight rules outside controlled airspace, over water, at an altitude below 500 feet above the surface, subject to certain conditions and limitations. *Grant, 08/ 04/2003, Exemption No. 8108.*

Docket No.: FAA–2003–15436.
Petitioner: Ace Aviation Services Corporation.
Section of 14 CFR Affected: 14 CFR 135.145.
Description of Relief Sought/ Disposition: To permit Ace Aviation Services Corporation to place turbo jet airplanes in service under part 135 without conducting proving flights. *Denial, 08/05/2003, Exemption No. 8104.*

Docket No.: FAA–2001–10265.
Petitioner: RR Investments Inc., d.b.a. Million Air Dallas.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Million Air Dallas to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. *Grant, 08/08/2003, Exemption No. 6718C.*

Docket No.: FAA–2003–15828.
Petitioner: Rainier Heli-Life, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Rainier Heli-Life, Inc. to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. *Grant, 08/08/2003, Exemption No. 8109.*

Docket No.: FAA–2001–10262.
Petitioner: Petroleum Helicopters, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Petroleum Helicopters, Inc. to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. *Grant, 08/14/2003, Exemption No. 5586E.*

Docket No.: FAA–2003–15784.
Petitioner: Denmark Volunteer Fire Department.
Section of 14 CFR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendices I and J to part 121.
Description of Relief Sought/ Disposition: To permit the Denmark Volunteer Fire Department to conduct local sightseeing flights at the Eastern Slopes Regional Airport, Fryeburg, Maine, for sightseeing flights during August 2003, with a rain date in September, 2003, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 08/14/ 2003, Exemption No. 8113.*

Docket No.: FAA–2003–15883.
Petitioner: Vertical Flight Services, LLC.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit Vertical Flight Services, LLC, to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. *Grant, 08/14/2003, Exemption No. 8114.*

Docket No.: FAA–2003–14563.
Petitioner: AirTran Airways, Inc.
Section of 14 CFR Affected: 14 CFR 93.123.
Description of Relief Sought/ Disposition: To permit AirTran Airways, Inc. to conduct three operations at Ronald Reagan Washington National Airport (DCA) without the required slots. *Grant, 08/14/2003, Exemption No. 8112.*

Docket No.: FAA–2003–14827.
Petitioner: Comair, Inc.
Section of 14 CFR Affected: 14 CFR 93.123
Description of Relief Sought/ Disposition: To permit Comair, Inc. to conduct three operations at Ronald Reagan Washington National Airport (DCA) without the required slots. *Denied, 08/14/2003, Exemption No. 8112.*

Docket No.: FAA–2003–14975.
Petitioner: Spirit Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 93.123.
Description of Relief Sought/ Disposition: To permit Spirit Airlines, Inc. to conduct three operations at Ronald Reagan Washington National Airport (DCA) without the required slots. *Denial, 08/14/2003, Exemption No. 8112.*

Docket No.: FAA–2001–8963.
Petitioner: Peninsula Airways, Inc. (PenAir).
Section of 14 CFR Affected: 14 CFR 121.709(b)(3).
Description of Relief Sought/ Disposition: To permit properly trained PenAir flight crewmembers to install and/or remove medevac stretchers on PenAir Fairchild Metro III aircraft and make the appropriate entries in the aircraft records. *Grant, 08/18/2003, Exemption No. 6674B.*

Docket No.: FAA–2003–15744.
Petitioner: Arctic Air Service.
Section of 14 CFR Affected: 14 CFR 133.45(e)(1).
Description of Relief Sought/ Disposition: To permit Arctic Air Service to conduct Class D rotorcraft-load combination operations with an Agusta A 109E helicopter certificated in the normal category under 14 CFR part

27, subject to certain conditions and limitations. *Granted, 08/18/2003, Exemption No. 8116.*

Docket No.: FAA–2002–12797.

Petitioner: Business Jet Services, Ltd.

Section of 14 CFR Affected: 14 CFR 135.152(b)(1).

Description of Relief Sought/Disposition: To permit Business Jet Services, Ltd. to operate two British Aerospace BAC 1–11 400 series airplanes under part 135 without recording the parameters listed within the ranges, accuracies, resolutions, and sampling intervals specified in appendix D to part 135. *Denial, 08/18/2003, Exemption No. 8115.*

Docket No.: FAA–2001–10875.

Petitioner: Fresh Water Adventures, Inc.

Section of 14 CFR Affected: 14 CFR 91.323(b)(4).

Description of Relief Sought/Disposition: To permit Fresh Water Adventures, Inc. to operate its Grumman Goose G–21A amphibian aircraft at a weight that is in excess of that airplane's maximum certificated weight. *Grant, 08/21/2003, Exemption No. 7070B.*

Docket No.: FAA–2001–11081.

Petitioner: Merlin Airways.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Merlin Airways to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. *Grant, 08/21/2003, Exemption No. 7681A.*

Docket No.: FAA–2001–10267.

Petitioner: Carver Aero, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Carver Aero, Inc. to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. *Grant, 08/21/2003, Exemption No. 6229D.*

Docket No.: FAA–2001–10162.

Petitioner: TIMCO Aviation Services, Inc.

Section of 14 CFR Affected: 14 CFR 145.45(f).

Description of Relief Sought/Disposition: To permit TIMCO Aviation Services, Inc. to place and maintain its inspection procedures manual (IPM) in technical libraries in its five facility locations and assign copies of the IPM to key individuals rather than give a copy to each of its supervisory and inspection personnel. This requirement, however, will no longer be applicable when Amendment No. 145–47, Repair Stations: Final Rule (66 FR 41088) becomes effective October 3, 2003. Under the new rule, FAA no longer requires certificated repair stations to keep an IPM. *Grant, 08/25/2003, Exemption No. 7621A.*

Docket No.: FAA–2003–15439.

Petitioner: United Parcel Service.

Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).

Description of Relief Sought/Disposition: To permit United Parcel Service to substitute a qualified and authorized check airman or aircrew program designee for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing, subject to certain conditions and limitations. *Grant, 08/26/2003, Exemption No. 8118.*

Docket No.: FAA–2003–15969.

Petitioner: Northern Air Cargo, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Northern Air Cargo, Inc. to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft, subject to certain conditions and limitations. *Grant, 08/29/2003, Exemption No. 8121.*

Docket No.: FAA–2003–15970.

Petitioner: Montana Aircraft, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Montana Aircraft, Inc. to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft, subject to certain conditions and limitations. *Grant, 08/29/2003, Exemption No. 8120.*

Docket No.: FAA–2001–8787.

Petitioner: Yute Air Taxi, Inc.

Section of 14 CFR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Yute Air Taxi, Inc. to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft, subject to certain conditions and limitations. *Grant, 08/29/2003, Exemption No. 7505A.*

Docket No.: FAA–2003–15953.

Petitioner: Boston-Maine Airways.

Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).

Description of Relief Sought/Disposition: To permit Boston-Maine Airways to substitute a qualified and authorized check airman or aircrew program designee for an FAA inspector to observe a qualifying pilot in command who is completing initial or upgrade training specified in § 121.424 during at least one flight leg that includes a takeoff and a landing, subject to certain conditions and limitations. *Grant, 09/03/2003, Exemption No. 8122.*

Docket No.: FAA–2001–10165.

Petitioner: The North Jersey Chapter, Ninety-Nines, Inc.

Section of 14 CFR Affected: 14 CFR 135.251, 135.255, and 135.353, and appendices I and J to part 121.

Description of Relief Sought/Disposition: To permit The North Jersey Chapter of the Ninety Nines, Inc. to conduct local sightseeing flights at the Lincoln Park Airport, Lincoln Park, New Jersey, during October, 2003, with a rain date during October, 2003, for compensation or hire, without complying with certain anti-drug and alcohol misuse prevention requirements of part 135. *Grant, 09/04/2003, Exemption No. 8128.*

[FR Doc. 03–27739 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2003–62]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains the dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Caren Centorelli, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Tel. (202) 267–8199.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on October 30, 2003.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2002–13283.

Petitioner: Embraer Empresa Brasileira de Aeronautica S.A. (Embraer).

Section of 14 CFR Affected: 14 CFR 25.979(b)(2).

Description of Relief Sought/Disposition: To extend the June 30, 2003, termination date of Exemption No. 7909 to September 30, 2003, unless sooner superseded or rescinded. *Grant, 06/25/2003, Exemption No.7909.*

Docket No.: FAA–2003–15118.

Petitioner: Gulfstream Aerospace Corporation.

Section of 14 CFR Affected: 14 CFR 25.901(c).

Description of Relief Sought/Disposition: To provide relief from the requirements of § 25.901(c) to the extent necessary to allow type certification of all Gulfstream Aerospace Model G–1159, G–1159A, G1159B, G–IV, GV and GVSP type design changes to be approved, under Type Certificate A12EA, after the date of this granting, without an exact showing of compliance with the requirements of § 25.901(c) or other applicable regulations, as they relate to single failures resulting in uncontrollable high thrust conditions. *Partial Grant, 10/08/2003, Exemption No.8142.*

Docket No.: FAA–2003–15420.

Petitioner: Embraer Empresa Braslleira de Aeronautics S.A. (Embraer).

Section of 14 CFR Affected: 14 CFR 25.831(g), Amendment 25–87.

Description of Relief Sought/Disposition: To provide relief from the requirement of § 25.831(g), as amended by Amendment 25–87, that the airplane cabin humidity level must remain less than 27 millibars vapor pressure following an improbable failure condition. *Grant, 10/14/2003, Exemption No.8151.*

Docket No.: FAA–2003–15705.

Petitioner: Fokker Services B.V.

Section of 14 CFR Affected: 14 CFR 25.562 and 25.785(b).

Description of Relief Sought/Disposition: To provide relief from the requirements of §§ 25.562 and 25.785(b) for installation of medical stretchers on Gulfstream G–V airplanes. *Grant, 10/03/2003, Exemption No.8140.*

[FR Doc. 03–27740 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Dallas/Fort Worth International Airport, DFW Airport, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Dallas/Fort Worth International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 5, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jeffery P. Fegan, Director, Dallas/Fort Worth International Airport at the following address: 3200 E. Airfield Drive, DFW Airport, Texas 75261.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610, (817) 222–5613.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Dallas/Fort Worth International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 24, 2003, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 18, 2004.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: October 1, 2013.

Proposed charge expiration date: March 1, 2014.

Total estimated PFC revenue: $59,604,952.

PFC application number: 04–07–C–00–DFW.

Brief description of proposed project(s):

Projects To Impose and Use PFC's

1. Air Transportation and Security Act Compliance

Proposed class or classes of air carriers to be exempted from collecting PFC's: Air Taxi/Commercial Operators Filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Dallas/Fort Worth International Airport.

Issued in Fort Worth, Texas, on October 24, 2003.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 03–27759 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 04–03–C–00–HGR To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Hagerstown Regional Airport—Richard A. Henson Field, Hagerstown, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Hagerstown Regional Airport—Richard A. Henson Field under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 5, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA, Washington Airport District Office, Attn: Art Winder, 23723 Air Freight Ln., Suite 210, Dulles, VA 20166.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Carolyn Motz, Airport Manager of the Board of County Commissioners of Washington County, Maryland at the following address: 18434 Showalter Road, Hagerstown, Maryland 21742–1347.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Board of County Commissioners of Washington County, Maryland under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Arthur Winder, Project Manager, Washington Airports District Office at the above address or call (703) 661–1363. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Hagerstown Regional Airport—Richard A. Henson Field Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158). On October 23, 2003, the FAA determined that the application to impose and use the revenue from a PFC submitted by Board of County Commissioners of Washington County was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 31, 2004.

The following is a brief overview of the application.

Proposed charge effective date: December 1, 2003.

Proposed charge expiration date: December 1, 2007.

Level of the proposed PFC: $4.50.

Brief description of proposed project(s): Terminal Building Modifications Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Charter Operators and the Nonscheduled/On-Demand Air Carriers filing FAA form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Airports Division, AEA–610, 1 Aviation Plaza, Jamaica, New York 11434.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Board of County Commissioners of Washington County, Maryland.

Issued in Jamaica, New York, on October, 2003.

Eleanor Schifflin,

Manager, PFC Program, Eastern Region.

[FR Doc. 03–27754 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: McCarthy, AK

AGENCY: Federal Highway Administration (FHWA), and Alaska Department of Transportation and Public Facilities (ADOT&PF).

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) and section 4(f) evaluation will be prepared for a proposed transportation improvement project on the McCarthy Road, Alaska.

FOR FURTHER INFORMATION CONTACT: Tim A. Haugh, Environment and Right-of-way Programs Manager, Federal Highway Administration, Alaska Division Office, 709 W. 9th Street, Room 851, PO Box 21648, Juneau, Alaska 99802–1648, (907) 586–7430, or Janet Brown, P.E., Project Manager, Alaska Department of Transportation and Public Facilities, Preliminary Design & Environmental, 2301 Peger Road, Fairbanks, Alaska 99709–5399, (907) 451–2283.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the ADOT&PF, will prepare an EIS for proposed improvements on McCarthy Road, from Chitina to the west bank of the Kennecott River, a distance of 60 miles.

The McCarthy Road links the community of McCarthy and the Kennecott Mines National Historic Landmark, to Chitina and the rest of the state road system. The road is the primary route into Wrangell-St. Elias National Park and Preserve (Wrangell-St. Elias NP&P), passing through a patchwork of National Park Service, State of Alaska Department of Natural Resources, Chitina Native Corporation, Athna Regional Corporation, University of Alaska, and private lands.

The majority of the existing road is along the route of the Copper River and Northwestern Railway. In many areas gravel was placed directly over the ties, which is still the driving surface. There are many short, sharp curves, resulting in limited sight distances. In several areas there are steep embankments with no guardrails and unstable side slopes that produce falling rocks and other debris. The roadway varies in width from 15-feet to 20-feet, the surface is very rough gravel, and in many areas there are no roadside ditches for drainage. The road surface commonly floods and is subject to severe icing.

Alternatives under consideration for this project include but are not limited to:

—No build; continued use of the current road, with limited on-going maintenance activities.

—Improving the most serious roadway deficiencies.

—Reconstructing the road to a design speed of 35 mph, considering all or some of the guidelines laid out in the ''McCarthy Scenic Corridor Plan''; a joint document produced by National Park Service (NPS), ADOT&PF, adjacent land owners and resource agencies.

—Reconstructing the road to a design speed of 50 mph, meeting modern highway standards.

—Reconstruction the road as a rural, low-volume facility, addressing safety concerns in this context.

Under each alternative, minor realignments, the location and number of waysides and other enhancement facilities, and the final surfacing of the road (gravel or a hard surface) will be evaluated.

The proposed project aims to alleviate the problems described for the existing road and to provide a safe, reliable transportation link to McCarthy and Wrangell-St. Elias NP&P.

Input from appropriate Federal, State, tribal, local agencies, private organizations and citizens, and other stakeholders will be solicited throughout the development of the EIS. Newsletters, newspaper public notices, and a web site will be used as mechanisms for transmitting information and obtaining comments. A series of agency and public meetings

will be held in McCarthy, Chitina, and Anchorage, Alaska throughout the EIS process. In addition, public hearings will be held in McCarthy, Chitina, and Anchorage, Alaska. Public notice will be given of the time and place of the meetings and hearings. The Draft EIS will be made available for public and agency review and comment prior to the public hearing. A formal agency scoping meeting will be held in Anchorage, Alaska in December 2003. Formal public scoping meetings will be held in McCarthy, Chitina, and Anchorage, Alaska, by late spring 2004.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, written public input, comments, and suggestions on environmental issues or concerns related to the proposed improvements are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the ADOT&PF at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20–205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: October 28, 2003.

Tim A. Haugh,

Environment and Right of Way Programs, Manager, Juneau, Alaska.

[FR Doc. 03–27781 Filed 11–4–03; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8836 and Schedules A and B

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 8836, Qualifying Children Residency Statement, Schedules A and B, Third Party Affidavit.

DATES: Written comments should be received on or before January 5, 2004 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions 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: Qualifying Children Residency Statement (Form 8836), Third Party Affidavit (Schedules A and B).

OMB Number: 1545–1829.

Form Number: 8836, and Schedules A and B (Form 8836).

Abstract: Form 8836 is necessary to establish the residence of a child for purposes of the Earned Income Credit (EIC). The form will determine if the child is a qualifying child of the taxpayer when taking the EIC.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 25,000.

Estimated Time Per Respondent: 1 hours, 31 minutes.

Estimated Total Annual Burden Hours: 38,070.

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 28, 2003.

Carol Savage,

Management and Program Analyst.

[FR Doc. 03–27868 Filed 11–4–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13362

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 13362, Consent to Disclosure of Return Information.

DATES: Written comments should be received on or before January 5, 2004 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, 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 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: Consent to Disclosure of Return Information.

OMB Number: 1545–1856.

Form Number: 13362.

Abstract: The Consent Form is provided to external applicant that will

allow the Service the ability to conduct tax checks to determine if an applicant is suitable for employment once they are determined qualified and within reach to receive an employment offer.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Federal Government.

Estimated Number of Respondents: 46,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 7,664.

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 28, 2003.

Carol Savage,

Management and Program Analyst.

[FR Doc. 03–27869 Filed 11–4–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TREASURY

Internal Revenue Service

Request for Nominations to Advisory Committee on Tax Exempt and Government Entities

AGENCY: Internal Revenue Service (IRS); Tax Exempt and Government Entities Division.

ACTION: Notice.

SUMMARY: The Internal Revenue Service (IRS) is requesting nominations for members to serve on the Advisory Committee on Tax Exempt and Government Entities (ACT). Nominations will be accepted for the following vacancies which will occur in May 2004: two (2) employee plans; two (2) exempt organizations; one (1) federal, state, and local governments; two (2) Indian tribal governments; and one (1) tax exempt bonds. To ensure appropriate balance of membership, final selection from qualified candidates will be determined based on experience, qualifications, and other expertise.

Due Date: Written nominations must be received on or before December 5, 2003.

Application: Nominations should include Name; Other name(s) used and date(s) (required for FBI check); Date of Birth (required for FBI check); City and State of Birth (required for FBI check); Current Address; Telephone and Fax Numbers; and E-mail address, if any. Nominations should also describe and document the proposed member's qualifications for membership on the ACT. Nominations should also specify the vacancy for which they wish to be considered.

ADDRESSES: Send all applications to: Steven Pyrek; Director, TE/GE Communications and Liaison; 1111 Constitution Ave., NW.—SE:T:CL Penn Bldg; Washington, DC 20224; Fax: (202) 283–9956 (not a toll-free number); E-mail: *steve.j.pyrek@irs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Trevino, (202) 283–9950 (not a toll-free number), or by email at *rick.trevino@irs.gov.*

SUPPLEMENTARY INFORMATION:

The Advisory Committee on Tax Exempt and Government Entities (ACT), governed by the Federal Advisory Committee Act, Public Law No. 92–463, is an organized public forum for discussion of relevant employee plans, exempt organizations, tax-exempt bonds, and state, local, and Indian tribal government issues between officials of the IRS and representatives of the above communities. The ACT also enables the IRS to receive regular input with respect to the development and implementation of IRS policy concerning these communities. ACT members present the interested public's observations about current or proposed IRS policies, programs, and procedures, as well as suggest improvements.

ACT members shall be appointed by the Secretary of the Treasury and shall serve for two-year terms. Terms can be extended in one-year increments, not to exceed two years. ACT members will not be paid for their time or services. ACT members will be reimbursed for their travel-related expenses to attend working sessions and public meetings, in accordance with 5 U.S.C. 5703.

The Secretary of the Treasury invites those individuals, organizations, and groups affiliated with employee plans, exempt organizations, tax-exempt bonds, and state, local or Indian tribal governments, to nominate individuals for membership on the ACT. Nominations should describe and document the proposed member's qualifications for membership on the ACT. Nominations should also specify the vacancy for which they wish to be considered. The Secretary seeks a diverse group of members representing a broad spectrum of persons experienced in employee plans, exempt organizations, tax-exempt bonds, and state, local or Indian tribal governments.

Nominees must go through a clearance process before selection by the Secretary of the Treasury. In accordance with Department of the Treasury Directive 21–03, the clearance process includes, among other things, pre-appointment and annual tax checks, and a Federal Bureau of Investigation criminal and subversive name check and security clearance.

Dated: October 29, 2003.

Steven J. Pyrek,

Designated Federal Official, Tax Exempt and Government Entities Division, Internal Revenue Service.

[FR Doc. 03–27867 Filed 11–4–03; 8:45 am]

BILLING CODE 4830–01–P

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, December 2, 2003, from 3 p.m. EST 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, December 2, 2003 from 3 pm EST to 4:30 pm 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 30, 2003.

Sandra McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 03–27870 Filed 11–4–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request—Deposits

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

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 comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before January 5, 2004.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Josephine Battle, Supervision Policy, (202) 906–6870, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Deposits.

OMB Number: 1550–0092.

Form Number: N/A.

Regulation requirement: 12 CFR 557.20, 230.3, 230.4, 230.5, and 230.6.

Description: Part 557 of Title 12 of the Code of Federal Regulations relies on the disclosure requirements applicable to savings associations under the Federal Reserve Board's Regulation DD (12 CFR Part 230). The information required by Regulation DD is needed by OTS in order to supervise savings associations and develop regulatory policy.

Type of Review: Renewal.

Affected Public: Savings Associations.

Estimated Number of Respondents: 941.

Estimated Number of Responses: 87,152.

Estimated Frequency of Response: On occasion.

Estimated Burden Hours per Response: 1 hour 8 minutes.

Estimated Total Burden: 1,423,903.

Clearance Officer: Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Dated: October 30, 2003.

By the Office of Thrift Supervision.

Richard M. Riccobono,

Deputy Director.

[FR Doc. 03–27808 Filed 11–4–03; 8:45 am]

BILLING CODE 6720–01–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request—Charter Conversions

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before December 5, 2003.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235,

New Executive Office Building, Washington, DC 20503, or e-mail to *Joseph_F._Lackey_Jr@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Marilyn K. Burton at *marilyn.burton@ots.treas.gov,* (202) 906–6467, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Application for Conversion From: (a) OTS-Regulated, State-Chartered Savings Association to Federal Savings Association; (b) National Bank, Commercial Bank, State Savings Bank, or Credit Union to Federal Savings Association.

OMB Number: 1550–0007.

Form Number: OTS Form 1582.

Regulation requirement: 12 CFR 543.8, 543.9, and 552.2–6.

Description: Section 5(i) of the Home Owners' Loan Act and 12 CFR 543.8, 543.9, and 552.2–6 authorize OTS to act on requests by state-chartered institutions and credit unions proposing to convert to Federal savings association charters.

Type of Review: Renewal.

Affected Public: Savings Associations.

Estimated Number of Respondents: 17.

Estimated Frequency of Response: Event-generated.

Estimated Burden Hours per Response: 4 hours.

Estimated Total Burden: 68 hours.

Clearance Officer: Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Dated: October 30, 2003.

By the Office of Thrift Supervision.

Richard M. Riccobono,

Deputy Director.

[FR Doc. 03–27809 Filed 11–4–03; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request—Request for Service Corporation Activity

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. OTS is soliciting public comments on the proposal.

DATES: Submit written comments on or before December 5, 2003.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, or e-mail to *Joseph_F._Lackey_Jr@omb.eop.gov;* and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *publicinfo@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the submission to OMB, contact Marilyn K. Burton at *marilyn.burton@ots.treas.gov,* (202) 906–6467, or facsimile number (202) 906–6518, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Title of Proposal: Request for Service Corporation Activity.

OMB Number: 1550–0013.

Form Number: OTS Forms 1562 and 1566.

Regulation requirement: 12 CFR 545.74, 559.12.

Description: 12 CFR 545.74 requires savings associations to obtain approval or notify OTS prior to engaging in activities through a service corporation that are not preapproved by regulation. It also contains a recordkeeping requirement for securities brokerage activities. 12 CFR 559.12 governs the issuance of securities. These requirements allow OTS to review service corporation activities and to ensure that they will not adversely affect an institution's safety and soundness.

Type of Review: Renewal.

Affected Public: Savings Associations.

Estimated Number of Respondents: 108.

Estimated Frequency of Response: Annually.

Estimated Burden Hours per Response: 2.25 hours.

Estimated Total Burden: 233 hours.

Clearance Officer: Marilyn K. Burton, (202) 906–6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Dated: October 30, 2003.

By the Office of Thrift Supervision.

Richard M. Riccobono,

Deputy Director.

[FR Doc. 03–27810 Filed 11–4–03; 8:45 am]

BILLING CODE 6720–01–U

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0017]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 5, 2003.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0017.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0017'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Titles:

a. Court Appointed Fiduciary's Account (Letter Size), VA Form 21–4706.

b. Federal Fiduciary for Amounts, VA Form 21–4706b.

c. Court Appointed Fiduciary's Account, VA Form 21–4706c.

d. Account Book, VA Form 21–4718.

e. Certificate of Balance on Deposit and Authorization to Disclose Financial Records (Pursuant to title 38, U.S.C., Chapter 55 and Title 12, U.S.C., Chapter 35), VA Form 27–4718a.

OMB Control Number: 2900–0017.

Type of Review: Extension of a currently approved collection.

Abstract:

a. VA Forms 21–4706—4706b and 4706c are used by estate to determine proper usage of benefits paid to fiduciaries. The 21—4706 and 21—4706b are both necessary to conform to requirement of various state courts.

b. VA Form 21–4718 is provided to VA fiduciaries to submit accountings to either State courts or the VA. It is not a reporting form per se, but a vehicle to assist the fiduciary in accurately maintaining records of monies received and spent.

c. VA Form 21–4718a—Fiduciaries are required to obtain certifications that the balances remaining on deposit in financial institutions as shown on accountings are correct. The form is completed by a certifying official at a financial institution who must affix the institution's official seal or stamp. Analysts review the information provided on the form when they auditing accounting to determine the veracity of the information supplied by fiduciaries accounting. The analysts compare the financial institution's information on the form against the fiduciary's accounting. The purpose is to prevent fiduciaries from supplying false certification, embezzling funds, and possibly prevent and/or identify fraud, waste and abuse of government funds paid to fiduciaries on behalf of VA beneficiaries.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 14, 2003, at page 48665.

Affected Public: Individuals and households, Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government.

Estimated Annual Burden

a. VA Form 21–4706—500 hours.

b. VA Form 21–4706b—4,500 hours.

c. VA Form 21–4706c—1,500 hours.

d. VA Form 21–4718—12,500 hours.

e. VA Form 21–4718a—1,250 hours.

Estimated Average Burden per Respondent

a. VA Form 21–4706—30 minutes.

b. VA Form 21–4706b—27 minutes.

c. VA Form 21–4706c—30 minutes.

d. VA Form 21–4718—2½ hour.

e. VA Form 21–4718a—3 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents

a. VA Form 21–4706—1,000.

b. VA Form 21–4706b—10,000.

c. VA Form 21–4706c—3,000.

d. VA Form 21–4718—5,000.

e. VA Form 21–4718a—25,000.

Dated: October 24, 2003.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 03–27723 Filed 11–4–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0091]

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 eligibility for health care benefits or enrollment in the VA health care system.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 5, 2004.

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. 2900–0091'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

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, 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) way 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.

Titles:

a. Application for Health Benefits, VA Form 10–10EZ.

b. Health Benefits Renewal Form, VA Form 10–10EZR

OMB Control Number: 2900–0091.

Type of Review: Revision of a currently approved collection.

Abstract:

a. VA Form 10–10EZ is used by veterans to enroll for health care benefits.

b. VA Form 10–10EZR is used by veterans to update their application data.

Affected Public: Individuals or households.

Estimated Annual Burden: 925,000 hours.

a. VA Form 10–10EZ—525,000 hours.

b. VA Form 10–10EZR—400,000.

Estimated Average Burden Per Respondent:

a. VA Form 10–10EZ—45 minutes.

b. VA Form 10–10EZR—20 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 1,900,000

a. VA Form 10–10EZ—700,000.

b. VA Form 10–10EZR—1,200,000.

Dated: October 23, 2003.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 03–27724 Filed 11–4–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0092]

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 information needed to determine veteran claimants' entitlement to vocational rehabilitation services.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 5, 2004.

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. 2900–0092'' 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: Counseling Record—Personal Information, VA Form 28–1902.

OMB Control Number: 2900–0092.

Type of Review: Extension of a currently approved collection.

Abstract: VA counselors (either a counseling psychologist or vocational rehabilitation counselor) use the information provided on VA Form 28–1902 to evaluate veteran claimants and assist eligible veterans to plan a suitable program of vocational rehabilitation. If needed, VA must develop a program of assistance and services to improve the veteran's potential to participate in vocational rehabilitation and provide counseling services to help a veteran or other beneficiary eligible under another educational benefit chapter to select an educational, training, or employment objective.

Affected Public: Individuals or households.

Estimated Annual Burden: 30,000 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 60,000.

Dated: October 23, 2003.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 03–27725 Filed 11–4–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0567]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The National Cemetery Administration (NCA), 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 request additional certificates, replacements or corrections to a President Memorial Certificate (PMC).

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 5, 2004.

ADDRESSES: Submit written comments on the collection of information to Mechelle Powell, National Cemetery Administration (402B), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0567'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Mechelle Powell at (202) 501–1960 or FAX (202) 273–6695.

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, NCA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of NCA's functions, including whether the information will have practical utility; (2) the accuracy of NCA'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: President Memorial Certificate (PMC), VA Form 40–0247.

OMB Control Number: 2900–0567.

Type of Review: Extension of a currently approved collection.

Abstract: The PMC is a gold foiled-embossed certificate containing the Great Seal of the United States and bearing the President's signature. It is mailed to relatives and friends of deceased, honorably discharged veterans honoring their military service to our Nation. In most cases involving recent deaths, the PMC is automatically initiated for those eligible veterans buried in VA national cemeteries. The local VA Regional Office originates the application process without a request from the next of kin as part of processing death benefits claims.

The PMC Insert is not self-initiated by the general public/eligible recipients. There is no form or application that is used to initiate an original request. Original requests are normally in the form of letters and/or telephone calls from eligible recipients. The purpose of the PMC insert is to allow an eligible recipient, which includes the next of kin, other relatives or friends, *i.e.*, surviving spouses, sons, daughters, grandchildren, and others, to request additional certificates and/or replacements or corrected certificates upon receipt of the original PMC. Replacements are requested due to the PMCs being bent, water soaked, or other damaged during mail handling due to an incorrect name of the deceased veteran.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,479.

Estimated Average Burden Per Respondent: 2 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 44,363.

Dated: October 23, 2003.

By direction of the Acting Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 03–27726 Filed 11–4–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0377]

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 information needed to repurchase a default loan.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 5, 2004.

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. 2900–0377'' 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: Claim for Repurchase of Loan (Chapter 37, Title 38 U.S.C., CFR 36.4600), VA Form 26–8084.

OMB Control Number: 2900–0377.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–8084 is used to request repurchase of a loan. Under 38 CFR 36.4600(d), the holder of a delinquent vendee account, which has been guaranteed by VA, may request VA to repurchase a loan when it has been continuously in default for three months and the amount of the delinquency equals or exceeds the sum of two monthly installments.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 240 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 480.

Dated: October 23, 2003.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 03–27727 Filed 11–4–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0406]

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 information needed by lenders to determine whether any benefits related debts exist in the veteran-borrower's name prior to the closing of any VA-guaranteed loans on an automatic basis.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 5, 2004.

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. 2900–0406'' 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: Verification of VA Benefit-Related Indebtedness, VA Form 26–8937.

OMB Control Number: 2900–0406.

Type of Review: Extension of a currently approved collection.

Abstract: Lenders authorized to make VA-guaranteed home or manufactured loans on the automatic basis have been required to determine through VA whether any benefits related debts exist in the veteran-borrower's name prior to the closing of any automatic loan. Lenders may not close any proposed automatic loan until they have evidence from VA that there is no debt, or if a debt exists, or the veteran has agreed on an acceptable repayment plan, or payments under a plan already in effect are current. The form restricts information requested to only that need for the debt check and eliminates unlimited versions of lender-designed forms. It provides information advising the lender whether or not the veteran is exempt from paying the funding fee, which must be collected on all VA home loans unless the veteran is receiving service-connected disability compensation. This benefits the lender by streamlining the procedure to verify the veteran's receipt of compensation. VA Form 26–8937 is designed to assist lenders and VA in the completion of debt checks in a uniform manner.

Affected Public: Individuals or households.

Estimated Annual Burden: 6,250 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 75,000.

Dated: October 23, 2003.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 03–27728 Filed 11–4–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Capital Asset Realignment for Enhanced Services (CARES) Commission; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public law 92–463 (Federal Advisory Committee Act) that the Capital Asset Realignment for Enhanced Services (CARES) Commission will hold a meeting on November 19–21, 2003, at the Hotel Washington, Pennsylvania Avenue at 15th Street, NW., Washington, DC 20004. The session on November 19 will begin at 10 a.m., and the sessions on November 20 and 21 will begin at 8:30 a.m. The sessions on November 19 and 20 will end at 5 p.m. The session on November 21 will end at 3:30 p.m. These sessions are open to the public.

The purpose of the Commission is to conduct an external assessment of VA's capital asset needs and to assure that stakeholder and beneficiary concerns are fully addressed. The Commission is reviewing recommendations in the Draft National CARES Plan. The Commission will also consider recommendations submitted by veterans service organizations, individual veterans, Congress, medical and nursing school affiliates, VA employees, local governments, community groups and others. Following its assessment, the Commission will make specific recommendations to the Secretary of Veterans Affairs on the realignment and allocation of VA capital assets to meet the demand for, and to enhance, veterans' healthcare services over the next 20 years.

At the November 19–21 meeting, the Commission will be briefed on the CARES process and the results of implementing that process in VA's Veterans integrated Service network (VISN) 12. The Commission will review the information received from nationwide site visits, public hearings, and various requests for data as well as information discussed in its regular public meetings. The Commission will engage in deliberations regarding the Draft National CARES Plan and its impact in the various markets.

No time will be allocated at these meetings for receiving oral presentations from the public. However, interested persons may either attend or file statements with the Commission. Written statements may be filed either before the meeting or within 10 days after the meeting and addressed to: Department of Veterans Affairs, CARES Commission (OOCARES), 810 Vermont Avenue, NW., Washington, DC 20420. Any member of the public wishing additional information should contact Mr. Richard E. Larson, Executive Director, CARES Commission, at (202) 501–2000.

Dated: October 29, 2003.

By Direction of the Secretary.

E. Phillip Riggin,

Committee Management Officer.

[FR Doc. 03–27730 Filed 11–14–03; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special Disabilities Programs; 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 Advisory Committee on Prosthetics and Special Disabilities Programs will be held December 9–10, 2003, at VA

Headquarters, 810 Vermont Avenue, NW., Room 830, Washington, DC. Meeting sessions will convene at 8:30 a.m. on both days and will adjourn at 4:30 p.m. on December 9 and at 12 Noon on December 10. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on VA's prosthetics programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also provides advice to the Secretary on special disability programs which are defined as any program administered by the Secretary to serve veterans with spinal cord injury, blindness or vision impairment, loss of or loss of use of extremities, deafness or hearing impairment, or other serious incapacities in terms of daily life functions.

On the morning of December 9, the Committee will be briefed by the Chief Consultants, Rehabilitation Strategic Healthcare Group and Prosthetics and Sensory Aids. In the afternoon, the Committee will be briefed by the directors of VA's special disabilities programs (physical medicine and rehabilitation, audiology and speech pathology) and the national directors of VA's ophthalmology and optometry programs. On the morning of December 10, the Committee will be briefed by the Director of the Veterans Health Administration's Business Office, and will subsequently discuss the annual Capacity Report as well as transition issues and benefits.

No time will be allocated for receiving oral presentations from the public. However, members of the public may direct questions or submit written statements for review by the Committee in advance of the meeting to Ms. Cynthia Wade, Veterans Health Administration, Patient Care Services, Rehabilitation Strategic Healthcare Group (117), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Any member of the public wishing to attend the meeting should contact Ms. Wade at (202) 273–8485.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 03–27729 Filed 11–4–03; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Wednesday,
November 5, 2003

Part II

Social Security Administration

20 CFR Parts 404, 408, and 416

Special Benefits for Certain World War II Veterans; Reporting Requirements, Suspension and Termination Events, Overpayments and Underpayments, Administrative Review Process, Claimant Representation, and Federal Administration of State Recognition Payments; Proposed Rule

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404, 408, and 416

RIN 0960–AF72

Special Benefits for Certain World War II Veterans; Reporting Requirements, Suspension and Termination Events, Overpayments and Underpayments, Administrative Review Process, Claimant Representation, and Federal Administration of State Recognition Payments

AGENCY: Social Security Administration (SSA).

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to add six new subparts to part 408 of our regulations and reserve an additional subpart for future use. Part 408 sets forth our rules applicable to claims for special veterans benefits (SVB) under title VIII of the Social Security Act (the Act). The title VIII program was effective in May 2000 and provides monthly benefits to certain World War II (WWII) veterans who previously were eligible for supplemental security income (SSI) payments under title XVI of the Act and reside outside the United States. In these proposed rules, we are setting forth six new subparts that would deal with the following topics: the events you must report to us after you apply for SVB, the circumstances that will affect your SVB entitlement, how we handle overpayments and underpayments under the SVB program, how the administrative review process works, your right to appoint someone to represent you in your dealings with us, and administration agreements we may enter into with a State under which we will pay supplemental recognition payments to you on the State's behalf.

In addition, we propose to reserve for future use a subpart in part 408 that would explain when we will pay your SVB to someone else on your behalf. We plan to issue those proposed rules at a later date.

DATES: To be sure your comments are considered, we must receive them by January 5, 2004.

ADDRESSES: You may give us your comments by: using our Internet site facility (*i.e.*, Social Security Online) at *http://policy.ssa.gov/pnpublic.nsf/LawRegs;* e-mail to *regulations@ssa.gov;* telefax to (410) 965–2830; or letter to the Commissioner of Social Security, PO Box 17703, Baltimore, MD 21235–7703. You may also deliver them to the Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments are posted on our Internet site for your review, or you may inspect them physically on regular business days by making arrangements with the contact person shown in this preamble.

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office: *http://www.gpoaccess.gov/fr/index.html.* It is also available on the Internet site for SSA (*i.e.*, Social Security Online): *http://policy.ssa.gov/pnpublic.nsf/LawRegs.*

FOR FURTHER INFORMATION CONTACT: Robert J. Augustine, Social Insurance Specialist, Office of Regulations, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–0020 or TTY (410) 966–5609 for information about these proposed rules. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778 or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov/.*

SUPPLEMENTARY INFORMATION:

Statutory Provisions

Section 251 of the Foster Care Independence Act of 1999 (Pub. L. No. 106–169), enacted on December 14, 1999, added a new title VIII to the Act (Special Benefits for Certain World War II Veterans). Title VIII requires SSA to pay special veteran's benefits (SVB) to certain WWII veterans who reside outside the United States. Establishing SVB entitlement is a two-step process: first, you need to show that you meet certain qualifying requirements; once we determine that you qualify for SVB, you will be entitled to SVB payments after you begin residing outside the U.S.

On April 4, 2003, we published final rules that set forth the rules we follow in determining whether you qualify for SVB, how you file for benefits, what evidence you must give us in connection with your claim and how we evaluate that evidence, and how we compute and pay SVB (67 FR 55774). We now propose to add six subparts in part 408 that would provide additional guidelines for the title VIII program with respect to the topics discussed below, and reserve for future use a subpart on representative payment in the title VIII program.

Reporting Responsibilities Under the SVB Program

Section 806 of the Act directs SSA to prescribe requirements related to the reporting of any events and changes in circumstances that may affect the amount of, your qualification for, or your continuing entitlement to receive SVB. Among the events and changes in circumstances that could affect the amount of, your qualification for, or your continuing entitlement to receive SVB and which therefore need to be reported to us are:

- You change your mailing address or the address where you live.
- You plan to return to the United States to live on a permanent basis or you plan to visit the United States for more than one full calendar month. To receive SVB, you must be residing outside the United States. If you return to the U.S. on a permanent basis, we need to stop your SVB payments effective with the first full calendar month you begin residing in the United States. Although SVB is payable if you return to the United States for a temporary visit of less than one calendar month, your benefits may be suspended if you remain in the United States for more than one full calendar month. There are exceptions if you are unable to return to your foreign residence because of circumstances beyond your control or you are in the United States to present evidence or testimony in the appeal of a claim under any of the programs we administer.
- The amount of your other benefit income changes. Since the full SVB is reduced by the amount of any other benefit income you receive, a change in the amount of other benefit income you receive could result in an increase or decrease in the amount of the SVB we pay you.
- You die or your representative payee dies. If you die, your SVB entitlement ends. If your representative payee dies, we need to locate a new payee to receive your SVB payments on your behalf.
- Any of the SVB disqualifying events listed in section 804 of the Act occurs. This includes removal or deportation from the United States; fleeing from the United States to avoid prosecution, or custody or confinement after conviction, under the laws of the United States or the jurisdiction in the United States from which you flee, for a crime or an attempt to commit a crime that is a felony or, in the State of New Jersey, is a high misdemeanor; violating a condition of probation or parole imposed under Federal or State law; or, in the case of an individual who is not

a citizen or national of the United States, taking up residence in a country to which payments are withheld by the Treasury Department (Treasury) under 31 U.S.C. 3329. If a disqualifying event occurs and we have not yet found you qualified for SVB, we will deny your SVB claim. If we found you met all the requirements for SVB when the disqualifying event occurs, we will suspend your SVB payments.

Suspension and Termination of SVB

Section 810(d) of the Act authorizes the Commissioner of SSA to prescribe appropriate regulations for suspending SVB payments and terminating SVB entitlement. Once you are qualified for SVB, we will suspend your SVB payments if:

- You are no longer residing outside the United States;
- You fail to give us information we need in connection with your claim;
- We are unable to locate you;
- The amount of your other benefit income increases so that it exceeds the maximum SVB payable (75 percent of the SSI Federal Benefit Rate (FBR) payable to an individual);
- You are removed (including deported) from the United States pursuant to section 237(a) or 212(a)(6)(A) of the Immigration and Nationality Act;
- You are fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the United States or the jurisdiction in the United States from which you fled, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which you fled, or in the case of the State of New Jersey, is a high misdemeanor;
- You violate a condition of probation or parole imposed under Federal or State law; or
- You are not a citizen or national of the United States and begin residing in a country to which payments to residents of that country are withheld by the Treasury Department under 31 U.S.C. 3329.

We will terminate your SVB entitlement for any one of the following reasons:

- Your benefit payments are suspended for 12 consecutive calendar months;
- You file a written request that we terminate your entitlement; or
- You die.

Overpayments and Underpayments

Section 808 of the Act deals with overpayments and underpayments under the SVB program. With respect to overpayments, section 808 authorizes the Commissioner to recover an SVB overpayment by reducing the amount of any future SVB payments you are due unless you refund the full amount of the overpayment to us. If we are unable to recover the overpayment by direct refund or benefit withholding (for example, because your SVB payments are in suspense), section 808 authorizes us to adjust the amount of any social security benefits you receive under title II of the Act. We will also notify the Secretary of the Treasury to withhold the overpayment from any Federal income tax refund you may be due in the future, as authorized under 31 U.S.C. 3720A. Section 808(c) of the Act further stipulates that there will be no adjustment of benefits or other overpayment recovery if you were without fault in creating the overpayment and adjustment or recovery would defeat the purpose of title VIII or be against equity and good conscience. If you die and have an outstanding SVB overpayment, we will seek refund of the overpayment from your estate.

With respect to underpayments, section 808 specifies that, if you are living at the time we take action on the underpayment, we will pay the amount due directly to you or to your representative payee, if one has been appointed. If you die before we make the payment to you, the amount due reverts to the general fund of the United States Treasury.

Determinations and the Administrative Review Process

Section 809 of the Act gives you the right to request that we review our determinations about your qualification for or entitlement to or the amount of your SVB payments. We also give you the right to request review of certain other determinations we make that you disagree with. We refer to determinations on which you may request administrative review as ''initial determinations.'' Our administrative review process consists of several steps, which usually must be requested within certain time periods and in the following order:

- Reconsideration;
- Hearing before an administrative law judge (ALJ); and
- Appeals Council (AC) review.

These are the same steps we provide for review of initial determinations under the titles II and XVI programs.

Claimant Representation

Titles II and XVI of the Act contain detailed provisions on claimant representation that give individuals the right to select another person (including an attorney) to represent them in their dealings with us and that regulate many aspects of that relationship. Though title VIII contains no specific provisions on claimant representation, we propose to extend to the SVB program by regulation many of the rules we follow on claimant representation in the SSI program. Specifically, we believe the SSI rules on the appointment, authority, conduct, and standards of responsibility of a representative should also apply to the SVB program. We also believe that the SSI rules we follow when a representative violates any of these requirements, rules, or standards should apply to a representative under the SVB program. However, we do not plan to extend to the title VIII program the SSI rules that apply to fees a representative may charge.

Federal Administration of State Recognition Payments

Section 810A of the Act authorizes SSA to enter an agreement with any State (or one of its political subdivisions) that provides cash payments (referred to as State recognition payments) on a regular basis to individuals who are entitled to SVB under which SSA will make the payments on behalf of the State. Under section 810A, any State that enters into an agreement must pay to SSA an amount equal to the recognition payments made on its behalf as well as a separate fee to cover SSA's costs of administering the State program.

Explanation of New Subparts

We are adding six new subparts to part 408 of our regulations and reserving an additional subpart for future use. Following is a list of the proposed subparts that includes a brief description of each proposed section in the subpart. We are also revising § 408.101 to add these new subparts to the overview of part 408.

Subpart F—Reserved for Future Use

We propose to reserve for future use subpart F in part 408 for our rules on representative payment of SVB. We plan to issue those proposed rules at a later date.

Subpart G—Reports Required

This subpart would explain which events you must report to us after you file for SVB, what information your reports must include, and when your reports are due. Specifically:

- Section 408.701 provides an overview of what subpart G is about.
- Section 408.704 explains that you are responsible for making your own reports if you receive your own benefits.

If you have a representative payee, you or your representative must make the required reports, unless you have been legally adjudged incompetent. In that case, your representative payee is responsible for making required reports to us.

• Section 408.708 describes the events you must report to us.

• Section 408.710 describes the information that you must include in your report. This includes the name and social security number of the person about whom you are making the report, the event you are reporting and the date the event occurred, and your name, if you are not the beneficiary.

• Section 408.712 explains that you can make your report in writing, orally, or using other means of reporting (*e.g.*, fax or e-mail).

• Section 408.714 explains that you should report an event as soon as a reportable event (described in § 408.708) occurs or, in cases where we request a report, within 30 days of our written request. If you fail to make a required report within the prescribed period, we may suspend your benefit payments.

Subpart H—Suspension and Termination of SVB

This subpart would explain the events that would cause us to suspend your SVB payments or terminate your SVB entitlement. Specifically:

• Section 408.801 provides an overview of what subpart H is about.

• Section 408.802 explains when suspension of your SVB payments is proper and when we will resume your payments.

• Section 408.803 explains the circumstances under which we will suspend your SVB payments for failing to comply with our request for necessary information.

• Section 408.806 explains the circumstances under which we will suspend your SVB payments because you are no longer residing outside the United States.

• Section 408.808 explains the circumstances under which we will suspend your SVB payments because your other benefit income exceeds the maximum SVB payable.

• Section 408.809 explains the circumstances under which we will suspend your SVB payments because you have been removed (including deported) from the United States under sections 237(a) or 212(a)(6)(A) of the Immigration and Nationality Act.

• Section 408.810 explains the circumstances under which we will suspend your SVB payments if you are fleeing the United States to avoid criminal prosecution or custody or confinement after a U.S. conviction for certain crimes or if you violate a condition of probation or parole under Federal or State law.

• Section 408.812 explains the circumstances under which we will suspend your SVB payments if you begin residing in a country to which payments are withheld by the Treasury Department under 31 U.S.C. 3329. This section only applies to you if you are not a citizen or national of the United States.

• Section 408.814 explains that you (or your representative payee) can request that your SVB entitlement be terminated. It also explains when your entitlement would end based on your request and the circumstances under which you would be required to repay benefits you have already received.

• Section 408.816 explains that SVB entitlement ends with the month of death.

• Section 408.818 explains that your SVB entitlement will terminate if your SVB payments have been in suspense for 12 consecutive months.

• Section 408.820 explains that, whenever we plan to suspend or reduce your SVB payments or terminate your SVB entitlement, we will send you a notice of our intended action. The notice would explain your right to appeal that action and the time frames within which your appeal must be filed. The notice will also explain if you have a right to continue receiving benefits while you appeal the suspension, reduction or termination action, and your right to waive continued payment during your appeal.

Subpart I—Overpayments and Underpayments

This subpart would set forth the rules we would follow when you receive more or less than you should have in SVB payments. These proposed rules are similar in many respects to the rules we currently follow in dealing with overpayments and underpayments under the titles II and XVI programs. Specifically:

• Section 408.900 provides an overview of what is covered in subpart I.

• Section 408.901 defines ''underpayment''—payment of less than the amount due for a given period.

• Section 408.902 defines ''overpayment''—payment of more than the amount due for a given period.

• Section 408.903 explains how we determine the amount that you are underpaid or overpaid. It also explains that there cannot be an underpayment for a period in which we paid more than the correct amount, even though we waived recovery of any overpayment for that period.

• Section 408.904 explains that, if you are underpaid, the amount due will be paid to you in a separate payment or by increasing the amount of your monthly SVB payment. It also explains that, if you die before we pay you any part of an underpayment, the balance of the underpayment reverts to the U.S. Treasury.

• Section 408.905 explains that we will withhold or adjust an underpayment due you for a period to reduce any overpayment to you for a different period.

• Section 408.910 explains the circumstances under which we will waive adjustment or recovery of an overpayment. Specifically, we will waive adjustment or recovery if you were without fault in connection with the overpayment and recovery of the overpayment would defeat the purpose of the SVB program or be against equity and good conscience. These are the same criteria we use to determine whether we can waive recovery of an overpayment under the title II program.

• Section 408.911 explains that, when we waive recovery of an overpayment, this frees you from having to repay the overpaid amount.

• Section 408.912 explains how we determine whether you were without fault in creating an overpayment.

• Section 408.913 explains how we determine whether recovery of an overpayment would defeat the purpose of the SVB program.

• Section 408.914 explains the criteria we use to determine whether recovery of an overpayment would be against equity and good conscience.

• Section 408.918 explains that when you receive more or less than the correct amount of SVB, we will send you a notice about the incorrect payment. If you are overpaid, the notice will tell you about recovery of the overpayment and of your rights to appeal the overpayment determination and to request that we waive recovery of the overpayment.

• Section 408.920 explains that we will seek refund of the overpayment if we do not waive recovery. We will seek refund from your estate if you die before we recover the full amount of the overpayment.

• Section 408.922 explains that, if you are overpaid, have not refunded the overpayment to us, and are receiving SVB payments, we will adjust your future payments to recover the overpayment.

• Section 408.923 explains that, in adjusting your SVB payments to recover an overpayment, the amount that we

will withhold is limited to 10 percent of the maximum SVB monthly payment amount. This section also explains that you have the right to request a higher or lower rate of withholding and explains how we determine an appropriate lower rate of withholding when you request a lower rate. If we find that you engaged in fraud, misrepresentation or concealment of material information in connection with the overpayment, we will not limit the amount we will withhold from SVB each month.

• Section 408.930 explains that, if you received an SVB overpayment that you have not refunded to us and you are not currently receiving SVB payments, but are receiving title II benefits, we will adjust your title II benefits to recover the SVB overpayment. This section also explains the circumstances when we will not adjust your title II benefits.

• Section 408.931 explains that the rate of withholding we will use to recover an SVB overpayment from your title II benefits is limited to 10 percent of title II benefits payable to you in a month except that we will withhold 100 percent of your benefits if you willfully misrepresented or concealed material information in connection with the overpayment. This section also explains that you may request a higher or lower rate of withholding.

• Section 408.932 explains that we will send you a notice if we plan to adjust your title II benefits to recover an SVB overpayment. The notice will tell you (1) the amount of the overpayment that you owe, (2) the amount we plan to withhold from your title II benefits to recover the overpayment, (3) that you can ask us to review our determination that you still owe the amount stated in the notice, (4) that you may request a different rate of withholding, and (5) that you can request a waiver of recovery of the overpayment balance.

• Section 408.933 explains when we will begin adjusting your title II benefits to recover an SVB overpayment. We will not take any action for 30 days after the date of the notice. If you request review, waiver or a different rate of adjustment during that 30-day period, we will take no action before we send you written notice of our decision on the matter.

• Section 408.940 explains that, where an overpaid person does not refund an overpayment to us and is not currently receiving title II or SVB payments from which we can withhold the overpayment, we will refer the overpayment to the Department of the Treasury for withholding from any Federal income tax refund you may be due.

• Section 408.941 explains that we will send you a notice before we refer an overpayment to Treasury for tax refund offset. The notice will (1) tell you the amount of the overpayment, (2) give you 60 days within which to either repay the amount or ask that we waive it, (3) explain the conditions under which we will waive the overpayment, (4) explain that we will review any evidence you wish to present that the overpayment is not past due or legally enforceable, and (5) explain your right to inspect or copy our records related to the overpayment.

• Section 408.942 explains that, before we refer an overpayment to Treasury for tax refund offset, you will have the chance to submit evidence that the debt is not past due or legally enforceable. After reviewing the evidence submitted, we will make findings.

• Section 408.943 explains that we will issue written findings to you, your attorney or other representative concerning whether the overpayment is past due and legally enforceable. These written findings are the final agency action on these issues.

• Section 408.944 explains that, if you tell us you wish to inspect or copy our records related to the overpayment, we will either notify you of the time and place you may do so or mail copies of the records to you.

• Section 408.945 explains that if, within 60 days after the date of the notice, you present evidence that the overpayment is not past-due or legally enforceable or ask us to waive collection of the overpayment, we will not refer the overpayment to Treasury for offset until we issue written findings on the matter.

• Section 408.946 explains that if a tax refund is insufficient to recover an overpayment in a given year, the case will remain with Treasury for recovery from future income tax refunds you may be due.

• Section 408.950 explains that, when appropriate, we may accept a compromise settlement (payment of less than the full amount of the overpayment) to discharge the entire overpayment debt or we may suspend or terminate our efforts to collect the overpayment. We would consider taking one of these actions if we find that you or your estate do not have the ability to pay the full amount of the overpayment presently or in the future within a reasonable period of time or that the cost of collection is likely to exceed the amount of recovery. In deciding whether to take any of these actions, we would apply the rules that we apply concerning such actions for title II overpayments at § 404.515(b)–(f) and other applicable rules, including the Federal Claims Collection Standards (FCCS) at 31 CFR parts 902 and 903, established under the authority of 31 U.S.C. 3711(a)(d). If we suspend or terminate collection, we may take collection action in the future in accordance with Federal law and the FCCS. Failure to make payment in the manner and within the time that we require in a compromise settlement will result in reinstatement of our claim for the full amount of the overpayment less any amounts paid.

Subpart J—Determinations and the Administrative Review Process

This subpart would set forth our rules on administrative review of SVB initial determinations. Again, as with our rules in subpart I on overpayments, these rules follow closely our rules on administrative review of titles II and XVI initial determinations. Regarding the expedited appeals process, administrative law judge hearings, Appeals Council review of ALJ hearings or dismissals, Court remand cases, and time limits for reopening a final determination we previously made, the proposed rules provide cross-references to the appropriate SSI rules while noting any exceptions in those rules that are applicable to the title VIII program. Specifically:

• Section 408.1000 provides an overview of the administrative review process.

• Section 408.1001 defines certain terms used in subpart J.

• Section 408.1002 explains that initial determinations are the determinations we make that are subject to administrative and judicial review.

• Section 408.1003 lists administrative decisions we make that are initial determinations.

• Section 408.1004 lists administrative actions that are not initial determinations. Although we may review these actions, they are not subject to the administrative and judicial review process.

• Section 408.1005 explains that we will mail you a notice whenever we make an initial determination in your case. The notice will tell you what our determination is, our reasons for making the determination, and your right to request a reconsideration of the determination.

• Section 408.1006 explains that an initial determination is binding unless you request a reconsideration within the stated time period or we revise it.

• Section 408.1007 explains that reconsideration is the first step in the administrative review process if you are dissatisfied with the initial determination.

• Section 408.1009 explains that you must file a request for reconsideration within 60 days after you receive our notice of initial determination. This section also explains that you may ask for more time to request a reconsideration if you had good cause for missing the 60-day deadline.

• Section 408.1011 explains the standards we follow in determining whether you had good cause for missing the 60-day deadline to request a review.

• Section 408.1013 explains that, in requesting a review of our initial determination, you can ask for a case review or, in cases involving suspension, reduction, or termination of your SVB payments, an informal or formal conference. If you request a case review, you will be given the opportunity to review the evidence in our files and then present oral and written evidence to us. If you are permitted to request an informal conference, you will also have the opportunity to present witnesses. If you are permitted to request a formal conference, you will also be given the opportunity to request us to subpoena adverse witnesses and relevant documents and to cross-examine adverse witnesses.

• Section 408.1014 explains that, if you request a review of our initial determination on your application to receive SVB, you may elect only a case review.

• Section 408.1015 explains that, if we notify you that we plan to suspend, reduce or terminate your SVB payments, you have the choice of a case review, an informal conference, or a formal conference.

• Section 408.1016 explains the rules we follow if you request a formal or informal conference.

• Section 408.1020 explains how we make a reconsidered determination and that the person who makes it will have no prior involvement with the initial determination.

• Section 408.1021 explains that a reconsidered determination is binding unless you request the next stage of the administrative review process within the stated time.

• Section 408.1022 explains that we will send you a notice of our reconsidered determination that explains the reasons for our determination and your further appeal rights.

• Section 408.1030 provides a cross-reference to the SSI rules in §§ 416.1423–416.1428 that explain when you may use the expedited appeals process (EAP). Under the EAP, you may go directly to a Federal District Court without first completing the administrative review process if the only factor preventing a determination that is favorable to you is a provision of the law you believe is unconstitutional.

• Section 408.1040 provides a cross-reference to the SSI rules in §§ 416.1429–416.1440 that describe hearings before an ALJ and explain when you may request an ALJ hearing. As explained in § 416.1436, we hold ALJ hearings in the 50 States, the District of Columbia and the Northern Mariana Islands.

• Section 408.1045 provides a cross-reference to the SSI rules in §§ 416.1444–416.1461 that describe additional procedures that apply when you request a hearing before an ALJ.

• Section 408.1050 provides a cross-reference to the SSI rules in §§ 416.1467–416.1482 that describe procedures before the Appeals Council and explain when you may request Appeals Council review of an ALJ decision.

• Section 408.1060 provides a cross-reference to the SSI rules in §§ 416.1483–416.1485 that explain what happens if a Federal Court remands your case back to SSA for further review.

• Section 408.1070 provides a cross-reference to the SSI rules in §§ 416.1487–416.1494 that explain the circumstances under which we will reopen and revise a final determination we previously made on your request for review.

Subpart K—Representation of Parties

As explained above, we believe that a number of the SSI provisions on representation of parties should also apply under the SVB program. Section 408.1101, therefore, explains that, for purposes of claimant representation under the SVB program, we would follow the rules in §§ 416.1500–416.1505, 416.1507–416.1515 and 416.1540–416.1599 of our SSI rules.

Subpart L—Federal Administration of State Recognition Payments

This subpart would set forth our rules on Federal administration of a State's recognition payment program. Specifically:

• Section 408.1201 explains what State recognition payments are.

• Section 408.1205 explains that a State may enter into an agreement with SSA under which SSA will administer the State's recognition payment program by determining your eligibility for the payments and by making recognition payments on the State's behalf.

• Section 408.1210 explains that a Federal-State agreement must, at a minimum, specify who is eligible for recognition payments; what fees the State must pay to SSA to administer the program; how long the agreement is valid; and how the agreement can be modified or terminated.

• Section 408.1215 explains how you establish eligibility for State recognition payments. Under this section, your application for SVB under subpart C of this part is also an application for any Federally administered State recognition payments for which you may be eligible. We determine your eligibility for and the amount of your recognition payments using the rules in subparts A through K of part 408 of our regulations.

• Section 408.1220 explains that we pay State recognition payments on a monthly basis and include them with your SVB monthly payment.

• Section 408.1225 explains that if you receive an overpayment of State recognition payments, we will adjust future recognition payments to which you are entitled. Under this section, the rules we follow on recovery (or waiver) of SVB overpayments (*see* §§ 408.910 through 408.941) also apply to State recognition payments.

• Section 408.1226 explains that, if you are underpaid, we will pay the underpayment directly to you.

• Section 408.1230 explains that you can waive your right to State recognition payments by making a written request.

• Section 408.1235 explains that a State must transfer to SSA each month the amounts of its estimated recognition payments and administrative fees on the established transfer date. This section also provides for SSA to account for the funds it receives from the State and permits the State to audit the payments we make under the agreement.

Conforming Changes on Overpayments

As indicated above, § 408.930 of these proposed rules would reflect the authority in section 808(a)(1)(B) of the Act to adjust your title II benefits to recover a title VIII overpayment. To conform to this change, we are also revising our title II rules at § 404.401(c) to explain that we may adjust your title II benefits to recover a title VIII overpayment. We are also revising § 416.570 to indicate that we will not adjust your SSI benefits to recover an SVB overpayment unless you specifically request us to do so.

Clarity of These Regulations

Executive Order 12866, as amended by Executive Order 13258, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your

comments on how to make these proposed rules easier to understand.

For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that is unclear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules 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 rules easier to understand?

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules do not meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were not subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed rules will not have a significant impact on a substantial number of small entities since they affect only individuals claiming benefits under title VIII of the Act. Therefore, a regulatory flexibility analysis, as provided for in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These proposed rules contain reporting requirements as shown in the table below. Where the public reporting burden is accounted for in Information Collection Requests for the various forms that the public uses to submit the information to SSA, a 1-hour placeholder burden is being assigned to the specific reporting requirement(s) contained in these rules.

Section No.	Number of respondents	Frequency of response	Average burden per response (hrs.)	Estimated annual hour burden
§ 408.704–.714	1	1	1	1
§ 408.802(b)	5	1	.25	1.25
§ 408.814	5	1	.25	1.25
§ 408.820(c)	5	1	.25	1.25
§ 408.923(b)	1	1	1	1
§ 408.931(b) and § 408.932(d)	1	1	1	1
§ 408.932(c)	2	1	.25	.50
§ 408.932(e)	2	1	.25	.50
§ 408.941(b) and § 408.942	2	1	.25	.50
§ 408.944(a)	2	1	.50	1
§ 408.1000(a)	1	1	1	1
§§ 408.1007; 408.1009(a)–(b)	1	1	1	1
§ 408.1009(c)	1	1	1	1
§ 408.1210(c)–(d)	1	1	2	2
§ 408.1215	10	1	.25	2.50
§ 408.1230	20	1	.25	5.00

An Information Collection Request has been submitted to OMB for clearance. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Comments should be submitted to the Office of Management and Budget at the following fax number and to the Social Security Administration at the following address or fax number: Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974. Social Security Administration, Attn: SSA Reports Clearance Officer, 1338 Annex Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, Fax Number: 410–965–6400.

Comments can be received for between 30 and 60 days after publication of this notice and will be most useful if received by SSA within 30 days of publication.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002 Social Security— Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income; 96.020, Special Benefits for Certain World War II Veterans)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Death benefits; Blind, Disability benefits; Old-age, Survivors and disability insurance; Reporting and recordkeeping requirements, Social Security.

20 CFR Part 408

Administrative practice and procedure; Aged; Reporting and recordkeeping requirements, Social security; Special veterans benefits; Veterans.

20 CFR Part 416

Administrative practice and procedure; Aged, Blind, Disability benefits; Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: October 24, 2003.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend Chapter III of Title 20 of the Code of Federal Regulations as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart E of part 404 is amended to read as follows:

Authority: Secs. 202, 203, 204(a) and (e), 205(a) and (c), 222(b), 223(e), 224, 225, 702(a)(5), 808 and 1129A of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 422(b), 423(e), 424a, 425, 902(a)(5), 1008 and 1320a–8a).

2. Section 404.401 is amended by revising paragraph (c) to read as follows:

§ 404.401 Deduction, reduction, and nonpayment of monthly benefits or lump-sum death payments.

* * * * *

(c) *Adjustments.* We may adjust your benefits to correct errors in payments under title II of the Act. We may also adjust your benefits if you received more than the correct amount due under titles VIII or XVI of the Act. For the title II rules on adjustment to your benefits, see subpart F of this part. For the rules on adjusting your benefits to recover title VIII overpayments, see § 408.930 of this chapter. For the rules on adjusting your benefits to recover title XVI overpayments, see § 416.572 of this chapter.

* * * * *

PART 408—SPECIAL BENEFITS FOR CERTAIN WORLD WAR II VETERANS

3. The authority citation for subpart A continues to read as follows:

Authority: Secs. 702(a)(5) and 801–813 of the Social Security Act (42 U.S.C. 902(a)(5) and 1001–1013).

4. Section 408.101 is amended by adding new paragraphs (f) through (l) to read as follows:

§ 408.101 What is this subpart about?

* * * * *

(f) Subpart F is reserved for future use.

(g) Subpart G contains the provisions on your requirement to report certain events to us.

(h) Subpart H contains the provisions on suspension and termination of title VIII entitlement.

(i) Subpart I contains the provisions on underpayments and overpayments.

(j) Subpart J contains the provisions on determinations and the administrative review process.

(k) Subpart K contains the provisions on claimant representation.

(l) Subpart L contains the provisions on Federal administration of State recognition payments.

5. Subparts F, G, H, I, J, K, and L are added to part 408 to read as follows:

* * * * *

Subpart F—[Reserved]

Subpart G—Reporting Requirements

Sec.

408.701 What is this subpart about?
408.704 Who must make reports?
408.708 What events must you report to us?
408.710 What must your report include?
408.712 How should you make your report?
408.714 When are reports due?

Subpart H—Suspensions and Terminations

408.801 What is this subpart about?
408.802 When will we suspend your SVB payments?
408.803 What happens to your SVB payments if you fail to comply with our request for information?
408.806 What happens to your SVB payments if you are no longer residing outside the United States?
408.808 What happens to your SVB payments if you begin receiving additional benefit income?
408.809 What happens to your SVB payments if you are removed or deported from the United States?
408.810 What happens to your SVB payments if you are fleeing from the United States to avoid criminal prosecution, or custody or confinement after conviction, for certain crimes, or if you violate a condition of probation or parole?
408.812 What happens to your SVB payments if you are not a citizen or national of the United States and you begin residing in a country to which the Treasury Department restricts payments?
408.814 Can you request termination of your SVB entitlement?
408.816 When does SVB entitlement end due to death?
408.818 When does SVB entitlement end if your benefits have been in suspense for 12 consecutive months?
408.820 Will we send you a notice of intended action affecting your SVB payment status?

Subpart I—Underpayments and Overpayments

General Rules

408.900 What is this subpart about?
408.901 What is an underpayment?
408.902 What is an overpayment?
408.903 How do we determine the amount of an underpayment or overpayment?
408.904 How will you receive an underpayment?
408.905 Will you receive an underpayment if an overpayment already exists on your record?

Waiver of Recovery of SVB Overpayments

408.910 When will we waive recovery of an SVB overpayment?
408.911 What happens when we waive recovery of an SVB overpayment?
408.912 When are you without fault regarding an overpayment?
408.913 When would overpayment recovery defeat the purpose of the title VIII program?
408.914 When would overpayment recovery be against equity and good conscience?

Notices

408.918 What notices will you receive if you are overpaid or underpaid?

Refund of Overpayments

408.920 When will we seek refund of an SVB overpayment?

Adjustment of SVB

408.922 When will we adjust your SVB payments to recover an SVB overpayment?
408.923 Is there a limit on the amount we will withhold from your SVB payments to recover an overpayment?

Adjustment of Title II Benefits

408.930 When will we adjust your title II benefits to recover an SVB overpayment?
408.931 How much will we withhold from your title II benefits to recover an SVB overpayment?
408.932 Will you receive a notice of our intention to adjust your title II benefits to recover an SVB overpayment?
408.933 When will we begin adjusting your title II benefits to recover an SVB overpayment?

Tax Refund Offset

408.940 When will we refer an SVB overpayment to the Department of the Treasury for tax refund offset?
408.941 Will we notify you before we refer an SVB overpayment for tax refund offset?
408.942 Will you have a chance to present evidence showing that the overpayment is not past due or is not legally enforceable?
408.943 What happens after we make our determination on your request for review or your request for waiver?
408.944 How can you review our records related to an SVB overpayment?
408.945 When will we suspend tax refund offset?
408.946 What happens if your tax refund is insufficient to cover the amount of your SVB overpayment?

Compromise Settlements

408.950 Will we accept a compromise settlement of an overpayment debt or suspend or terminate collection of an overpayment?

Subpart J—Determinations and the Administrative Review Process

Introduction, Definitions, and Initial Determinations

408.1000 What is this subpart about?
408.1001 Definitions.
408.1002 What is an initial determination?
408.1003 Which administrative actions are initial determinations?
408.1004 Which administrative actions are not initial determinations?
408.1005 Will we mail you a notice of the initial determination?
408.1006 What is the effect of an initial determination?

Reconsideration

408.1007 What is reconsideration?
408.1009 How do you request reconsideration?
408.1011 How do we determine whether you had good cause for missing the deadline to request review?
408.1013 What are the methods for reconsideration?
408.1014 What procedures apply if you request reconsideration of an initial determination on your application for SVB?
408.1015 What procedures apply if you request a reconsideration of an initial

determination that results in suspension, reduction, or termination of your SVB?
408.1016 What happens if you request a conference?
408.1020 How do we make our reconsidered determination?
408.1021 How does the reconsidered determination affect you?
408.1022 How will we notify you of our reconsidered determination?

Expedited Appeals Process

408.1030 When can you use the expedited appeals process?

Hearing Before an Administrative Law Judge

408.1040 When you can request a hearing before an administrative law judge (ALJ)?

Administrative Law Judge Hearing Procedures

408.1045 What procedures apply if you request an ALJ hearing?

Appeals Council Review

408.1050 When can you request Appeals Council review of an ALJ hearing decision or dismissal of a hearing request?

Court Remand Cases

408.1060 What happens if a Federal court remands your case to the Commissioner?

Reopening and Revising Determinations and Decisions

408.1070 When will we reopen a final determination?

Subpart K—Representation of Parties

408.1101 Can you appoint someone to represent you?

Subpart L—Federal Administration of State Recognition Payments

408.1201 What are State recognition payments?
408.1205 How can a State have SSA administer its State recognition payment program?
408.1210 What are the essential elements of an administration agreement?
408.1215 How do you establish eligibility for Federally administered State recognition payments?
408.1220 How do we pay Federally administered State recognition payments?
408.1225 What happens if you receive an overpayment?
408.1226 What happens if you are underpaid?
408.1230 Can you waive State recognition payments?
408.1235 How does the State transfer funds to SSA to administer its recognition payment program?

* * * * *

Subpart F—[Reserved]

Subpart G—Reporting Requirements

Authority: Secs. 702(a)(5), 802, 803, 804, 806, 807, and 810 of the Social Security Act (42 U.S.C. 902(a)(5), 1002, 1003, 1004, 1006, 1007, and 1010).

§ 408.701 What is this subpart about?

To achieve efficient administration of the Special Veterans Benefit (SVB) program, we require you (or your representative) to report certain events to us. It is important for us to know about these events because they may affect your right to receive SVB or the amount of your benefits. This subpart tells you what events you must report; what your reports must include; how you should make your report; and when reports are due.

§ 408.704 Who must make reports?

(a) If you receive your own benefits, you are responsible for making required reports to us.

(b) If you have a representative payee, and you have not been legally adjudged incompetent, either you or your representative payee must make the required reports.

(c) If you have a representative payee and you have been legally adjudged incompetent, you are not responsible for making reports to us; however, your representative payee is responsible for making required reports to us.

§ 408.708 What events must you report to us?

This section describes the events that you must report to us. They are—

(a) *A change of address or residence.* You must report to us any change in your mailing address and any change in your residence, *i.e.*, the address where you live.

(b) *A change in your other benefit income.* You must report to us any increase or decrease in your other benefit income as described in § 408.220.

(c) *Certain deaths.* (1) If you are a representative payee, you must report the death of the entitled individual.

(2) If you have a representative payee, you must report the death of your representative payee.

(d) *Entry into the United States.* You must report to us if you enter the United States to visit or live even if you have no intention of abandoning your residence outside the United States.

(e) *Removal (including deportation) from the United States.* You must report to us if you are removed (including deported) from the United States under section 237(a) or 212(a)(6)(A) of the Immigration and Nationality Act.

(f) *Fleeing to avoid criminal prosecution or custody or confinement after conviction, or violating probation or parole.* You must report to us that you are—

(1) Fleeing to avoid prosecution, under the laws of the United States or the jurisdiction within the United States from which you flee, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which you flee (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State);

(2) Fleeing to avoid custody or confinement after conviction under the laws of the United States or the jurisdiction within the United States from which you flee, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which you flee (or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

(3) Violating a condition of probation or parole imposed under Federal or State law.

§ 408.710 What must your report include?

When you make a report, you must tell us—

(a) The name and social security number of the person to whom the report applies;

(b) The event you are reporting and the date it happened; and

(c) Your name if you are not the person to whom the report applies.

§ 408.712 How should you make your report?

You should make your report in any of the ways described in this section.

(a) *Written reports.* You may write a report on your own paper or on a printed form supplied by us. You may mail a written report or bring it to one of our offices.

(b) *Oral reports.* You may report to us by telephone, or you may come to one of our offices and tell one of our employees what you are reporting.

(c) *Other methods of reporting.* You may use any other suitable method of reporting for example, a telegram or a cable.

§ 408.714 When are reports due?

(a) *A reportable event happens.* You should report to us as soon as an event listed in § 408.708 happens.

(b) *We request a report.* We may request a report from you if we need information to determine continuing entitlement or the correct amount of your SVB payments. If you do not make the report within 30 days of our written request, we may determine that you may not continue to receive SVB. We will suspend your benefits effective with the month following the month in which we determine that you are not entitled to receive SVB because of your failure to give us necessary information (*see* § 408.803).

Subpart H—Suspensions and Terminations

Authority: Secs. 702(a)(5) and 810(d) of the Social Security Act (42 U.S.C. 902(a)(5) and 1010(d)).

§ 408.801 What is this subpart about?

This subpart explains the circumstances that will result in suspension of your SVB payments or termination of your SVB entitlement.

Suspension

§ 408.802 When will we suspend your SVB payments?

(a) *When suspension is proper.* Suspension of SVB payments is required when you no longer meet the SVB qualification requirements (*see* subpart B of this part) and termination in accordance with §§ 408.814 through 408.818 does not apply. (This subpart does not cover suspension of payments for administrative reasons, as, for example, when mail is returned as undeliverable by the Postal Service and we do not have a valid mailing address for you or when your representative payee dies and a search is underway for a substitute representative payee.)

(b) *Effect of suspension.* When we correctly suspend your SVB payments, we will not resume them until you again meet all qualification requirements except the filing of a new application. If you request reinstatement, you are required to submit the evidence necessary to establish that you again meet all requirements for eligibility under this part. Your SVB payments will be reinstated effective with the first month in which you meet all requirements for eligibility except the filing of a new application.

§ 408.803 What happens to your SVB payments if you fail to comply with our request for information?

(a) *Effective date of suspension.* We will suspend your SVB payments effective with the month following the month in which we determine in accordance with § 408.714(b) that you may no longer receive SVB payments because you failed to comply with our request for necessary information.

(b) *Resumption of payments.* When we have information to establish that SVB is again payable, your benefit payments will be reinstated for any previous month for which you continue to meet the requirements of § 408.202.

(c) *When we will not suspend your payments.* We will not suspend your payments for failing to comply with our request for information for any month we can determine your eligibility for or the amount of your payment based on information on record. If we cannot determine your eligibility or the amount of your payment based on the information on record, we will send you a notice of suspension of payment because you failed to comply with our request for information in accordance with §§ 408.820 and 408.1005.

§ 408.806 What happens to your SVB payments if you are no longer residing outside the United States?

(a) *Suspension effective date.* We will suspend your SVB payments effective the first full calendar month you are no longer residing outside the United States.

(b) *Resumption of payments.* If otherwise payable, we will resume your SVB payments effective with the first full calendar month you are again residing outside the United States.

§ 408.808 What happens to your SVB payments if you begin receiving additional benefit income?

(a) *Suspension effective date.* We will suspend your SVB payments for any month your other benefit income (as described in § 408.220(a)) exceeds the maximum SVB amount payable for a month (*see* § 408.505(a)).

(b) *Resumption of payments.* If otherwise payable, we will resume your SVB payments effective with the first month your other benefit income is less than the maximum SVB amount payable for a month.

§ 408.809 What happens to your SVB payments if you are removed (including deported) from the United States?

(a) *Suspension effective date.* We will suspend your SVB payments effective with the month after the month in which we receive notice from the Immigration and Naturalization Service that you have been removed (including deported) from the United States under section 237(a) or 212(a)(6)(A) of the Immigration and Nationality Act.

(b) *Resumption of payments.* If otherwise payable, we will resume your SVB effective with the first month after the month of your removal that you were granted the status of a lawful permanent resident of the United States.

§ 408.810 What happens to your SVB payments if you are fleeing to avoid criminal prosecution or custody or confinement after conviction, or because you violate a condition of probation or parole?

(a) *Basis for suspension.* You may not receive SVB for any month during which you are—

(1) Fleeing to avoid prosecution under the laws of the United States or the jurisdiction within the United States from which you flee for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which you flee (or that, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

(2) Fleeing to avoid custody or confinement after conviction under the laws of the United States or the jurisdiction within the United States from which you flee, for a crime, or an attempt to commit a crime, that is a felony under the laws of the place from which you flee (or that, in the case of the State of New Jersey, is a high misdemeanor under the laws of that State); or

(3) Violating a condition of probation or parole imposed under Federal or State law.

(b) *Suspension effective date.* Suspension of SVB payments because you are a fugitive as described in paragraph (a)(1) or (a)(2) of this section or a probation or parole violator as described in paragraph (a)(3) of this section is effective with the first day of whichever of the following months is earlier—

(1) The month in which a warrant or order for your arrest or apprehension, an order requiring your appearance before a court or other appropriate tribunal (*e.g.,* a parole board), or similar order is issued by a court or other duly authorized tribunal in the United States on the basis of an appropriate finding that you—

(i) Are fleeing, or have fled, to avoid prosecution as described in paragraph (a)(1) of this section;

(ii) Are fleeing, or have fled, to avoid custody or confinement after conviction as described in paragraph (a)(2) of this section;

(iii) Are violating, or have violated, a condition of your probation or parole as described in paragraph (a)(3) of this section; or

(2) The first month during which you fled to avoid such prosecution, fled to avoid such custody or confinement after conviction, or violated a condition of your probation or parole, if indicated in such warrant or order, or in a decision by a court or other appropriate tribunal in the United States.

(c) *Resumption of payments.* If otherwise payable, we will resume your SVB payments beginning with the first month throughout which you are determined to be no longer fleeing to avoid prosecution, fleeing to avoid custody or confinement after conviction, or violating a condition of your probation or parole.

§ 408.812 What happens to your SVB payments if you are not a citizen or national of the United States and you begin residing in a Treasury-restricted country?

(a) *Suspension effective date.* If you are not a citizen or national of the United States, we will suspend your SVB payments effective with the first full calendar month you are residing in a country to which the Treasury Department restricts payments under 31 U.S.C. 3329.

(b) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the first day of the first month in which you are not residing in a Treasury-restricted country.

Termination

§ 408.814 Can you request termination of your SVB entitlement?

You, your legal guardian, or your representative payee may voluntarily terminate your SVB entitlement by filing a written request for termination. If your representative payee requests termination, it must be shown that no hardship would result to you if the request is processed. When a termination request is filed, your SVB entitlement ends effective with the month following the month you file your request with us unless you specify some other month. However, we will not terminate your entitlement for any month for which payment has been or will be made unless you repay (or there is an assurance you will repay) any amounts paid for those months. When we process a voluntary request for termination of your SVB entitlement, we will send you a notice of our determination in accordance with § 408.1005. Once terminated, your entitlement can be reestablished only if you file a new application, except as provided by § 408.1009.

§ 408.816 When does SVB entitlement end due to death?

Your SVB entitlement ends with the month in which you die. Payments are terminated effective with the month after the month of death.

§ 408.818 When does SVB entitlement terminate if your benefit payments have been in suspense for 12 consecutive months?

We will terminate your SVB entitlement following 12 consecutive months of benefit suspension for any reason beginning with the first month you were no longer entitled to SVB. We will count the 12-month suspension period from the start of the first month that you are no longer entitled to SVB (*see* § 408.802(a)). This termination is effective with the first day of the 13th month after the suspension began.

§ 408.820 Will we send you a notice of intended action affecting your SVB payment status?

(a) *Advance written notice requirement.* Before we suspend, reduce (*see* subpart E of this part), or terminate your SVB payments, we will send you a written notice explaining our intention to do so, except where we have factual information confirming your death, *e.g.,* as specified in § 404.704(b) of this chapter, or a report by a surviving spouse, a legal guardian, a parent or other close relative, or a landlord.

(b) *Continuation of payment pending an appeal.* The written notice of our intent to suspend, reduce, or terminate payments will give you 60 days after the date you receive the notice to request the appropriate appellate review. If your benefit payments are reduced or suspended and you file an appeal within 10 days after you receive the notice, payments will be continued or reinstated at the previously established payment level (subject to the effects of intervening events on the payment which are not appealed within 10 days of receipt of a required advance notice or which do not require advance notice, *e.g.,* an increase in the benefit amount) until a decision on your initial appeal is issued, unless you specifically waive in writing your right to continuation of payment at the previously established level in accordance with paragraph (c) of this section. Where the request for the appropriate appellate review is filed more than 10 days after the notice is received but within the 60-day period specified in § 408.1009 of this part, you have no right to continuation or reinstatement of payment at the previously established level unless you establish good cause under the criteria specified in § 408.1011 of this part for failure to appeal within 10 days after receipt of the notice. For purposes of this paragraph, we will presume you received our notice of intent to suspend, reduce, or terminate payments 5 days after the date on the face of the notice, unless there is a reasonable showing to the contrary.

(c) *Waiver of right to continued payment.* In order to avoid the possibility of an overpayment of benefits, you may waive continuation of payment at the previously established level (subject to intervening events which would have increased the benefit for the month in which the incorrect payment was made, in which case the higher amount shall be paid), after you receive a full explanation of your rights. Your request for waiver of continuation of payment must be in writing, state that waiver action is being initiated solely at your request, and state that you understand your right to receive continued payment at the previously established level.

Subpart I—Underpayments and Overpayments

Authority: Secs. 702(a)(5) and 808 of the Social Security Act (42 U.S.C. 902(a)(5) and 1008).

General Rules

§ 408.900 What is this subpart about?

This subpart explains what happens when you receive less or more than the correct amount of SVB than you are entitled to receive. Sections 408.901 through 408.903 define overpayment and underpayment and describe how we determine the amount of the overpayment or underpayment. When you receive less than the correct amount of SVB (which we refer to as an underpayment), we will take the actions described in §§ 408.904 and 408.905. Waiver of recovery of overpayments (payments of more than the correct amount) is discussed in §§ 408.910 through 408.914, and the methods we use to recover overpayments are discussed in §§ 408.920 through 408.946. In § 408.950, we explain when we will accept a compromise settlement of an overpayment or suspend or terminate collection of an overpayment.

§ 408.901 What is an underpayment?

(a) An underpayment can occur only with respect to a period for which you filed an application for benefits and met all conditions of eligibility for benefits.

(b) An underpayment is:

(1) Nonpayment, where payment was due but was not made; or

(2) Payment of less than the amount due for a period. For purposes of this section, payment has been made when certified by the Social Security Administration to the Department of the Treasury. Payment is not considered to have been made where payment has not been received by the designated payee, or where payment was returned.

(c) For purposes of this section, payment has been made when certified by the Social Security Administration to the Department of the Treasury. Payment is not considered to have been made where payment has not been received by the designated payee, or where payment was returned.

§ 408.902 What is an overpayment?

As used in this subpart, the term overpayment means payment of more

than the amount due for any period. For purposes of this section, payment has been made when certified by the Social Security Administration to the Department of the Treasury. Payment is not considered to have been made where payment has not been received by the designated payee, or where payment was returned.

§ 408.903 How do we determine the amount of an underpayment or overpayment?

(a) *General.* The amount of an underpayment or overpayment is the difference between the amount you are paid and the amount you are due for a given period. An underpayment or overpayment period begins with the first month for which there is a difference between the amount paid and the amount actually due for that month. The period ends with the month in which we make the initial determination of the overpayment or underpayment. With respect to the period established, there can be no underpayment to you if we paid you more than the correct amount of SVB, even though we waived recovery of any overpayment to you for that period under the provisions of §§ 408.910 through 408.914. A later initial determination of an overpayment will require no change with respect to a prior determination of overpayment or to the period relating to such prior determination to the extent that the basis of the prior overpayment remains the same.

(b) *Limited delay in payment of an underpayment.* Where we have detected a potential overpayment but we have not made a determination of the overpayment (see § 408.918(a)), we will not delay making a determination of underpayment and paying you unless we can make an overpayment determination before the close of the month following the month in which we discovered the potential underpayment.

(c) *Delay in payment of underpayment to ineligible individual.* If you are no longer entitled to SVB, we will delay a determination and payment of an underpayment that is otherwise due you so that we can resolve all overpayments, incorrect payments, and adjustments.

§ 408.904 How will you receive an underpayment?

We will pay you the amount of any underpayment due you in a separate payment or by increasing the amount of your monthly payment. If you die before we pay you all or any part of an underpayment, the balance of the underpayment reverts to the general fund of the U.S. Treasury.

§ 408.905 Will we withhold or adjust an underpayment to reduce an overpayment if that overpayment occurred in a different period?

We will withhold or adjust any underpayment due you to reduce any overpayment to you that we determine for a different period, unless we have waived recovery of the overpayment under the provisions of §§ 408.910 through 408.914.

Waiver of Recovery of SVB Overpayments

§ 408.910 When will we waive recovery of an SVB overpayment?

We will waive recovery of an overpayment when:

(a) You are without fault in connection with the overpayment, and

(b) Recovery of such overpayment would either:

(1) Defeat the purpose of the title VIII program, or

(2) Be against equity and good conscience.

§ 408.911 What happens when we waive recovery of an SVB overpayment?

Waiver of recovery of an overpayment from you (or, after your death, from your estate) frees you and your estate from the obligation to repay the amount of the overpayment covered by the waiver. Example: You filed for waiver of recovery of a $600 overpayment. We found that you are eligible for waiver of recovery of $260 of that amount. Only $340 of the overpayment would be recoverable from you or your estate.

§ 408.912 When are you without fault regarding an overpayment?

(a) *General-when fault is relevant.* If you request waiver of recovery of an overpayment, we must determine whether you were without fault. You are not relieved of liability and are not without fault solely because we may have been at fault in making the overpayment.

(b) *The factors we consider to determine whether you were without fault.* When we determine whether you were without fault, we consider all the pertinent circumstances relating to the overpayment. We consider your understanding of your obligation to give us information affecting your payments, your agreement to report events, your knowledge of the occurrence of events that should have been reported, the efforts you made to comply with the reporting requirements, the opportunities you had to comply with the reporting requirements, your ability to comply with the reporting requirements (*e.g.*, your age, comprehension, memory, physical and mental condition), and your understanding of the obligation to return payments that were not due. In determining whether you are without fault based on these factors, we will take into account any physical, mental, educational, or language limitations (including any lack of facility with the English language) you may have. We will determine that you were at fault if, after considering all of the circumstances, we find that the overpayment resulted from one of the following:

(1) Your failure to furnish information which you knew or should have known was material;

(2) An incorrect statement you made which you knew or should have known was incorrect (this includes furnishing your opinion or conclusion when you were asked for facts), or

(3) You did not return a payment, which you knew, or could have been expected to know, was incorrect.

§ 408.913 When would overpayment recovery defeat the purpose of the title VIII program?

We will waive recovery of an overpayment when you are without fault (as defined in § 408.912) and recovery of the overpayment would defeat the purpose of the title VIII program. Recovery of an overpayment would defeat the purpose of the title VIII program to the extent that our recovery action would deprive you of income and resources you need to meet your ordinary and necessary living expenses as described in § 404.508(a) of this chapter.

§ 408.914 When would overpayment recovery be against equity and good conscience?

We will waive recovery of an overpayment when you are without fault (as defined in § 408.912) and recovery would be against equity and good conscience. Recovery would be against equity and good conscience if you changed your position for the worse or gave up a valuable right in reliance on our notice that payment would be made or because of the incorrect payment itself.

Example: Upon our notice that you are eligible for SVB payments, you signed a lease on an apartment renting for $15 a month more than the one you previously occupied. You were subsequently found ineligible for SVB and no benefits are payable. In this case, recovery of the overpayment would be considered ''against equity and good conscience.''

Notices

§ 408.918 What notices will you receive if you are overpaid or underpaid?

(a) *Notice of overpayment or underpayment determination.* Whenever we determine that you were overpaid or underpaid for a given period, as defined in § 408.903, we will send you a written notice of the correct and incorrect amounts you received for each month in the period, even if part or all of the underpayment must be withheld in accordance with § 408.905. The notice of overpayment will advise you about recovery of the overpayment, as explained in §§ 408.920–408.923, and your rights to appeal the determination and to request waiver of recovery of the overpayment under the provisions of § 408.910.

(b) *Notice of waiver determination.* Written notice of an initial determination regarding waiver of recovery will be mailed to you in accordance with § 408.1005 unless you were not given notice of the overpayment in accordance with paragraph (a) of this section.

Refund of Overpayments

§ 408.920 When will we seek refund of an SVB overpayment?

We will seek refund of an SVB overpayment in every case in which we have not waived recovery. An overpayment may be refunded by you or by anyone on your behalf. If you are receiving SVB currently and you have not refunded the overpayment, adjustment as set forth in § 408.922 will be proposed. If you die before we recover the full overpayment, we will seek refund of the balance from your estate.

Adjustment of SVB

§ 408.922 When will we adjust your SVB payments to recover an overpayment?

If you do not refund your overpayment to us, and waiver of recovery is not applicable, we will adjust any SVB payments due you to recover the overpayment. Adjustment will generally be accomplished by withholding each month the amount set forth in § 408.923 from the benefit payable to you.

§ 408.923 Is there a limit on the amount we will withhold from your SVB payments to recover an overpayment?

(a) *Amount of the withholding limit.* Except as provided in paragraphs (b) and (c) of this section, the amount we will withhold from your monthly SVB payment to recover an overpayment is limited to the lesser of (1) the amount of your Federal SVB payment or

(2) an amount equal to 10 percent of the maximum SVB monthly payment amount as defined in § 408.505(a).

(b) *Your right to request a different rate of withholding.* When we notify you of the rate we propose to withhold from your monthly SVB payment, we will give you the opportunity to request a higher or lower rate of withholding than that proposed. If you request a rate of withholding that is lower than the one established under paragraph (a) of this section, we will set a rate that is appropriate to your financial condition after we evaluate all the pertinent facts. An appropriate rate is one that will not deprive you of income required for ordinary and necessary living expenses. We will evaluate your income, resources, and expenses as described in § 404.508 of this chapter.

(c) *Fraud, misrepresentation or concealment of material information.* If we determine that there was fraud, willful misrepresentation, or concealment of material information by you in connection with the overpayment, the limits in paragraph (a)(2) of this section do not apply and we will not lower the rate of withholding under paragraph (b) of this section. Concealment of material information means an intentional, knowing, and purposeful delay in making or in failing to make a report that will affect your SVB payment amount and/or eligibility. It does not include a mere omission on your part; it is an affirmative act to conceal.

Adjustment of Title II Benefits

§ 408.930 When will we adjust your title II benefits to recover an SVB overpayment?

(a) *General rule.* Except as provided in paragraph (c) of this section, we will adjust your title II benefits payable in a month to recover the SVB overpayment if you are not currently eligible to receive SVB payments and you are receiving title II benefits.

(b) *Benefits payable in a month.* For purposes of this section, benefits payable in a month means the actual amount of title II benefits you receive in that month. It includes your monthly benefit and any past due benefits after any reductions or deductions listed in § 404.401(a) and (b) of this chapter.

(c) *When we will not adjust your title II benefits.* We will not adjust your title II benefits to recover an SVB overpayment if:

(1) You are refunding your SVB overpayment by regular monthly installments, or

(2) We are recovering a title II overpayment by adjusting your title II benefits.

(3) We are recovering a title XVI overpayment by adjusting your title II benefits under § 416.572 of this chapter.

§ 408.931 How much will we withhold from your title II benefits to recover an SVB overpayment?

(a) *Amount of withholding.* Except as provided in paragraphs (b) and (c) of this section, any recovery of an SVB overpayment from title II benefits in any month is limited to 10 percent of the title II benefit payable to you in that month.

(b) *Your right to request a different rate of withholding.* When we notify you of the proposed rate of withholding, we will give you the opportunity to request a higher or lower rate of withholding than that proposed. If you request a lower rate of withholding, we will set a rate in accordance with the rules in § 408.923(b).

(c) *When we will withhold the full amount of your title II benefits.* We will withhold the full amount of title II benefits payable to you in a month if you willfully misrepresented or concealed material information in connection with the overpayment as described in § 408.923(c).

§ 408.932 Will you receive a notice of our intention to adjust your title II benefits to recover an SVB overpayment?

Before we collect an SVB overpayment by adjusting your title II benefits, we will send you a written notice that tells you the following information:

(a) We have determined that you owe a specific overpayment balance that can be collected by adjusting your title II benefits;

(b) We will withhold the amount described in § 408.931;

(c) You may ask us to review this determination that you still owe this overpayment balance;

(d) You may request that we withhold a different amount (this notice will not include this paragraph when § 408.931(c) applies); and

(e) You may ask us to waive collection of this overpayment balance.

§ 408.933 When will we begin adjusting your title II benefits to recover an SVB overpayment?

We will begin adjusting your title II benefits no sooner than 30 calendar days after the date of the notice described in § 408.932.

(a) If within that 30-day period you pay us the full overpayment balance stated in the notice, we will not begin adjusting your title II benefits.

(b) If within that 30-day period you ask us to review our determination that you still owe us this overpayment

balance, we will not begin adjusting your title II benefits before we review the matter and notify you of our decision in writing.

(c) If within that 30-day period you ask us to withhold a different amount than the amount stated in the notice, we will not begin adjusting your title II benefits until we determine the amount we will withhold. This paragraph does not apply when § 408.931(c) applies.

(d) If within that 30-day period you ask us to waive recovery of the overpayment balance, we will not begin adjusting your title II benefits before we review the matter and notify you of our decision in writing. *See* §§ 408.910–408.914.

Tax Refund Offset

§ 408.940 When will we refer an SVB overpayment to the Department of the Treasury for tax refund offset?

(a) *General.* The standards we will apply and the procedures we will follow before requesting the Department of the Treasury to offset income tax refunds due taxpayers who have an outstanding overpayment are set forth in §§ 408.940 through 408.946 of this subpart. These standards and procedures are authorized by 31 U.S.C. 3720A, as implemented through Department of the Treasury regulations at 31 CFR 285.2.

(b) We will use the Department of the Treasury tax refund offset procedure to collect overpayments that are certain in amount, past due and legally enforceable and eligible for tax refund offset under regulations issued by the Secretary of the Treasury. We will use these procedures to collect overpayments from you only when you are not currently entitled to monthly SVB under title VIII of the Act. We will refer an overpayment to the Secretary of the Treasury for offset against tax refunds no later than 10 years after our right to collect the overpayment first accrued.

§ 408.941 Will we notify you before we refer an SVB overpayment for tax refund offset?

We will make a request for collection by reduction of Federal income tax refunds only after we determine that you owe an overpayment that is past due and provide you with 60-calendar days written notice. Our notice of intent to collect an overpayment through Federal income tax refund offset will state:

(a) The amount of the overpayment;

(b) That unless, within 60 calendar days from the date of our notice, you repay the overpayment, send evidence to us at the address given in our notice that the overpayment is not past due or not legally enforceable, or ask us to waive collection of the overpayment under § 408.910, we intend to seek collection of the overpayment by requesting that the Department of the Treasury reduce any amounts payable to you as refunds of Federal income taxes by an amount equal to the amount of the overpayment;

(c) The conditions under which we will waive recovery of an overpayment under section 808(c) of the Act;

(d) That we will review any evidence presented that the overpayment is not past due or not legally enforceable;

(e) That you have the right to inspect and copy our records related to the overpayment as determined by us and you will be informed as to where and when the inspection and copying can be done after we receive notice from you requesting inspection and copying.

§ 408.942 Will you have a chance to present evidence showing that the overpayment is not past due or is not legally enforceable?

(a) *Notification.* If you receive a notice as described in § 408.941 of this subpart, you have the right to present evidence that all or part of the overpayment is not past due or not legally enforceable. To exercise this right, you must notify us and present evidence regarding the overpayment within 60 calendar days from the date of our notice.

(b) *Submission of evidence.* You may submit evidence showing that all or part of the debt is not past due or not legally enforceable as provided in paragraph (a) of this section. Failure to submit the notification and evidence within 60 calendar days will result in referral of the overpayment to the Department of the Treasury, unless, within this 60-day time period, you ask us to waive collection of the overpayment under § 408.910 and we have not yet determined whether we can grant the waiver request. If you ask us to waive collection of the overpayment, we may ask you to submit evidence to support your request.

(c) *Review of the evidence.* If you submit evidence on a timely basis, we will consider all available evidence related to the overpayment. We will make findings based on a review of the written record, unless we determine that the question of indebtedness cannot be resolved by a review of the documentary evidence.

(d) *Written findings.* We will issue our written findings including supporting rationale to you, your attorney or other representative. The findings will be the final Agency action with respect to the past-due status and enforceability of the overpayment.

§ 408.943 What happens after we make our determination on your request for review or your request for waiver?

(a) If we make a determination that all or part of the overpayment is past due and legally enforceable and/or your waiver request cannot be granted, we will refer the overpayment to the Department of the Treasury for recovery from any Federal income tax refund due you. We will not suspend our referral of the overpayment to the Department of the Treasury under § 408.945 of this subpart pending any further administrative review of the waiver determination that you may seek.

(b) We will not refer the overpayment to the Department of the Treasury if we reverse our prior finding that the overpayment is past due and legally enforceable or, upon consideration of a waiver request, we determine that waiver of recovery of the overpayment is appropriate.

§ 408.944 How can you review our records related to an SVB overpayment?

(a) *What you must do.* If you intend to inspect or copy our records related to the overpayment, you must notify us stating your intention to inspect or copy.

(b) *What we will do.* If you notify us that you intend to inspect or copy our records related to the overpayment as described in paragraph (a) of this section, we will notify you of the location and time when you may do so. We may also, at our discretion, mail copies of the overpayment-related records to you.

§ 408.945 When will we suspend tax refund offset?

If, within 60 days of the date of the notice described in § 408.941 of this subpart, you notify us that you are exercising a right described in § 408.942(a) of this subpart and submit evidence pursuant to § 408.942(b) of this subpart or request a waiver under § 408.910 of this subpart, we will suspend any notice to the Department of the Treasury until we have issued written findings that affirm that an overpayment is past due and legally enforceable and, if applicable, make a determination that a waiver request cannot be granted.

§ 408.946 What happens if your tax refund is insufficient to cover the amount of your SVB overpayment?

If your tax refund is insufficient to recover an overpayment in a given year, the case will remain with the Department of the Treasury for succeeding years, assuming that all criteria for certification are met at that time.

Compromise Settlements

§ 408.950 Will we accept a compromise settlement of an overpayment debt or suspend or terminate collection of an overpayment?

(a) *General.* If we find that you do not, or your estate does not, have the present or future ability to pay the full amount of the overpayment within a reasonable time or the cost of collection is likely to exceed the amount of recovery, we may take any of the following actions, as appropriate.

(1) We may accept a compromise settlement (payment of less than the full amount of the overpayment) to discharge the entire overpayment debt.

(2) We may suspend our efforts to collect the overpayment.

(3) We may terminate our efforts to collect the overpayment.

(b) *Rules we apply.* In deciding whether to take any of the actions described in paragraph (a) of this section, we will apply the rules in § 404.515(b), (c), (d), (e), and (f) of this chapter and other applicable rules, including the Federal Claims Collection Standards (31 CFR parts 902 and 903).

(c) *Effect of compromise, suspension or termination.* When we suspend or terminate collection of the overpayment debt, we may take collection action in the future in accordance with provisions of the Social Security Act, other laws, and the standards set forth in 31 CFR chapter IX. A compromise settlement satisfies the obligation to repay the overpayment if you or your estate comply with the terms of the settlement. Failure to make payment in the manner and within the time that we require in the settlement will result in reinstatement of our claim for the full amount of the overpayment less any amounts paid.

Subpart J—Determinations and the Administrative Review Process

Authority: Secs. 702(a)(5) and 809 of the Social Security Act (42 U.S.C. 902(a)(5) and 1009).

Introduction, Definitions, and Initial Determinations

§ 408.1000 What is this subpart about?

(a) *Explanation of the administrative review process.* This subpart explains the procedures we follow in determining your appeal rights under title VIII of the Social Security Act. The regulations describe the process of administrative review and explain your right to judicial review after you have taken all the necessary administrative steps. The administrative review process consists of several steps, which usually must be requested within certain time periods and in the following order:

(1) *Initial determination.* This is a determination we make about whether you qualify for and can become entitled to SVB or whether your SVB entitlement can continue. It can also be about any other matter, as discussed in § 408.1003, that gives you a right to further review.

(2) *Reconsideration.* If you are dissatisfied with an initial determination, you may ask us to reconsider it.

(3) *Hearing before an administrative law judge.* If you are dissatisfied with the reconsideration determination, you may request a hearing before an administrative law judge.

(4) *Appeals Council review.* If you are dissatisfied with the decision of the administrative law judge, you may request that the Appeals Council review the decision.

(5) *Federal court review.* When you have completed the steps of the administrative review process listed in paragraphs (a)(1) through (a)(4) of this section, we will have made our final decision. If you are dissatisfied with our final decision, you may request judicial review by filing an action in a Federal district court.

(6) *Expedited appeals process.* At some time after your initial determination has been reviewed, if you have no dispute with our findings of fact and our application and interpretation of the controlling laws, but you believe that a part of the law is unconstitutional, you may use the expedited appeals process. This process permits you to go directly to a Federal district court so that the constitutional issue may be resolved.

(b) *Nature of the administrative review process.* In making a determination or decision in your case, we conduct the administrative review process in an informal, nonadversary manner. In each step of the review process, you may present any information you feel is helpful to your case. Subject to the limitations on Appeals Council consideration of additional evidence, we will consider at each step of the review process any information you present as well as all the information in our records. You may present the information yourself or have someone represent you, including an attorney. If you are dissatisfied with our decision in the review process, but do not take the next step within the stated time period, you will lose your right to further administrative review and your right to judicial review, unless you can show us that there was good cause for your failure to make a timely request for review.

§ 408.1001 Definitions.

As used in this subpart:

Date you receive notice means 5 days after the date on the notice, unless you show us that you did not receive it within the 5-day period.

Decision means the decision made by an administrative law judge or the Appeals Council.

Determination means the initial determination or the reconsidered determination.

Mass change means a State-initiated change in the level(s) of federally administered State recognition payments applicable to all recipients of such payments due, for example, to State legislative or executive action.

Remand means to return a case for further review.

SVB, for purposes of this subpart, includes qualification for SVB, entitlement to SVB and payments of SVB.

Vacate means to set aside a previous action.

Waive means to give up a right knowingly and voluntarily.

We, us, or our refers to the Social Security Administration.

You or your refers to any person claiming or receiving SVB.

§ 408.1002 What is an initial determination?

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions.

§ 408.1003 Which administrative actions are initial determinations?

Initial determinations regarding SVB include, but are not limited to, determinations about—

(a) Whether you qualify for SVB;

(b) Whether you are entitled to receive SVB payments on the basis of your residence outside the United States;

(c) The amount of your SVB payments;

(d) Suspension or reduction of your SVB payments;

(e) Termination of your SVB entitlement;

(f) Whether an overpayment of benefits must be repaid to us;

(e) Whether payments will be made, on your behalf, to a representative payee, unless you are legally incompetent;

(f) Who will act as your payee if we determine that representative payment will be made;

(g) A claim for benefits under § 408.351 based on alleged misinformation; and

(h) Our calculation of the amount of change in your federally administered State recognition payment amount (*i.e.*, a reduction, suspension, or termination) which results from a mass change as defined in § 408.1001.

§ 408.1004 Which administrative actions are not initial determinations?

Administrative actions that are not initial determinations may be reviewed by us, but they are not subject to the administrative review process provided by this subpart and they are not subject to judicial review. These actions include, but are not limited to, an action about—

(a) Denial of a request to be made your representative payee;

(b) Denial of your request to use the expedited appeals process;

(c) Denial of your request to reopen a determination or a decision;

(d) Disqualifying or suspending a person from acting as your representative in a proceeding before us;

(e) Denial of your request to extend the time period for requesting review of a determination or a decision;

(f) Denial of your request to readjudicate your claim and apply an Acquiescence Ruling;

(g) Declining under § 408.351(f) to make a determination on a claim for benefits based on alleged misinformation because one or more of the conditions specified in § 408.351(f) are not met;

(h) Findings on whether we can collect an overpayment by using the Federal income tax refund offset procedure. (*See* § 408.943).

(i) The determination to reduce, suspend, or terminate your federally administered State recognition payments due to a State-initiated mass change, as defined in § 408.1001, in the levels of such payments, except as provided in § 408.1003(h).

§ 408.1005 Will we mail you a notice of the initial determination?

(a) We will mail a written notice of the initial determination to you at your last known address. Generally, we will not send a notice if your benefits are stopped because of your death, or if the initial determination is a redetermination that your eligibility for benefits and the amount of your benefits have not changed.

(b) The notice that we send will tell you—

(1) What our initial determination is;

(2) The reasons for our determination; and

(3) What rights you have to a reconsideration of the determination.

(c) If our initial determination is that we must suspend, reduce your SVB payments or terminate your SVB entitlement, the notice will also tell you that you have a right to a reconsideration before the determination takes effect (*see* § 408.820).

§ 408.1006 What is the effect of an initial determination?

An initial determination is binding unless you request a reconsideration within the stated time period, or we revise the initial determination.

Reconsideration

§ 408.1007 What is reconsideration?

Reconsideration is the first step in the administrative review process that we provide if you are dissatisfied with the initial determination. If you are dissatisfied with our reconsideration determination, you may request a hearing before an administrative law judge.

§ 408.1009 How do you request reconsideration?

(a) *When you must file your request.* We will reconsider an initial determination if you file a written request within 60 days after the date you receive notice of the initial determination (or within the extended time period if we extend the time as provided in paragraph (c) of this section).

(b) *Where to file your request.* You can file your request for reconsideration at:

(1) Any of our offices;

(2) The Veterans Affairs Regional Office in the Philippines;

(3) An office of the Railroad Retirement Board if you have 10 or more years of service in the railroad industry; or

(4) A competent authority or agency of a country with which the United States has a totalization agreement (*see* § 404.1927 of this chapter).

(c) *When we will extend the time period to request a reconsideration.* If you want a reconsideration of the initial determination but do not request one within 60 days after the date you receive notice of the initial determination, you may ask us for more time to request a reconsideration. You must make your request in writing and explain why it was not filed within the stated time period. If you show us that you had good cause for missing the deadline, we will extend the time period. To determine whether good cause exists, we use the standards explained in § 408.1011.

§ 408.1011 How do we determine whether you had good cause for missing the deadline to request review?

(a) In determining whether you have shown that you have good cause for missing a deadline to request review we consider—

(1) What circumstances kept you from making the request on time;

(2) Whether our action misled you;

(3) Whether you did not understand the requirements of the Act resulting from amendments to the Act, other legislation, or court decisions; and

(4) Whether you had any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which prevented you from filing a timely request or from understanding or knowing about the need to file a timely request for review.

(b) Examples of circumstances where good cause may exist include, but are not limited to, the following situations:

(1) You were seriously ill and were prevented from contacting us in person, in writing, or through a friend, relative, or other person.

(2) There was a death or serious illness in your immediate family.

(3) Important records were destroyed or damaged by fire or other accidental cause.

(4) You were trying very hard to find necessary information to support your claim but did not find the information within the stated time periods.

(5) You asked us for additional information explaining our action within the time limit, and within 60 days of receiving the explanation you requested reconsideration or a hearing, or within 30 days of receiving the explanation you requested Appeals Council review or filed a civil suit.

(6) We gave you incorrect or incomplete information about when and how to request administrative review or to file a civil suit.

(7) You did not receive notice of the initial determination or decision.

(8) You sent the request to another Government agency in good faith within the time limit and the request did not reach us until after the time period had expired.

(9) Unusual or unavoidable circumstances exist, including the circumstances described in paragraph (a)(4) of this section, which show that you could not have known of the need to file timely, or which prevented you from filing timely.

§ 408.1013 What are the methods for reconsideration?

If you request reconsideration, we will give you a chance to present your

case. How you can present your case depends upon the issue involved and whether you are asking us to reconsider an initial determination on an application or an initial determination on an SVB suspension, reduction or termination action. The methods of reconsideration include the following:

(a) *Case review.* We will give you an opportunity to review the evidence in our files and then to present oral and written evidence to us. We will then make a decision based on all of this evidence. The official who reviews the case will make the reconsidered determination.

(b) *Informal conference.* In addition to following the procedures of a case review, an informal conference allows you an opportunity to present witnesses. A summary record of this proceeding will become part of the case record. The official who conducts the informal conference will make the reconsidered determination.

(c) *Formal conference.* In addition to following the procedures of an informal conference, a formal conference allows you an opportunity to request us to subpoena adverse witnesses and relevant documents and to cross-examine adverse witnesses. A summary record of this proceeding will become a part of the case record. The official who conducts the formal conference will make the reconsidered determination.

§ 408.1014 What procedures apply if you request reconsideration of an initial determination on your application for SVB?

When you appeal an initial determination on your application for benefits, we will offer you a case review, and will make our determination on the basis of that review.

§ 408.1015 What procedures apply if you request reconsideration of an initial determination that results in suspension, reduction, or termination of your SVB?

If you have been entitled to SVB and we notify you that we are going to suspend, reduce or terminate your benefit payments, you can appeal our determination within 60 days of the date you receive our notice. The 60-day period may be extended if you have good cause for an extension of time under the conditions stated in § 408.1011(b). If you appeal, you have the choice of a case review, informal conference or formal conference.

§ 408.1016 What happens if you request a conference?

(a) As soon as we receive a request for a formal or informal conference, we will set the time, date and place for the conference. Formal and informal conferences are held only in the United States.

(b) We will send you a written notice about the conference (either by mailing it to your last known address or by personally serving you with it) at least 10 days before the conference. However, we may hold the conference sooner if we all agree. We will not send written notice of the time, date, and place of the conference if you waive your right to receive it.

(c) We will schedule the conference within 15 days after you request it, but, at our discretion or at your request, we will delay the conference if we think the delay will ensure that the conference is conducted efficiently and properly.

(d) We will hold the conference at one of our offices in the United States, by telephone or in person, whichever you prefer. However, if you are outside the United States, we will hold the conference by telephone only if you request that we do so and time and language differences permit. We will hold the conference in person elsewhere in the United States if you show circumstances that make this arrangement reasonably necessary.

§ 408.1020 How do we make our reconsidered determination?

After you request a reconsideration, we will review the evidence considered in making the initial determination and any other evidence we receive. We will make our determination based on this evidence. The person who makes the reconsidered determination will have had no prior involvement with the initial determination.

§ 408.1021 How does the reconsidered determination affect you?

The reconsidered determination is binding unless—

(a) You request a hearing before an administrative law judge within the stated time period and a decision is made;

(b) The expedited appeals process is used; or

(c) The reconsidered determination is revised.

§ 408.1022 How will we notify you of our reconsidered determination?

We will mail a written notice of the reconsidered determination to you at your last known address. We will state the specific reasons for the determination and tell you about your right to a hearing. If it is appropriate, we will also tell you how to use the expedited appeals process.

Expedited Appeals Process

§ 408.1030 When can you use the expedited appeals process?

(a) *General rules.* Under the expedited appeals process (EAP), you may go directly to a Federal District Court without first completing the administrative review process. For purposes of this part, we use the same EAP rules we use in the title XVI program (*see* §§ 416.1423–416.1428 of this chapter) except as noted in paragraph (b) of this section.

(b) *Exceptions.* In § 416.1425, the words ''one of our offices'' in paragraph (b) are deemed to read ''any of the offices listed in § 408.1009(b)'' and the reference in the last sentence of paragraph (c) to ''§ 416.1411'' is deemed to read ''§ 408.1011.''

Hearing Before an Administrative Law Judge

§ 408.1040 When can you request a hearing before an administrative law judge (ALJ)?

(a) *General rules.* For purposes of this part, we use the same rules on hearings before an administrative law judge (ALJ) that we use in the title XVI program (*see* §§ 416.1429–1416.1440 of this chapter), except as noted in paragraph (b) of this section.

(b) *Exceptions.* In § 416.1433, the words ''one of our offices'' in paragraph (b) are deemed to read ''any of the offices listed in § 408.1009(b)'' and the reference in the last sentence of § 416.1433(c) to ''§ 416.1411'' is deemed to read ''§ 408.1011.''

Administrative Law Judge Hearing Procedures

§ 408.1045 What procedures apply if you request an ALJ hearing?

(a) *General rules.* For purposes of this part, we use the same rules on ALJ hearing procedures that we use in the title XVI program (*see* §§ 416.1444–416.1461 of this chapter), except as noted in paragraph (b) of this section.

(b) *Exceptions.* (1) In § 416.1446(b)(1), the last sentence does not apply under this part.

(2) In § 416.1452(a)(1)(i), the words ''supplemental security income'' are deemed to read ''SVB.''

(3) In § 416.1457, the provisions of paragraph (c)(4) do not apply under this part.

Appeals Council Review

§ 408.1050 When can you request Appeals Council review of an ALJ hearing decision or dismissal of a hearing request?

(a) General rules. For purposes of this part, we use the same rules on Appeals Council review that we use in the title

XVI program (*see* §§ 416.1467–416.1482 of this chapter), except as noted in paragraph (b) of this section.

(b) *Exceptions.* (1) In § 416.1468(b), the words ''one of our offices'' in the third sentence are deemed to read ''any of the offices listed in § 408.1009(b).''

(2) In § 416.1469(d), the last sentence does not apply under this part.

(3) In § 416.1471, paragraph (b) does not apply under this part.

(4) In § 416.1482, the reference to ''§ 416.1411'' in the last sentence is deemed to read ''§ 408.1011.''

Court Remand Cases

§ 408.1060 What happens if a Federal Court remands your case to the Commissioner?

For purposes of this part, we use the same rules on court remand cases that we use in the title XVI program (*see* §§ 416.1483–416.1485 of this chapter).

Reopening and Revising Determinations and Decisions

§ 408.1070 When will we reopen a final determination?

(a) *General rules.* For purposes of this part, we use the same rules on reopening and revising determinations and decisions that we use in the title XVI program (*see* §§ 416.1487–416.1494 of this chapter), except as noted in paragraph (b) of this section.

(b) *Exceptions.* (1) In § 416.1488, an additional paragraph (d) is deemed to read as follows:

''(d) At any time if it was wholly or partially unfavorable to you, but only to correct—

(1) a clerical error; or

(2) an error that appears on the face of the evidence that we considered when we made the determination or decision.''

(2) In § 416.1492(b), the parenthetical clause is deemed to read ''(*see* § 408.820),'' and paragraph (d) does not apply to this part.

(3) In § 416.1494, the words ''one of our offices'' in the first sentence are deemed to read ''any of the offices listed in § 408.1009(b).''

Subpart K—Representation of Parties

Authority: Secs. 702(a)(5) and 810(a) of the Social Security Act (42 U.S.C. 902(a)(5) and 1010(a)).

§ 408.1101 Can you appoint someone to represent you?

(a) *General rules.* You may appoint someone to represent you in any of your dealings with us. For purposes of this part, the rules on representation of parties in §§ 416.1500–416.1505, 416.1507–416.1515 and 416.1540–416.1599 of this chapter apply except as noted in paragraph (b) of this section.

(b) *Exceptions.* For purposes of this part:

(1) In § 416.1500, paragraph (c) does not apply.

(2) The last sentence of § 416.1503 is deemed to read: ''You refers to any person claiming or receiving SVB.''

(3) In § 416.1507(c), the words ''one of our offices'' are deemed to read ''any of the offices listed in § 408.1009(b).''

(4) In § 416.1510(b), the reference to ''title XVI of the Act'' is deemed to read ''title VIII of the Act,'' and the reference to ''§ 416.315'' is deemed to read ''§ 408.315.''

(5) In § 416.1540, the parenthetical clause in paragraph (b), the second sentences in paragraphs (b)(1) and (b)(2), and paragraph (c)(2) do not apply, and the references to ''§ 416.1411(b)'' in paragraphs (c)(4) and (c)(7)(i) are deemed to read ''§ 408.1011(b).''

(6) In § 416.1545, paragraph (c) does not apply.

(7) In § 416.1599, paragraph (d) is deemed to read: ''The Appeals Council will not grant the request unless it is reasonably satisfied that the person will in the future act according to the provisions of our regulations.''

Subpart L—Federal Administration of State Recognition Payments

Authority: Secs. 702(a)(5) and 810A of the Social Security Act (42 U.S.C. 902(a)(5) and 1010a).

§ 408.1201 What are state recognition payments?

(j) *State recognition payments; defined.* State recognition payments are any payments made by a State or one of its political subdivisions to an individual who is entitled to SVB, if the payments are made:

(1) As a supplement to monthly SVB payments; and

(2) Regularly, on a periodic recurring, or routine basis of at least once a quarter; and

(3) In cash, which may be actual currency, or any negotiable instrument convertible into cash upon demand.

(b) *State; defined.* For purposes of this subpart, State means a State of the United States or the District of Columbia.

§ 408.1205 How can a State have SSA administer its State recognition payment program?

A State (or political subdivision) may enter into a written agreement with SSA, under which SSA will make recognition payments on behalf of the State (or political subdivision). The regulations in effect for the SVB program also apply in the Federal administration of State recognition payments except as necessary for the effective and efficient administration of both the SVB program and the State's recognition payment program.

§ 408.1210 What are the essential elements of an administration agreement?

(a) *Payments.* The agreement must provide that recognition payments can only be made to individuals who are receiving SVB payments.

(b) *Administrative costs.*—(1) *General rule.* SSA will assess each State that elects Federal administration of its recognition payments an administration fee for administering those payments.

(2) *Determining the administration fee.* The administration fee is assessed and paid monthly and is derived by multiplying the number of State recognition payments we make on behalf of a State for any month in a fiscal year by the applicable dollar rate for the fiscal year. The number of recognition payments we make in a month is the total number of checks we issue, and direct deposits we make, to recipients in that month, that are composed in whole or in part of State recognition funds. The dollar amounts are as follows:

(i) For fiscal year 2001, $8.10;

(ii) For fiscal year 2002, $8.50; and

(iii) For fiscal year 2003 and each succeeding fiscal year

(A) The applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

(B) A different rate if the Commissioner determines the different rate is appropriate for the State considering the complexity of administering the State's recognition payment program.

(c) *Agreement period.* The agreement period for a State that has elected Federal administration of its recognition payments extends for one year from the date the agreement was signed unless otherwise designated in the agreement. The agreement will be automatically renewed for a period of one year unless either the State or SSA gives written notice not to renew, at least 90 days before the beginning of the new period. For a State to elect Federal administration of its recognition payment program, it must notify SSA of its intent to enter into an agreement, furnishing the necessary payment

specifications, at least 120 days before the first day of the month for which it wishes Federal administration to begin, and have executed such agreement at least 30 days before such day.

(d) *Modification or termination.* The agreement may be modified at any time by mutual consent. The State or SSA may terminate the agreement upon 90 days written notice to the other party, provided the effective date of the termination is the last day of a quarter. However, the State may terminate the agreement upon 45 days written notice to SSA if: (1) The State does not wish to comply with a regulation promulgated by SSA after the execution of the agreement; and (2) the State provides its written notice within 30 days of the effective date of the regulation. The Commissioner is not precluded from terminating the agreement in less than 90 days if the State has failed to materially comply with the provisions of § 408.1235 on State transfer of funds to SSA.

§ 408.1215 How do you establish eligibility for Federally administered State recognition payments?

(a) *Applications.* When you file an application for SVB under subpart C of this part, you are deemed to have filed an application for any Federally administered State recognition payments for which you may be eligible unless you waive your right to such payments as provided for in § 408.1230. However, you will be required to give us a supplemental statement if additional information is necessary to establish your eligibility or to determine the correct amount of your State recognition payment.

(b) *Evidence requirements.* The evidence requirements and developmental procedures of this part also apply with respect to Federally administered State recognition payments.

(c) *Determination.* Where not inconsistent with the provisions of this subpart, we determine your eligibility for and the amount of your State recognition payment using the rules in subparts A through K of this part.

§ 408.1220 How do we pay Federally administered recognition payments?

(a) *Payment procedures.* We make Federally administered State recognition payments on a monthly basis and we include them in the same check as your SVB payment. The State recognition payment is for the same month as your SVB payment.

(b) *Maximum amount.* Except as specified in paragraph (c) of this section, there is no restriction on the amount of a State recognition payment that SSA will administer on behalf of a State.

(c) *Minimum amount.* SSA will not administer State recognition payments in amounts less than $1 per month. Hence, recognition payment amounts of less than $1 will be raised to a dollar.

§ 408.1225 What happens if you receive an overpayment?

If we determine that you received an overpayment, we will adjust future federally administered State recognition payments you are entitled to. Our rules and requirements (see §§ 408.910 through 408.941) that apply to recovery (or waiver) of SVB overpayments also apply to the recovery (or waiver) of Federally administered State recognition overpayments. If your entitlement to State recognition payments ends before you have repaid the overpayment, we will annotate your record (specifying the amount of the overpayment) to permit us to recoup the overpaid amount if you become reentitled to recognition payments from the same State.

§ 408.1226 What happens if you are underpaid?

If we determine that you are due an underpayment of State recognition payments, we will pay the amount you were underpaid directly to you, or to your representative.

§ 408.1230 Can you waive State recognition payments?

(a) *Waiver request in writing.* You may waive your right to receive State recognition payments if you make a written request. If you make your request before you become entitled to SVB, you will not be entitled to State recognition payments. If you make your request after you become entitled to SVB, your request will be effective with the month we receive your request, or with an earlier month if you refund to us the amount of any recognition payment(s) we made to you for the earlier period.

(b) *Cancelling your waiver.* You may cancel your waiver of State recognition payments at any time by making a written request with us. The cancellation will be effective the month in which it is filed. The date your request is received in a Social Security office or the postmarked date, if the written request was mailed, will be the filing date, whichever is earlier.

§ 408.1235 How does the State transfer funds to SSA to administer its recognition payment program?

(a) *Payment transfer and adjustment.* (1) Any State that has entered into an agreement with SSA which provides for Federal administration of such State's recognition payments will transfer to SSA:

(i) An amount of funds equal to SSA's estimate of State recognition payments for any month which will be made by SSA on behalf of such State; and

(ii) An amount of funds equal to SSA's estimate of administration fees for any such month determined in the manner described in § 408.1210(b).

(3) In order for SSA to make State recognition payments on behalf of a State for any month as provided by the agreement, the estimated amount of State funds referred to in paragraph (a)(1)(i) of this section together with the estimated amount of administration fees referred to in paragraph (a)(1)(ii) of this section, for that month, must be on deposit with SSA on the State recognition payment transfer date, which is:

(i) The business day preceding the date that the Commissioner pays such monthly recognition payments; or

(ii) With respect to such monthly payments paid for the month that is the last month of the State's fiscal year, the fifth business day following such date.

(b) *Accounting of State funds.* (1) As soon as feasible after the end of each calendar month, SSA will provide the State with a statement showing, cumulatively, the total amounts paid by SSA on behalf of the State during the current Federal fiscal year; the fees charged by SSA to administer such recognition payments; the State's total liability; and the end-of-month balance of the State's cash on deposit with SSA.

(2) SSA will provide the State with an accounting of State funds received as State recognition payments and administration fees within three calendar months following the termination of an agreement under § 408.1210(d).

(3) Adjustments will be made because of State funds due and payable or amounts of State funds recovered for calendar months for which the agreement was in effect. Interest will be incurred by SSA and the States with respect to the adjustment and accounting of State recognition payments funds in accordance with applicable laws and regulations of the United States Department of the Treasury.

(c) *State audit.* Any State entering into an agreement with SSA which provides for Federal administration of the State's recognition payments has the right to an audit (at State expense) of the payments made by SSA on behalf of such State. The Commissioner and the State shall mutually agree upon a satisfactory audit

arrangement to verify that recognition payments paid by SSA on behalf of the State were made in accordance with the terms of the administration agreement under § 408.1205. Audit findings will be resolved in accordance with the provisions of the State's agreement with SSA.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED

6. The authority citation for subpart E of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1147, 1601, 1602, 1611(c) and (e), and 1631(a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1320b–17, 1381, 1381a, 1382(c) and (e), and 1383(a)–(d) and (g)); 31 U.S.C. 3720A.

7. Section 416.570 is amended by revising the third sentence to read as follows:

§ 416.570 Adjustment-general rule.

* * * Absent a specific request from the person from whom recovery is sought, no overpayment made under title II, title VIII, or title XVIII of the Act will be recovered by adjusting SSI benefits. * * *

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Part III

Environmental Protection Agency

40 CFR Part 93

Transportation Conformity Rule Amendments for the New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 93

[FRL–7579–8]

RIN 2060–AL73

Transportation Conformity Rule Amendments for the New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Today we (EPA) are proposing to amend the transportation conformity rule to include criteria and procedures for the new 8-hour ozone and fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS or ''standards''). Transportation conformity is required under Clean Air Act section 176(c) to ensure that federally supported highway and transit project activities are consistent with (''conform to'') the purpose of a State air quality implementation plan (SIP). We are conducting this rulemaking to revise the conformity regulation in the context of EPA's broader strategies for implementing the new ozone and $PM_{2.5}$ standards.

The proposal provides guidance for when conformity will first apply in areas that are designated nonattainment for the 8-hour ozone and $PM_{2.5}$ standards. This portion of the proposal discusses the implementation of the statutory one-year conformity grace period and proposed revocation of the 1-hour ozone standard, although EPA is not seeking comment through today's proposal on the revocation options themselves. Today's proposal also describes when transportation conformity applies in areas that have approved 8-hour ozone Early Action Compacts (EACs).

The proposal also describes the general requirements for conducting conformity determinations for the new standards, such as the conformity test(s) that would apply before and after adequate or approved SIP motor vehicle emissions budgets are established. In addition, this rulemaking proposes to amend the conformity regulations to specifically include $PM_{2.5}$ as a criteria pollutant subject to transportation conformity and outlines the specific conformity requirements that would apply in newly designated $PM_{2.5}$ nonattainment areas. In particular, the proposal includes options for when conformity would apply for various $PM_{2.5}$ precursors and fugitive dust, as well as options for $PM_{2.5}$ hot-spot requirements for project-level conformity determinations. EPA seeks comments and suggestions for future guidance on adjusting fugitive dust emissions for $PM_{2.5}$ conformity analyses.

In addition to issues related to the new ozone and $PM_{2.5}$ standards, EPA is proposing a few miscellaneous rule revisions to clarify the existing regulation and improve implementation.

The Department of Transportation (DOT) is EPA's Federal partner in implementing the transportation conformity regulation. We have consulted with DOT on the development of this rulemaking and DOT concurs with this proposal. EPA has also met with transportation and environmental organizations to discuss this rulemaking and the proposal reflects the comments that we received through these stakeholder discussions.

DATES: Written comments on this proposal must be received on or before December 22, 2003. EPA will conduct one public hearing on this proposal beginning at 9:30 a.m. on Thursday, December 4, 2003, in Washington, DC. As described in Section XVI. of this proposal, the hearing will continue throughout the day until all testimony has been presented or 5 p.m., whichever is earlier.

ADDRESSES: Comments may be submitted by mail to: Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OAR–2003–0049. Comments may also be submitted electronically, by facsimile, or through hand delivery/courier. Follow the detailed instructions for submission as provided in section I.C. of the **SUPPLEMENTARY INFORMATION** section.

The public hearing will be held in Washington, DC, at the Washington Marriott Hotel at 1221 22nd St., NW., Washington, DC 20037, (202) 872–1500.

FOR FURTHER INFORMATION CONTACT: Meg Patulski, State Measures and Conformity Group, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Road, Ann Arbor, MI 48105, *patulski.meg@epa.gov,* (734) 214–4842; or, Rudy Kapichak, State Measures and Conformity Group, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Road, Ann Arbor, MI 48105, *kapichak.rudolph@epa.gov,* (734) 214–4574.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

I. General Information
- A. Regulated Entities
- B. How Can I Get Copies of This Document?
- C. How and to Whom Do I Submit Comments?
- D. How Should I Submit CBI to the Agency?
- E. What Should I Consider as I Prepare My Comments for EPA?

II. Background on the Transportation Conformity Rule
- A. What Is Transportation Conformity?
- B. Why Is EPA Conducting This Rulemaking?
- C. Does This Proposal Include the Entire Transportation Conformity Regulation?

III. Conformity Grace Period and Revocation of the 1-Hour Ozone Standard
- A. When Will Conformity Apply for the 8-Hour Ozone and $PM_{2.5}$ Standards?
- B. When Does Conformity Stop Applying for the 1-Hour Ozone Standard?
- C. When and for What Ozone Standard Does Conformity Apply in Areas With an Early Action Compact for the 8-Hour Ozone Standard?

IV. General Changes in Interim Emissions Tests
- A. Background
- B. Baseline Year Test for 8-Hour Ozone and $PM_{2.5}$ Areas
- C. Build/No-Build Test for Existing and New Nonattainment Areas
- D. Test Options for Ozone and CO Nonattainment Areas of Higher Classifications

V. Regional Conformity Tests in 8-Hour Ozone Areas That Do Not Have 1-Hour Ozone SIPs
- A. What Are We Proposing?
- B. Why Are We Proposing These Options?

VI. Regional Conformity Tests in 8-Hour Ozone Areas That Have 1-Hour Ozone SIPs
- A. What Are We Proposing?
- B. Why Are We Proposing These Options?

VII. Regional Conformity Tests in $PM_{2.5}$ Areas
- A. What Are We Proposing?
- B. Why Are We Proposing These Options?

VIII. Consideration of Direct $PM_{2.5}$ and $PM_{2.5}$ Precursors in Regional Emissions Analyses
- A. What Are We Proposing?
- B. Why Are We Proposing These Options?

IX. Re-Entrained Road Dust in $PM_{2.5}$ Regional Emissions Analyses
- A. Background
- B. What Are We Proposing?
- C. Why Are We Proposing These Options?
- D. Request for Comment on Estimating Road Dust Emissions

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G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use
I. National Technology Transfer and Advancement Act

I. General Information

A. Regulated Entities

Entities potentially regulated by the conformity rule are those that adopt, approve, or fund transportation plans, programs, or projects under title 23 U.S.C. or title 49 U.S.C. Regulated categories and entities affected by today's action include:

Category	Examples of regulated entities
Local government	Local transportation and air quality agencies, including metropolitan planning organizations (MPOs).
State government	State transportation and air quality agencies.
Federal government	Department of Transportation (Federal Highway Administration (FHWA) and Federal Transit Administration (FTA)).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this proposed rule. This table lists the types of entities of which EPA is aware that potentially could be regulated by the conformity rule. Other types of entities not listed in the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability requirements in § 93.102 of the transportation conformity rule. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Copies of This Document?

1. Docket. EPA has established an official public docket for this action under Docket ID No. OAR–2003–0049. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

2. Electronic Access. You may access this **Federal Register** document electronically through EPA's Transportation Conformity Web site at *http://www.epa.gov/otaq/transp/traqconf.htm*. You may also access this document electronically under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*.

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

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information for which disclosure is restricted by statute is not included in the official public docket and will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in section I.B.1. above. EPA intends to work towards providing electronic access in the future to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information for which disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the

copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EPA Dockets online or *see* 67 FR 38102, May 31, 2002.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' Although EPA is not required to consider these late comments, we may do so as appropriate, considering time and volume constraints.

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. You should also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. However, if EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to further consider your comment.

i. EPA Dockets. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID No. OAR–2003–0049. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. E-mail. Comments may be sent by electronic mail (e-mail) to *a-and-r-docket@epa.gov*, Attention Air Docket ID No. OAR–2003–0049. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and are thus made available in EPA's electronic public docket.

iii. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in section I.C.2. These electronic submissions will be accepted only in either WordPerfect or ASCII file format. Please avoid the use of special characters and any form of encryption, as this may adversely affect our ability to read these submissions.

2. By Mail. Send two copies of your comments to: Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OAR–2003–0049.

3. By Hand Delivery or Courier. Deliver two copies of your comments to: EPA Docket Center, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Air Docket ID No. OAR–2003–0049. Such deliveries can only be accepted during the Docket's normal hours of operation as identified in Section I.B.1.

4. By Facsimile. Fax your comments to: (202) 566–1741, Attention Docket ID No. OAR–2003–0049.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Send or deliver information identified as ''CBI only'' to the following address: Attention: Meg Patulski, State Measures and Conformity Group, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 2000 Traverwood Road, Ann Arbor, MI 48105, Docket ID No. OAR–2003–0049. 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 publicly disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly indicating that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide 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 docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Background on the Transportation Conformity Rule

A. What Is Transportation Conformity?

Transportation conformity is required under Clean Air Act section 176(c) (42 U.S.C. 7506(c)) to ensure that federally supported highway and transit project activities are consistent with (''conform to'') the purpose of the state air quality implementation plan (SIP). Conformity currently applies under EPA's rules to areas that are designated nonattainment, and those redesignated to attainment after 1990 (''maintenance areas'' with plans developed under Clean Air Act section 175A) for the criteria pollutants: ozone, coarse particulate matter (PM_{10}), carbon monoxide (CO), and nitrogen dioxide (NO_2). Today's proposal would also apply the conformity rule provisions in fine particulate matter ($PM_{2.5}$) areas. Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant national ambient air quality standards (NAAQS or ''standards''). EPA's transportation conformity rule establishes the criteria and procedures for determining whether transportation activities conform to the SIP.

EPA first promulgated the transportation conformity rule on November 24, 1993 (58 FR 62188), and subsequently published a comprehensive set of amendments on August 15, 1997 (62 FR 43780) that clarified and streamlined language from the 1993 rule. EPA has made other smaller amendments to the rule both before and after the 1997 amendments.

On June 30, 2003, EPA published a proposal that would amend the current conformity rule to be consistent with a March 2, 1999, U.S. Court of Appeals decision (68 FR 38974). The ''court proposal'' also included several proposed amendments to regulatory provisions that did not directly result from the court decision. EPA has not yet taken a final action on this proposed rulemaking. We are reviewing the public comments on the court proposal and will promulgate a final rule in the future.

Today's proposal should be considered a separate action from the June 30, 2003 court proposal. However, some sections and paragraphs of the conformity rule are addressed in both proposals. For those sections, EPA has repeated the court proposal's regulatory language in today's proposal along with the proposed revisions that address the conformity requirements in 8-hour ozone and $PM_{2.5}$ areas.

Other changes to the conformity program could occur through the reauthorization of the Surface Transportation Act, currently entitled the Transportation Equity Act for the 21st Century (TEA–21). However, EPA believes it is prudent to expeditiously pursue the regulatory changes proposed today to ensure that entities subject to conformity for the new air quality standards understand applicable requirements as close to area designations as possible. EPA will continue to monitor the proposed reauthorization proposals for their potential impact on the conformity regulation. If statutory amendments to the conformity program result from TEA–21 reauthorization, EPA would take appropriate action to address such changes.

EPA has consulted with the Department of Transportation (DOT), our federal partners in implementing the transportation conformity regulation, in developing this rulemaking, and DOT concurs with this proposal. EPA has also met with state and local transportation and environmental organizations to discuss this rulemaking. The proposal reflects our consideration of the comments that we received through these stakeholder discussions. Documentation of these stakeholder meetings and specific comments are included in the docket for this rulemaking.

B. Why Is EPA Conducting This Rulemaking?

EPA has developed new 8-hour ozone and $PM_{2.5}$ air quality standards, and anticipates designating areas as nonattainment for these new standards in April and December 2004, respectively. EPA is conducting this rulemaking to provide clear guidance and rules for implementing conformity for these standards. Some of the proposed revisions to the current regulation would provide more options and flexibility in demonstrating conformity. Other proposed changes would also apply to existing 1-hour ozone, CO, PM_{10} and NO_2 nonattainment and maintenance areas.

The following table provides a roadmap for determining whether a specific proposal included in this rulemaking would apply in your area.

Type of area	Issue being addressed in this proposal	Preamble section	Proposed regulatory section
8-hour ozone	Conformity grace period	III.A	§ 93.102(d).
	Revocation of 1-hour ozone standard	III.B	No proposed regulatory amendments.
	Early Action Compacts	III.C	No proposed regulatory amendments.
	Baseline year test	IV.B	§ 93.119(b).
	Build/no-build test (marginal and below classifications and subpart 1 areas)	IV.C	§ 93.119(b)(2). § 93.119(g)(2).
	Regional conformity tests (moderate and above classifications)	IV.D	§ 93.119(b)(1).
	Regional Conformity tests (areas without 1-hour ozone budgets)	V	§ 93.109(k).
	Regional conformity tests (areas with 1-hour ozone budgets	VI	§ 93.109(e).
	Definitions	XIV.A.	§ 93.101.
	Insignificance	XIV.B	§ 93.109(d). § 93.121(c).
	Transportation plan and modeling requirements (moderate and above classifications).	XIV.D	§ 93.106(b). § 93.122(c).
	Non-federal projects (for isolated rural areas only)	XIV.F	§ 93.121(b)(1).
$PM_{2.5}$	Applicability	III.A	§ 93.102(b)(1).
	Conformity grace period	III.A	§ 93.102(d)
	Baseline year test	IV.B	§ 93.119(e)
	Build/no-build test	IV.C	§ 93.119(e) § 93.119(g)(2)
	Regional conformity tests	VII	§ 93.109(i)

Type of area	Issue being addressed in this proposal	Preamble section	Proposed regulatory section
	Precursors in regional analyses	VIII	§ 93.102(b)(2) § 93.119(f)
	Re-entrained road dust in regional analyses	IX	§ 93.102(b)(3) § 93.119(f)
	Construction-related fugitive dust in regional analyses	X	§ 93.122(f)
	Compliance with SIP control measures	XI	§ 93.117.
	Hot-spots	XII	No proposed regulatory amendments.
	Definitions	XIV.A	§ 93.101.
	Insignificance	XIV.B	§ 93.109(k). § 93.121(c).
	Non-federal projects (for isolated rural areas only)	XIV.F	§ 93.121(b)(1).
1-hour ozone	Revocation of 1-hour ozone standard	III.B	No proposed regulatory amendments.
	Build/no-build test (marginal and below classifications)	IV.C	§ 93.119(b)(2). § 93.119(g)(2).
	Regional conformity tests (moderate and above classifications)	IV.D	§ 93.119(b)(1).
	Definitions	XIV.A	§ 93.101.
	Insignificance	XIV.B	§ 93.109(k) § 93.121(c).
	Limited maintenance plans	XIV.C	§ 93.101. § 93.109(j). § 93.121(c).
	Transportation plan and modeling requirements (moderate and above classifications).	XIV.D	§ 93.106(b). § 93.122(c).
	Non-federal projects (for isolated rural areas only)	XIV.F	§ 93.121(b)(1).
	Clarification to use of approved budgets in conformity	XIV.G	§ 93.109(c).
PM_{10}	Build/no-build test	IV.C	§ 93.119(d). § 93.119(g)(2).
	Compliance with SIP control measures (Request for information only)	XI	No proposed regulatory amendments.
	Hot-spots	XIII	No proposed regulatory amendments.
	Clarification to Precursors	XIV.E	§ 93.102(b)(2). § 93.119(f)(5).
	Definitions	XIV.A &	§ 93.101.
	Insignificance	XIV.B &	§ 93.109(k). § 93.121(c).
	Limited maintenance plans	XIV.C	§ 93.101. § 93.109(j). § 93.121(c).
	Non-federal projects (for isolated rural areas only)	XIV.F	§ 93.121(b)(1).
	Clarification to use of approved budgets in conformity	XIV.G	§ 93.109(g).
CO	Build/no-build test (lower CO classifications)	IV.C	§ 93.119(c). § 93.119(g)(2).
	Regional conformity tests (higher CO classifications)	IV.D	§ 93.119(c)(1).
	Definitions	XIV.A	§ 93.101.
	Insignificance	XIV.B	§ 93.109(k). § 93.121(c).
	Limited maintenance plans	XIV.C	§ 93.101. § 93.109(j). § 93.121(c).
	Transportation plan and modeling requirements (moderate and serious classifications).	XIV.D	§ 93.106(b). § 93.122(c).
	Non-federal projects (for isolated rural areas only)	XIV.F	§ 93.121(b)(1).
	Clarification to use of approved budgets in conformity	XIV.G	§ 93.109(f).
NO_2	Build/no-build test	IV.C	§ 93.119(d). § 93.119(g)(2).
	Definitions	XIV.A	§ 93.101.
	Insignificance	XIV.B	§ 93.109(k). § 93.121(c).
	Non-federal projects (for isolated rural areas only)	XIV.F	§ 93.121(b)(1).
	Clarification to use of approved budgets in conformity	XIV.G	§ 93.109(h).

This table illustrates which parts of the proposal are relevant for various pollutants and standards. Please note that Sections V.–VII. provide stand-alone descriptions of the proposed emissions tests for $PM_{2.5}$ areas and 8-hour ozone areas with and without existing 1-hour ozone SIPs. For example, if your area expects only to be designated nonattainment under the $PM_{2.5}$ standard, you should read section VII. but not sections V. and VI (for 8-hour ozone areas). EPA believes that any redundancy between these sections

is warranted to assist readers who may not need to read the entire proposal.

C. Does This Proposal Include the Entire Transportation Conformity Regulation?

No. The proposed regulatory text is limited to proposed changes to affected portions of the conformity rule. However, a complete version of the conformity rule is available to the public on our transportation conformity website listed in Section I.B.2. of this proposal. The complete version is intended to help reviewers understand today's proposed changes in context with the June 30, 2003 conformity proposal and other existing rule sections that are not proposed to be changed.

III. Conformity Grace Period and Revocation of the 1-Hour Ozone Standard

A. When Will Conformity Apply for the 8-Hour Ozone and $PM_{2.5}$ Standards?

Conformity applies one year after the effective date of EPA's initial nonattainment designation for a given pollutant and standard. This one-year conformity grace period is provided by Clean Air Act section 176(c)(6) and § 93.102(d) of the conformity regulation.

Section 93.102(d) currently addresses newly designated nonattainment areas for ozone, CO, PM_{10} and NO_2. This proposal would add $PM_{2.5}$ to § 93.102(d) of the conformity rule even though the grace period is already available to all newly designated nonattainment areas as a matter of law. Today's proposed change would simply reflect the statutory flexibility in the regulation.

Although the same pollutant, the 8-hour and 1-hour ozone standards are different NAAQS. Therefore, every area that is designated nonattainment for the 8-hour ozone standard will also have a 1-year grace period before conformity applies for that standard, even if the area was designated nonattainment for the 1-hour ozone standard. Areas currently subject to conformity for the 1-hour ozone standard would continue to be subject to such requirements during the 1-year grace period for the 8-hour ozone standard. EPA anticipates designating areas for the 8-hour ozone standard in April 2004. If, for example, designations have a 30-day delayed effective date, conformity for the 8-hour ozone standard would begin to apply in May 2005, since under EPA's regulations the one-year grace period begins upon the effective date of an area's designation. EPA is proposing to include new regulatory definitions for the 1-hour and 8-hour ozone standards in § 93.101. These proposed definitions are consistent with how the standards are described in existing EPA regulations at 40 CFR 50.9 and 40 CFR 50.10, respectively.

Similarly, every area that is designated nonattainment for the $PM_{2.5}$ standard will have a one-year grace period before conformity applies for that standard. EPA plans to designate areas for $PM_{2.5}$ by December 2004. Under today's proposed § 93.102(b), the conformity rule would apply in areas designated nonattainment for $PM_{2.5}$. Therefore, conformity for the $PM_{2.5}$ standard would apply beginning in January 2006, for example, if a 30-day effective date is provided in accordance with § 93.102(d). It is important to note that PM_{10} is a different pollutant than $PM_{2.5}$, and today's proposal does not affect the applicability and general implementation of conformity in PM10 nonattainment and maintenance areas.

EPA anticipates that some areas will be designated as nonattainment for both the 8-hour ozone and $PM_{2.5}$ standards. In these areas, conformity for the 8-hour ozone standard will apply one year after the effective date of the area's 8-hour ozone designation, while conformity for $PM_{2.5}$ will apply one year after the effective date of the area's $PM_{2.5}$ designation.

The following discussion provides more details on the application of the one-year conformity grace period in specific types of newly designated nonattainment areas—metropolitan, donut, and isolated rural areas.

1. Metropolitan Areas

Metropolitan areas are urbanized areas that have a population greater than 50,000 and a designated metropolitan planning organization (MPO) responsible for transportation planning per 23 U.S.C. 134. In general, within one year after the effective date of the initial nonattainment designation for a given pollutant and standard, the area's MPO and DOT must make a conformity determination with regard to that pollutant and standard for the area's transportation plan and TIP. If, at the conclusion of the one-year grace period, the MPO and DOT have not made a plan and TIP conformity determination for the relevant pollutant and standard, the area would be in a conformity ''lapse.'' As described in section III.B., MPOs must continue to meet conformity requirements for the 1-hour ozone standard for plan, TIP, and project approvals made up until the time that the 1-hour standard is revoked.

During a conformity lapse, only certain projects can receive additional federal funding or approvals to proceed. Such projects include: exempt projects (*e.g.*, safety projects) listed in §§ 93.126, 93.127 and 93.128 of the current conformity rule; transportation control measures in an approved SIP; and, projects or project phases (*e.g.*, right-of-way, final design, construction) that received all required federal funding or approval prior to the conformity lapse. The practical impact of a conformity lapse will vary on an area-by-area basis. For additional information on projects that can proceed during a conformity lapse, see the following guidance memoranda that implement the March 2, 1999 U.S. Court of Appeals decision that affected related provisions of the conformity rule: DOT's January 2, 2002 guidance, published in the **Federal Register** on February 7, 2002 (67 FR 5882); DOT's May 20, 2003, and FTA's April 9, 2003, supplemental guidance documents; as well as EPA's May 14, 1999 guidance memorandum. EPA proposed to incorporate this existing guidance into the conformity regulation on June 30, 2003 (68 FR 38974). A copy of this proposed rulemaking, as well as the guidance listed above, can be downloaded from EPA's transportation conformity Web site listed in section I.B.2. of this proposal.

2. Donut Areas

For the purposes of conformity, a ''donut'' area is the geographic area outside a metropolitan planning area boundary, but inside a designated nonattainment or maintenance area boundary that includes an MPO. The conformity requirements for donut areas, including the application of the one-year conformity grace period, are generally the same as those for metropolitan areas. Within one year after the effective date of an area's initial nonattainment designation, the existing and planned transportation network for the donut portion of the area (as well as for the metropolitan portion of the area) must demonstrate conformity, or conformity of the metropolitan transportation plan and TIP will lapse as discussed above, and the entire nonattainment area will be unable to obtain additional project funding and approvals at that time.

To demonstrate conformity of its plan and TIP, the adjacent MPO must include in its regional emissions analysis the emissions from the donut area's proposed transportation network and planned project activities. To demonstrate conformity of projects in the donut portion, such projects must have been included in the regional emissions analysis that supports the conformity determination of the metropolitan area's plan and TIP. In nonattainment and maintenance areas with a donut portion, the MPO and

State DOT may choose to include donut area projects in the MPO's plan and TIP. However, this approach is not required by either DOT's planning regulations or the conformity rule.

The interagency consultation group for each newly designated nonattainment area that includes a donut portion should determine how best to consider the donut area transportation system and new donut area projects in the MPO's regional emissions analyses and conformity determinations. For more discussion on how conformity determinations should be made for donut areas, see the preamble to the original conformity rule published on November 24, 1993 (58 FR 62207).

3. Isolated Rural Areas

Isolated rural nonattainment and maintenance areas are areas that do not contain or are not part of any metropolitan planning area as designated under 23 U.S.C. 134 and 49 U.S.C. 5303. Isolated rural areas do not have metropolitan transportation plans or TIPs required under 23 U.S.C. 134 and 49 U.S.C. 5303 and 5304 for any portion of the area, and do not have projects that are part of the emissions analysis of any MPO's metropolitan transportation plan or TIP. Projects in such areas are instead included only in statewide transportation improvement programs (STIPs) and statewide transportation plans, when appropriate.

Like all newly designated nonattainment areas, the one-year conformity grace period will begin on the effective date of an isolated rural area's initial nonattainment designation. However, because these areas do not have federally required metropolitan transportation plans and TIPs, they are not subject to the frequency requirements for conformity determinations on plans and TIPs specified in § 93.104(b), (c) and (e) of the current rule. Instead, conformity determinations in isolated rural areas are required only when a non-exempt FHWA/FTA project(s) needs funding or approval. Therefore, although the one-year conformity grace period is available to isolated rural areas, no conformity consequences may apply upon the expiration of the one-year grace period because these areas may not have any projects that require funding and approval at that time.

In fact, many isolated rural areas may not have a transportation project in need of federal funding or approval for some time after the one-year grace period has ended, and therefore, will not have to demonstrate conformity before that time. Once the conformity grace period has expired, a conformity determination will only be required in such areas the next time a non-exempt project needs funding or approval. For non-exempt FHWA/FTA projects, a conformity determination is normally required before the National Environmental Policy Act (NEPA) process is completed, since NEPA is typically the first stage requiring approval in a federal project's development. However, isolated rural areas that are newly designated as nonattainment may also be required to demonstrate conformity for subsequent funding and approvals for project phases (*e.g.*, right-of-way acquisition, final design, construction) that occur after the grace period has ended, if these projects have not yet been included in a conformity determination and regional emissions analysis for the relevant pollutant and standard. For more information on the conformity requirements for isolated rural areas, see § 93.109(g) of the current conformity regulation; corresponding discussions on how to demonstrate conformity in isolated rural areas can also be found in the preambles to the November 24, 1993 transportation conformity final rule (58 FR 62207) and the August 15, 1997 final rule (62 FR 43785). Please note that the current rule's § 93.109(g) would become § 93.109(l) under today's proposal, due to other proposed revisions and additions to this regulatory section. The proposed changes to § 93.109 do not change the basic conformity requirements for isolated rural areas.

B. When Does Conformity Stop Applying for the 1-Hour Ozone Standard?

EPA proposed in a separate rulemaking to revoke the 1-hour ozone standard—in whole or in part—one year after the effective date of EPA's 8-hour ozone standard designations (June 2, 2003, 68 FR 32819). Today's conformity proposal is consistent with the revocation options in the June 2003 proposal, but does not seek additional comment on the proposed revocation options.

Clean Air Act section 176(c)(5) requires conformity only in areas that are designated nonattainment or maintenance for a given pollutant and standard. Therefore, under either of the revocation options in EPA's proposed 8-hour ozone implementation rule, conformity for the 1-hour ozone standard would no longer apply in existing 1-hour ozone nonattainment and maintenance areas once the standard and area designations are revoked. The proposed one-year delay in the revocation of the 1-hour ozone standard is linked to the one-year statutory conformity grace period for newly designated 8-hour ozone nonattainment areas. To preserve the progress that areas have made in achieving clean air to date, EPA believes that 1-hour ozone nonattainment and maintenance areas should continue to ensure that transportation activities conform to the existing 1-hour ozone standard until conformity for the new 8-hour ozone standard applies.

During the one-year grace period, areas that are currently subject to the 1-hour ozone standard must continue to adhere to 1-hour conformity requirements. Additionally, areas should consider at what point they will determine conformity for the 8-hour ozone standard. For example, if a conformity determination is made in June 2004, an area may choose to demonstrate conformity for the 1-hour ozone standard and address the 8-hour ozone standard at a later date near the end of the one-year grace period. In contrast, if a conformity determination is made in January 2005, an area may choose to demonstrate conformity for both ozone standards because of the approaching end of the one-year grace period.

Under EPA's June 2003 implementation proposal, when the 1-hour standard is revoked, conformity would no longer apply for either ozone standard in areas that are attaining the 8-hour ozone standard. See EPA's proposed 8-hour implementation rule for more discussion on the proposed options for revoking the 1-hour ozone standard (June 2, 2003; 68 FR 32818–32825).

C. When and for What Ozone Standard Does Conformity Apply in Areas With an Early Action Compact for the 8-Hour Ozone Standard?

Areas that are violating the 8-hour ozone standard but are attaining the 1-hour ozone standard—including 1-hour ozone maintenance areas—were eligible for an Early Action Compact (EAC) as described in EPA's November 14, 2002 memorandum entitled, ''Schedule for 8-Hour Ozone Designations and its Effect on Early Action Compacts'' and EPA's June 2, 2003 proposal for the implementation of the 8-hour ozone standard (68 FR 32859–32860).

For areas participating in an EAC, EPA plans to provisionally defer the effective date of the area's 8-hour ozone nonattainment designation into the future. The deferral of the 8-hour designation effective date is contingent upon the participating area's adherence to all the terms and milestones of its EAC. If the EAC area attains the 8-hour

ozone standard by December 2007, EPA would take action in Spring 2008 to end the deferred nonattainment designation effective date and replace it with an attainment designation that would become effective shortly thereafter. If, however, an area misses a key EAC milestone, the November 14, 2002 memorandum states that EPA would retract its deferral, and the nonattainment designation would be effective shortly after the missed milestone. Neither today's proposal nor the June 2, 2003 rulemaking take comment on the EAC program itself.

A deferred effective date for 8-hour ozone designations in areas that opted into an EAC has certain implications for when conformity applies for both the 8-hour and 1-hour ozone standards. Consistent with the current conformity rule § 93.102(d) and Clean Air Act section 176(c)(6), conformity for the 8-hour ozone standard would not apply until one year after the effective date of an EAC area's 8-hour nonattainment designation. Therefore, conformity for the 8-hour ozone standard would apply in an EAC area only if the area fails to meet all the terms and milestones of its compact and the nonattainment designation becomes effective. In this case, conformity for the 8-hour standard would be required one year after the effective date of EPA's nonattainment designation that would occur shortly after a missed EAC milestone. Conversely, if the area meets all of the EAC milestones and attains the 8-hour ozone standard by December 2007, conformity for the 8-hour ozone standard would never apply since the area's ultimate effective designation would be attainment for the 8-hour ozone standard.

Conformity for the 1-hour ozone standard will continue to apply in EAC areas that are currently 1-hour ozone maintenance areas, and therefore are required to demonstrate conformity for that standard. For these areas, the effective date of 8-hour designations would be deferred and the 1-hour standard would not be revoked. If a maintenance area meets all of its EAC milestones and attains the 8-hour ozone standard by December 2007, conformity for the 1-hour standard would no longer apply once EPA revokes that standard one year after the effective date of EPA's 8-hour attainment designation (*i.e.*, Spring 2009).

If, however, a 1-hour ozone maintenance area fails to meet a milestone in its EAC, EPA would remove its deferral of the effective date and the area's 8-hour ozone nonattainment designation would become effective shortly after the missed milestone. Under this scenario, conformity for the 1-hour ozone standard would continue to apply for one year after the effective date of EPA's nonattainment designation, at which time the 1-hour ozone standard would be revoked, the one-year conformity grace period would expire and conformity for the 8-hour ozone standard would begin to apply.

IV. General Changes in Interim Emissions Tests

A. Background

Conformity determinations for transportation plans and TIPs as well as transportation projects not from a conforming plan and TIP must include a regional emissions analysis that fulfills certain Clean Air Act provisions. Section 176(c) requires that transportation activities in nonattainment and maintenance areas must not worsen air quality. In addition, transportation activities in ozone and CO areas of higher nonattainment classifications need to contribute emission reductions towards attainment.

The conformity rule provides for several different regional emissions analysis tests that satisfy these Clean Air Act requirements in different situations. Once a SIP with a motor vehicle emissions budget (''budget'') is submitted for an air quality standard and EPA finds the budget adequate or approves it as part of the SIP, conformity is demonstrated using the budget test for that pollutant or precursor, as described in § 93.118 of the conformity rule. Before an adequate or approved SIP budget is available, conformity of the transportation plan, TIP, or project not from a conforming plan and TIP is demonstrated with the interim emissions tests, as described in § 93.119.

Today's proposal outlines several options for completing regional emissions analyses for the new standards before SIP budgets for these standards are available. According to EPA's proposed implementation rule (June 2, 2003, 68 FR 32830–32837), 8-hour ozone nonattainment areas of moderate and above classifications and some areas designated under Clean Air Act subpart 1 would have two or three years from the effective date of designations to submit a SIP (either for attainment or reasonable further progress) with budgets for that standard. Areas classified as marginal and some areas designated under subpart 1 (those with early attainment dates) may not have 8-hour ozone SIP budgets for some time, since their attainment dates would be relatively soon after the date of their 8-hour ozone designations. These areas would only have 8-hour ozone SIP budgets if they voluntarily submitted a control strategy SIP or submitted a maintenance plan for redesignation. In addition, EPA currently anticipates that $PM_{2.5}$ nonattainment areas would submit a SIP with budgets within three years of $PM_{2.5}$ nonattainment designations.

Therefore, as proposed, conformity would likely apply in all 8-hour ozone and $PM_{2.5}$ nonattainment areas before SIP budgets for the new standards are available, and during this time period, interim emissions tests would be used for conformity determinations. It is important to note that EPA has historically called such tests the ''emission reduction tests.'' However, since the actual reduction of emissions would not always be required in many areas (as described below and in proposed § 93.119), EPA is proposing to change ''emission reduction test'' to ''interim emissions test'' throughout the conformity regulation.

The following paragraphs generally describe the proposed changes to the interim emissions tests (under § 93.119). Sections V., VI., and VII. describe the application of these tests in different 8-hour ozone and $PM_{2.5}$ areas (under § 93.109).

B. Baseline Year Test for 8-Hour Ozone and $PM_{2.5}$ Areas

1. What Are We Proposing?

We are proposing to add the following tests to the conformity rule for use in 8-hour ozone and $PM_{2.5}$ nonattainment areas:

- The ''less-than-2002 emissions'' test, and
- The ''no-greater-than-2002 emissions'' test.

Under these interim emissions tests, conformity would be demonstrated if the emissions from the proposed transportation system are less than or no greater than 2002 motor vehicle emissions in a given area. Proposed regulatory text for the 2002 baseline year tests can be found in § 93.119. *See* Sections V.–VII. for how these tests are proposed to be applied in 8-hour ozone and $PM_{2.5}$ areas.

Although today's action proposes no substantive change to the 1990 baseline year tests for existing areas, § 93.119 has been reorganized to also include the provisions for new 8-hour ozone and $PM_{2.5}$ areas.

2. Why Are We Proposing These Changes?

EPA believes that the year 2002 is more appropriate than the year 1990 in

meeting Clean Air Act provisions in new 8-hour ozone and $PM_{2.5}$ areas. Under the statute, transportation activities in nonattainment and maintenance areas cannot increase the frequency or severity of air quality violations. EPA selected the year 1990 as the baseline year for nonattainment areas under the existing standards, since that was the baseline year for many requirements in the Clean Air Act Amendments of 1990, including the base year for SIP inventories. It was also the year that the relevant Clean Air Act legislation was enacted.[1] However, 1990 has little relevance as a baseline year for emissions under the new standards.

Therefore, EPA has preliminarily selected 2002 as the baseline year for SIP inventories under the new 8-hour ozone and $PM_{2.5}$ standards. EPA's November 18, 2002 memorandum, ''2002 Base Year Emission Inventory SIP Planning: 8-hr Ozone, $PM_{2.5}$, and Regional Haze Programs,'' identifies 2002 as the anticipated emission inventory base year for the SIP planning process to address both of these pollutants and standards. In addition, EPA's 8-hour ozone implementation rule proposes 2002 as the base year for 8-hour ozone SIP inventories (June 2, 2003, 68 FR 32810). The 2002 SIP inventories would provide the baseline level of motor vehicle emissions in 2002 to complete either proposed baseline year test. In addition, EPA's memo explains that ''the selection of 2002 harmonizes dates for other reporting requirements, *e.g.*, EPA's Consolidated Emissions Reporting Rule (CERR) that requires submission of emission inventories every three years; 2002 is one of the required years for such updates.'' Therefore, coordinating conformity's baseline with other data collection and inventory requirements would allow state and local governments to use their resources more efficiently.

Under § 93.105(c)(1)(i) of the current rule, the interagency consultation process would be used to determine the latest assumptions and models for generating 2002 motor vehicle emissions to complete either baseline year test. In general, the 2002 baseline year test can be completed with the baseline year SIP's 2002 motor vehicle emissions inventory, if the SIP has been submitted in time for the current conformity determination. If the SIP has not been submitted, conformity could be completed using draft 2002 baseline year emissions from a SIP inventory under development. Alternatively, an MPO, in consultation with state and local air agencies, could develop 2002 baseline year emissions as part of the conformity analysis. Whatever the source, the 2002 baseline year emissions level that is used in conformity must be based on the latest planning assumptions available for the year 2002, the latest emissions model, and appropriate methods for estimating travel and speeds as required by §§ 93.110, 93.111 and 93.122 of the current conformity rule.

C. Build/No-Build Test for Existing and New Nonattainment Areas

1. What Are We Proposing?

EPA is proposing a revised build/no-build test for certain existing and new nonattainment areas. Under the current rule, conformity is demonstrated with the ''build-less-than-no-build'' test for all ozone, CO, PM_{10}, and NO_2 areas. The proposal would amend § 93.119 to create the ''build-no-greater-than-no-build'' test, where conformity would be met if emissions from the proposed transportation system (''build'') were less than or equal to emissions from the existing transportation system (''no-build'').

Under this proposal, the build-no-greater-than-no-build test would be available to the following subset of new and existing areas:

- 8-hour ozone areas of marginal and below classifications,
- 8-hour ozone areas designated nonattainment under Clean Air Act subpart 1,
- All $PM_{2.5}$ areas,
- 1-hour ozone areas of marginal and below classifications,
- CO areas of moderate classification with design values less than 12.7 ppm,
- Not classified CO areas,
- All PM_{10} areas, and
- All NO_2 areas.

Sections V., VI., and VII. of this proposal provide more detail regarding the application of the build/no-build test in various 8-hour ozone and $PM_{2.5}$ areas.

For areas that would be using the build-no-greater-than-no-build test, EPA is also proposing to modify § 93.119(e) of the current rule so that a regional emissions analysis would not be necessary for future analysis years where the build (or ''action'' scenario) and no-build (or ''baseline'' scenario) contain exactly the same transportation projects and planning assumptions, for the reasons described below. Such a case may occur in smaller areas that do not have projects planned for later years in the regional emissions analysis, and population, land use, economic, and other assumptions do not change between the build and no-build scenarios for those years. Under this proposal, a regional emissions analysis would continue to be required for applicable years where the action and baseline scenarios contain different projects and assumptions.

This proposed change can be found in § 93.119(g)(2) of the proposed regulatory text. This proposal would require that the conformity determination include documentation that a regional emissions analysis is not completed for analysis years in which no new projects are proposed and no change in planning assumptions has occurred.

Finally, § 93.119 is being reorganized in general to accommodate the above and other changes articulated in this proposal for new and existing areas.

2. Why Are We Proposing These Changes?

EPA believes that changing the build/no-build test for certain areas is consistent with Clean Air Act section 176(c)(3)(A)(iii) which specifically requires that transportation plans and TIPs contribute to annual emissions reductions only in the higher classifications of ozone and CO areas. This statutory provision does not apply to any other type of nonattainment area.

Instead, all other areas must demonstrate only that transportation activities do not cause or contribute to new violations, increase the frequency or severity of existing violations, or delay timely attainment, pursuant to Clean Air Act section 176(c)(1)(B). EPA believes that if the ''build'' is no greater than (*i.e.*, less than or equal to) the ''no-build,'' that such a demonstration is made, since only an increase in emissions would worsen air quality.

This change to the build/no-build test would make its implementation consistent with the implementation of the baseline year tests: in ozone and CO areas of higher classifications, expected emissions from the proposed transportation system must be less than emissions in the baseline year, while in all other areas, expected emissions must be no greater than emissions in the baseline year. For further discussion of the rationale for how and where the baseline year tests apply, please refer to the preamble to the January 11, 1993 proposed rule (58 FR 3782–3784) and the preamble to the July 9, 1996 proposed rule (61 FR 36116–36117).

Today's proposal would provide flexibility to certain areas by allowing

[1] Please note that PM_{10} areas can use an alternate baseline year for conformity if the applicable SIP is based on a baseline inventory from a different calendar year (40 CFR 93.119(c)(2)). EPA is not proposing to offer an alternate baseline year for $PM_{2.5}$ areas since all $PM_{2.5}$ areas should be establishing 2002 baseline SIP inventories.

emissions from the proposed transportation system to be less than or equal to the emissions from the current system, rather than requiring an actual reduction in emissions as is required for ozone and CO areas with higher classifications. Where the Clean Air Act does not require such emission reductions, EPA believes that if transportation activities can be found to conform by producing no adverse impacts on the number and severity of air quality violations, such a demonstration would be consistent with the Clean Air Act requirements.

The proposal would also reduce the resource burden for analysis years where no new projects are proposed to be completed and assumptions do not change. Under the current rule, a regional emissions analysis is required for all analysis years, even if no new projects are proposed for analysis years in the distant future. For such analysis years, the emissions from the build and no-build scenarios contain the same projects and assumptions, and therefore, result in exactly the same level of emissions.

One may argue that it would be obvious that the build-no-greater-than-no-build test is passed without calculating the emissions for such analysis years. Furthermore, the Clean Air Act requirement to not worsen air quality may be met by documenting in the conformity determination that projects, assumptions, and thus emissions would remain the same for affected analysis years. On the other hand, one may argue that a build/no-build regional analysis should still be completed for all analysis years to inform long-term transportation and air quality planning. However if such information is deemed appropriate, analyses could still be done voluntarily. EPA requests comment on this proposed change to the build/no-build analysis year requirements.

D. Test Options for Ozone and CO Nonattaintment Areas of Higher Classifications

1. What Are We Proposing?

EPA is proposing three options that would affect regional emissions analyses before adequate or approved SIP budgets are established in ozone and CO areas of higher nonattainment classifications. Under the current rule, these areas are required to complete both the build-less-than-no-build and less-than-baseline year tests when a conformity determination is completed during this time period. This proposal would affect moderate and above 1-hour and 8-hour ozone areas, moderate CO areas with design values greater than 12.7ppm, and serious CO areas.

EPA requests comment on the following proposed options for these areas:

(1) Complete *both* the build-less-than-no-build *and* less-than-baseline year tests;

(2) Complete *either* the build-less-than-no-build or less-than-baseline year test; or

(3) Require that only one of these tests be met and eliminate the second test as an option altogether.

The proposed regulatory text in § 93.119(b)(1) reflects the first option, although EPA could finalize any one of the three proposed options.

The first option would retain the current conformity rule requirement that such areas use both the current build-less-than-no-build test and the less-than-baseline year test. Under this option, emissions from the proposed transportation system (build) would have to be less than emissions from the existing system (no build) and less than emissions in 1990 (for higher classification 1-hour ozone and CO areas) or 2002 (for higher classification 8-hour ozone areas).

The second proposed option would allow these areas to choose between the current build-less-than-no-build test and the less-than-baseline year test (either 1990 or 2002, as applicable). The final option would require only one test in these areas while eliminating the second test as an option altogether. For example, this option could require the less-than-baseline year test and delete the build/no-build test from the conformity rule as an option for affected areas.

2. Why Are We Proposing These Options?

EPA is interested in exploring alternatives in an effort to provide the most flexible and least burdensome way of meeting statutory requirements. When EPA first promulgated the transportation conformity rule (January 11, 1993, 58 FR 3782), EPA determined that moderate and above 1-hour ozone areas and CO areas of higher classifications would have to meet both the build-less-than-no-build test and the less-than-baseline year test to satisfy both statutory requirements that transportation planning activities not cause or contribute to violations of the standards (Clean Air Act section 176(c)(1)(B)) and that such activities contribute to annual emissions reductions (Clean Air Act section 176(c)(3)(A)(iii)).

The current conformity rule requires higher classification ozone and CO areas to meet both of these tests in the absence of an adequate or approved SIP budget (option 1). For the same reasons described in previous rulemakings,[2] EPA proposes as its first option to continue these same requirements for current 1-hour ozone and CO and new 8-hour ozone nonattainment areas with higher classifications. EPA believes that the current conformity rule would continue to assist areas in meeting Clean Air Act requirements.

However, ten years of experience in implementing the conformity rule has caused EPA to consider whether either the build-less-than-no-build test or less-than-baseline year test (option 2) may also be sufficient to meet both the statutory requirements that transportation activities not contribute to violations and contribute to emissions reductions. First, the build-less-than-no-build test may by itself demonstrate that emissions from the proposed transportation plan would be lower than projected future emissions from the existing planned transportation system, since the build scenario must be less than the no-build scenario. Thus, one might conclude that emissions from the proposed transportation plan contribute to emissions reductions and may not cause or contribute to new violations of the ozone standard.

Alternatively, if emissions are reduced from baseline year levels, then one might conclude that air quality would not be worsened from current levels. The less-than-baseline year test by itself might also demonstrate that implementation of the proposed transportation system may produce actual emissions reductions from the motor vehicle emission baseline year, since emissions must be less than or reduced from the baseline year. Thus, by using only the less-than-baseline year test, the transportation plan may both contribute to emissions reductions and not itself produce emissions that could cause or contribute to any violations. EPA requests comment on this alternative of offering a choice between the build-less-than-no-build and less-than-baseline year tests to meet both statutory conformity requirements, for ozone areas and CO areas of higher classifications.

Further, EPA proposes a third option that such areas be required to meet only one interim emissions test while eliminating the other interim emissions test as an option altogether. As described above for option 2, if it can be concluded that either test is sufficient

[2] January 11, 1993, proposed conformity rule (58 FR 3782–3784) and the July 9, 1996, proposed rule (61 FR 36116–36117).

for meeting statutory requirements, then retaining only one test in the conformity regulation would also meet the statute. EPA requests comment on this alternate proposal.

V. Regional Conformity Tests in 8-Hour Ozone Areas That Do Not Have 1-Hour Ozone SIPs

A. What Are We Proposing?

EPA is proposing several options for completing regional emissions analyses in 8-hour ozone areas that do not have an existing 1-hour ozone SIP with applicable budgets. These 8-hour ozone areas either were never designated nonattainment under the 1-hour ozone standard or were 1-hour ozone nonattainment areas that for various reasons never submitted a control strategy SIP or maintenance plan with approved or adequate motor vehicle emissions budgets. A regional emissions analysis is the part of a conformity determination that assesses whether the emissions produced by transportation activities are consistent with state and local air quality goals.

1. Conformity After 8-Hour Ozone SIP Budgets Are Adequate or Approved

Once a SIP for the 8-hour ozone standard is submitted with a budget(s) that EPA has found adequate or approved, the budget test would be used in accordance with § 93.118 to complete all applicable regional emissions analyses. Conformity would be demonstrated if the transportation system emissions reflecting the proposed transportation plan, TIP, or project not from a conforming plan and TIP were less than or equal to the motor vehicle emissions budget level defined by the SIP as being consistent with clean air.

The first 8-hour ozone SIP could be a control strategy SIP required by the Clean Air Act (*e.g.*, rate-of-progress SIP or attainment demonstration) or a maintenance plan. The first SIP could also be submitted earlier and demonstrate a significant level of emission reductions from the current level of emissions. For example, an area could submit an early 8-hour ozone SIP that demonstrates a specific percentage of emission reductions (*e.g.*, 5–10%) in the year 2007, from 2002 baseline year emissions. An early 8-hour SIP would include emissions inventories for all emissions sources for the entire 8-hour nonattainment area and would meet applicable requirements for reasonable further progress SIPs. EPA has discussed such an option in the context of its 8-hour ozone implementation rule (June 2, 2003, 68 FR 32822) and the 1997 final conformity rule (August 15, 1997, 62 FR 43798–43799).

Whatever the case, the interim emissions test(s) would no longer apply for conformity purposes for either NO_X or VOCs once an 8-hour ozone SIP is submitted and EPA has found adequate or approved its budget(s) for that ozone precursor. Section 93.118 of the current rule describes the budget test; references in § 93.118(a) are being updated in this proposal to be consistent with proposed changes in § 93.109.

EPA encourages nonattainment areas to develop their 8-hour ozone SIPs in consultation with state and local air quality and transportation agencies to facilitate future conformity determinations. EPA Regions are available to assist on an ''as needed'' basis, including consultation on the development of early 8-hour ozone SIPs.

2. Conformity Before 8-Hour Ozone SIP Budgets Are Adequate or Approved

The following paragraphs outline the options for doing conformity before adequate or approved 8-hour ozone SIP budgets are established in 8-hour ozone areas covered by this section of the proposal.

Marginal and below classifications and subpart 1 areas. 8-hour ozone areas that are not of moderate and above classifications include: 8-hour ozone areas of marginal and below classifications and 8-hour ozone areas designated nonattainment under Clean Air Act subpart 1.

EPA proposes that these 8-hour ozone areas must pass one of the following tests for conformity determinations that occur before adequate or approved 8-hour ozone SIP budgets are in place:

- The build-no-greater-than-no-build test, or
- The no-greater-than-2002 emissions test.

In other words, this proposal would give these 8-hour ozone areas a choice between two interim emissions tests, rather than provide only one test or require that both tests be completed. Conformity would be demonstrated if the transportation system emissions reflecting a proposed transportation plan or TIP were less than or equal to either the emissions from the existing transportation system (no-build) or the level of motor vehicle emissions in 2002.

A discussion of the proposed changes to the interim emissions tests can be found in Section IV. of this proposal. See the proposed regulatory text in § 93.119(b)(2). See EPA's June 2, 2003, proposed implementation rule for the 8-hour ozone standards (68 FR 32811–32816) for more information on the proposal to designate some 8-hour ozone areas under Clean Air Act subpart 1.

Moderate and above classifications. As described in Section IV.D., EPA proposes three options for regional emissions analyses in moderate and above 8-hour ozone areas that do not have adequate or approved 1-hour ozone SIPs. The options are:

(1) Complete *both* the build-less-than-no-build *and* less-than-baseline year tests;

(2) complete *either* the build-less-than-no-build *or* less-than-baseline year test; or

(3) require that only one of these tests be met and eliminate the remaining test as an option altogether.

The proposed regulatory text in § 93.119(b)(1) reflects the first option, although EPA could finalize any one of the three proposed options.

3. Options for 8-Hour Ozone Areas That Qualify for EPA's Clean Data Policy

The proposal would also extend the current conformity rule's flexibility for certain 1-hour ozone ''clean data areas'' to 8-hour ozone areas that are required to meet certain SIP requirements (*e.g.,* moderate and above ozone areas). Today's conformity proposal is also consistent with the clean data option in EPA's proposed 8-hour ozone implementation rule (June 2, 2003, 68 FR 32835).

As background, EPA issued a policy memorandum on May 10, 1995 that addressed SIP requirements in a small number of moderate and above ozone areas (entitled ''Reasonable Further Progress, Attainment Demonstrations, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard''). Under the May 1995 policy, EPA could declare through rulemaking that a moderate or above 1-hour ozone area was a ''clean data area,'' if an area had sufficient monitoring data showing attainment of the 1-hour ozone standard. A clean data area is not required to submit any outstanding reasonable further progress or attainment SIPs, since the area is already attaining the standard. Section 93.109(c)(5) of the existing conformity rule allows clean data areas for the 1-hour ozone standard to request that a budget based on the level of motor vehicle emissions in the most recent year of clean data be established through EPA's rulemaking that determines an area to be a clean data area.

Similarly, today's proposal would allow 8-hour ozone areas that have clean data and are required to submit

control strategy SIPs to use one of the following three tests to complete conformity:

- The interim emissions tests, as described above;
- The budget test using the adequate or approved motor vehicle emissions budgets in a submitted 8-hour ozone SIP; or
- The budget test using the motor vehicle emissions level in the most recent year of clean data as budgets, if the state or local air quality agency requests that budgets be established by EPA's clean data rulemaking for the 8-hour ozone standard.

The proposed regulatory text for these options is in § 93.109(d)(5).

This part of the proposal would be provided to moderate and above ozone areas with three years of clean data for the 8-hour ozone standard that have not submitted a maintenance plan and that EPA has determined are not subject to the Clean Air Act's reasonable further progress and attainment demonstration requirements. In addition, some subpart 1 areas would also be covered by this conformity proposal if such areas are required to submit control strategy SIPs, as proposed in the June 2003 ozone implementation rule. Please note that EPA's proposed clean data SIP policy and therefore today's conformity proposal might not be used by any area for the first conformity determination, since newly designated nonattainment areas may not yet have three years of clean data for the 8-hour ozone standard.

4. General Implementation of Regional Tests

The proposal also retains the existing rule's general requirement that regional emissions analyses for ozone areas must address ozone precursors, which are nitrogen oxides (NO_X) and volatile organic compounds (VOCs) (40 CFR 93.102(b)(2)(i)). All proposed interim emissions test options would be required to address both VOC and NO_X precursors, unless EPA determines that additional reductions of NO_X would not contribute to attainment for the 8-hour ozone standard and issues a NO_X waiver under Clean Air Action section 182(f). This is consistent with the current conformity rule, although the proposal moves these provisions to § 93.119(f) due to reorganization of § 93.119. Finally, the proposal retains the current rule's provision that the interim emissions test(s) be completed for NO_X if a reasonable further progress SIP is submitted with only a budget for VOCs (e.g., a 15% SIP). See § 93.109(d)(3) for this proposed regulatory text.

The consultation process should be used to determine the models and assumptions for completing either the interim emissions tests or the budget test, as required by § 93.105(c)(1)(i) of the current rule. See the proposed regulatory text in § 93.109(d) for a general overview of when the budget test and interim emissions tests would apply in 8-hour ozone nonattainment areas without 1-hour ozone SIP budgets.

B. Why Are We Proposing These Options?

EPA has been told by some stakeholders that it is reasonable and credible to provide 8-hour ozone areas with the same flexibility that applies under the 1-hour ozone standard. To that end, EPA has proposed that 8-hour ozone areas with fewer SIP requirements (e.g., marginal and subpart 1 areas) continue to have the choice offered by the current rule between the baseline year and build/no-build tests. EPA gave this choice to 1-hour ozone areas as described in the preamble to a previous proposal (July 9, 1996, 61 FR 36116–36117). EPA continues to believe that allowing these areas a choice of conformity tests during the time period before adequate or approved 8-hour ozone SIP budgets are in place is environmentally protective and meets the statutory requirements.

As noted above, we are also considering three options for moderate and above ozone areas to ensure that every flexibility is provided to new 8-hour ozone areas while achieving environmental benefits. Please see EPA's rationale for these proposed options in Section IV.D.2.

EPA is also responding to stakeholder requests that the rule continue to provide more choices to areas that would qualify for EPA's proposed 8-hour ozone clean data policy. If the proposed clean data policy is included in the final 8-hour ozone implementation rule, EPA proposes to also include the proposed conformity options for such areas in the final conformity rule for the new standards. See EPA's previous discussion and rationale for the clean data options from the preamble to the 1996 proposal and 1997 final rules (July 9, 1996, 61 FR 36116; and August 15, 1997, 62 FR 43784–43785, respectively).

VI. Regional Conformity Tests in 8-Hour Ozone Areas That Have 1-Hour Ozone SIPs

A. What Are We Proposing?

EPA is proposing several options for completing regional emissions analyses in 8-hour ozone areas that have an existing 1-hour ozone SIP that covers either some or all of the 8-hour ozone nonattainment area.

1. Conformity After 8-Hour Ozone SIP Budgets Are Adequate or Approved

Once a SIP for the 8-hour ozone standard is submitted with budget(s) that EPA has found adequate or approved, the budget test would be used to complete the regional emissions analysis. The first 8-hour ozone SIP could be a control strategy SIP required by the Clean Air Act (*e.g.*, rate-of-progress SIP or attainment demonstration). The first SIP could also be submitted earlier and demonstrate a significant level of emission reductions from the current level of emissions, as described in Section V.A.1. Interim emissions tests and/or any existing 1-hour ozone SIP budgets (as described below) would no longer be used for conformity for either NO_X or VOCs once an adequate or approved 8-hour ozone SIP is established for such a precursor. State, local, and Federal air quality and transportation agencies should consult on the development of 8-hour ozone SIPs as appropriate.

2. Conformity Before 8-Hour Ozone SIP Budgets Are Adequate or Approved

The following paragraphs outline the options for determining conformity before adequate or approved 8-hour ozone SIP budgets are in place in 8-hour ozone areas with existing 1-hour ozone SIP budgets. EPA is proposing that these 8-hour ozone areas be able to select one test option from among a menu of test options for completing the regional emissions analysis requirement, rather than be required to complete a specific test(s).

Summary of Options: The following table summarizes the menu of proposed options, based on the placement of 1-hour and 8-hour ozone nonattainment boundaries:

Boundary scenario	Menu of options	Proposed regulatory text
8-hour area = 1-hour area	Interim emissions test(s) OR	§ 93.109(e)(2)(i) OR
	Budget test using 1-hour budget(s)	§ 93.109(e)(2)(ii)(A).
8-hour area < 1-hour area	Interim emissions test(s) OR	§ 93.109(e)(2)(i) OR

Boundary scenario	Menu of options	Proposed regulatory text
	Budget test for 1-hour area (with 1-hour budget(s)) OR Budget test for 8-hour area (with applicable subset of 1-hour budget(s)).	§ 93.109(e)(2)(ii)(B) OR § 93.109(e)(2)(ii)(B).
8-hour area > 1-hour area	Interim emissions test(s) OR Budget test (with 1-hour budget(s)) PLUS Interim emissions test(s) (for remainder of 8-hour area).	§ 93.109(e)(2)(i) OR § 93.109(e)(2)(ii)(C).
Portions of 8-hour and 1-hour areas overlap	Interim emissions test(s) OR Budget test (with applicable subset of areas 1-hour budget(s)) PLUS Interim emissions test(s) (for remainder of 8-hour area).	§ 93.109(e)(2)(i) OR § 93.109(e)(2)(ii)(C)

EPA has posted pictures of hypothetical boundary scenarios for further clarification on the transportation conformity website listed in Section I.B.2.

Please note that the proposed options are for completing conformity under the 8-hour ozone standard. EPA is proposing that the budget test with existing 1-hour ozone SIP budgets be used as a test option (or proxy) for the 8-hour ozone standard, rather than the 1-hour ozone standard. Conformity for the 1-hour and 8-hour ozone standards would not apply at the same time, as proposed in EPA's 8-hour ozone implementation rule (June 2, 2003, 68 FR 32819). In addition, for the reasons explained below, EPA is not proposing that 8-hour ozone areas must use their 1-hour ozone budgets if such budgets exist; we are proposing only that the budget test using the 1-hour ozone budgets would be an option as appropriate in addition to the interim emissions test(s).

The following paragraphs describe the above table in further detail as well as sub-options that are being proposed for some boundary scenarios. For all scenarios, once an area selects a particular test(s), EPA proposes that it must be used consistently for all regional analysis years.

Scenario where 8-hour and 1-hour ozone boundaries are exactly the same. In this case, the 8-hour and 1-hour ozone boundaries cover exactly the same geographic area. EPA proposes to require such areas meet one of the following:

- The interim emissions tests, depending upon an area's classification or designation; or
- The budget test using existing adequate or approved 1-hour ozone SIP budgets.

See Section V. for further description of which interim emissions test(s) would apply in a given 8-hour ozone area.

Scenario where the 8-hour ozone boundary is smaller than and within the 1-hour ozone boundary. In this case, the 8-hour nonattainment area is smaller than and completely encompassed by the 1-hour nonattainment boundary. Again, EPA proposes to require such areas meet one of the following:

- The interim emissions tests, depending upon an area's classification or designation;
- The budget test using the subset or portion of existing adequate or approved 1-hour ozone SIP budgets that overlaps with the 8-hour nonattainment area; or
- The budget test using the existing adequate or approved 1-hour ozone SIP budgets for the entire 1-hour nonattainment area (any additional reductions must come from the 8-hour nonattainment area, as described below).

EPA also requests comment on when it would be feasible and appropriate to allow an area to use a subset or portion of a 1-hour ozone SIP budget for 8-hour ozone conformity. Such a test option requires an area to subtract from the 1-hour ozone budget and conformity analysis those emissions that are not produced in the 8-hour ozone area. For example, this would be straightforward if the on-road mobile inventory for the 1-hour ozone SIP budget is calculated by county, and the portion to be subtracted is a specific county that is not part of the 8-hour ozone area. However, this may not be appropriate in the case where the SIP does not clearly specify the amount of emissions in the portion of the 1-hour ozone area not covered by the 8-hour ozone area. The consultation process would be used to determine when using a portion of a 1-hour ozone SIP budget is appropriate, and if so, how deriving such a portion would be accomplished. EPA requests other examples for when using a portion of a 1-hour ozone SIP budget would be feasible and appropriate.

In addition, EPA notes that adjusting the 1-hour ozone budgets for purposes of conducting 8-hour ozone conformity analyses would be legally appropriate since any 1-hour ozone SIP demonstrations and budgets would only be used as a proxy for the 8-hour ozone standard and would themselves no longer be for an applicable standard (*i.e.*, since the 1-hour ozone standard would be revoked under EPA's proposed 8-hour ozone implementation rule).

A conformity determination based on the entire 1-hour ozone budget would include a comparison between the on-road regional emissions produced in the entire 1-hour ozone area and existing 1-hour ozone budgets. However, if additional reductions are required to meet conformity, EPA proposes that such reductions could only be obtained within the 8-hour ozone nonattainment area, since the conformity determination would be for the 8-hour ozone standard.

Scenarios where the 8-hour ozone boundary is larger than or overlaps with a portion of the 1-hour ozone boundary. This part of the proposal covers the third and fourth scenarios listed in the above table in this section. The third scenario would result if an entire 1-hour ozone nonattainment area is within a larger 8-hour ozone nonattainment area. The fourth scenario would result if 1-hour and 8-hour ozone nonattainment boundaries partially overlap. In both types of 8-hour ozone areas, the 1-hour ozone budgets would not cover the entire 8-hour nonattainment area. Therefore, existing 1-hour ozone budgets cannot be the sole test of conformity under the 8-hour ozone standard in these scenarios, since a conformity determination must include a regional emissions analysis that covers the entire 8-hour ozone nonattainment area.

EPA is proposing that areas in these scenarios meet one of the following:

- The applicable interim emissions tests for the entire 8-hour ozone area; or
- The budget test based on the 1-hour ozone budget(s) for the 1-hour ozone area or relevant subset or portion of the 1-hour ozone area, plus the interim emissions test(s) for the remaining portion of the 8-hour ozone nonattainment area.

As stated above, once an area selects a particular test(s), EPA proposes that it must be used consistently for all regional analysis years.

For example, a marginal or below 8-hour ozone area that is larger than the

1-hour ozone area (third scenario) could choose to complete the budget test for the 1-hour ozone nonattainment area and the no-greater-than-2002 test for the remaining portion of the 8-hour ozone area for the attainment year, an intermediate year, and the last year of the transportation plan. EPA is not proposing to require such an area to complete the interim emissions test for the entire 8-hour ozone nonattainment area in all cases, in addition to the budget test with the 1-hour ozone SIP. EPA acknowledges that there may be cases where it is difficult to separately model the remaining portion of the 8-hour ozone area, *e.g.*, in an area where the remaining 8-hour ozone area is a ring of counties around the 1-hour ozone area. However, in this case, an area could always choose to complete only the interim emissions test(s) for the entire 8-hour ozone area, rather than the budget test with 1-hour ozone SIP budgets for the 1-hour ozone area.

For areas covered by the third boundary scenario in the above table where the 8-hour ozone area is larger than the 1-hour ozone area, the budget test would be completed for the entire 1-hour ozone area, as is done for conformity determinations for the 1-hour ozone standard. For areas covered by the fourth scenario where 8-hour and 1-hour ozone areas overlap, the budget test would only be done for the portion of the 1-hour ozone area and budgets that overlap with the 8-hour ozone area. EPA acknowledges that the budget test with a portion of a 1-hour ozone budget may be difficult to implement in many areas, since it assumes that areas will be able to determine easily the amount of budget emissions that are in the relevant portion. EPA requests examples for when using a portion of a 1-hour ozone budget would be appropriate and how to calculate such a portion. The consultation process would be used to determine whether the budget test for the fourth scenario is appropriate and if so, how it should be implemented.

Finally, EPA notes that the consultation process should be used to determine which analysis years should be selected for regional emissions analyses where the budget test and interim emissions tests are used. Sections 93.118(d) and 93.119(e) of the current conformity rule require similar analysis years for modeling in the last year of the transportation plan and for any intermediate years for both budget and interim emissions tests. However, the analysis years for the short-term may be different for the budget test and interim emissions tests in some cases. For example, § 93.118 requires modeling for the budget test to be completed for the attainment year if it is within the timeframe of the transportation plan; § 93.119 requires the first analysis year for the interim emissions tests to be within the first five years of the transportation plan. The consultation process can be used to pick analysis years that would satisfy both the budget and interim emissions test requirements for areas using both tests prior to adequate or approved 8-hour ozone SIP budgets being established.

3. Options for 8-hour Ozone Areas That Qualify for EPA's Clean Data Policy

As described in Section V.A.3., today's conformity proposal would also extend the current rule's flexibility for certain 1-hour ozone areas to 8-hour ozone areas that are covered by EPA's June 2, 2003 proposal (68 FR 32835). The June 2003 proposal extends the existing 1-hour ozone clean data policy for the SIP process to future 8-hour ozone areas that are required to submit control strategy SIPs.

Specifically, we are proposing to require such 8-hour ozone areas with adequate or approved 1-hour ozone SIP budgets to meet one of the following four options to complete conformity:

- The interim emissions tests, as described in Section V.;
- The budget test using the adequate motor vehicle emissions budgets in a submitted control strategy SIP for the 8-hour ozone standard;
- The budget and/or interim emissions tests using existing 1-hour ozone SIP budgets and/or applicable interim emissions tests, as described in A.3. of this section for different scenarios of 1-hour and 8-hour ozone nonattainment boundaries; or
- The budget test using the motor vehicle emissions level in the most recent year of clean data as budgets, if such budgets are established by the EPA rulemaking that determines an area to have clean data for the 8-hour ozone standard.

See the proposed regulatory text for these options in § 93.109(e)(4).

4. General Implementation of Regional Tests

The proposal also retains the existing rule's general requirements that regional emissions analyses for ozone areas must address NO_X and VOC precursors (40 CFR 93.102(b)(2)(i)). All proposed interim emissions test options would be required to address both precursors, unless EPA determines that additional reductions of NO_X would not contribute to attainment for the 8-hour ozone standard and issues a NO_X waiver under Clean Air Action section 182(f). This is consistent with the current conformity rule, although the proposal moves these provisions to § 93.119(f) due to reorganization of § 93.119. Finally, the proposal retains the current rule's provision that the interim emissions test(s) be completed for NO_X if a reasonable further progress SIP is submitted with only a budget for VOCs (*e.g.*, a 15% SIP). *See* § 93.109(e)(3) for this proposed regulatory text.

The consultation process should be used to determine the models and assumptions for completing the interim emissions tests and/or the budget test, as required by § 93.105(c)(1)(i) of the current rule. The consultation process can also be used to select the conformity test(s) before 8-hour ozone SIPs are submitted. See the proposed regulatory text in § 93.109(e) for a general overview of when the budget test and interim emissions tests apply in 8-hour ozone nonattainment areas with 1-hour ozone SIP budgets.

B. Why Are We Proposing These Options?

EPA has received stakeholder input asking EPA to provide 8-hour ozone areas with conformity flexibility in the time period before 8-hour ozone SIPs are established. In response, EPA is proposing a menu of options for 8-hour ozone areas that have existing 1-hour ozone SIP budgets, rather than requiring only one conformity test be used. Allowing areas to choose between the interim emissions tests and/or the budget test based on 1-hour ozone SIPs would accommodate the many different boundary scenarios described in VI.A.2.

EPA has previously found that the interim emissions tests are sufficient for meeting the Clean Air Act requirements for a given standard before a SIP with adequate budgets is in place for that standard. As discussed in Sections IV. and V. of this proposal, EPA believes that Clean Air Act sections 176(c)(1) and (c)(3)(A)(iii) can be met through only one or a combination of interim emissions tests, depending upon an area's classification.

Our proposal to allow areas to use the 1-hour ozone budgets before 8-hour ozone budgets are available does not mean that areas would be determining conformity for the 1-hour ozone standard. As articulated in the proposed 8-hour ozone implementation rule, EPA is proposing that conformity for only one ozone standard apply at a time (June 2, 2003, 68 FR 32823–32824).

We are proposing to offer the budget test as a choice because we think that many 1-hour ozone budgets provide as good an analytical test as the other tests that exist or are proposed for use before

8-hour ozone budgets are available: the build/no-build and baseline year tests. In general, EPA believes the 1-hour ozone budgets may be an appropriate test like the build/no-build test, because the 1-hour ozone VOC and NO_X budgets that an area has represent a reduction in emissions that is consistent with the applicable SIP for that standard. Although the 8-hour ozone standard is more stringent than the 1-hour ozone standard, many 1-hour ozone budgets have in fact served to reduce emissions over time. For example, the Clean Air Act requires that transportation plans and TIPs reduce emissions in the higher classifications of ozone and CO areas before a SIP for a given pollutant and standard is developed. We believe that the budget test using 1-hour ozone budgets may meet this requirement at least as well as the build/no-build test.

EPA also believes that the 1-hour ozone budgets may be comparable to the baseline year test for conformity under the 8-hour ozone standard. The baseline year test could actually be thought of as a type of budget test before 8-hour ozone budgets are established: emissions in the year 2002 become the ceiling on emissions, a defacto budget. The budgets in 1-hour ozone SIPs are at least as good as the 2002 baseline year test if areas are meeting them when they are designated for the 8-hour ozone standard. In the case where 2002 emissions are higher than established 1-hour ozone budgets, the budget test would actually be a more conservative test. However, in the case where 2002 emissions are lower than the 1-hour ozone budgets, the budgets should still be a valid test since they provide for attainment of the 1-hour ozone standard. In other words, consistency with the 1-hour budgets would have resulted in a certain level of emissions at the time areas were designated for the 8-hour ozone standard. An area's designation as a nonattainment area for the 8-hour ozone standard would be based on its air quality monitoring data for the years 2001–2003. Therefore, EPA does not anticipate that many areas will have 2002 emissions significantly lower than 1-hour budgets since areas would not have likely put control measures in place by 2002 that would result in lower emissions for that year. We believe that consistency with the 1-hour ozone budgets would assure an emissions level that is in line with the baseline year test, since the baseline year is 2002.

However, EPA does not believe that 8-hour ozone areas that have 1-hour ozone budgets must use these budgets for conformity prior to the development of 8-hour ozone budgets. Although an area could conclude through the consultation process that use of a 1-hour ozone budget would be appropriate, there may be many cases where the 1-hour ozone budget would not provide the best test for conformity to the 8-hour ozone standard. For instance, 1-hour ozone budgets could be for a year different than the year for which 8-hour ozone conformity is being demonstrated. For example, 1-hour budgets could be from a rate-of-progress SIP (*e.g.*, a 15% plan) for a past milestone year, such as 1996, that is no longer relevant to projected emissions in the post-2002 period for the 8-hour ozone standard. In contrast, an area may only have a 1-hour ozone maintenance plan with budgets for a year beyond the 8-hour ozone attainment year. The planning assumptions (such as VMT, vehicle fleet characteristics, speeds) underlying the 1-hour budget may also be significantly out-of-date.

Thus, although it is appropriate to offer areas the opportunity to use 1-hour ozone budgets, EPA believes that they should not be mandated and that the consultation process should be used to select the most appropriate test for a particular area prior to the development of adequate or approved 8-hour ozone SIP budgets. EPA requests comment on this proposal to allow areas to use applicable 1-hour ozone budgets to demonstrate conformity prior to the development of 8-hour ozone budgets, and to use the consultation process to determine whether such budgets should be used.

Finally, today's proposal responds to stakeholder requests that the rule continue to offer more choices to new ozone areas that would qualify for EPA's proposed 8-hour ozone clean data policy. If the proposed 8-hour ozone clean data policy is included in the final 8-hour ozone implementation rule, EPA would also include the proposed conformity options for such areas in the final conformity rule for the new standards. See EPA's previous discussion and rationale for the clean data options in the preamble to the 1996 proposal and 1997 final rules (July 9, 1996, 61 FR 36116, and August 15, 1997, 62 FR 43785, respectively).

VII. Regional Conformity Tests in $PM_{2.5}$ Areas

A. What Are We Proposing?

EPA proposes that the budget test would be used to complete a regional emissions analysis once a $PM_{2.5}$ SIP is submitted with budget(s) that EPA has found adequate or approved. Although the first $PM_{2.5}$ SIP may be an attainment demonstration, $PM_{2.5}$ nonattainment areas ''are free to establish, through the SIP process, a motor vehicle emissions budget [or budgets] that addresses the new NAAQS in advance of a complete SIP attainment demonstration. That is, a state could submit a motor vehicle emissions budget that does not demonstrate attainment but is consistent with projections and commitments to control measures and achieves some progress towards attainment.'' (August 15, 1997, 62 FR 43798–43799). Such a SIP would include inventories for all emissions sources. EPA encourages nonattainment areas to develop their $PM_{2.5}$ SIPs in consultation with Federal, state, and local air quality and transportation agencies as appropriate.

EPA is proposing that $PM_{2.5}$ nonattainment areas meet one of the following interim emissions tests for conformity determinations conducted before adequate or approved $PM_{2.5}$ SIP budgets are established:

- The build-no-greater-than-no-build test, or
- The no-greater-than-2002 emissions test.

This proposal would allow $PM_{2.5}$ nonattainment areas to choose between the two interim emissions tests, rather than require that only one test or both tests be completed. Conformity would be demonstrated if the transportation system emissions reflecting the proposed plan or TIP (build) were less than or equal to either the emissions from the existing transportation system (no-build) or the level of motor vehicle emissions in 2002. A discussion of the proposed changes to the interim emissions tests can be found in Section IV.

The proposal would require that regional emissions analyses always be completed for directly emitted $PM_{2.5}$ from motor vehicle tailpipe, brake wear, and tire wear emissions. Once a SIP is submitted, the budget test would also be completed for any $PM_{2.5}$ precursor for which an adequate or approved budget is established. Prior to adequate or approved SIP budgets, an interim emissions test would be completed for each applicable $PM_{2.5}$ precursor, as described in Section VIII. Sections IX. and X. describe proposed options for when regional emissions analyses would include direct $PM_{2.5}$ emissions from re-entrained road dust and construction-related dust.

The consultation process should be used to determine the models and assumptions for completing any regional emissions analysis, as required by § 93.105(c)(1)(i). See the proposed regulatory text in § 93.109(i) for a general overview of when the budget test and interim emissions tests apply in

$PM_{2.5}$ areas, and § 93.119(e) for a description of the interim emissions tests for $PM_{2.5}$ nonattainment areas.

B. Why Are We Proposing These Options?

We believe that the proposal addresses the concerns of many stakeholders by providing flexibility before adequate or approved $PM_{2.5}$ SIP budgets are established. While many $PM_{2.5}$ areas will have prior conformity experience with different pollutants, others will be doing conformity for the first time. In either case, the conformity process provides an important opportunity to begin addressing transportation-related $PM_{2.5}$ emissions early to ensure that air quality is not worsened before SIPs are submitted. Proposing a choice of interim emissions tests before SIPs are submitted addresses the desire for flexibility and environmental protection.

EPA has previously determined that only ozone and CO areas of higher classifications are required to satisfy both statutory requirements that transportation planning activities not cause or contribute to violations of the standards (Clean Air Act section 176(c)(1)(B)) and that such activities contribute to annual emissions reductions (Clean Air Act section 176(c)(3)(A)(iii)) (January 11, 1993 proposed rule, 58 FR 3782–3783). EPA continues to believe that Clean Air Act section 176(c)(3)(A)(iii) does not apply to any other areas, including $PM_{2.5}$ areas; only Clean Air Act section 176(c)(1)(B) applies to these areas.

To that end, the current conformity rule already allows many areas to conform based on only one interim emissions test if transportation emissions are consistent with current air quality expectations, rather than having to complete two tests and contribute further reductions towards attainment. Today's proposal continues to apply this same test structure and rationale to $PM_{2.5}$ areas.

VIII. Consideration of Direct $PM_{2.5}$ and $PM_{2.5}$ Precursors in Regional Emissions Analyses

A. What Are We Proposing?

We are proposing to require that all regional emissions analyses in $PM_{2.5}$ nonattainment and maintenance areas consider all sources of directly emitted $PM_{2.5}$ motor vehicle emissions from the tailpipe, brake wear, and tire wear. Proposed regulatory text can be found in § 93.102(b)(1). *See* Sections IX. and X. for the proposed options for including direct $PM_{2.5}$ from re-entrained road dust and construction-related dust in conformity analyses.

This proposal would also add potential transportation-related $PM_{2.5}$ precursors—NO_X, VOCs, sulfur oxides (SO_X), and ammonia (NH_3)-for consideration in the conformity process. Once a $PM_{2.5}$ SIP is submitted, a regional emissions analysis would be required for a given precursor if the SIP establishes an adequate or approved budget for that particular precursor.

The following two options address how the various $PM_{2.5}$ precursors would be considered in conformity determinations conducted before adequate or approved $PM_{2.5}$ SIP budgets are established, for the reasons explained below. EPA is proposing regulatory text in §§ 93.102(b)(2) and 93.119(f) for both of these options. We are providing the regulatory text for both options to maximize the public's opportunity to provide meaningful comments.

The first proposed option would require regional emissions analyses for NO_X and VOC precursors in all areas, unless the State air agency or the EPA Regional Administrator makes a finding that one or both of these specific precursors *are not a significant contributor* to the $PM_{2.5}$ air quality problem in a given area. Regional emissions analyses would not be required for SO_X and NH_3 before an adequate or approved SIP budget for such precursors is established, unless the State or EPA makes a finding that on-road emissions of one or both of these precursors *is a significant contributor.* Under the first option, the MPO and DOT would document in their conformity determinations when regional emissions analyses are not being conducted when EPA or the State has determined NO_X or VOCs to be insignificant.[3]

EPA's second option would only require regional emissions analyses for one or more $PM_{2.5}$ precursors (*i.e.*, NO_X, VOC, SO_X and NH_3) before adequate or approved $PM_{2.5}$ SIPs have been established if the State or EPA makes a finding that one or more of these precursors *are significant contributors* to the $PM_{2.5}$ air quality problem in a given area.

A State air agency or EPA finding of significance or insignificance (a ''significance finding'') would be based on criteria similar to the general criteria currently used by EPA to evaluate SIPs that claim on-road emissions are insignificant for a given pollutant or precursor. EPA's existing policy for insignificance serves as the basis for today's proposal, as described in Section XIV.B. of this notice. The following criteria should be considered in making significance findings for $PM_{2.5}$ precursors under either proposed option: the contribution of on-road emissions of the precursor to the total 2002 baseline SIP inventory; the current state of air quality for the area; the results of speciation monitoring for the area; the likelihood of future motor vehicle control measures for a given precursor; and projections of future on-road emissions of the precursor. The State air agency or EPA Regional Administrator would determine significance or insignificance of motor vehicle emissions in a given area on a case-by-case basis.

Under either option, a significance finding should be made only after discussions with the interagency consultation group for the $PM_{2.5}$ nonattainment area. These discussions should include a review of the available data being considered to support the significance finding. Interagency consultation also ensures that all of the relevant agencies are aware that such a finding is being considered. It is important to provide transportation agencies with adequate notice of which, if any, precursors they may need to address in conformity analyses. A significance finding would be made through a letter to the relevant State and local air quality and transportation agencies, MPO(s), DOT and EPA (in the case of a State air agency finding).

EPA notes that any significance finding made prior to the SIP should not be viewed as the ultimate determination of the significance of precursor emissions in a given area. State and local agencies may find through the SIP development process that emissions of one or more precursors are significant, even if a precursor had previously been considered insignificant. In such a case, the $PM_{2.5}$ SIP would establish motor vehicle emissions budgets and significant precursors would be included in subsequent conformity analyses.

To calculate emission factors for direct $PM_{2.5}$ from motor vehicles and $PM_{2.5}$ precursors areas in all states except California would use the latest EPA-approved motor vehicle emissions factor model (currently MOBILE6). $PM_{2.5}$ nonattainment and maintenance areas in California should use EMFAC2002 or a more recently EPA-approved model. It should be noted that EMFAC2002 currently does not calculate emissions factors for NH_3.

[3] The public would be notified of when NO_X or VOC is considered insignificant through the documentation in a conformity determination under the first option.

However, EPA understands that California is working on a revision to EMFAC that should enable the model to calculate emissions factors for NH_3. A schedule for completing the necessary revisions has not been established. As a practical matter, conformity for NH_3 would not be required in California until there is an acceptable method for estimating such emissions, since a method would be needed to estimate current or future NH_3 emissions for either a significance finding or SIP motor vehicle emissions budget.

Including any precursors in regional emissions analyses prior to the submission of a SIP should not result in any additional transportation or emissions modeling work since the nonattainment areas will already be estimating vehicle miles traveled (VMT) from transportation activities for the direct $PM_{2.5}$ regional emissions analysis. In addition, EPA's upcoming MOBILE6.2 and California's EMFAC2002 are designed to generate emissions factors for direct $PM_{2.5}$ and $PM_{2.5}$ precursors in the same modeling run. Therefore, if any area is already generating $PM_{2.5}$ emissions factors, precursor estimates would be available without any additional effort, with the possible exception of NH_3 estimates in California, as indicated above.

B. Why Are We Proposing These Options?

Section 176(c)(1)(B) of the Clean Air Act requires that federal funding and approval be given only to transportation activities that are consistent with state and local air quality goals. To fulfill this requirement with respect to $PM_{2.5}$, EPA is proposing that transportation conformity determinations consider $PM_{2.5}$ and its precursors if they are significant contributors to an area's $PM_{2.5}$ air quality problem.

EPA anticipates that in most nonattainment and maintenance areas direct $PM_{2.5}$ emissions would be an important contributor to the $PM_{2.5}$ air quality problem, and therefore, we are proposing that direct $PM_{2.5}$ emissions from motor vehicles be included in all conformity analyses. In addition, EPA's proposal to require conformity to all relevant budgets established in the $PM_{2.5}$ SIP is consistent with the Clean Air Act in that transportation activities must conform to the air quality goals established and estimates of future emissions in the SIP for a given area.

EPA has proposed NO_X, VOCs, SO_X, and NH3 as potential transportation-related $PM_{2.5}$ precursors since all of these precursors are emitted from on-road motor vehicles. Based on data collected from monitoring sites in the national speciation trends network,[4] secondary particles from precursors commonly account for over half of the total fine particle mass from all emissions sources measured at these sites. Therefore, we expect that areas may need to address on-road emissions of relevant precursors (*i.e.*, NO_X, VOC, SO_X and NH_3) in their SIPs and in conformity.

EPA believes that the two proposed options would allow for the consideration of the four potential precursors in conformity prior to $PM_{2.5}$ SIPs when such precursors are significant. However, they differ in terms of whether a NO_X or VOC precursor is presumed to be significant and considered in conformity from the start, or whether a finding of significance is necessary before a precursor is addressed. The proposed options attempt to strike a balance between: (1) Expeditiously addressing transportation-related emissions that could exacerbate the $PM_{2.5}$ air quality problem before a SIP is established, and (2) targeting conformity requirements in $PM_{2.5}$ areas in an efficient and reasonable manner. As described above, the proposed options would only require SO_X and NH_3 analyses if either precursor was found to be significant before a $PM_{2.5}$ SIP.

For example, the first proposed option is more environmentally conservative by requiring that NO_X and VOC conformity analyses be included in all areas initially. If EPA finds that in most areas motor vehicle emissions of these precursors are significant contributors to $PM_{2.5}$ air quality problems, it may warrant the first option's more straightforward approach to meeting Clean Air Act requirements. In other words, areas would begin addressing NO_X and VOC emissions upon designation under the first option, without having a separate state or EPA finding of significance. This option is similar to the current rule's requirement that ozone areas must address NO_X and VOC precursors.

On the other hand, the second proposed option is consistent with the current rule's approach for PM10 precursors, where NO_X and VOC conformity analyses are only conducted prior to PM_{10} SIPs if the State or EPA finds either precursor significant (40 CFR 93.102(b)(2)(iii)). EPA finalized this approach in the November 24, 1993 conformity rule because at that time secondary formation appeared to be less important for the PM_{10} NAAQS in general, although some PM_{10} areas have since established NO_X and/or VOC SIP budgets.

The second proposed option would account for regional variability and target conformity analyses where EPA or the state determine NO_X and VOC precursors to be significant to an area's $PM_{2.5}$ problem. Although we know that NO_X and VOC precursors generally play a more important role in $PM_{2.5}$ formation, we continue to gather more specific information on the significance of these precursors in different parts of the country. One could argue that it may be more appropriate to focus scarce state and local efforts on NO_X and VOC precursors only when they are determined to be significant, especially if adopting control measures early in conformity may prove not to be necessary in the $PM_{2.5}$ SIPs.

The following paragraphs present information on current speciated air quality data and on-road emissions of the precursors that contribute to the formation of secondary particles. The information is intended to illustrate what we know about $PM_{2.5}$ precursor emissions and air quality. This type of information is relevant to deciding whether or not to initially require that a precursor be considered in conformity before a more thorough evaluation is conducted through the SIP development process. The emission inventory data used in the following discussion is for 372 potential nonattainment counties based on 1999–2001 ambient data.[5] Summaries of the air quality and emissions inventory data discussed below are available in the docket for this rulemaking. More detailed air quality emission inventory data is available on the EPA Web site at *http://www.emissionsonline.org/nei99v3/index.htm*. The public is welcome to submit additional data on the importance of including $PM_{2.5}$ precursors in conformity before SIPs are established.

NO_X precursor emissions. On-road sources accounted for approximately 40% of total NO_X emissions in 1999 in the 372 potential nonattainment counties. Based on data collected from monitoring sites in the national speciation trends network, nitrates—which result from reactions involving NO_X—make up between 5 and 40% of the total $PM_{2.5}$ constructed mass. The areas with the highest percentages of nitrates are in California and parts of the

[4] The speciation trends network consists of over 50 monitoring sites in urban areas and provides nationally consistent data on $PM_{2.5}$ constituents including nitrates, elemental carbon, organic carbon and sulfates.

[5] Through this data, we identified 129 counties that have violating monitors for $PM_{2.5}$. EPA is currently reviewing 2000–2002 ambient data which may affect the numbers discussed in today's proposal.

Midwest. The areas with lowest percentages tend to be in the southeast, where nitrates make up only 5 to 10% of the total $PM_{2.5}$ constructed mass.

The 2003 NARSTO–PM report (''Particulate Matter Science for Policy Makers: A NARSTO Assessment,'' February 2003) states, ''Nitrates represent a major fraction of the $PM_{2.5}$ mass measured in some locations, though the management of the nitrate fraction via NO_X emission reductions needs to be addressed in combination with VOCs, NH_3 and SO_2. This must be done in consideration of the relationship between nitrate production and local or regional ozone formation.'' The report also states, ''Reductions of NO_X, VOCs, and associated NH_3 throughout the year in and around large urban areas may be important in the East as well as the West to bring down the nitrate contributions to the 24-hr and/or annual PM averages. While summer nitrate concentrations in eastern North America are low in comparison with other $PM_{2.5}$ components, higher winter nitrate concentrations occur in northern urban areas.'' The report goes on to indicate that the application of chemical transport models and comprehensive air quality monitoring will be useful in determining how best to address nitrates.

A number of factors should be taken into account when considering the two options for addressing NO_X as presented above. The first proposed option (which specifies that conformity demonstrations during the pre-SIP period must cover NO_X unless a finding is made that NO_X is *not* a significant contributor to the area's $PM_{2.5}$ problem) is supported by the fact that on a national basis, NO_X is clearly a significant contributor to the $PM_{2.5}$ problem, that nitrates constitute some portion of the problem in each metropolitan area, and that on-road sources are significant contributors of NO_X emissions in the potential nonattainment counties. In addition, assuming further sulfur dioxide reductions are required in order to attain the $PM_{2.5}$ standards, certain areas may see an increase in nitrate formation as sulfur dioxide emissions decline due to the reaction of ammonia with NO_X, which in relative terms would be more ''available'' for such reactions. In order to minimize this ''NO_X disbenefit'' situation, NO_X emissions should be further reduced at the same time. These factors may argue that a more environmentally conservative approach is needed to meet the Clean Air Act conformity provisions, and that NO_X should be considered in conformity analyses under the first proposed option unless the State or EPA determine otherwise.

The second option (in which conformity demonstrations during the pre-SIP period must consider NO_X *only if* the State or EPA make a finding that NO_X is a significant contributor) is under consideration because the contribution of nitrates to total $PM_{2.5}$ concentrations in different metropolitan areas can vary significantly as noted above. In addition, this option would enable states to consider NO_X emission reductions in combination with potential reductions of VOCs, NH_3 and SO_2 as part of the process for developing an area's attainment demonstration (due within 3 years of the area's nonattainment designation), in which air quality modeling at a more refined spatial resolution (*e.g.* 12 kilometer grid size) would be performed. EPA seeks comment on the two options for addressing NO_X in conformity prior to $PM_{2.5}$ SIPs.

VOC precursor emissions. In 1999, on-road sources accounted for approximately 34% of the total VOC emissions in the 372 potential nonattainment counties for $PM_{2.5}$ (based on the 1999–2001 air quality data). Carbonaceous particles, which result, in part, from reactions involving VOCs, account for 25–70% of constructed fine particle mass measured at speciation trends network sites. The highest percentages of carbonaceous particles tend to be in California and the lowest percentages tend to be in the eastern United States.

Our understanding of the role of VOCs in $PM_{2.5}$ air quality problems continues to evolve. VOCs play several different functions in the formation of the organic fraction of $PM_{2.5}$. The 2003 NARSTO report characterizes VOC precursors into three main categories. High molecular weight organic molecules (*i.e.*, molecules with 25 or more carbon atoms) are either emitted directly as particles or as liquids that rapidly condense onto existing particles. Intermediate weight organic molecules (e.g., compounds with 7 to 24 carbon atoms) often exhibit a range of volatilities and can exist in both the gas and aerosol phase. For this reason they are also referred to as semivolatile compounds. These compounds react at higher temperatures to form secondary organic aerosols (SOAs). Aromatic compounds such as toluene, xylene, ethyl benzene are considered to be the most significant anthropogenic SOA precursors and have been estimated to be responsible for 50 to 70 percent of SOAs. The smallest organic molecules (*i.e.*, molecules with six or less carbon atoms) occur in the atmosphere mainly as vapors and typically do not form organic particles at ambient temperatures. However, they participate in atmospheric chemistry processes resulting in the formation of ozone and certain free radical compounds (such as the hydroxyl ion [OH]). These free radicals participate in the oxidation of other gas-phase compounds (such as semivolatile aromatics) to form SOAs. The relative importance of each of these groups of organic compounds in the formation of organic particles varies from area to area. Also, the contribution of on-road source emissions to each of these three groups of organic compounds may vary from area to area.

Since on-road motor vehicles account for a substantial portion of total VOC emissions and on-road VOCs should be significant in many $PM_{2.5}$ areas, one could argue that the first proposed option is the most logical and environmental approach. Under this proposed option, VOCs would be considered in conformity automatically unless states or the EPA Regions determine that VOCs are insignificant for a given area. On the other hand, it may be appropriate to allow states and EPA the opportunity to evaluate the local significance of VOC emissions prior to consideration in conformity, given the likely variations between areas regarding the role of VOCs in the formation of $PM_{2.5}$. EPA seeks comment on the two options for addressing VOCs in conformity prior to $PM_{2.5}$ SIPs.

SO_X precursor emissions. EPA believes that statutory requirements are met under both proposed options if SO_X is only addressed in conformity if it is determined to be significant to an individual nonattainment area. Although SO_X may significantly contribute to total $PM_{2.5}$ in terms of emissions from all sources, emissions inventory data indicates that on-road emissions of SO_X generally represent a very small portion of the total SO_X emissions. Emissions inventory data for 1999 for the 372 potential $PM_{2.5}$ nonattainment counties for $PM_{2.5}$ (based on 1999–2001 air quality data) shows that on-road sources were responsible for only 2% of total SO_X emissions. By comparison, fuel combustion sources (*e.g.*, electric utility and industrial combustion of coal and oil) were responsible for approximately 88% of the SO_X emissions in 1999 in these same counties.

In addition, EPA has already adopted two regulations that will greatly reduce emissions of SOx from on-road sources by the time such regulations are both in full effect in 2009. First, in 2004 the low sulfur gasoline program begins to be

phased in and is fully effective in 2007 (February 10, 2000, 65 FR 6697). This regulation will reduce the sulfur content of gasoline by approximately 90%.[6] Second, in 2006 the low sulfur diesel program begins to be phased in and is fully effective by 2009 (January 18, 2001, 66 FR 5001). This regulation will reduce the sulfur content of diesel fuel by approximately 97% nationally.

Projections of on-road emissions of SO2 in 2020 in the 372 potential $PM_{2.5}$ nonattainment counties based on 1999–2001 air quality data indicates that on-road sources will be responsible for less than 1% of the total SO_2 emissions in 2020 in these counties.[7] These projections confirm that the implementation of the fuel regulations discussed above will ensure that SO_2 emissions from on-road sources remain at insignificant levels.

NH^3 precursor emissions. EPA believes that both proposed options are appropriate and consistent with the statute by only requiring NH_3 conformity analyses if it is found significant in a given area. States and EPA should have a better understanding of the effect of NH_3 reductions on $PM_{2.5}$ concentrations by 2007, when $PM_{2.5}$ SIPs would be due. Based on the limited state of knowledge about on-road mobile source NH_3 contributions to $PM_{2.5}$ and indications that such emissions may be small, EPA does not generally believe that any areas should be required to consider NH_3 in conformity before SIPs are submitted, unless the State or EPA determines that NH_3 emissions are significant.

First, the 2003 NARSTO–PM report states that in most areas, insufficient information exists at this time to predict how particle mass and composition would change in response to changing NH_3 emissions. In some areas, reductions in NH_3 could actually lead to formation of acid aerosols that could worsen air quality. Second, existing emissions data show that on-road sources are a relatively small contributor to national NH_3 emissions, approximately 5%. In addition, information on 1999 emissions indicates that about 17% of the NH_3 in the 372 potential $PM_{2.5}$ nonattainment counties (based on 1999–2001 air quality data) comes from on-road sources. Although this information provides some evidence that on-road NH_3 emissions can be important in some urban areas, this is likely due to urbanized counties having fewer agricultural and other NH_3 sources.

IX. Re-entrained Road Dust in $PM_{2.5}$ Regional Emissions Analyses

A. Background

Fugitive dust is released into the atmosphere by the mechanical disturbance of granular material. Common sources of fugitive dust include agricultural operations, construction, and on-road motor vehicle activity. Motor vehicles produce direct particulate emissions of dust through resuspension of loose material on the road surface, also known as re-entrained road dust.

Re-entrained road dust can come from both paved and unpaved roads, including pavement wear and decomposition, atmospheric deposition onto the road surface, mud and dirt carry-out from off-road sites, and sand, salt, and other materials applied for ice or skid control. In the preamble to the 1993 final conformity rule, EPA identified re-entrained road dust as a potential on-road mobile source contributor to some local PM_{10} nonattainment problems. EPA stated, ''All highway and transit related source categories that contribute to the nonattainment problem should be identified and included in the motor vehicle emissions budget, including exhaust, evaporative, and re-entrained dust emissions (including emissions from antiskid and deicing materials, where treated as mobile source emissions by the SIP).'' (November 24, 1993, 58 FR 62194)

B. What Are We Proposing?

This part of the proposal addresses when direct $PM_{2.5}$ from re-entrained road dust would be included in conformity analyses in $PM_{2.5}$ nonattainment and maintenance areas. Once a $PM_{2.5}$ SIP is submitted, re-entrained road dust would be included in regional emissions analyses if road dust is considered significant in the context of the SIP's air quality modeling and included in an adequate or approved $PM_{2.5}$ motor vehicle emissions budget. EPA would consider the significance of road dust in its adequacy review or approval of a submitted $PM_{2.5}$ SIP. The following two options address road dust emissions in the time period before adequate or approved $PM_{2.5}$ SIP budgets are established.

The first option would require that, prior to adequate or approved $PM_{2.5}$ SIP budgets, re-entrained road dust would only be included in regional emissions analyses if the State air quality agency or EPA Regional Administrator determines that re-entrained road dust *is a significant contributor* to the $PM_{2.5}$ regional air quality problem. In other words, $PM_{2.5}$ areas could presume that re-entrained road dust is not a significant contributor and not include road dust in $PM_{2.5}$ transportation conformity analyses prior to the SIP, unless the State or EPA finds road dust significant. The proposed regulatory text for this option can be found in § 93.102(b)(3).

EPA requests comment on whether the first proposed option should be modified to require certain $PM_{2.5}$ areas that are also PM_{10} areas to include road dust in $PM_{2.5}$ conformity analyses, if road dust is currently included in PM_{10} conformity analyses. Such a caveat would result in a limited number of $PM_{2.5}$ areas including road dust in all $PM_{2.5}$ conformity analyses prior to a $PM_{2.5}$ SIP, unless the State or EPA found that road dust is not a significant contributor to the regional air quality problem. This proposal does not affect how re-entrained road dust is addressed in conformity for the PM_{10} standard.

The second proposed option would require that re-entrained road dust be included in conformity analyses in all $PM_{2.5}$ nonattainment areas prior to adequate or approved $PM_{2.5}$ SIP budgets, unless the State air quality agency or EPA Regional Administrator determines that re-entrained road dust *is not a significant contributor* to the regional air quality problem. For this option, MPOs and DOT would document in their conformity determinations that regional emissions analyses for direct $PM_{2.5}$ do not include road dust emissions when EPA or the State has determined that such emissions are insignificant.[8]

An EPA or State air agency finding of significant or insignificant re-entrained road dust emissions (a ''significance finding'') would be based on a case-by-case review of the following factors for either proposed option: the contribution of road dust to current and future $PM_{2.5}$ nonattainment; an area's current design value for the $PM_{2.5}$ standard; whether control of road dust appears necessary to reach attainment; and whether increases in re-entrained dust emissions may interfere with attainment. Such a review would include consideration of local air quality data and/or air quality modeling results. Today's proposed options for $PM_{2.5}$ road dust are consistent with EPA's existing

[6] In addition, California has adopted its own rule which addresses the sulfur content of gasoline in that State. California's regulation is similar in stringency to the federal regulation.

[7] EPA 420–R–00–020, October 2002, ''Procedures for Developing Base Year and Future Year Mass and Modeling Inventories for the Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel (HDD) Rulemaking.''

[8] The public would be notified when road dust is considered insignificant through the documentation in a conformity determination for this option.

insignificance policy for all areas as described in Section XIV.B.

Under either option, a significance finding should be made only after discussions with the interagency consultation group for the $PM_{2.5}$ nonattainment area. These discussions should include a review of the data being considered. Interagency consultation would also ensure that all of the relevant agencies are aware that such a finding is being considered and is supported by the air quality information that is available at the time. A significance finding would be made through a letter to the relevant state and local air quality and transportation agencies, MPO(s), DOT, and EPA (in the case of a State air agency finding).

EPA notes that any significance finding made prior to the SIP should not be viewed as the ultimate determination of the significance of road dust emissions in a given area. State and local agencies may find through the SIP development process that road dust emissions are significant and should be included in the $PM_{2.5}$ SIP motor vehicle emissions budget and subsequent conformity analyses, even in the case where road dust emissions were previously considered insignificant.

As described further below, under any of the proposed options, EPA would issue guidance on how to calculate $PM_{2.5}$ road dust emissions to reflect the true impact of re-entrained road dust on regional air quality. This guidance would be available before EPA's final $PM_{2.5}$ nonattainment designations. *See* Section IX.D. for more details on EPA's ideas for such guidance.

C. Why Are We Proposing These Options?

At issue is the question of whether or not re-entrained road dust has a significant impact on air quality and should be included in conformity analyses in all $PM_{2.5}$ areas. Existing PM_{10} areas include re-entrained road dust in conformity because fugitive dust from roadways and other sources dominate PM_{10} regional emissions inventories. However, the role of re-entrained road dust for $PM_{2.5}$ air quality issues is less clear. Furthermore, there does not appear to be a direct correlation between the amount of road dust calculated for $PM_{2.5}$ motor vehicle inventories and what is being collected on $PM_{2.5}$ monitoring filters, as discussed further in this section.

Specifically, analysis of local air quality data indicates wide regional variation in the fractions of $PM_{2.5}$ found on air quality monitors that consists of chemical elements associated with fugitive dust. Moreover, not all emissions of these chemical elements are attributable to re-entrained road dust, as they can also be emitted by other sources that disturb or process minerals or metals. In some areas, especially those areas in the eastern United States, preliminary analyses indicate that fugitive dust may not have a significant impact on regional air quality.[9] In those areas, it may be more productive prior to a $PM_{2.5}$ SIP to focus control efforts on vehicle emissions that contribute to the $PM_{2.5}$ air quality problem, rather than on re-entrained road dust emissions.

The first proposed option would address regional variability, and ultimately allow the SIP's analysis to determine whether or not re-entrained road dust is a significant factor in the regional $PM_{2.5}$ problem. A more thorough air quality analysis as required for the SIP may be the best determination of the real impact of re-entrained road dust on $PM_{2.5}$ air quality, unless there is clear evidence before the SIP that road dust emissions are significant.

Under the first proposed option, EPA is requesting comment on whether it is appropriate to require $PM_{2.5}$ areas that are also PM_{10} areas to include road dust in conformity analyses, unless a finding is made that road dust is not significant. Areas that are nonattainment for PM_{10} may be more likely to have significant re-entrained road dust contributing to the $PM_{2.5}$ problem. Due to the significant amount of road dust in existing PM_{10} inventories, it may be appropriate to also initially presume that road dust is significant for $PM_{2.5}$ for these limited number of PM_{10} areas, unless the State or EPA find that road dust is not significant.

Finally, because the second option begins with the presumption that re-entrained road dust emissions is a problem, it may be more conservative in protecting $PM_{2.5}$ air quality with respect to the impact of road dust. However, in many areas, the second proposed option might result in the diversion of resources toward road dust analyses as well as road dust control measures that might be more effectively used to understand and control other emissions sources. These areas do have the option of supporting an EPA or state finding that road dust emissions are not significant, but this may be difficult to do prior to the completion of the SIP analysis in some areas.

D. Request for Comment on Estimating Road Dust Emissions

Under any of the proposed options, road dust SIP emissions inventories and regional emissions analyses for conformity at this time should be calculated using methods described in EPA's guidance entitled, ''AP–42, Fifth Edition, Volume 1, Chapter 13, Miscellaneous Sources'' (US EPA Office of Air Quality Planning and Standards; available at *http://www.epa.gov/ttn/chief/ap42/ch13/*) or locally developed estimation methods approved through the interagency consultation process. For reasons described below, under EPA's future guidance, calculated emissions would then be adjusted downward based on an analysis of the relative impact of re-entrained road dust on ambient $PM_{2.5}$ concentrations as determined by regional air quality monitors in a given area.

Review of $PM_{2.5}$ air quality data raises significant questions of uncertainty in the estimation methods for $PM_{2.5}$ dust emissions. Emissions of road dust are estimated using methods that are based on data collected from particulate monitors set up close to the road edge. These methods are used to create a $PM_{2.5}$ inventory, which is an estimation of the total amount of $PM_{2.5}$ road dust released into the atmosphere. When used with standard air quality simulation models, the methods that are used to create the inventory may adequately estimate the dust in the air immediately adjacent to the road, but may overestimate the impact that dust has on concentrations in the larger region and in particular at the $PM_{2.5}$ monitors that determine attainment with the $PM_{2.5}$ NAAQS. Regional air quality is assessed by air quality monitors that are set up in a wide range of locations. These regional air quality monitors generally indicate much lower fractions of dust in the atmosphere than are predicted based on the emissions inventories. (''Reconciling Urban Fugitive Dust Emissions Inventory and Ambient Source Contribution Estimates: Summary of Current Knowledge and needed Research'', Desert Research Institute Document 6110.4F, May 2000, available at *http://www.epa.gov/ttn/chief/efdocs/fugitivedust.pdf).*

There are several likely contributing factors to explain this discrepancy. The first factor is that road dust particles are distributed more toward the high end of the $PM_{2.5}$ size range than are exhaust particle or $PM_{2.5}$ emissions from many other source types. The second factor is

[9] ''National Air Quality and Emissions Trends Report, 1999,'' EPA–454/R–01–004, U.S. EPA Office or Air Quality Planning and Standards, March 2001; also J. Szykman, D. Mintz, J. Creilson, and M. Wayland, ''Impact of April 2001 Asian Dust Event on Particulate Matter Concentrations in the United States,'' in the ''Proceedings of the Air & Waste Management Association Symposium on Air Quality Measurement Methods and Technology, San Francisco, November 13–15, 2002.

the low height to which re-entrained road dust is lifted (75% of unpaved road dust emissions were less than 2 meters above the ground when they were measured; compared to emissions released from stacks at stationary sources or vertical exhaust pipes on heavy-duty trucks) (Desert Research Institute Document 6110.4F, May 2000). This low-lifting height provides an extended ''opportunity'' for impaction, filtration, agglomeration and other physical mechanisms that lead to particle removal to occur. The third factor is that the lack of any thermal buoyancy for dust emissions would somewhat reduce their impact, in contrast to emissions from vehicle exhaust and other combustion or high temperature sources. All three factors increase the likelihood that road dust particles would settle out of the atmosphere onto the ground or adhere onto other surfaces such as vegetation, structures, *etc.,* before contributing substantially to the $PM_{2.5}$ regional air quality problem.

There are other reasons for uncertainty associated with the current method for estimating $PM_{2.5}$ re-entrained road dust emissions. The original data used to develop this method were based on measurements of PM_{10} rather than $PM_{2.5}$. The PM_{10} data were subsequently adjusted to reflect the fraction of $PM_{2.5}$ in PM_{10}, but these adjustments add uncertainty. In addition, the data used to develop the emissions estimation method are highly variable. This variability adds to uncertainty about its interpretation. (''AP–42, Fifth Edition, Volume 1, Chapter 13: Miscellaneous Sources'', U.S. EPA Office of Air Quality Planning and Standards).

Attempting to adjust for discrepancies between estimated inventories and air quality measurements, EPA has discounted national $PM_{2.5}$ emissions inventories by 75% in air quality analyses for recent EPA rulemakings and other national analyses, to create the ''effective emissions'' that are used as input into regional air quality models. (Desert Research Institute Document 6110.4F, May 2000). Even with this discount, absolute air quality model predictions of the concentration of chemical elements associated with road dust typically have remained higher than observed at most urban $PM_{2.5}$ monitoring sites, suggesting that an even larger discount may be needed in at least some situations. In areas where $PM_{2.5}$ transportation conformity for road dust is required, we believe that discounting local re-entrained road dust inventories is necessary to ensure that the overall impact of road dust is properly estimated, and that decisions about control strategies for road dust emissions and exhaust emissions reflect actual relative impacts on ambient concentrations and attainment. Without these adjustments, planners may not apply the proper combination of control measures on dust and vehicle emissions needed to properly address the regional $PM_{2.5}$ air quality problem. Based on observed discrepancies, EPA believes that controls on road dust would have a much smaller impact on regional air quality than would initially appear based on unadjusted emission inventories.

Preliminary analysis of air quality data and modeling studies indicates that there will likely be wide local variation in the size of the necessary adjustments to $PM_{2.5}$ dust emissions. For this reason, it would be inappropriate to apply EPA's 75% downward adjustment for national inventories for all areas. EPA believes it is more appropriate for $PM_{2.5}$ areas to create locally-specific adjustments based on the amount of road dust on an area's monitoring filters and its relationship to an area's nonattainment problem. Therefore, EPA intends to develop methods to make these adjustments locally both before and after a regional SIP air quality analysis has been done. EPA would issue this guidance by the time $PM_{2.5}$ designations are made. EPA invites comments and suggestions for possible methods for determining such local adjustments in areas where road dust is included in conformity analyses.

X. Construction-Related Fugitive Dust in $PM_{2.5}$ Regional Emissions Analyses

A. Background

Construction-related fugitive dust is granular material released into the atmosphere during construction. Activities associated with construction-related fugitive dust emissions include land clearing, drilling and blasting, ground excavation, cut and fill operations (*i.e.* earth moving), and facility construction. Often, a large portion of such emissions results from equipment traffic over temporary roads at the construction site. Construction-related fugitive dust is distinct from re-entrained road dust, which is emitted by motor vehicles traveling over permanent paved or unpaved roads. The discussion here applies only to fugitive dust emitted during the construction of highway or transit projects.

B. What Are We Proposing?

EPA proposes to include construction-related fugitive dust from highway or transit projects in regional emissions analyses in $PM_{2.5}$ nonattainment and maintenance areas only if the SIP identifies such dust *as a significant contributor* to the regional air quality problem. In other words, $PM_{2.5}$ areas would only include construction-related fugitive dust if the SIP identifies it as contributing to an area's air quality problem. Construction-related dust emissions would not be included in any $PM_{2.5}$ conformity analyses before adequate or approved $PM_{2.5}$ SIP budgets are established. EPA has included proposed regulatory text for this option as § 93.122(e).

Under this proposal, if construction-related fugitive dust is included in transportation conformity, we propose to allow $PM_{2.5}$ SIP budgets and conformity analyses to be adjusted to reflect the true impact of construction-related fugitive dust on regional air quality, as explained in Section IX.D. EPA would issue guidance on how to calculate $PM_{2.5}$ construction dust emissions to more accurately reflect the impact of construction dust on regional air quality before EPA's final $PM_{2.5}$ nonattainment designations. Construction dust SIP emissions inventories and regional emissions analyses for conformity should be calculated using methods described in EPA's guidance entitled, ''AP–42, Fifth Edition, Volume 1, Chapter 13, Miscellaneous Sources'' (US EPA Office of Air Quality Planning and Standards; available at *http://www.epa.gov/ttn/chief/ap42/ch13/*) or locally developed estimation methods approved through the consultation process.

Under EPA's future guidance, calculated emissions would then be adjusted downward to account for discrepancies based on an analysis of the relative impact of construction dust on ambient $PM_{2.5}$ concentrations as determined by regional air quality monitors in a given area. See previous discussion in Section IX.D. for more details on ideas that EPA is considering for its future guidance. EPA is also requesting comment from the public on such guidance.

C. Why Are We Proposing This Option?

Section 176(c) of the Clean Air Act requires that the air quality impacts of transportation projects be evaluated so that new violations or worsened violations do not occur. If emissions of fugitive dust from highway or transit projects contribute to air quality problems in $PM_{2.5}$ areas and as a result, air quality is worsened, then it may be appropriate to evaluate those emissions in conformity before federal funding or approval is given. Section 93.122(d) of the transportation conformity rule

requires regional PM_{10} emissions analyses to include construction-related PM_{10} dust if the SIP identifies such emissions as a contributor to the nonattainment problem. If construction-related fugitive PM_{10} is not identified as a contributor to the air quality problem in the implementation plan, areas are not required to include these emissions in the regional emissions analysis for transportation conformity. The proposal applies the current rule's approach for PM_{10} areas to $PM_{2.5}$ areas.

In nonattainment and maintenance areas where construction-related fugitive dust is a part of the nonattainment problem, we would allow states to adjust the construction-related fugitive dust SIP inventories and subsequent conformity analyses to resolve any discrepancies between the dust inventories and the amount of dust observed at air quality monitors, as described above. As noted, regional air quality monitors generally indicate much lower fractions of dust in the atmosphere than are predicted based on the emissions inventories. (Desert Research Institute Document 6110.4F, May 2000). As explained above, factors such as larger particle size, low release height, and low thermal buoyancy increase the likelihood that dust particles would quickly settle out of the atmosphere onto the ground or adhere onto other surfaces such as vegetation, structures, etc.

In areas where $PM_{2.5}$ transportation conformity for construction dust is required, we believe that discounting local construction dust inventories is necessary to ensure that the overall impact of road dust is properly estimated, and that decisions about control strategies for dust emissions (including construction dust) and exhaust emissions reflect actual relative impacts on ambient concentrations and attainment. EPA will develop separate guidance for these adjustments to SIP budgets and conformity analyses and this guidance would be available before EPA's final nonattainment designations for the $PM_{2.5}$ standard.

D. Implementation and Request for Additional Information

EPA addressed implementation issues for including construction dust in PM_{10} conformity analyses in an October 28, 1996 memorandum.[10] Under the proposal, EPA would apply similar implementation guidance to $PM_{2.5}$ areas.

During the development of the SIP, air quality agencies would ensure that the $PM_{2.5}$ SIP inventory clearly identifies the role (if any) of construction dust in the $PM_{2.5}$ air quality problem. If construction dust is a contributor, dust from highway and transit projects would be included in the $PM_{2.5}$ SIP motor vehicle emissions budget. MPOs and state transportation agencies would work together with local and state air quality agencies to ensure that construction dust emissions are properly analyzed with respect to the transportation plan and TIP for conformity analyses. If the $PM_{2.5}$ SIP identifies construction dust as a significant $PM_{2.5}$ problem, the regional emissions analysis would account for the level of construction activity, the fugitive $PM_{2.5}$ control measures in the SIP (if there are any), and the dust-producing capacity of the proposed construction activities.

XI. Compliance With $PM_{2.5}$ Control Measures

A. What Are We Proposing?

We are proposing that FHWA and FTA projects in $PM_{2.5}$ nonattainment and maintenance areas must comply with the applicable SIP's control measures, when such measures exist. Through this proposal, FHWA/FTA would assure implementation of a required control or mitigation measure by obtaining enforceable written commitments from the project sponsor and/or operator prior to making a project-level conformity determination. This requirement would be satisfied if the project-level conformity determination contains a written commitment from the project sponsor to include the control measures in the final plans, specifications and estimates for the project. This proposal is consistent with a similar requirement for PM_{10} areas in § 93.117 of the current conformity rule.

We should note, however, that this proposed requirement in § 93.117 is only applicable after a $PM_{2.5}$ nonattainment area has an approved $PM_{2.5}$ SIP, since the requirement is to comply with the measures in the approved SIP. Today's proposal does not affect any separate state or SIP requirements for compliance with control measures.

The purpose of a $PM_{2.5}$ control measure would be to limit the amount of $PM_{2.5}$ emissions from construction activities and/or normal use and operation associated with the project. Examples of control or mitigation measures that may be approved into a SIP include limitations on fugitive dust during construction or street sweeping. Normal project design elements (dimensions, lane widths, materials, *etc.*), however, are not considered mitigation or control measures.

EPA requests information from current PM_{10} nonattainment and maintenance areas on how the current requirement in § 93.117 has been implemented in PM_{10} areas and what types of measures have been effective in limiting these emissions. Information on how PM_{10} areas have addressed this requirement and the types of measures that have been implemented could prove valuable to new $PM_{2.5}$ nonattainment areas.

B. Why Are We Proposing This Option?

The purpose of conformity is to ensure that federal actions are consistent with the SIP. If the approved SIP includes control measures for mitigating $PM_{2.5}$ emissions from federal transportation projects, then conformity should ensure that these SIP measures are implemented. We believe that this requirement would help $PM_{2.5}$ areas achieve clean air by ensuring that federal projects comply with control measures that result in air quality improvements as anticipated in the SIP. Although such projects must comply with SIP requirements in any event, documenting compliance in a conformity determination would add an important enforcement tool to aid in SIP compliance.

The interagency consultation process is required to discuss the inclusion of control measures in an area's SIP. Section 93.105(b)(1) of the current conformity rule requires that the interagency consultation process be used in the development of the SIP, particularly when an agency is responsible ''for developing, submitting or implementing provisions of an implementation plan.'' The interagency consultation group may also be a source of recommendations for the most appropriate approach to addressing $PM_{2.5}$ emissions in the SIP.

Section 93.117 of the current conformity rule has an identical requirement for project-level conformity determinations in PM_{10} nonattainment and maintenance areas. We do not believe that compliance with this requirement has been a burden for PM_{10} areas. Therefore, we do not anticipate that our proposal in § 93.117 should be a burden on new $PM_{2.5}$ nonattainment areas, as this requirement simply ensures that control measures which the interagency consultation group has

[10] ''Transportation Conformity: Regional Analysis of PM_{10} Emissions from Highway and Transit Project Construction,'' memorandum from Gay MacGregor, then-director, Regional and State Programs Division, Office of Mobile Sources to EPA Regional Air Division Directors.

previously agreed upon and included in the SIP are implemented.

XII. $PM_{2.5}$ Hot-Spot Analyses

A. What Are We Proposing?

EPA is taking comment on two options concerning the need to conduct hot-spot analyses for FHWA and FTA projects in $PM_{2.5}$ nonattainment and maintenance areas. A hot-spot analysis as defined in § 93.101 of the rule for CO and PM_{10} areas is an estimation of likely future localized pollutant concentrations and a comparison of those concentrations to the air quality standard. A hot-spot analysis assesses impacts on a scale smaller than the entire nonattainment or maintenance area, including for example, congested roadway intersections and highways or transit terminals, and uses a dispersion model to determine the effects of emissions on air quality. In general, a hot-spot analysis must show that the project does not cause any new violations of the air quality standard or increase the frequency or severity of existing violations. The conformity rule currently requires hot-spot analyses in CO and PM_{10} nonattainment and maintenance areas. The reader should refer to §§ 93.116 and 93.123 of the current conformity regulation for specific CO and PM_{10} hot-spot analysis requirements.

The first proposed option would not require hot-spot analyses for FHWA and FTA projects in $PM_{2.5}$ nonattainment and maintenance areas, for the reasons described below. We recognize that there is on-going research on $PM_{2.5}$ and, if this research provides evidence in the future that clearly indicates that transportation-related $PM_{2.5}$ hot-spots exist, we would revise the conformity rule in the future to require $PM_{2.5}$ hot-spot analyses at locations that are most likely to experience hot-spot problems. We invite commenters with data relevant to the existence of transportation-related $PM_{2.5}$ hot-spots to submit this data during the comment period for this proposal.

EPA also requests comment on a second option that would require $PM_{2.5}$ hot-spot analyses for FHWA and FTA projects at certain types of locations if the $PM_{2.5}$ SIP for the area identifies such locations. Under this option, $PM_{2.5}$ hot-spot analyses would not be required for any projects prior to the submission of a SIP and then only if the $PM_{2.5}$ SIP identifies susceptible types of locations.

We request comment on what potential $PM_{2.5}$ hot-spot location types could be identified in the SIP, including locations of: significant congestion, highest traffic volumes, existing or suspected future localized violations of the $PM_{2.5}$ standard, or high diesel vehicle traffic such as near freight or transit terminals. EPA seeks comment on these potential location types or others that may be appropriate to consider for the second proposed option. The locations listed above are similar to those described in §§ 93.123(a)(1)(i)–(iv) and 93.123(b)(1)(i)–(iii) of the current conformity rule where quantitative hot-spot analyses must be performed for CO and PM_{10}. However, under this proposal, $PM_{2.5}$ hot-spot analyses would only be required for projects at the types of locations identified in the SIP. This option would not require qualitative analyses for all projects in the $PM_{2.5}$ nonattainment or maintenance area as is currently required for CO and PM_{10} nonattainment and maintenance areas.

If the second option is finalized, the required hot-spot analysis would address only the contribution of directly emitted particles to ambient $PM_{2.5}$ concentrations, including re-entrained emissions if those are addressed under conformity in that area. Typically, a hot-spot analysis would be done for an intersection, a short segment of roadway or the immediate vicinity of a transit terminal. Since secondary particles take several hours to form in the atmosphere giving emissions time to disperse beyond the immediate area of concern, hot-spot analyses could only examine direct particulate emissions that are attributable to an individual project. In other words, precursor emissions from a project would not be considered in a hot-spot analysis. Secondary particles would only be considered as part of the $PM_{2.5}$ background concentration that would be included in the assessment of whether or not a hot-spot exists.

If EPA finalizes the second option, we would provide guidance on how to identify locations where transportation-related $PM_{2.5}$ hot-spots may exist. This guidance would be available for use when states prepare $PM_{2.5}$ SIPs. We would also provide guidance and appropriate models for carrying out quantitative analyses at identified locations of concern, prior to the requirement to perform any $PM_{2.5}$ hot-spot analyses.

Finally, under the second option we are also proposing that prior to making a project-level conformity determination in a $PM_{2.5}$ nonattainment or maintenance area, FHWA or FTA must obtain from the project sponsor and/or operator enforceable written commitments to implement any required control or mitigation measures otherwise applicable to the project. These control or mitigation measures may be a condition of either a NEPA approval or a conformity determination for a plan or TIP or be included in the design concept and scope of the project that is used in the regional emissions analysis required by §§ 93.118 or 93.119. These measures may be applicable during construction and/or operation of the project. Such measures would already be applicable to such projects, however including commitments to them in conformity determinations will provide an additional enforcement tool. Section 93.125(a) of the conformity rule already includes this requirement for CO and PM_{10} nonattainment and maintenance areas, and EPA would include similar language if a $PM_{2.5}$ hot-spot analysis requirement is included in the final rule. Although EPA has not proposed regulatory language, either of these proposals could be finalized as described above.

B. Existing Research on $PM_{2.5}$ Hot-Spots and Request for Additional Information

EPA has reviewed a number of key studies that represent the range of research that is currently available on the impact of on-road mobile source emissions of particles on air quality near roadways. The results of these studies are not conclusive as to whether or not transportation-related $PM_{2.5}$ hot-spots exist. The majority of these studies indicate that concentrations of some components of $PM_{2.5}$ increase near roadways, such as black carbon and ultrafine particles. However, it is difficult to relate these measures directly to $PM_{2.5}$, as many of the studies did not measure $PM_{2.5}$ directly. The magnitude of increased concentrations appears to be related to several factors including the total number of vehicles operating on the roadway, the number of diesel vehicles operating on the roadway and the level of congestion or amount of stop-and-go driving on the roadway. However, these studies were less clear as to whether or not $PM_{2.5}$ hot-spots exist. Several studies concluded that on-road sources were one of several contributors to the concentrations measured near roadways. At least one study concluded that hot-spots do not exist. Several studies reported that they had identified hot-spots caused by local on-road emissions. However, it is difficult to relate the conclusions of many of these studies to the $PM_{2.5}$ standards, because a number of these studies collected individual air quality samples for less than 24 hours and only collected data over a period of several months. All of the studies that were reviewed are available in the docket for this rulemaking. We invite others with

data relevant to the existence of transportation-related hot-spots to submit their data during the comment period for this rulemaking.

C. Why Are We Proposing These Options?

Section 176(c)(3)(B)(ii) only specifically requires a hot-spot analysis for projects in CO nonattainment areas. Since Congress only specifically required hot-spot analyses in CO areas, EPA has discretion to decide if hot-spot analyses are necessary to protect air quality in particulate matter nonattainment and maintenance areas. If EPA determines that analyses are necessary for a given particulate matter standard, EPA also has discretion to target such analyses toward certain locations or certain types of projects. Given the uncertainty found in the literature on the existence of $PM_{2.5}$ hot-spots, we are proposing two options which are described below.

If $PM_{2.5}$ hot-spots are not expected to occur, the Clean Air Act's conformity provisions are met without performing hot-spot analyses in $PM_{2.5}$ areas. Section 176(c)(1)(B) of the Clean Air Act requires that activities funded or approved by the federal government must not ''cause or contribute to any new violation of any standard in any area; increase the frequency or severity of any of any existing violation of any standard in any area; or delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.'' For projects in ozone areas, we have previously determined that the requirements of section 176(c)(1)(B) are met if the project meets the requirements of section 176(c)(2)(C) of the Clean Air Act, since ozone impacts occur at a regional level. Section 176(c)(2)(C) indicates that a project may be adopted or approved if it is included in a conforming plan and TIP, the design concept and scope of the project has not changed significantly since the conformity finding for the plan and TIP, and the design concept and scope of the project was adequate to determine emissions when the conformity determination was made.

Because projects in $PM_{2.5}$ nonattainment and maintenance areas would be included in the area's regional emission analysis, as discussed in Section VII. of this proposal, they would also conform without a hot-spot analysis, if hot-spots are not expected to occur. Available air quality data indicate that $PM_{2.5}$ air quality problems are similar to ozone in that they are both primarily regional in nature.

EPA's January 2001 draft SIP guidance entitled ''Guidance for Demonstrating Attainment of Air Quality Goals for $PM_{2.5}$ and Regional Haze'' indicates that, due to the nature of the $PM_{2.5}$ NAAQS, sharp concentration gradients that lead to hot-spots are unlikely because: individual air quality samples are collected over a 24-hour period; compliance with the annual $PM_{2.5}$ standard is determined over a 3-year period; and, secondary formation of particles plays a significant role in determining $PM_{2.5}$ concentrations in a given area.

Therefore, we are proposing the first option (that would not require hot-spot analyses) because we are not certain that hot-spots will occur, and in that case hot-spot analyses would not be needed to protect air quality. If evidence clearly indicates that transportation-related $PM_{2.5}$ hot-spots exist, we would revise the conformity rule in the future to require $PM_{2.5}$ hot-spot analyses at locations that are most likely to experience hot-spot problems.

The second option would require hot-spot analyses at certain types of locations if the $PM_{2.5}$ SIP identified locations susceptible to $PM_{2.5}$ hot-spots. As discussed above, the results of research on transportation-related $PM_{2.5}$ hot-spots is inconclusive as to whether or not $PM_{2.5}$ hot-spots exist or would exist in the future. However, most of the research we have reviewed indicates that concentrations of some components of $PM_{2.5}$ increase near heavily traveled roadways. If a state identified types of locations in its SIP where it had evidence that a $PM_{2.5}$ hot-spot exists or is likely to exist, a quantitative $PM_{2.5}$ hot-spot analysis would be required for FHWA and FTA projects at these locations.

This option would be consistent with the purpose of conformity, which is to ensure that federally funded or approved transportation projects are consistent with the SIP for the area. Requiring a hot-spot analysis for projects at these locations would also be environmentally protective because, if the planned project would cause a new violation or increase the frequency or severity of an existing violation, a project-level conformity determination would ensure that the estimated air quality impacts of the project would be mitigated. Also, the requirement for a hot-spot analysis would only result in an increased resource burden for conformity if the SIP for the area identified locations where the analyses would be required, and then only if a project was planned for one of these locations. This option would be an environmentally protective way of responding to the scientific uncertainty surrounding $PM_{2.5}$ hot-spots, because it retains a mechanism to address $PM_{2.5}$ hot-spots if states ultimately determine there could be potential problems. At the same time, it would impose no conformity resource burden prior to $PM_{2.5}$ SIPs in any area; additional conformity resources would be required only in the case where an individual area identifies $PM_{2.5}$ hot-spots as a local air quality issue in the SIP.

In the event that the existence of $PM_{2.5}$ hot-spots is confirmed, we do not believe that performing a qualitative hot-spot analysis for every FHWA and FTA project in $PM_{2.5}$ nonattainment and maintenance areas would provide an environmental benefit due to the regional nature of $PM_{2.5}$ and the significant role of secondary formation of these fine particles. In addition, we recognize that performing a hot-spot analysis for every project in a $PM_{2.5}$ nonattainment or maintenance area would require a significant amount of resources, which may not result in environmental benefits. Therefore, we are proposing that hot-spot analyses not be required for $PM_{2.5}$, or in the second option that quantitative hot-spot analyses only be required for project locations if identified as a concern in the $PM_{2.5}$ SIP.

XIII. PM_{10} Hot-spot Analyses

A. What Are We Proposing?

EPA is requesting comment on whether to retain the current conformity rule's requirement that hot-spot emissions analyses be conducted for FHWA and FTA projects in all PM_{10} nonattainment and maintenance areas. A PM_{10} hot-spot analysis is required to examine the localized impacts of an individual highway or transit project as required in §§ 93.116 and 93.123, including all direct emissions from vehicle and re-entrained road dust.

We are considering a wide range of options for modifying the current PM_{10} hot-spot analysis requirements, and no regulatory text is being proposed for any option. However, based on this proposal and any comments submitted, we may finalize any of the options discussed in this proposal. We also invite commenters to suggest additional options.

One option is to maintain the current conformity rule requirements. These provisions require a hot-spot analysis for FHWA/FTA projects in PM_{10} nonattainment and maintenance areas to ensure that the project does not cause or contribute to any new localized PM_{10} violation or increase the frequency or severity of any existing PM_{10} violation.

There currently is no federal guidance for conducting quantitative PM_{10} hot-spot analyses, although qualitative guidance, developed by FHWA in consultation with EPA, is available.[11] Local areas can develop their own procedures that meet the rule's requirements.

EPA is also considering other options that would result in PM_{10} hot-spot analyses only being required under certain circumstances. For example, it may be appropriate to only require PM_{10} hot-spot analyses in nonattainment and maintenance areas where the SIP has identified motor vehicle emissions as a localized problem. Alternatively, under this option, hot-spot analyses would not be required in a PM_{10} area if the SIP has determined that motor vehicle emissions do not create a localized problem.

Another option would be to only require PM_{10} hot-spot analysis at certain types of project locations (*e.g.*, highly congested intersections) or for certain types of highway and/or transit projects (*e.g.*, large transit stations where significant traffic and engine idling occurs). Such an option would be similar to the alternate option being proposed for hot-spot analyses for projects in $PM_{2.5}$ nonattainment and maintenance areas in Section XII. of today's proposal. EPA is requesting information on any existing PM_{10} SIPs that identify motor vehicle emissions or specific locations as a hot-spot concern.

We also request comment on an option that would delete PM_{10} hot-spot requirements from the conformity rule. When the transportation conformity rule was first promulgated in 1993, EPA was primarily concerned about the possibility of localized PM_{10} exceedances in urban street canyons or near transit terminals (November 24, 1993, 58 FR 3780). However, since other factors affecting PM_{10} emissions have changed since 1993, as discussed below, it may be appropriate to delete the current PM_{10} hot-spot requirement entirely and focus limited state and local resources on other air quality concerns.

We are soliciting information on how PM_{10} hot-spot analyses have been completed to date; whether PM_{10} hot-spots have been detected from all or certain types of transportation projects; and whether stakeholders believe the current requirements result in environmental benefits. It has been 10 years since the current PM_{10} hot-spot analysis requirements were promulgated, and our understanding of PM_{10} air quality issues has improved over that time.

We also invite commenters to submit the results of recent research, reports or data collection that would provide information on the nature of PM_{10} hot-spots and on appropriate methods for performing hot-spot analyses. For example, we are aware that the Transportation Center at the University of Tennessee conducted a series of analyses at various types of public transit facilities to determine their impact on nearby PM_{10} concentrations. None of these analyses showed that there was a significant risk of localized PM_{10} problems as a result of emissions from these facilities.

Finally, we would also like to receive information on whether any PM_{10} problems have been identified through PM_{10} qualitative analyses and how the identified problems were resolved for project level conformity determinations.

B. Why Are We Considering These Options?

EPA believes that it is appropriate to re-evaluate the need for hot-spot analyses for all projects in PM_{10} nonattainment and maintenance areas at this time. When the conformity rule was promulgated in 1993, we interpreted the Clean Air Act section 176(c)(1)(B) to require PM_{10} hot-spot analyses because of the requirement to ensure that transportation activities do not worsen air quality (January 11, 1993, 58 FR 3776). Section 93.116 of the current rule states that transportation projects cannot cause or contribute to new violations or increase the frequency or severity of existing ones.

It should be noted that Clean Air Act section 176(c)(3)(B)(ii) only specifically requires hot-spot analyses for projects in CO nonattainment areas. Congress did not specifically require hot-spot analyses for PM_{10} areas. Therefore, if EPA concludes in this rulemaking that PM_{10} hot-spots are not an air quality concern or that PM_{10} hot-spots are only a concern in certain cases, then a rule revision would be consistent with the statute.

In 1993, EPA believed that typically sized bus terminals or transfer points would not create PM_{10} hot-spots but that it was practical to require a determination to that effect. We also believed at that time that direct PM_{10} emissions would be capable of causing violations only in conditions of unusually heavy diesel truck/bus traffic and limited dispersion, such as street canyons (January 11, 1993, 58 FR 3780).

We are not aware of any such locations that are currently causing localized PM_{10} exceedances. As stated previously, the University of Tennessee study did not show a risk of localized PM_{10} problems as a result of emissions from public transit facilities. We are requesting information on whether other studies on this issue are available.

In addition, EPA's diesel fuel and engine standards (January 18, 2001, 66 FR 5002) will significantly impact the amount of particulate emissions that will be emitted by new diesel vehicles. The fuel standards will be implemented in 2006 and the engine standards in 2004 with more stringent standards starting in 2007. These standards may address EPA's original concern about the potential of localized PM_{10} hot-spots in certain urban or transit locations where diesel vehicle traffic is significant. Currently, agencies are required to perform such analyses on all projects regardless of their likelihood to produce a localized exceedance. However, areas that were at risk in the past may not be at risk in the future as the new vehicle and fuels standards take effect. Therefore, as vehicles and fuels become cleaner through fleet turnover, the likelihood of a PM_{10} hot-spot at any given location may be reduced.

However, we are not proposing a preferred option for changing the current PM_{10} hot-spot requirements. Instead, we are soliciting input to guide our decision on maintaining, amending or eliminating the PM_{10} hot-spot requirements in the final rule. EPA believes it is appropriate to focus conformity resources where air quality issues are significant and need to be in place to address Clean Air Act section 176(c)(1)(B). A review of recent information may show either that PM_{10} hot-spot analyses are no longer warranted or that they can be better targeted at projects or locations where these types of problems may occur. We expect that the comments that we receive in response to this portion of the proposal would allow us to make appropriate changes to the existing requirements in the final rule, if necessary.

XIV. Miscellaneous Revisions for New and Existing Areas

A. Definitions

EPA is proposing to clarify the current conformity rule's definitions for ''control strategy implementation plan revision'' and ''milestone'' in § 93.101. The current rule defines a control strategy implementation plan revision as an implementation plan which contains specific strategies for

[11] Guidance for Qualitative Project-Level ''Hot Spot'' Analysis in PM_{10} Nonattainment and Maintenance Areas. Federal Highway Administration. Office of Natural Environment. 2001.

controlling emissions and reducing ambient levels of pollutants to satisfy certain Clean Air Act requirements for reasonable further progress and attainment. The conformity regulation lists these Clean Air Act requirements as: Sections 182(b)(1), 182(c)(2)(A), and 182(c)(2)(B) for ozone areas; section 187(a)(7) for CO areas; sections 189(a)(1)(B) and 189(b)(1)(A) for PM_{10} areas; and sections 192(a) and 192(b) for NO_2 areas.

EPA has determined, however, that the current list of Clean Air Act provisions in § 93.101 is incomplete, as the list does not include all the provisions of the Act that require a control strategy SIP revision for the purposes of demonstrating reasonable further progress or attainment. For example, the current rule definition does not include Clean Air Act section 172(c) that includes the general plan provisions that any attainment or reasonable further progress SIP revision must satisfy. In addition, the conformity rule's definition does not address SIP revisions submitted under Clean Air Act sections 187(g) or 189(d). These provisions of the Act require serious CO and PM_{10} areas, respectively, to submit SIP revisions that would reduce emissions by 5% per year until attainment of the relevant standard is ultimately achieved (''5% plans''), if these areas initially fail to attain on time.

In implementing the conformity regulation, EPA has always interpreted the definition of a control strategy SIP revision to consist of any SIP that is established for the purposes of attainment or progress towards attainment, including those SIPs submitted to satisfy Clean Air Act sections 172(c), 187(g) or 189(d). Therefore, in today's rulemaking we are simply clarifying that any implementation plan revisions that are submitted to fulfill these additional Clean Air Act requirements are considered control strategy SIPs for conformity purposes. We are also clarifying that any SIP that is established to demonstrate reasonable further progress and/or attainment should be considered a control strategy SIP. This definition would include any progress or attainment SIP that is submitted for existing and future criteria pollutants and standards that are subject to the conformity regulation.

Similarly, EPA is expanding the current definition of milestone in § 93.101 to more adequately reflect EPA's original intent and implementation of this term. The current conformity rule defines milestone as having the meaning given in sections 182(g)(1) and 189(c) of the Clean Air Act. The rule also states that a milestone consists of an emissions level and the date on which it is required to be achieved.

EPA has historically interpreted the conformity rule's definition of milestone to mean any year for which the Clean Air Act requires a demonstration of reasonable further progress towards attainment. Our interpretation covers all nonattainment areas, including all classifications of ozone areas, that are required to submit reasonable further progress SIPs and motor vehicle emission budgets. In reevaluating the current milestone definition, however, EPA has concluded that the current rule could be misinterpreted to mean that only serious and above ozone areas and PM_{10} areas would need to consider budgets established for milestone years required by Clean Air Act sections 182(g)(1) and 189(c), respectively. This interpretation could lead to confusion over how certain reasonable further progress SIPs should apply for conformity purposes. For example, the current milestone definition does not specifically address reasonable further progress SIP and budget years established by moderate ozone areas per Clean Air Act section 182(b)(1). As a result, the rule could be considered unclear about how moderate ozone areas should consider these particular SIPs in conformity. To address this ambiguity in the rule, we are proposing to expand our current definition of milestone so that it will include any year for which a motor vehicle emissions budget has been established to satisfy Clean Air Act requirements for demonstrating reasonable further progress. This definition would include all years in the applicable SIP for which emission targets showing progress towards attainment are established in any nonattainment area.

EPA believes that neither of these proposed clarifications would have a practical impact on the current conformity process. The Clean Air Act and conformity rule require transportation activities to conform to the applicable SIP and motor vehicle emissions budgets prior to receiving funding and approval. Therefore, any adequate or approved budgets, including those that demonstrate reasonable further progress, that are available at the time a conformity determination is made must be included in that determination.

Furthermore, it is EPA's understanding that conformity practitioners have historically been implementing the current rule's definitions as described above. For example, PM_{10} areas that have submitted 5% plans to satisfy Clean Air Act section 189(d) have used the motor vehicle emissions budgets established in these SIPs for conformity purposes and should continue to do so. Likewise, moderate ozone areas with reasonable further progress SIPs and budgets have historically used these budgets in conformity determinations. Therefore, the proposed clarifications to the rule's definitions for control strategy SIP revision and milestone should not impose any new requirements on nonattainment and maintenance areas; these rule revisions would simply clarify our original intent and current implementation of the existing conformity rule.

B. Areas With Insignificant Motor Vehicle Emissions

EPA is proposing two changes to incorporate our existing insignificance policy in the conformity rule. First, we are proposing to add § 93.109(k) for nonattainment and maintenance areas for which EPA makes a finding that the SIP's motor vehicle emissions for a pollutant or precursor for a given standard are an insignificant contributor to the area's air quality problem. The proposal would waive the regional emissions analysis requirements in §§ 93.118 and 93.119 for an insignificant pollutant or precursor in these areas upon the effective date of EPA's adequacy finding or approval of such a SIP. In addition, this proposal would waive the hot-spot requirements in §§ 93.116 and 93.123 in CO and PM_{10} areas, if EPA determines that the SIP demonstrates that hot-spot emissions are also insignificant. The proposed § 93.109(k) would also establish the minimum criteria that are necessary to demonstrate that motor vehicle emissions are insignificant as described below.

Under this proposal and the existing policy, an area with insignificant motor vehicle emissions for a pollutant or precursor for a given standard would still be required to make a conformity determination that satisfies other relevant requirements including: SIP TCM implementation, interagency and public consultation, hot-spot requirements including the use of latest planning assumptions and emissions models in CO and PM_{10} areas (if EPA has not made a finding that such emissions are also insignificant), and compliance with SIP control measures in PM_{10} and $PM_{2.5}$ areas. Areas would also need to satisfy the regional emissions analysis requirements in §§ 93.118 and/or 93.119 for pollutants

or precursors for which EPA has not made a finding of insignificance.

Second, EPA is proposing a new § 93.121(c) to address the conformity requirements for regionally significant non-federal projects in areas with insignificant motor vehicle emissions. The current rule's § 93.121(a) and (b) require that the emissions impacts of such projects be considered prior to project approval. However, a regional analysis would not be required for a pollutant or precursor for a given standard that EPA has found insignificant. Consistent with proposed § 93.109(k) for federal projects, this proposal would not require a regional emissions analysis per §§ 93.118 and/or 93.119 for an insignificant pollutant or precursor for new regionally significant non-federal projects. However, the requirements in either § 93.121(a) or (b) would be required for any remaining pollutants or precursors for a given standard that are still considered significant (*i.e.*, EPA has not determined such remaining pollutants or precursors to be insignificant). Therefore, § 93.121(c) is proposed to allow non-federal project approvals in the limited cases of an EPA finding of insignificant emissions.

Since EPA promulgated the original conformity rule (November 24, 1993, 58 FR 62188), we have not required areas with insignificant motor vehicle emissions to conduct a regional emissions analysis for a pollutant or precursor that EPA has determined is insignificant to an area's air quality problem. In the preamble to the 1993 rule we explained that if a control strategy SIP demonstrates ''that motor vehicle emissions (including exhaust, evaporative and re-entrained road dust emissions) are insignificant and reductions are not necessary for attainment, the conformity determination is not required to satisfy the criteria for regional emissions analysis of that pollutant. If the control strategy SIP demonstrates that motor vehicle emissions of a precursor are insignificant and reductions are not necessary for attainment, the conformity determination is not required to satisfy the criteria for a regional emissions analysis of the precursor'' (58 FR 62194).

In the proposal to the 1997 rule (July 9, 1996, 61 FR 36118), we provided additional guidance to areas on what is necessary to demonstrate that motor vehicle emissions are insignificant contributors to an area's air quality problem. Specifically, the 1996 proposal states: ''the SIP would have to demonstrate that it would be unreasonable to expect that such an area would experience enough motor vehicle growth for a violation to occur. Such a demonstration would have to be based on a number of factors, including the percentage of the inventory comprised by motor vehicle-related emissions currently and in the future, how close the monitoring data is to the standard, the absence of SIP motor vehicle control measures, historical trends in growth of motor vehicle emissions and VMT, and projections of motor vehicle emissions and VMT.'' EPA's existing policy and guidance for insignificance serves as the basis for today's proposal and would apply when determining whether regional or hot-spot emissions are insignificant, and we are proposing to incorporate these criteria into the conformity rule.

The proposed § 93.109(k) is also consistent with other existing and proposed provisions of the rule in §§ 93.102 and 93.119 that address insignificance of pollutants and precursors before and after a SIP is submitted. See Sections VIII. and IX. for proposals for when $PM_{2.5}$ precursors and re-entrained road dust would be considered significant for $PM_{2.5}$ analyses.

The July 1996 conformity proposal also indicates that EPA would conduct an adequacy review of initial SIPs that claim that motor vehicle emissions are insignificant. The adequacy review process would provide the public with an opportunity to comment on the adequacy of these SIPs and on whether or not the insignificance criteria have been met. EPA's adequacy finding for such SIPs would signify that we agree that the area has satisfactorily demonstrated insignificance based on the list of factors described above from the July 1996 proposal. EPA will determine significance of regional and hot-spot motor vehicle emissions in a given area on a case-by-case basis, and we will consider the impact of individual precursors, as well as the overall impact of all motor vehicle emissions in our insignificance finding. For more information on EPA's adequacy review of SIPs that claim insignificant motor vehicle emissions, *see* the preamble to the June 30, 2003 conformity proposal that addresses the March 2, 1999 conformity court decision (68 FR 38983).

Section 93.105(b) describes when the interagency consultation process is used in SIP development. The interagency consultation process can be used to consider the insignificance criteria reflected in today's proposed § 93.109(k), and any other relevant local information. If the interagency consultation group for an area agrees that regional and/or hot-spot motor vehicle emissions are insignificant, such a finding should be clearly stated and well supported in a SIP that is subsequently submitted to EPA for adequacy review and/or approval.

EPA developed the insignificance policy to provide flexibility for areas where motor vehicle emissions had little to no impact on an area's air quality problem. We believe that requiring these areas to perform a regional emissions analysis is not necessary to meet Clean Air Act section 176(c) requirements that transportation actions not worsen air quality, since the overall contribution of motor vehicle emissions in these areas is small and any significant change in such emissions over time would be unlikely. In addition, regional analyses may drain limited State and local resources from targeting the most important sources of air pollution in these areas. To date, approximately a dozen areas have taken advantage of the insignificance policy, consisting mainly of PM_{10} areas with air quality problems caused primarily by stationary or area sources. This current universe of areas has not changed significantly since 1993, and we do not anticipate the number of areas that could demonstrate insignificance of motor vehicle emissions to substantially increase in the future. Therefore, the proposal would waive regional emissions analyses in these areas without compromising air quality, since state and local resources could then be directed toward reducing emissions from those sources that contribute the most to an area's air quality problem.

C. Limited Maintenance Plans

EPA currently has limited maintenance plan policies for the 1-hour ozone, CO, and PM_{10} standards. If a nonattainment area attains one of these standards and requests to be redesignated, it can choose to submit a more streamlined maintenance plan provided certain criteria are met. Although the three limited maintenance plan policies vary slightly, in general, an area would have to provide air quality data that shows with certainty that the area is attaining the standard and assurance that future violations of that standard are unlikely. In addition, an area would need to demonstrate that only limited growth in transportation emissions in the area is expected.

EPA is proposing three rule revisions that would make the conformity rule consistent with EPA's existing limited maintenance plan policies. Today's proposal would also allow for any future limited maintenance plan

policies for other standards to be considered in the conformity process.

First, EPA is proposing in § 93.101 to add a basic definition for ''limited maintenance plan.'' Second, we are proposing a new paragraph § 93.109(j) that states that a regional emissions analysis is not required to satisfy §§ 93.118 and/or 93.119 in areas that have an adequate or approved limited maintenance plan for a given pollutant and standard. However, a conformity determination that meets other applicable criteria, including the hot-spot requirements for projects in CO and PM10 nonattainment and maintenance areas, interagency and public consultation, and SIP TCM implementation, would still be required in these areas. A regional analysis would also be required for any other pollutants or standards that otherwise apply. The proposed § 93.109(j) would require a limited maintenance plan to demonstrate that it would be unreasonable to expect that an area would experience enough motor vehicle emissions growth to cause a violation. The interagency consultation process should be used to discuss the development of a limited maintenance plan (40 CFR 93.105(b)).

Third, as discussed above, EPA is proposing a new § 93.121(c) to clarify when funding and approval for new regionally significant non-federal projects would be granted. Consistent with our proposed § 93.109(j) for federal projects in areas with limited maintenance plans, this proposal would not require a regional emissions analysis per §§ 93.118 and/or 93.119 to be satisfied for regionally significant non-federal projects for the pollutant and standard that is addressed by the limited maintenance plan. However, the requirements in either § 93.121(a) or (b) would be required to be satisfied for any remaining pollutant or standard that apply in an area that are not addressed by the limited maintenance plan.

EPA believes that violations of a pollutant and standard due to unexpected growth would be highly unlikely in limited maintenance plan areas. Furthermore, EPA considers it a reasonable assumption that motor vehicle emissions in a limited maintenance plan area could increase to any realistic level during the maintenance period without causing or contributing to a violation of the standard. As a result, limited maintenance plans are treated as essentially not constraining for the length of the maintenance period, and the Clean Air Act requirements to not worsen air quality are met without a regional conformity analysis. While this policy does not exempt an area from the need to affirm conformity, it does eliminate the basis for the regional emission analysis since EPA would be concluding through our adequacy review or approval of the limited maintenance plan that limits on motor vehicle emissions during the maintenance period are unnecessary.

The proposed revisions to §§ 93.101, 93.109 and 93.121 would not have a practical impact on how conformity is demonstrated in areas with applicable limited maintenance plans, as EPA is simply proposing to incorporate into the conformity rule our existing policies for these areas. The purpose of these proposed revisions is to assist limited maintenance plan areas in their efforts to implement conformity. These revisions would in no way impose additional requirements for limited maintenance plan areas, nor would it eliminate any existing requirements that could compromise air quality.

For more information on transportation conformity and limited maintenance plans, see the preamble to the July 9, 1996 proposed conformity rule (61 FR 36118) and EPA's existing limited maintenance plan policies. For a discussion on EPA's adequacy review of limited maintenance plans, see the preamble to the June 30, 2003 proposal (68 FR 38974).

D. Grace Period for Transportation Modeling and Plan Content Requirements in Certain Ozone and CO Areas

EPA is proposing three changes to the conformity rule's provisions for when more rigorous transportation modeling and plan content requirements apply in certain ozone and CO areas. First, we are proposing a two-year grace period before the more advanced transportation modeling requirements in § 93.122(b) are required in the following types of areas: (1) Ozone and CO areas that are already classified as serious or above in which the urbanized area population increases to over 200,000, and (2) moderate ozone and CO areas that have an urbanized area population over 200,000 and are reclassified to serious (for ozone and CO) or severe (for ozone only). Section 93.122(b) of the current rule requires more advanced transportation network modeling requirements only in serious and above ozone and CO areas with urbanized populations over 200,000.

Second, EPA is proposing to expand the types of areas covered by the current rule's grace period for transportation plan content requirements. Section 93.106(b) currently includes a two-year grace period before the more specific transportation plan requirements in § 93.106(a) apply in moderate ozone and CO areas that are reclassified to serious and have urbanized populations over 200,000. The proposal would provide that same flexibility to: (1) Serious and severe ozone areas and serious CO areas in which the urbanized area population increases to over 200,000, and (2) moderate ozone areas that are reclassified to severe.

Third, we are clarifying in both §§ 93.106 and 93.122 that the two-year grace periods would begin upon either: (1) The official notice by the Census Bureau that the urbanized area population is over 200,000, or (2) the effective date of EPA's action that reclassifies a larger metropolitan moderate ozone or CO area to serious (ozone and CO) or severe (ozone only). An example of an official notice by the Census Bureau would be an announcement in the **Federal Register** that the urbanized population in a metropolitan area has increased to over 200,000.

EPA is making the above changes to provide flexibility as originally intended. In the proposal to the 1993 conformity rule, EPA explained that the purpose of the two-year grace period in applying these more specific transportation plan content requirements in moderate areas that are bumped-up to a serious classification is to ''allow these areas time to specify their networks and perform the other research and data collection activities necessary to develop network models and specific plans'' (January 11, 1993, 58 FR 3776). Adding the two-year grace period to § 93.122 provides this extra time. Furthermore, specific transportation plans are required in higher classification ozone and CO areas in § 93.106(a) to allow for more sophisticated modeling in such areas in § 93.122(b). For example, § 93.106(a) requires the most recent demographic and land-use information and a detailed description of the transit and highway system for each required transportation plan horizon year. Such details would be part of a more advanced analysis under § 93.122(b).

For the reasons stated in the 1993 rule, EPA originally intended §§ 93.106 and 93.122 of the conformity rule to work together. Providing a two-year grace period for the more specific transportation plan requirements in § 93.106(a), without providing such a grace period for the more advanced modeling requirements in § 93.122(b) does not achieve the flexibility that was intended for these areas.

In addition, EPA believes that the two-year grace periods should also

apply in ozone and CO areas that are already classified serious or above, but that are currently not required to meet the more rigorous plan and modeling requirements because their urbanized area population is lower than 200,000. If the urbanized area population in such an area increases to over 200,000, EPA believes it is reasonable that such an area would also need additional time to specify its networks and gather additional data to develop a more specific plan and conduct more advanced transportation modeling.

The proposed clarification to the existing § 93.106(b) provision, as well as the proposed § 93.122(c), would also provide flexibility in limited cases where a moderate ozone area is reclassified to severe. For example, when moderate ozone areas with an urbanized population greater than 200,000 fail to attain the standard by either the moderate or serious ozone attainment dates specified in the Clean Air Act, EPA could reclassify these areas to severe. Today's proposal would clarify how the grace period would be implemented in such limited cases. This particular proposal would not be relevant to moderate CO areas, as these areas can only be reclassified to serious if they fail to attain by their specified attainment date. The Clean Air Act does not provide for a severe CO classification.

Finally, we should note that today's proposals would not make any changes to the existing transportation plan content and modeling requirements. The proposal would simply clarify when these requirements begin to apply when circumstances change in certain areas.

E. Minor Clarification to the List of PM_{10} Precursors

We are proposing minor clarifications to §§ 93.102(b)(2)(iii) and 93.119(f)(5) of the conformity rule. Under the proposed § 93.102(b)(2)(iii), only VOC and NO_X would be identified as PM_{10} precursors, and PM_{10} would be deleted from the list of PM_{10} precursors in this paragraph. We are proposing this clarification because § 93.102(b)(1) already requires that direct PM_{10} emissions be addressed in conformity analyses in PM_{10} nonattainment and maintenance areas. Therefore, inclusion of direct PM_{10} as a PM_{10} precursor in § 93.102(b)(2)(iii) is duplicative.

The proposed changes to § 93.119(f)(5) would provide consistency with other pollutants and precursors discussed in this paragraph. Neither of these proposals would affect conformity determinations in PM_{10} nonattainment and maintenance areas.

F. Clarification of Requirements for Non-federal Projects in Isolated Rural Areas

EPA is proposing a minor clarification to § 93.121(b)(1) of the conformity rule that addresses the conformity requirements for non-federal projects in isolated rural nonattainment and maintenance areas. Specifically, the proposal would require a regionally significant non-federal project to be included in the regional emissions analysis of the most recent conformity determination ''that reflects'' the portion of the statewide transportation plan and STIP which includes projects planned for the isolated rural nonattainment or maintenance area.

Today's proposed revision to § 93.121(b)(1) is intended to clarify that conformity determinations in isolated rural nonattainment and maintenance areas should not be ''for'' the statewide transportation plan or STIP, as written in the current rule. In the proposal for the original 1993 conformity rule, we explain that ''STIPs are not TIPs as the latter term is meant in Clean Air Act section 176(c), and that conformity therefore does not apply to [STIPs] directly'' (January 11, 1993, 58 FR 62206). However, isolated rural areas do not develop metropolitan transportation plans and TIPs per DOT's planning regulations. Instead, conformity determinations in isolated rural nonattainment and maintenance areas should include those existing and planned projects that are within the area and that are reflected in the statewide transportation plan and STIP, including regionally significant non-federal projects. This proposed change simply clarifies the conformity requirements for isolated rural nonattainment and maintenance areas and should not have a practical impact on how conformity is demonstrated in these areas.

G. Use of Adequate and Approved Budgets in Conformity

EPA is clarifying in § 93.109 for each criteria pollutant and standard covered by the conformity rule that the budget test must be satisfied as required by § 93.118 for conformity determinations made on or after one of the following:

- The effective date of EPA's finding that a motor vehicle emissions budget in a submitted SIP is adequate,
- The publication date of EPA's approval of such a budget in the **Federal Register**, or
- The effective date of EPA's approval of such a budget in the **Federal Register**, if the approval is completed through direct final rulemaking.

Under this proposal, the budget would be used the first time one of these three EPA actions occur. In EPA's June 30, 2003 proposal that would implement the March 2, 1999 conformity court decision, we proposed to only require the budget test after the effective date of EPA's finding that a control strategy SIP or maintenance plan submission is adequate. Our June 2003 proposal for § 93.109 was incomplete.

When an area submits an attainment demonstration, rate-of-progress plan or maintenance plan with motor vehicle emissions budgets, EPA will generally review that SIP for adequacy so that the budgets can be used prior to EPA's approval of the SIP. However, there have been limited and unique cases where EPA has not conducted the adequacy review process prior to the approval of the SIP. Rather, EPA may simply approve such SIPs through a separate proposal and final rule or through direct final rulemaking. Today's proposal would simply clarify that in these limited cases the budget test would be required upon the publication date of EPA's final approval of the SIP and motor vehicle emissions budgets in the **Federal Register**, or the effective date of EPA's direct final rulemaking, whichever applies in a given situation.

EPA believes that this proposed clarification would have no practical impact on how the budget test is implemented when new budgets become available for conformity purposes. The Clean Air Act section 176(c) requires that transportation activities conform to the motor vehicle emissions level established in the approved SIP. Therefore, once a SIP is approved, its budgets must be used in conformity under the statute. In addition, since the March 2, 1999 court decision, areas have incorporated new budgets from submitted SIPs into the transportation planning and conformity processes as soon as they are deemed appropriate for conformity—either through EPA's adequacy or approval processes.

We should also note that this clarification to § 93.109 as proposed in the June 30, 2003 conformity proposal, is consistent with the March 1999 court decision and EPA's May 14, 1999 guidance implementing that decision. Under this proposal, submitted SIPs and motor vehicle emissions budgets would be used in conformity determinations only after EPA has formally found such budgets to be consistent with an area's plan for achieving clean air. For more information on EPA's adequacy process and the types of submitted SIPs that EPA will review for adequacy, see EPA's May 14, 1999 guidance implementing the March 1999 court decision and the

preamble to the June 30, 2003 proposal (68 FR 38974).

XV. How Does Today's Proposal Affect Conformity SIPs?

Clean Air Act section 176(c)(4)(C) currently requires states to submit revisions to their SIPs to reflect all of the federal criteria and procedures for determining conformity. States can choose to develop conformity SIPs as a memorandum of understanding (MOU), memorandum of agreement (MOA), or state rule. However, a state must have the authority to make an MOU or MOA enforceable as a matter of state law, if such mechanisms are used.

Section 51.390(b) of the conformity rule specifies that after EPA approves any conformity SIP revision, the federal conformity rule no longer governs conformity determinations (for the sections of the federal conformity rule that are covered by the approved conformity SIP). Areas without approved conformity SIPs will be able to use immediately any conformity amendments that are finalized in the future as a result of today's proposed action.

In contrast, EPA has already approved conformity SIPs in some areas that include sections from previous conformity rulemakings. In general, amendments to a section of the federal rule other than those compelled by a court decision become effective in states with approved conformity SIPs only when the State includes the amended section in a conformity SIP revision and EPA approves that SIP revision. EPA will continue to work with states to approve such revisions as expeditiously as possible through flexible administrative techniques, such as parallel processing or direct final rulemaking.

There are, however, aspects of today's proposal that should not already be in any approved conformity SIPs, since new provisions are being proposed to implement the 8-hour ozone and $PM_{2.5}$ standards. For these new provisions, all 8-hour ozone and $PM_{2.5}$ areas will be able to use such amendments upon the effective date of a final rule based on this proposal. When a final rule is issued, EPA will provide guidance on when sections of the rule can be used in the conformity process in areas with approved conformity SIPs.

XVI. Public Hearing

Anyone who wants to present testimony about this proposal at the public hearing (*see* **DATES**) should, if possible, notify the contact persons listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposal at least seven days prior to the day of the hearing. The contact person(s) should be given an estimate of the time required for the presentation of testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling those who have not notified the EPA contact(s) earlier. This testimony will be scheduled on a first-come, first-serve basis to follow the previously scheduled testimony.

EPA requests that approximately 50 copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, EPA would find it helpful to receive an advance copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date. Such advance copies would give EPA staff adequate time to review the materials before the hearing. Advance copies should be submitted to the EPA contact person(s) listed in this proposal.

The official records of the hearing will be kept open until the close of the comment period to allow submission of rebuttal and supplementary testimony. All such submissions should be directed to the Air Docket I.D. No. OAR–2003–0049. See Section I.C. of this proposal for more information on how to submit comments to the docket. The hearing will be conducted informally, and technical rules of evidence will not apply. A written transcript of the hearing will be placed in the docket for review. Anyone who desires to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceeding.

XVII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735; October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines significant ''regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or otherwise 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;

(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.

It has been determined that this proposed rule is a ''significant regulatory action'' because this action raises novel legal or policy issues arising out of legal mandates and the principles set forth in the Executive Order. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* (ICR 2103.01). The information collection requirements are not enforceable until OMB approves them.

Transportation conformity determinations are required under Clean Air Act section 176(c) (42 U.S.C. 7506(c)) to ensure that federally supported highway and transit project activities are consistent with (''conform to'') the purpose of the SIP. Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant air quality standards. Transportation conformity applies under EPA's conformity regulations at 40 CFR 51.390 and 40 CFR part 93 to areas that are designated nonattainment and those redesignated to attainment after 1990 (''maintenance areas'' with plans developed under Clean Air Act section 175A) for transportation-source criteria pollutants. The Clean Air Act gives EPA the statutory authority to establish the criteria and procedures for determining whether transportation activities conform to the SIP.

EPA estimates that this rulemaking will place additional burden on those areas that are designated nonattainment for the first time and have no prior experience with the conformity process. For these completely ''new'' areas there will be burden associated with rule familiarization, transportation and emissions modeling and interagency consultation. New metropolitan

nonattainment areas will be required to demonstrate conformity of their transportation plans every three years. In addition, DOT's planning regulations require TIP updates every two years, and consequently, a TIP conformity determination will be required every two years. Based on preliminary air quality data and State recommendations for new nonattainment areas, we estimate that approximately 40 areas will be designated nonattainment for the first time under the 8-hour ozone and $PM_{2.5}$ standards. We estimate that the total annual burden per respondent for transportation conformity activities is 275 hours at a total annual cost per respondent of $6750.00.

The information collection requirements of EPA's current transportation conformity rule are covered under the DOT information collection request (ICR) entitled, ''Metropolitan and Statewide Transportation Planning,'' with the OMB Control Number 2132–0529. Today's total burden for new areas is based on DOT's ICR for developing transportation plans and TIPs in nonattainment and maintenance areas, and should be viewed as a cursory estimate. Today's estimate only includes the incremental burden associated with making conformity determinations for the new standards; it does not address the development of transportation plans and TIPs or motor vehicle emissions budgets, since these documents are developed to meet other requirements. The total annual burden also assumes that all new areas will be metropolitan areas that develop transportation plans and TIPs. Accounting for newly designated isolated rural nonattainment areas may reduce the total burden for new areas, as isolated rural areas are not required to demonstrate conformity as often as metropolitan areas. In addition, this estimate of new burden assumes that plan and TIP conformity determinations are developed separately. However, the regional emissions analysis requirements in the conformity regulation are the same for plans and TIPs, and many areas rely on the same regional emissions analysis and conformity determination when plan and TIP updates are done concurrently. EPA plans to further examine this burden estimate for new areas designated under the 8-hour ozone and $PM_{2.5}$ standards, along with any incremental burdens for existing nonattainment and maintenance areas that have previous conformity experience, in our subsequent ICR for this rulemaking.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this rulemaking, which will include the ICR, under Docket ID number OAR–2003–0049. EPA is seeking comment on the general description of this proposal's information collection. EPA intends, in the near future, to develop and submit to OMB an ICR that includes a more detailed estimate of the incremental burden of this rulemaking. The public will be provided a separate comment period to comment on the ICR once it is submitted to OMB. Submit any comments related to the collection of information and subsequent ICR for this proposed rule to EPA and OMB. *See* the **ADDRESSES** section of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for EPA. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal and subsequent ICR.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires the Agency to conduct a regulatory flexibility analysis of any significant impact a rule will have on a substantial number of small entities. Small entities include small businesses, small not-for-profit organizations and small government jurisdictions.

EPA has determined that today's proposal will not have a significant impact on a substantial number of small entities. This regulation directly affects Federal agencies and metropolitan planning organizations that, by definition, are designated under Federal transportation laws only for metropolitan areas with a population of at least 50,000. These organizations do not constitute small entities within the meaning of the Regulatory Flexibility Act. The Regulatory Flexibility Act defines a ''small governmental jurisdiction'' as the government of a city, county, town, school district or special district with a population of less than 50,000.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments

to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this proposed rule itself does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The primary purpose of this proposed rule is to amend the existing Federal conformity regulations to cover areas newly designated nonattainment under the recently promulgated 8-hour ozone and fine particulate ($PM_{2.5}$) ambient air quality standards. Clean Air Act section 176(c)(5) requires the applicability of conformity to such areas as a matter of law one year after nonattainment designations. Thus, although this rule explains how conformity should be conducted, it merely implements already established law that imposes conformity requirements and does not itself impose requirements that may result in expenditures of $100 million or more in any year. Additional rule amendments also addressed in this proposal simply serve to improve the conformity regulation by implementing the rule in a more practicable manner and/or to clarify conformity requirements that already exist. None of these proposed amendments impose any additional burdens beyond that already imposed by applicable Federal law; thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA and EPA has not prepared a statement with respect to budgetary impacts.

E. Executive Order 13132: Federalism

Executive Order 13132, Federalism (64 FR 43255, August 10, 1999), revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the Agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the Agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This proposed rule, that amends a regulation that is required by statute, will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The Clean Air Act requires conformity to apply in certain nonattainment and maintenance areas as a matter of law, and this proposed rule merely establishes and revises procedures for transportation planning entities in subject areas to follow in meeting their existing statutory obligations. Similarly, other minor amendments included in today's proposal are the result of related administrative matters, or have been proposed simply to make the rule more workable and/or to clarify requirements that already exist under the current conformity regulation.

In summary, this proposed rule is required primarily by the statutory requirements imposed by the Clean Air Act, and the proposed rule by itself will not have a substantial impact on States. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175: ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000) requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

Today's amendments to the conformity rule do not significantly or uniquely affect the communities of Indian tribal governments, as the Clean Air Act requires transportation conformity to apply in any area that is designated nonattainment or maintenance by EPA. Specifically, this proposed rule would incorporate into the conformity rule provisions addressing newly designated nonattainment areas subject to conformity requirements under the Act, as well as several other clarifications and improvements, that would not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Accordingly, the requirements of Executive Order 13175 are not applicable to this proposal.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective

and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not economically significant within the meaning of Executive Order 12866 and does not involve the consideration of relative environmental health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This rule is not subject to Executive Order 13211, ''Action Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355; May 22, 2001) because it will not have a significant adverse effect on the supply, distribution, or use of energy. Further, we have determined that this proposed rule is not likely to have any significant adverse effects on energy supply.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 *note*) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, the use of voluntary consensus standards does not apply to this proposed rule.

List of Subjects in 40 CFR Part 93

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen Dioxide, Ozone, Particulate matter, Transportation, Volatile organic compounds.

Dated: October 22, 2003.

Marianne Lamont Horinko,

Acting Administrator.

For the reasons set out in the preamble, 40 CFR part 93 is proposed to be amended as follows:

PART 93—[AMENDED]

1. The authority citation for part 93 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 93.101 is amended by adding, in alphabetical order, new definitions for ''1-hour ozone NAAQS,'' ''8-hour ozone NAAQS'' and ''Limited maintenance plan,'' and by revising definitions for ''Control strategy implementation plan revision'' and ''Milestone'' to read as follows:

§ 93.101 Definitions.

* * * * *

1-hour ozone NAAQS means the 1-hour ozone national ambient air quality standard codified at 40 CFR 50.9.

* * * * *

8-hour ozone NAAQS means the 8-hour ozone national ambient air quality standard codified at 40 CFR 50.10.

* * * * *

Control strategy implementation plan revision is the implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of reasonable further progress and attainment (including implementation plan revisions submitted to satisfy CAA sections 172(c), 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 187(g), 189(a)(1)(B), 189(b)(1)(A), and 189(d); sections 192(a) and 192(b), for nitrogen dioxide; and any other applicable CAA provision requiring a demonstration of reasonable further progress or attainment).

* * * * *

Limited maintenance plan is a maintenance plan that EPA has determined meets EPA's limited maintenance plan policy criteria for a given NAAQS and pollutant. To qualify for a limited maintenance plan, for example, an area must have a design value that is below a given NAAQS, and it must be reasonable to expect that a NAAQS violation will not result from any level of future motor vehicle emissions growth.

* * * * *

Milestone has the meaning given in CAA sections 182(g)(1) and 189(c) for serious and above ozone nonattainment areas and PM_{10} nonattainment areas, respectively. For all other nonattainment areas, a milestone consists of an emissions level and the date on which that level is to be achieved as required by the applicable CAA provision for reasonable further progress towards attainment.

* * * * *

3. Section 93.102 is amended by:

a. Revising paragraphs (b)(1), (b)(2) introductory text and (b)(2)(iii);

b. removing the word ''and'' at the end of paragraph (b)(2)(ii);

c. adding paragraphs (b)(2)(iv) and (v);

d. redesignating paragraph (b)(3) as paragraph (b)(4);

e. adding a new paragraph (b)(3); and

f. revising paragraph (d).

The revisions and additions read as follows:

§ 93.102 Applicability.

* * * * *

(b) * * *

(1) The provisions of this subpart apply with respect to emissions of the following criteria pollutants: ozone, carbon monoxide (CO), nitrogen dioxide (NO_2), particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}); and particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers ($PM_{2.5}$).

(2) The provisions of this subpart also apply with respect to emissions of the following precursor pollutants:

* * * * *

(iii) VOC and/or NO_X in PM_{10} areas if the EPA Regional Administrator or the director of the State air agency has made a finding that transportation-related emissions of one or both of these precursors within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem and has so notified the MPO and DOT, or if the applicable implementation plan (or implementation plan submission) establishes an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy;

Option 1 for paragraphs (b)(2)(iv) and (v):

(iv) VOC and/or NO_X in $PM_{2.5}$ areas, unless the EPA Regional Administrator or the director of the State air agency has made a finding that transportation-related emissions of one or both of these precursors within the nonattainment area are not a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and DOT, or if the applicable implementation plan (or implementation plan submission) does not establish an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy; and

(v) Oxides of sulfur (SO_X) and/or ammonia (NH_3) in $PM_{2.5}$ areas if the EPA Regional Administrator or the director of the State air agency has made a finding that transportation-related emissions of one or both of these precursors within the nonattainment

area are a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and DOT, or if the applicable implementation plan (or implementation plan submission) establishes an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy.

Option 2 for paragraph (b)(2)(iv) without paragraph (b)(2)(v):

(iv) VOC, NO_X, oxides of sulfur (SO_X) and/or ammonia (NH_3) in $PM_{2.5}$ areas if the EPA Regional Administrator or the director of the State air agency has made a finding that transportation-related emissions of any of these precursors within the nonattainment area are a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and DOT, or if the applicable implementation plan (or implementation plan submission) establishes an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy.

(3) The provisions of this subpart apply to $PM_{2.5}$ nonattainment and maintenance areas with respect to $PM_{2.5}$ from re-entrained road dust if the EPA Regional Administrator or the director of the State air agency has made a finding that re-entrained road dust emissions within the area are a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and DOT, or if the applicable implementation plan (or implementation plan submission) includes re-entrained road dust in the approved (or adequate) budget as part of the reasonable further progress, attainment or maintenance strategy. Re-entrained road dust emissions are produced by travel on paved and unpaved roads (including emissions from anti-skid and deicing materials).

* * * * *

(d) *Grace period for new nonattainment areas.* For areas or portions of areas which have been continuously designated attainment or not designated for any NAAQS for ozone, CO, PM_{10}, $PM_{2.5}$ or NO_2 since 1990 and are subsequently redesignated to nonattainment or designated nonattainment for any NAAQS for any of these pollutants, the provisions of this subpart shall not apply with respect to that standard for 12 months following the effective date of final designation to nonattainment for each NAAQS for such pollutant.

4. Section 93.105(c)(1)(vii) is amended by revising the reference ''§ 93.109(g)(2)(iii)'' to read ''§ 93.109(l)(2)(iii)''.

5. Section 93.106 is amended by revising paragraph (b) to read as follows:

§ 93.106 Content of transportation plans.

* * * * *

(b) *Two-year grace period for transportation plan requirements in certain ozone and CO areas.* The requirements of paragraph (a) of this section shall not apply for two years from the following:

(i) The effective date of EPA's reclassification of a moderate ozone or CO area that has an urbanized area population greater than 200,000 to serious or severe (ozone only); or,

(ii) The official notice by the Census Bureau that determines the urbanized area population of a serious or above ozone or CO area to be greater than 200,000.

* * * * *

6. Section 93.109 is amended by:

a. Revising the paragraph (b) introductory text;

b. In Table 1 of paragraph (b), revising the entry for ''§ 93.118 and or § 93.119'' under ''Transportation Plan:'' and the entry for ''§ 93.118 and or § 93.119'' under ''TIP:'', and revising the entry for ''§ 93.117'' under ''Project (From a Conforming Plan and TIP):'' and the entries for ''§ 93.117'' and ''§ 93.118 and or § 93.119'' under ''Project (Not From a Conforming Plan and TIP):'';

c. Revising paragraph (c);

d. Redesignating paragraphs (d), (e), (f) and (g) as paragraphs (f), (g), (h) and (l);

e. Adding new paragraphs (d), (e), (i), (j) and (k);

f. Revising newly designated paragraphs (f) introductory text, (f)(2), (f)(3) and (f)(4)(i) and (ii);

g. Revising newly redesignated paragraphs (g) introductory text, (g)(2), and (g)(3) introductory text, and removing newly designated paragraphs (g)(3)(i) and (g)(3)(ii) and redesignating paragraph (g)(3)(iii) as (g)(3)(ii) and adding new paragraph (g)(3)(i);

h. Revising newly designated paragraph (h); and

i. Revising newly designated paragraph (l)(2) introductory text; and, in newly designated paragraph (l)(2)(ii)(B), revising ''§ 93.119(d)(2)'' to read ''§ 93.119(f)(2)''; and, in newly redesignated paragraph (l)(2)(iii), revising ''paragraph (g)(2)(ii)'' and ''paragraph (g)(2)(ii)(C)'' to read ''paragraph (l)(2)(ii)'' and ''paragraph (l)(2)(ii)(C)'', respectively.

The revisions and additions read as follows:

§ 93.109 Criteria and procedures for determining conformity of transportation plans, programs, and projects: General.

* * * * *

(b) Table 1 in this paragraph indicates the criteria and procedures in §§ 93.110 through 93.119 which apply for transportation plans, TIPs, and FHWA/FTA projects. Paragraphs (c) through (i) of this section explain when the budget, interim emissions, and hot-spot tests are required for each pollutant and NAAQS. Paragraph (j) of this section addresses conformity requirements for areas with approved or adequate limited maintenance plans. Paragraph (k) of this section addresses nonattainment and maintenance areas which EPA has determined have insignificant motor vehicle emissions. Paragraph (l) of this section addresses isolated rural nonattainment and maintenance areas. Table 1 follows:

TABLE 1.—CONFORMITY CRITERIA

* * * * * * *	
Transportation plan:	
* * * * * * *	
§ 93.118 and/or § 93.119	Emissions budget and/or Interim emissions.
* * * * * * *	
TIP:	
* * * * * * *	
§ 93.118 and/or § 93.119	Emissions budget and/or Interim emissions.
* * * * * * *	
Project (From a Conforming Plan and TIP):	
* * * * * * *	
§ 93.117	PM_{10} and $PM_{2.5}$ control measures.

TABLE 1.—CONFORMITY CRITERIA—Continued

* * * * * * *	
Project (Not From a Conforming Plan and TIP):	
* * * * * * *	
§ 93.117	PM_{10} and $PM_{2.5}$ control measures.
§ 93.118 and/or § 93.119	Emissions budget and/or Interim emissions.
* * * * * * *	

(c) *1-hour ozone NAAQS nonattainment and maintenance areas.* This paragraph applies when an area is nonattainment or maintenance for the 1-hour ozone NAAQS (*i.e.*, until the effective date of any revocation of the 1-hour ozone NAAQS for an area). In addition to the criteria listed in Table 1 in paragraph (b) of this section that are required to be satisfied at all times, in such ozone nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:

(1) In all 1-hour ozone nonattainment and maintenance areas the budget test must be satisfied as required by § 93.118 for conformity determinations made on or after:

(i) The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan for the 1-hour ozone NAAQS is adequate for transportation conformity purposes;

(ii) The publication date of EPA's approval of such a budget in the **Federal Register**; or

(iii) The effective date of EPA's approval of such a budget in the **Federal Register**, if such approval is completed through direct final rulemaking.

(2) In ozone nonattainment areas that are required to submit a control strategy implementation plan revision for the 1-hour ozone NAAQS (usually moderate and above areas), the interim emissions tests must be satisfied as required by § 93.119 for conformity determinations made when there is no approved motor vehicle emissions budget from an applicable implementation plan for the 1-hour ozone NAAQS and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan for the 1-hour ozone NAAQS.

(3) An ozone nonattainment area must satisfy the interim emissions test for NO_x, as required by § 93.119, if the implementation plan or plan submission that is applicable for the purposes of conformity determinations is a 15% plan or Phase I attainment demonstration that does not include a motor vehicle emissions budget for NO_x. The implementation plan for the 1-hour ozone NAAQS will be considered to establish a motor vehicle emissions budget for NO_x if the implementation plan or plan submission contains an explicit NO_x motor vehicle emissions budget that is intended to act as a ceiling on future NO_x emissions, and the NO_x motor vehicle emissions budget is a net reduction from NO_x emissions levels in 1990.

(4) Ozone nonattainment areas that have not submitted a maintenance plan and that are not required to submit a control strategy implementation plan revision for the 1-hour ozone NAAQS (usually marginal and below areas) must satisfy one of the following requirements:

(i) The interim emissions tests required by § 93.119; or

(ii) The State shall submit to EPA an implementation plan revision for the 1-hour ozone NAAQS that contains motor vehicle emissions budget(s) and a reasonable further progress or attainment demonstration, and the budget test required by § 93.118 must be satisfied using the adequate or approved motor vehicle emissions budget(s) (as described in paragraph (c)(1) of this section).

(5) Notwithstanding paragraphs (c)(1) and (c)(2) of this section, moderate and above ozone nonattainment areas with three years of clean data that have not submitted a maintenance plan and that EPA has determined are not subject to the Clean Air Act reasonable further progress and attainment demonstration requirements for the 1-hour ozone NAAQS must satisfy one of the following requirements:

(i) The interim emissions tests as required by § 93.119;

(ii) The budget test as required by § 93.118, using the adequate or approved motor vehicle emissions budgets in the submitted or applicable control strategy implementation plan for the 1-hour ozone NAAQS (subject to the timing requirements of paragraph (c)(1) of this section); or

(iii) The budget test as required by § 93.118, using the motor vehicle emissions of ozone precursors in the most recent year of clean data as motor vehicle emissions budgets, if such budgets are established by the EPA rulemaking that determines that the area has clean data for the 1-hour ozone NAAQS.

(d) *8-hour ozone NAAQS nonattainment and maintenance areas without motor vehicle emissions budgets for the 1-hour ozone NAAQS for any portion of the 8-hour nonattainment area.* This paragraph applies to areas that were never designated nonattainment for the 1-hour ozone NAAQS and areas that were designated nonattainment for the 1-hour ozone NAAQS but that never submitted a control strategy SIP or maintenance plan with approved or adequate motor vehicle emissions budgets. This paragraph applies 1 year after the effective date of EPA's nonattainment designation for the 8-hour ozone NAAQS, according to § 93.102(d). In addition to the criteria listed in Table 1 in paragraph (b) of this section that are required to be satisfied at all times, in such 8-hour ozone nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:

(1) In such 8-hour ozone nonattainment and maintenance areas the budget test must be satisfied as required by § 93.118 for conformity determinations made on or after:

(i) The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan for the 8-hour ozone NAAQS is adequate for transportation conformity purposes;

(ii) The publication date of EPA's approval of such a budget in the **Federal Register**; or

(iii) The effective date of EPA's approval of such a budget in the **Federal Register**, if such approval is completed through direct final rulemaking.

(2) In ozone nonattainment areas that are required to submit a control strategy

implementation plan revision for the 8-hour ozone NAAQS (moderate and above and certain subpart 1 areas), the interim emissions tests must be satisfied as required by § 93.119 for conformity determinations made when there is no approved motor vehicle emissions budget from an applicable implementation plan for the 8-hour ozone NAAQS and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan for the 8-hour ozone NAAQS.

(3) Such an 8-hour ozone nonattainment area must satisfy the interim emissions test for NO_x, as required by § 93.119, if the implementation plan or plan submission that is applicable for the purposes of conformity determinations is a 15% plan or other control strategy SIP that addresses reasonable further progress that does not include a motor vehicle emissions budget for NO_x. The implementation plan for the 8-hour ozone NAAQS will be considered to establish a motor vehicle emissions budget for NO_x if the implementation plan or plan submission contains an explicit NO_x motor vehicle emissions budget that is intended to act as a ceiling on future NO_x emissions, and the NO_x motor vehicle emissions budget is a net reduction from NO_x emissions levels in 2002.

(4) Ozone nonattainment areas that have not submitted a maintenance plan and that are not required to submit a control strategy implementation plan revision for the 8-hour ozone NAAQS (usually marginal and below areas) must satisfy one of the following requirements:

(i) The interim emissions tests required by § 93.119; or

(ii) The State shall submit to EPA an implementation plan revision for the 8-hour ozone NAAQS that contains motor vehicle emissions budget(s) and a reasonable further progress or attainment demonstration, and the budget test required by § 93.118 must be satisfied using the adequate or approved motor vehicle emissions budget(s) (as described in paragraph (d)(1) of this section).

(5) Notwithstanding paragraphs (d)(1) and (d)(2) of this section, moderate and above ozone nonattainment areas with three years of clean data for the 8-hour ozone NAAQS that have not submitted a maintenance plan and that EPA has determined are not subject to the Clean Air Act reasonable further progress and attainment demonstration requirements for the 8-hour ozone NAAQS must satisfy one of the following requirements:

(i) The interim emissions tests as required by § 93.119;

(ii) The budget test as required by § 93.118, using the adequate or approved motor vehicle emissions budgets in the submitted or applicable control strategy implementation plan for the 8-hour ozone NAAQS (subject to the timing requirements of paragraph (d)(1) of this section); or

(iii) The budget test as required by § 93.118, using the motor vehicle emissions of ozone precursors in the most recent year of clean data as motor vehicle emissions budgets, if such budgets are established by the EPA rulemaking that determines that the area has clean data for the 8-hour ozone NAAQS.

(e) *8-hour ozone NAAQS nonattainment and maintenance areas with motor vehicle emissions budgets for the 1-hour ozone NAAQS that cover all or a portion of the 8-hour nonattainment area.* This provision applies 1 year after the effective date of EPA's nonattainment designation for the 8-hour ozone NAAQS, according to § 93.102(d). In addition to the criteria listed in Table 1 in paragraph (b) of this section that are required to be satisfied at all times, in such 8-hour ozone nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:

(1) In such 8-hour ozone nonattainment and maintenance areas the budget test must be satisfied as required by §§ 93.118 for conformity determinations made on or after:

(i) The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan for the 8-hour ozone NAAQS is adequate for transportation conformity purposes;

(ii) The publication date of EPA's approval of such a budget in the **Federal Register**; or

(iii) The effective date of EPA's approval of such a budget in the **Federal Register**, if such approval is completed through direct final rulemaking.

(2) Prior to the effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan or maintenance plan for the 8-hour ozone NAAQS is adequate or the publication of EPA's approval of such a budget in the **Federal Register**, one of the following test(s) must be satisfied:

(i) The interim emissions tests as required by § 93.119 for the entire 8-hour ozone nonattainment area; or

(ii) The budget test and interim emissions tests as required by §§ 93.118 and 93.119 as follows:

(A) If the 8-hour ozone nonattainment area covers the same geographic area as the 1-hour ozone nonattainment or maintenance area, the budget test as required by § 93.118 for the entire 8-hour nonattainment area using the approved or adequate motor vehicle emissions budgets in the 1-hour ozone applicable implementation plan or implementation plan submission;

(B) If the 8-hour ozone nonattainment area covers a smaller geographic area within the 1-hour ozone nonattainment or maintenance area, the budget test as required by § 93.118 for either the 1-hour nonattainment or 8-hour nonattainment area using the approved or adequate motor vehicle emissions budgets or corresponding portions thereof in the 1-hour ozone applicable implementation plan or implementation plan submission, respectively. If additional control measures are necessary to meet the budget test for the 8-hour ozone NAAQS, such control measures could only be established within the 8-hour nonattainment area; or

(C) If the 8-hour ozone nonattainment area covers a larger geographic area and encompasses the entire or a portion of the 1-hour ozone nonattainment or maintenance area:

(*1*) The budget test as required by § 93.118 for the portion of the 8-hour ozone nonattainment area covered by the approved or adequate motor vehicle emissions budgets or corresponding portions thereof in the 1-hour ozone applicable implementation plan or implementation plan submission; and

(*2*) The interim emissions tests as required by § 93.119 for the portion of the 8-hour ozone nonattainment area not covered by the approved or adequate budgets in the 1-hour ozone implementation plan.

(3) Such an 8-hour ozone nonattainment area must satisfy the interim emissions test for NO_X, as required by § 93.119, if the only implementation plan or plan submission that is applicable for the purposes of conformity determinations is a 15% plan or other control strategy SIP that addresses reasonable further progress that does not include a motor vehicle emissions budget for NO_X. The implementation plan for the 8-hour ozone NAAQS will be considered to establish a motor vehicle emissions budget for NO_X if the implementation plan or plan submission contains an

explicit NO_X motor vehicle emissions budget that is intended to act as a ceiling on future NO_X emissions, and the NO_X motor vehicle emissions budget is a net reduction from NO_X emissions levels in 2002. Prior to an adequate or approved NO_X motor vehicle emissions budget in the implementation plan submission for the 8-hour ozone NAAQS, the implementation plan for the 1-hour ozone NAAQS will be considered to establish a motor vehicle emissions budget for NO_X if the implementation plan contains an explicit NO_X motor vehicle emissions budget that is intended to act as a ceiling on future NO_X emissions, and the NO_X motor vehicle emissions budget is a net reduction from NO_X emissions levels in 1990.

(4) Notwithstanding paragraphs (e)(1) and (e)(2) of this section, ozone nonattainment areas with three years of clean data for the 8-hour ozone NAAQS that have not submitted a maintenance plan and that EPA has determined are not subject to the Clean Air Act reasonable further progress and attainment demonstration requirements for the 8-hour ozone NAAQS must satisfy one of the following requirements:

(i) The interim emissions tests as required by § 93.119 and as described in paragraph (e)(2) of this section;

(ii) The budget test as required by § 93.118 and as described in paragraph (e)(2)(ii) of this section;

(iii) The budget test as required by § 93.118, using the adequate or approved motor vehicle emissions budgets in the submitted or applicable control strategy implementation plan for the 8-hour ozone NAAQS (subject to the timing requirements of paragraph (e)(1) of this section); or

(iv) The budget test as required by § 93.118, using the motor vehicle emissions of ozone precursors in the most recent year of clean data as motor vehicle emissions budgets, if such budgets are established by the EPA rulemaking that determines that the area has clean data for the 8-hour ozone NAAQS.

(f) *CO nonattainment and maintenance areas.* In addition to the criteria listed in Table 1 in paragraph (b) of this section that are required to be satisfied at all times, in CO nonattainment and maintenance areas conformity determinations must include a demonstration that the hot-spot, budget and/or interim emissions tests are satisfied as described in the following:

* * * * *

(2) In CO nonattainment and maintenance areas the budget test must be satisfied as required by § 93.118 for conformity determinations made on or after:

(i) The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes;

(ii) The publication date of EPA's approval of such a budget in the **Federal Register**; or

(iii) The effective date of EPA's approval of such a budget in the **Federal Register**, if such approval is completed through direct final rulemaking.

(3) Except as provided in paragraph (d)(4) of this section, in CO nonattainment areas the interim emissions tests must be satisfied as required by § 93.119 for conformity determinations made when there is no approved motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan.

(4) * * *

(i) The interim emissions tests required by § 93.119; or

(ii) The State shall submit to EPA an implementation plan revision that contains motor vehicle emissions budget(s) and an attainment demonstration, and the budget test required by § 93.118 must be satisfied using the adequate or approved motor vehicle emissions budget(s) (as described in paragraph (f)(2) of this section).

(g) *PM_{10} nonattainment and maintenance areas.* In addition to the criteria listed in Table 1 in paragraph (b) of this section that are required to be satisfied at all times, in PM_{10} nonattainment and maintenance areas conformity determinations must include a demonstration that the hot-spot, budget and/or interim emissions tests are satisfied as described in the following:

* * * * *

(2) In PM_{10} nonattainment and maintenance areas the budget test must be satisfied as required by § 93.118 for conformity determinations made on or after:

(i) The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes;

(ii) The publication date of EPA's approval of such a budget in the **Federal Register**; or

(iii) The effective date of EPA's approval of such a budget in the **Federal Register**, if such approval is completed through direct final rulemaking.

(3) In PM_{10} nonattainment areas the interim emissions tests must be satisfied as required by § 93.119 for conformity determinations made:

(i) If there is no approved motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan; or

* * * * *

(h) *NO_2 nonattainment and maintenance areas.* In addition to the criteria listed in Table 1 in paragraph (b) of this section that are required to be satisfied at all times, in NO_2 nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:

(1) In NO_2 nonattainment and maintenance areas the budget test must be satisfied as required by § 93.118 for conformity determinations made on or after:

(i) The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes;

(ii) The publication date of EPA's approval of such a budget in the **Federal Register**; or

(iii) The effective date of EPA's approval of such a budget in the **Federal Register**, if such approval is completed through direct final rulemaking.

(2) In NO_2 nonattainment areas the interim emissions tests must be satisfied as required by § 93.119 for conformity determinations made when there is no approved motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan.

(i) *$PM_{2.5}$ nonattainment and maintenance areas.* In addition to the criteria listed in Table 1 in paragraph (b) of this section that are required to be satisfied at all times, in $PM_{2.5}$ nonattainment and maintenance areas conformity determinations must include a demonstration that the budget and/or interim emissions tests are satisfied as described in the following:

(1) In $PM_{2.5}$ nonattainment and maintenance areas the budget test must be satisfied as required by § 93.118 for

conformity determinations made on or after:

(i) The effective date of EPA's finding that a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan is adequate for transportation conformity purposes;

(ii) The publication date of EPA's approval of such a budget in the **Federal Register**; or

(iii) The effective date of EPA's approval of such a budget in the **Federal Register**, if such approval is completed through direct final rulemaking.

(2) In $PM_{2.5}$ nonattainment areas the interim emissions tests must be satisfied as required by § 93.119 for conformity determinations made if there is no approved motor vehicle emissions budget from an applicable implementation plan and no adequate motor vehicle emissions budget from a submitted control strategy implementation plan revision or maintenance plan.

(j) *Areas with limited maintenance plans.* Notwithstanding the other paragraphs of this section, an area is not required to satisfy the regional emissions analysis for § 93.118 and/or § 93.119 for a given pollutant and NAAQS, if the area has an adequate or approved limited maintenance plan for such pollutant and NAAQS. A limited maintenance plan would have to demonstrate that it would be unreasonable to expect that such an area would experience enough motor vehicle emissions growth for a NAAQS violation to occur. A conformity determination that meets other applicable criteria in Table 1 of paragraph (b) of this section is still required, including the hot-spot requirements for projects in CO and PM_{10} areas.

(k) *Areas with insignificant motor vehicle emissions.* Notwithstanding the other paragraphs in this section, an area is not required to satisfy a regional emissions analysis for § 93.118 and/or § 93.119 for a given pollutant/precursor and NAAQS, if EPA finds through the adequacy or approval process that a SIP demonstrates that regional motor vehicle emissions are an insignificant contributor to the air quality problem for that pollutant/precursor and NAAQS. The SIP would have to demonstrate that it would be unreasonable to expect that such an area would experience enough motor vehicle emissions growth in that pollutant/precursor for a NAAQS violation to occur. Such a finding would be based on a number of factors, including the percentage of motor vehicle emissions in the context of the total SIP inventory, the current state of air quality as determined by monitoring data for that NAAQS, the absence of SIP motor vehicle control measures, and historical trends and future projections of the growth of motor vehicle emissions. A conformity determination that meets other applicable criteria in Table 1 of paragraph (b) of this section is still required, including regional emissions analyses for § 93.118 and/or § 93.119 for other pollutants/precursors and NAAQS that apply. Hot-spot requirements for projects in CO and PM_{10} areas must also be satisfied, unless EPA determines that the SIP demonstrates that hot-spot emissions are also insignificant. If EPA subsequently finds that motor vehicle emissions of a given pollutant/precursor are significant, this paragraph would no longer apply for future conformity determinations for that pollutant/precursor and NAAQS.

(1) * * *

(2) Isolated rural nonattainment and maintenance areas are subject to the budget and/or interim emissions tests as described in paragraphs (c) through (k) of this section, with the following modifications:

* * * * *

7. Section 93.117 is revised to read as follows:

§ 93.117 Criteria and procedures: Compliance with PM_{10} and $PM_{2.5}$ control measures.

The FHWA/FTA project must comply with any PM_{10} and $PM_{2.5}$ control measures in the applicable implementation plan. This criterion is satisfied if the project-level conformity determination contains a written commitment from the project sponsor to include in the final plans, specifications, and estimates for the project those control measures (for the purpose of limiting PM_{10} and $PM_{2.5}$ emissions from the construction activities and/or normal use and operation associated with the project) that are contained in the applicable implementation plan.

8. In § 93.118, paragraph (a) is amended by revising the reference ''§ 93.109(c) through (g)'' to read ''§ 93.109(c) through (l)'', and paragraph (e)(2) is amended by revising the phrase ''emission reduction tests required by § 93.119'' to read ''interim emissions tests required by § 93.119''.

9. Section 93.119 is amended by:

a. Revising paragraphs (a) and (b);

b. Redesignating paragraphs (c), (d), (e), (f), (g) and (h) as paragraphs (d), (f), (g), (h), (i) and (j);

c. Adding new paragraphs (c) and (e);

d. Revising newly redesignated paragraphs (d) introductory text and (d)(1);

e. Revising newly redesignated paragraph (f)(5), removing the period at the end of newly redesignated paragraph (f)(6) and adding a semicolon in its place, and adding new paragraphs (f)(7) and (f)(8), (f)(9) and (f)(10);

f. Revising newly redesignated paragraph (g);

g. In newly redesignated paragraphs (h) introductory text and (i) introductory text, revising the reference ''paragraphs (b) and (c)'' to read ''paragraphs (b) through (e)''; and,

h. In newly redesignated paragraph (j), revising the reference ''paragraphs (b) and (c)'' to read ''paragraphs (b) through (e)''.

The revisions and additions read as follows:

§ 93.119 Criteria and procedures: Interim emissions in areas without motor vehicle emissions budgets.

(a) The transportation plan, TIP, and project not from a conforming transportation plan and TIP must satisfy the interim emissions test(s) as described in § 93.109(c) through (l). This criterion applies to the net effect of the action (transportation plan, TIP, or project not from a conforming plan and TIP) on motor vehicle emissions from the entire transportation system.

(b) *Ozone areas.* The requirements of this paragraph apply to all 1-hour ozone and 8-hour ozone NAAQS areas, except for certain requirements as indicated. This criterion may be met:

(1) In moderate and above ozone nonattainment areas that are subject to the reasonable further progress requirements of CAA section 182(b)(1) if a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (f) of this section:

(i) The emissions predicted in the ''Action'' scenario are less than the emissions predicted in the ''Baseline'' scenario, and this can be reasonably expected to be true in the periods between the analysis years; and

(ii) The emissions predicted in the ''Action'' scenario are lower than:

(A) 1990 emissions by any nonzero amount, in areas for the 1-hour ozone NAAQS as described in § 93.109(c); or

(B) 2002 emissions by any nonzero amount, in areas for the 8-hour ozone NAAQS as described in § 93.109(d) and (e).

(2) In marginal and below ozone nonattainment areas and other ozone

nonattainment areas that are not subject to the reasonable further progress requirements of CAA section 182(b)(1) if a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (f) of this section:

(i) The emissions predicted in the ''Action'' scenario are not greater than the emissions predicted in the ''Baseline'' scenario, and this can be reasonably expected to be true in the periods between the analysis years; or

(ii) The emissions predicted in the ''Action'' scenario are not greater than:

(A) 1990 emissions, in areas for the 1-hour ozone NAAQS as described in § 93.109(c); or

(B) 2002 emissions, in areas for the 8-hour ozone NAAQS as described in § 93.109(d) and (e).

(c) *CO areas.* This criterion may be met:

(1) In moderate areas with design value greater than 12.7 ppm and serious CO nonattainment areas that are subject to CAA section 187(a)(7) if a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (f) of this section:

(i) The emissions predicted in the ''Action'' scenario are less than the emissions predicted in the ''Baseline'' scenario, and this can be reasonably expected to be true in the periods between the analysis years; and

(ii) The emissions predicted in the ''Action'' scenario are lower than 1990 emissions by any nonzero amount.

(2) In moderate areas with design value less than 12.7 ppm and not classified CO nonattainment areas if a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (f) of this section:

(i) The emissions predicted in the ''Action'' scenario are not greater than the emissions predicted in the ''Baseline'' scenario, and this can be reasonably expected to be true in the periods between the analysis years; or

(ii) the emissions predicted in the ''Action'' scenario are not greater than 1990 emissions.

(d) *PM_{10} and NO_2 areas.* This criterion may be met in PM_{10} and NO_2 nonattainment areas if a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (f) of this section, one of the following requirements is met:

(1) The emissions predicted in the ''Action'' scenario are not greater than the emissions predicted in the ''Baseline'' scenario, and this can be reasonably expected to be true in the periods between the analysis years; or

* * * * *

(e) *$PM_{2.5}$ areas.* This criterion may be met in $PM_{2.5}$ nonattainment areas if a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section demonstrates that for each analysis year and for each of the pollutants described in paragraph (f) of this section, one of the following requirements is met:

(1) The emissions predicted in the ''Action'' scenario are not greater than the emissions predicted in the ''Baseline'' scenario, and this can be reasonably expected to be true in the periods between the analysis years; or

(2) The emissions predicted in the ''Action'' scenario are not greater than 2002 emissions.

(f) * * *

* * * * *

(5) VOC and/or NO_X in PM_{10} areas if the EPA Regional Administrator or the director of the State air agency has made a finding that one or both of such precursor emissions from within the area are a significant contributor to the PM_{10} nonattainment problem and has so notified the MPO and DOT;

(6) NO_X in NO_2 areas;

(7) $PM_{2.5}$ in $PM_{2.5}$ areas;

Option 1 for paragraphs (f)(8), (f)(9) and (f)(10):

(8) VOC and/or NO_X in $PM_{2.5}$ areas, unless the EPA Regional Administrator or the director of the State air agency has made a finding that one or both of such precursor emissions from within the area are not a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and DOT;

(9) SO_x and/or NH_3 in $PM_{2.5}$ areas if the EPA Regional Administrator or the director of the State air agency has made a finding that one or both of such precursor emissions from within the area are a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and DOT; and

(10) Re-entrained road dust in $PM_{2.5}$ areas if the EPA Regional Administrator or the director of the State air agency has made a finding that emissions from re-entrained road dust within the area are a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and DOT.

Option 2 for paragraphs (f)(8) and (f)(9) without paragraph (f)(10):

(8) NO_X, VOC, SO_x and/or NH_3 in $PM_{2.5}$ areas if the EPA Regional Administrator or the director of the State air agency has made a finding that one or more of such precursor emissions from within the area are a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and DOT; and

(9) Reentrained road dust in $PM_{2.5}$ areas if the EPA Regional Administrator or the director of the State air agency has made a finding that emissions from reentrained road dust within the area are a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and DOT.

(g) *Analysis years.* (1) The regional emissions analysis must be performed for analysis years that are no more than ten years apart. The first analysis year must be no more than five years beyond the year in which the conformity determination is being made. The last year of the transportation plan's forecast period must also be an analysis year.

(2) For areas using paragraphs (b)(2)(i), (c)(2)(i), (d)(1), and (e)(1) of this section, a regional emissions analysis that satisfies the requirements of § 93.122 and paragraphs (g) through (j) of this section would not be required for analysis years in which the transportation projects and planning assumptions in the ''Action'' and ''Baseline'' scenarios are exactly the same. In such a case, paragraph (a) of this section can be satisfied by documenting that the transportation projects and planning assumptions in both scenarios are exactly the same, and consequently, the emissions predicted in the ''Action'' scenario are not greater than the emissions predicted in the ''Baseline'' scenario for such analysis years.

10. Section 93.121 is amended by revising paragraph (b) introductory text by removing the reference ''§ 93.109(g)'' and adding in its place a reference for ''§ 93.109(l)'', and revising paragraph (b)(1) and adding new paragraph (c) to read as follows:

§ 93.121 Requirements for adoption or approval of projects by other recipients of funds designated under title 23 U.S.C. or the Federal Transit Laws.

* * * * *

(b) * * *

(1) The project was included in the regional emissions analysis supporting the most recent conformity determination that reflects the portion of the statewide transportation plan and TIP which are in the nonattainment or maintenance area, and the project's

design concept and scope has not changed significantly; or

* * * * *

(c) Notwithstanding paragraphs (a) and (b) of this section, in nonattainment and maintenance areas subject to § 93.109(j) or (k) for a given pollutant/precursor and NAAQS, no recipient of Federal funds designated under title 23 U.S.C. or the Federal Transit Laws shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless the recipient finds that the requirements of one of the following are met for that pollutant/precursor and NAAQS:

(1) The project was included in the most recent conformity determination for the transportation plan and TIP and the project's design concept and scope has not changed significantly; or

(2) The project was included in the most recent conformity determination that reflects the portion of the statewide transportation plan and TIP which are in the nonattainment or maintenance area, and the project's design concept and scope has not changed significantly.

11. Section 93.122 is amended by:

a. Redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e) and (g), respectively;

b. Adding new paragraphs (c) and (f); and

c. In newly redesignated paragraph (g)(1), revising the reference to ''93.119 (''Emission reductions in areas without motor vehicle emissions budgets'')'' to read ''93.119 (''Interim emissions in areas without motor vehicle emissions budgets'')''.

The revisions and additions read as follows:

§ 93.122 Procedures for determining regional transportation-related emissions.

* * * * *

(c) *Two-year grace period for regional emissions analysis requirements in certain ozone and CO areas.* The requirements of paragraph (b) of this section shall not apply for two years from the following:

(i) The effective date of EPA's reclassification of a moderate ozone or CO area that has an urbanized area population greater than 200,000 to serious or severe (ozone only); or,

(ii) The official notice by the Census Bureau that determines the urbanized area population of a serious or above ozone or CO area to be greater than 200,000.

* * * * *

(f) *$PM_{2.5}$ from construction-related fugitive dust.* (1) For $PM_{2.5}$ areas in which the implementation plan does not identify construction-related fugitive $PM_{2.5}$ as a significant contributor to the nonattainment problem, the fugitive $PM_{2.5}$ emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.

(2) In $PM_{2.5}$ nonattainment and maintenance areas with implementation plans which identify construction-related fugitive $PM_{2.5}$ as a significant contributor to the nonattainment problem, the regional $PM_{2.5}$ emissions analysis shall consider construction-related fugitive $PM_{2.5}$ and shall account for the level of construction activity, the fugitive $PM_{2.5}$ control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.

* * * * *

§ 93.125 [Amended]

12. In § 93.125, paragraph (a) is amended by revising the reference ''93.119 (''Emissions reductions in areas without motor vehicle emissions budgets'')'' to read ''93.119 (''Interim emissions in areas without motor vehicle emissions budgets'')'', and paragraph (d) is amended by revising the phrase ''emission reduction requirements of § 93.119'' to read ''interim emissions requirements of § 93.119''.

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H.R. 1900/P.L. 108–101

To award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of the Congress that there should be a national day in recognition of Jackie Robinson. (Oct. 29, 2003; 117 Stat. 1195)

H.R. 3229/P.L. 108–102

To amend title 44, United States Code, to transfer to the Public Printer the authority over the individuals responsible for preparing indexes of the Congressional Record, and for other purposes. (Oct. 29, 2003; 117 Stat. 1198)

S. 1591/P.L. 108–103

To redesignate the facility of the United States Postal Service located at 48 South Broadway, Nyack, New York, as the ''Edward O'Grady, Waverly Brown, Peter Paige Post Office Building''. (Oct. 29, 2003; 117 Stat. 1199)

Last List October 29, 2003

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