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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 919 and 970

RIN 3206–AK30

Governmentwide Debarment and Suspension (Nonprocurement)

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to redesignate part 970 of title 5 of the Code of Federal Regulations as part 919. OPM intends to use part 970 in the near future as the location for new regulations issued jointly by the Department of Homeland Security and OPM, which will establish a new human resources management system within DHS.

EFFECTIVE DATE: December 23, 2003.

FOR FURTHER INFORMATION CONTACT: David Cope, Debarring Official, Office of Inspector General, Office of Personnel Management, by telephone at (202) 606–2851, by fax at (202) 606–2153, or by e-mail at *debar@opm.gov.*

SUPPLEMENTARY INFORMATION: In determining the organization of regulatory parts in title 5 of the Code of Federal Regulations, OPM generally assigns part numbers so that they link to corresponding statutory sections of title 5, United States Code. For example, the leave statutes in 5 U.S.C. chapter 63 are regulated in 5 CFR part 630. As part of the Homeland Security Act of 2002 (Pub. L. 107–296, November 25, 2002), Congress added a new chapter 97 to title 5, United States Code. Section 9701 of chapter 97 provides OPM and the Department of Homeland Security (DHS) with authority to jointly issue regulations establishing a new human resources management system for DHS employees. OPM has determined that, consistent with its general approach in assigning regulatory part numbers, part 970 should be reserved for the joint DHS/OPM regulations issued under 5 U.S.C. 9701. OPM expects those regulations to be issued early in 2004.

Currently, OPM has existing regulations in part 970 that relate to a Governmentwide system for debarment and suspension of certain persons with respect to participation in transactions under Federal nonprocurement programs. With the issuance of this final rule, these debarment and suspension regulations will be relocated to part 919.

Because the redesignation of part 970 does not involve rulemaking, the redesignation changes are final and become effective immediately.

List of Subjects in 5 CFR Part 919

Administrative practice and procedure, Grant programs, Loan programs.

Office of Personnel Management.

Kay Coles James,

Director.

■ Accordingly, for the reasons stated in the preamble, OPM amends 5 CFR chapter I as follows:

PART 970—[REDESIGNATED AS PART 919]

■ 1. The authority citation for part 970 continues to read as follows:

Authority: Sec. 2455, Pub.L. 103–355, 108 Stat.3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

■ 2. Part 970 is redesignated as part 919.

[FR Doc. 03–31576 Filed 12–22–03; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–125–AD; Amendment 39–13387; AD 2003–25–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Airbus Model A319, A320, and A321 series airplanes, that currently requires modifying the fuel pipe couplings and installing bonding leads in specified locations within the fuel tank. This amendment continues to require the modification and installation, but adds new modifications of the bonding leads for certain airplanes. This amendment also changes the applicability of the existing AD. The actions specified by this AD are intended to prevent ignition sources and consequent fire/explosion in the fuel tank. This action is intended to address the identified unsafe condition.

DATES: Effective January 27, 2004. The incorporation by reference of certain publications, as listed in the regulations, is approved by the Director of the Federal Register as of January 27, 2004.

The incorporation by reference of a certain other publication, as listed in the regulations, was approved previously by the Director of the Federal Register as of August 28, 2000 (65 FR 45513, July 24, 2000).

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–14–15, amendment 39–11825 (65 FR 45513, July 24, 2000), which is applicable to certain Airbus Model A319, A320, and A321 series airplanes, was published in the **Federal Register** on September 9, 2003 (68 FR 53061). The action proposed to require modifying the fuel pipe couplings and installing bonding leads in specified locations within the fuel tank. The action also adds new

modifications of the bonding leads, for certain airplanes, and changes the applicability in the existing AD.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. Two commenters have no objections or comments to the proposed AD.

Request To Cite Revised Service Information

Two commenters ask that the new requirements section of the proposed AD be changed to cite Revision 01, dated April 26, 2000; Revision 02, dated June 28, 2000; and Revision 03, dated October 3, 2000; of Airbus Service Bulletin A320–28–1077; as additional sources of service information to use for accomplishment of the specified actions. One commenter states that Revision 04, dated December 14, 2001 (cited in the proposed AD for accomplishment of certain new actions) specifies that no additional work is required on airplanes modified by Revision 01, 02, or 03.

The FAA agrees to add Revisions 01, 02, and 03 of the referenced service bulletin as additional sources of service information for accomplishment of the actions required by paragraph (b)(1) of this final rule. Those revisions are acceptable if accomplished before the effective date of this AD, as the changes are mainly editorial changes.

Change to Final Rule

In paragraph (c)(2) of the proposed AD, we specified that alternative methods of compliance (AMOC) approved previously for AD 2000–14–15, were not approved as AMOCs with this AD. We have changed paragraph (c)(2) to specify that AMOCs approved previously are approved as AMOCs with paragraph (a) of this AD. The AMOCs that have been issued are not authorizing changes per the original issue of the service bulletin; therefore, they meet the requirements specified in those paragraphs.

Conclusion

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

Cost Impact

There are approximately 227 airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 2000–14–15 take between 20 and 100 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. The cost of required parts is negligible. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be between $295,100 and $1,475,500; or between $1,300 and $6,500 per airplane.

Should an operator be required to accomplish the actions specified in Airbus Service Bulletin A320–28–1077, Revision 01, 02, 03, 04, or 05, it takes approximately 2 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. The cost of required parts is negligible. Based on these figures, the cost impact of these new actions is estimated to be $130 per airplane.

Should an operator be required to accomplish the actions specified in Airbus Service Bulletin A320–28–1079, it takes approximately 6 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. The cost of required parts is negligible. Based on these figures, the cost impact of these new actions is estimated to be $390 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–11825 (65 FR 45513, July 24, 2000), and by adding a new airworthiness directive (AD), amendment 39–13387 to read as follows:

2003–25–04 Airbus: Amendment 39–13387. Docket 2002–NM–125–AD. Supersedes AD 2000–14–15, Amendment 39–11825.

Applicability: Model A319, A320, and A321 series airplanes; certificated in any category; excluding those on which Airbus Modifications 27150, 27955, and 27472 have been installed.

Compliance: Required as indicated, unless accomplished previously.

To prevent ignition sources and consequent fire/explosion in the fuel tank, accomplish the following:

Restatement of Requirements of AD 2000–14–15

Modification and Installation

(a) Within 36 months after August 28, 2000 (the effective date of AD 2000–14–15, amendment 39–11825), modify the fuel pipe couplings and install bonding leads in the specified locations of the fuel tank, per the Accomplishment Instructions of Airbus Service Bulletin A320–28–1077, dated July 9, 1999; Revision 01, dated April 26, 2000; Revision 02, dated June 28, 2000; Revision 03, dated October 3, 2000; Revision 04, dated December 14, 2001; or Revision 05, dated August 27, 2002. As of the effective date of this AD, only Revision 01, 02, 03, 04, or 05 may be used.

New Requirements of this AD

Modification and Installation

(b) Do the applicable actions required by paragraphs (b)(1) and (b)(2) of this AD at the times specified.

(1) For airplanes on which the actions required by paragraph (a) of this AD have been done per Airbus Service Bulletin A320–28–1077, dated July 9, 1999: Within 36 months after the effective date of this AD, install an additional bonding lead (including doing an electrical resistance check) by doing all the actions per paragraphs 3.B.(3) and 3.C. of the Accomplishment Instructions of Airbus Service Bulletin A320–28–1077, Revision 04, dated December 14, 2001; or Revision 05, dated August 27, 2002. Accomplishment of the actions before the effective date of this AD per Airbus Service Bulletin A320–28–1077, Revision 01, dated April 26, 2000; Revision 02, dated June 28, 2000; or Revision 03, dated October 3, 2000; is considered acceptable for compliance with the actions required by this paragraph.

(2) For airplanes on which an additional center fuel tank is installed, as described in Airbus Service Bulletin A320–28–1079, dated November 30, 1998: Within 20 months after the effective date of this AD, modify the fuel system of the additional center fuel tank (including an electrical resistance check) by doing all the actions per paragraphs 2.A. through 2.E. of the Accomplishment Instructions of the service bulletin.

Alternative Methods of Compliance

(c)(1) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

(2) Alternative methods of compliance, approved previously in accordance with AD 2000–14–15, amendment 39–11825, are considered to be approved as alternative methods of compliance with paragraph (a) of this AD.

Incorporation by Reference

(d) The actions shall be done in accordance with Airbus Service Bulletin A320–28–1077, dated July 9, 1999; Airbus Service Bulletin A320–28–1077, Revision 01, dated April 26, 2000; Airbus Service Bulletin A320–28–1077, Revision 02, dated June 28, 2000; Airbus Service Bulletin A320–28–1077, Revision 03, dated October 3, 2000; Airbus Service Bulletin A320–28–1077, Revision 04, dated December 14, 2001; Airbus Service Bulletin A320–28–1077, Revision 05, dated August 27, 2002; and Airbus Service Bulletin A320–28–1079, dated November 30, 1998; as applicable.

(1) The incorporation by reference of Airbus Service Bulletin A320–28–1077, Revision 01, dated April 26, 2000; Airbus Service Bulletin A320–28–1077, Revision 02, dated June 28, 2000; Airbus Service Bulletin A320–28–1077, Revision 03, dated October 3, 2000; Airbus Service Bulletin A320–28–1077, Revision 04, dated December 14, 2001; Airbus Service Bulletin A320–28–1077, Revision 05, dated August 27, 2002; and Airbus Service Bulletin A320–28–1079, dated November 30, 1998; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Airbus Service Bulletin A320–28–1077, dated July 9, 1999, was approved previously by the Director of the Federal Register as of August 28, 2000 (65 FR 45513, July 24, 2000).

(3) Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 1: The subject of this AD is addressed in French airworthiness directive 2002–202(B), dated April 17, 2002.

Effective Date

(e) This amendment becomes effective on January 27, 2004.

Issued in Renton, Washington, on December 5, 2003.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–31063 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–119–AD; Amendment 39–13392; AD 2003–25–09]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600 Series Airplanes, Model A300 B4–600R Series Airplanes, Model A300 C4–605R Variant F Airplanes, and Model A300 F4–605R Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300 B4–600 series airplanes, Model A300 B4–600R series airplanes, Model A300 C4–605R Variant F airplanes, and Model A300 F4–605R airplanes. This AD requires modification of certain components of the 115 Volts Alternating Current (VAC) supply wiring and of the fuel gauging system. This action is necessary to prevent short circuits between 115 VAC wiring and certain fuel system electrical wire runs with subsequent overheating of the cadensicon sensor thermistor or fuel level sensor, which could be great enough to ignite fuel vapors in the fuel tank and cause an explosion. This action is intended to address the identified unsafe condition.

DATES: Effective January 27, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 27, 2004.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A300 B4–600 series airplanes, Model A300 B4–600R series airplanes, Model A300 C4–605R Variant F airplanes, and Model A300 F4–605R airplanes, was published in the **Federal Register** on September 8, 2003 (68 FR 52862). That action proposed to require modification of certain components of the 115 Volts Alternating Current (VAC) supply wiring and of the fuel gauging system.

Comments

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

Conclusion

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

Cost Impact

The FAA estimates that 70 airplanes of U.S. registry will be affected by this AD, that it will take approximately 29 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $65 per work hour. Required parts will cost approximately $8,938 per airplane. Based on these

figures, the cost impact of this AD on U.S. operators is estimated to be $757,610, or $10,823 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–25–09 Airbus: Amendment 39–13392. Docket 2002–NM–119–AD.

Applicability: Model A300 B4–600 series airplanes, Model A300 B4–600R series airplanes, Model A300 C4–605R Variant F airplanes, and Model A300 F4–605R airplanes; as listed in Airbus Service Bulletin A300–28–6066, dated November 8, 2000; or Airbus Service Bulletin A300–28–6070, Revision 01, dated March 22, 2002; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent short circuits between 115 Volts Alternating Current (VAC) wiring and certain fuel system electrical wire runs with subsequent overheating of the cadensicon sensor thermistor or fuel level sensor, which could be great enough to ignite fuel vapors in the fuel tank and cause an explosion, accomplish the following:

Modification

(a)Within 4,000 flight hours after the effective date of this AD, modify elements of the electrical wiring to separate the cadensicon wiring from the 115 VAC wiring, in accordance with Airbus Service Bulletin A300–28–6066, dated November 8, 2000.

(b)Within 4,000 flight hours after the effective date of this AD, modify elements of the electrical wiring to separate the 115 VAC supply wiring of the fuel gauging system, in accordance with Airbus Service Bulletin A300–28–6070, Revision 01, dated March 22, 2002.

Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(d) The actions shall be done in accordance with Airbus Service Bulletin A300–28–6066, dated November 8, 2000; and Airbus Service Bulletin A300–28–6070, Revision 01, dated March 22, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 1: The subject of this AD is addressed in French airworthiness directives 2002–172(B) and 2002–171(B), both dated April 3, 2002.

Effective Date

(e) This amendment becomes effective on January 27, 2004.

Issued in Renton, Washington, on December 11, 2003.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–31191 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–269–AD; Amendment 39–13395; AD 2003–25–12]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 900 EX and Mystere-Falcon 900 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dassault Model Falcon 900 EX and Mystere-Falcon 900 series airplanes. This action requires installing an attachment support assembly for the fire extinguishing piping in the baggage compartment. For certain airplanes this action also requires modifying the liner panel of the baggage compartment. The actions specified by this AD are intended to prevent distortion of the fire extinguishing discharge nozzle as a result of the nozzle not being secure, which could result in poor diffusion of the fire extinguishing agent in the event of a fire in the baggage compartment. This action is intended to address the identified unsafe condition.

DATES: Effective January 27, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 27, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington

98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dassault Model Falcon 900 EX and Mystere-Falcon 900 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on September 19, 2003 (68 FR 54866). The action proposed to require installing an attachment support assembly for the fire extinguishing piping in the baggage compartment. That action also proposed to require modification of the liner panel of the baggage compartment for certain airplanes.

Comments

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

Conclusion

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

Cost Impact

We estimate that 150 airplanes of U.S. registry are affected by this AD.

It takes about 3 work hours per airplane to install the support assembly, at an average labor rate of $65 per work hour. Required parts are provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of this action on U.S. operators is estimated to be $29,250, or $195 per airplane.

If required, the panel modification takes about 4 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the proposed panel modification is estimated to be $260 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–25–12 Dassault Aviation: Amendment 39–13395. Docket 2001–NM–269–AD.

Applicability: The following airplanes, certificated in any category:

TABLE—APPLICABILITY

Model—	Excluding airplanes modified in accordance with Dassault Service Bulletin—	Which corresponds to Dassault Modification—
Mystere-Falcon 900 series airplanes	F900–279, dated June 7, 2001	M3368.
	or F900–279, Revision 1, dated May 15, 2002	M3368 and M874.
Falcon 900EX series airplanes	F900EX—142, dated June 7, 2001	F900EX M3368.

Compliance: Required as indicated, unless accomplished previously.

To prevent distortion of the fire extinguishing discharge nozzle as a result of the nozzle not being secure, which could result in poor diffusion of the fire extinguishing agent in the event of a fire in the baggage compartment, accomplish the following:

Installation

(a) Within 7 months or 330 flight hours after the effective date of this AD, whichever comes first, install an attachment support assembly for the fire extinguishing piping in the baggage compartment, in accordance with the following service information, as applicable:

(1) For Model Falcon 900 EX series airplanes: Paragraphs 2.A. through 2.C. of the Accomplishment Instructions of Dassault Service Bulletin F900EX–142, dated June 7, 2001.

(2) For Model Mystere-Falcon 900 series airplanes: Paragraphs 2.A. through 2.D., as applicable, of the Accomplishment Instructions of Dassault Service Bulletin F900–279, Revision 1, dated May 15, 2002. Paragraph 2.B. of this service bulletin includes a modification of the liner panel of the baggage compartment for airplanes having serial numbers 1 through 59 inclusive, with the nozzle directed downward.

Alternative Methods of Compliance

(b) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(c) The actions shall be done in accordance with Dassault Service Bulletin F900EX–142,

dated June 7, 2001; and Dassault Service Bulletin F900–279, Revision 1, dated May 15, 2002; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 1: The subject of this AD is addressed in French airworthiness directives 2001–192–034(B) R1 and 2002–261(B), both dated May 15, 2002.

Effective Date

(d) This amendment becomes effective on January 27, 2004.

Issued in Renton, Washington, on December 11, 2003.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–31192 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–08–AD; Amendment 39–13396; AD 2003–25–13]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas airplanes, that requires a one-time inspection for damage of the power feeder cables and surrounding structure, and repair if necessary. For certain airplanes, this amendment requires fabricating and installing a power feeder support bracket assembly and clamps at station Y=595.000, left side. For certain other airplanes, this amendment requires installing two power feeder support brackets and clamps at station Y=606.000, left side. This action is necessary to prevent chafing of the external ground power feeder cables against the adjacent structure, which could result in arcing and fire. This action is intended to address the identified unsafe condition.

DATES: Effective January 27, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 27, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Natalie Phan-Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5343; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10 airplanes was published in the **Federal Register** on September 8, 2003 (68 FR 52870). That action proposed to require a one-time inspection for damage of the power feeder cables and surrounding structure, and repair if necessary. For certain airplanes, that action proposed to require fabricating and installing a power feeder support bracket assembly and clamps at station Y=595.000, left side. For certain other airplanes, that action proposed to require installing two power feeder support brackets and clamps at station Y=606.000, left side.

Comments

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

Conclusion

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

Cost Impact

There are approximately 59 airplanes of the affected design in the worldwide fleet. The FAA estimates that 44 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 to 3 work hours per airplane to accomplish the required actions, at an average labor rate of $65 per work hour. Required parts will cost approximately $385 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $22,660 to 25,520, or $515 to $580 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–25–13 McDonnell Douglas: Amendment 39–13396. Docket 2002–NM–08–AD.

Applicability: Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes; certificated in any category; as listed in Boeing Alert Service Bulletin DC10–24A171, Revision 02, dated March 7, 2003.

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the external ground power feeder cables against the adjacent structure, which could result in arcing and fire, accomplish the following:

Inspection

(a) Within 6 months after the effective date of this AD: Perform a general visual inspection for damage of the power feeder cables and surrounding structure, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin DC10–24A171, Revision 02, dated March 7, 2003. If any damage is found, repair it before further flight in accordance with the service bulletin. Inspections and repairs done before the effective date of this AD in accordance with Revision 01 of the service bulletin, dated November 6, 2002, are also acceptable for compliance with the requirements of this paragraph.

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

Bracket Installation

(b) Within 6 months after the effective date of this AD: Perform the actions specified in paragraphs (b)(1) and (b)(2) of this AD in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin DC10–24A171, Revision 02, dated March 7, 2003. Accomplishment of the actions before the effective date of this AD in accordance with Revision 01 of the service bulletin, dated November 6, 2002, is also acceptable for compliance with the requirements of this paragraph.

(1) For Group 1 and Group 3 airplanes: Fabricate and install a new power feeder support bracket assembly and clamps at station Y=595.000, left side. Bracket fabrication and installation done before the effective date of this AD in accordance with the original issue of the service bulletin, dated October 18, 2001, is also acceptable for compliance with the requirements of paragraph (b)(1) of this AD.

(2) For Group 2 airplanes: Install 2 power feeder support brackets and clamps at station Y=606.000, left side.

Alternative Methods of Compliance

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

Incorporation by Reference

(d) Unless otherwise specified by this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin DC10–24A171, Revision 02, dated March 7, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on January 27, 2004.

Issued in Renton, Washington, on December 11, 2003.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–31193 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–180–AD; Amendment 39–13394; AD 2003–25–11]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing airplane models, that requires a one-time inspection to identify all H–11 steel bolts installed in the latch fittings of the cargo doors, repetitive inspections for cracked or broken H–11 steel bolts, and follow-on and corrective actions if necessary. This amendment also requires eventual replacement of all H–11 steel bolts in the latch fittings of the cargo doors with Inconel bolts. This action is necessary to prevent broken bolts in the latch fittings, which could reduce the capability of the door latch to keep the door closed, and result in loss of a cargo door and consequent rapid depressurization of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective January 27, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 27, 2004.

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

FOR FURTHER INFORMATION CONTACT: Nick Kusz, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6432; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to

include an airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747SR, and 747SP series airplanes was published in the **Federal Register** on August 27, 2003 (68 FR 51521). That action proposed to require a one-time inspection to identify all H–11 steel bolts installed in the latch fittings of the cargo doors, repetitive inspections for cracked or broken H–11 steel bolts, and follow-on and corrective actions if necessary. That action also proposed to require eventual replacement of all H–11 steel bolts in the latch fittings of the cargo doors with Inconel bolts.

Comments

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

Conclusion

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

Cost Impact

There are approximately 566 airplanes of the affected design in the worldwide fleet. The FAA estimates that 179 airplanes of U.S. registry will be affected by this AD, that it will take between 2 and 8 work hours per airplane (depending on the airplane's configuration) to accomplish the required inspection, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be between $130 and $520 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–25–11 Boeing: Amendment 39–13394. Docket 2001–NM–180–AD.

Applicability: Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747SR, and 747SP series airplanes; line numbers 1 through 721 inclusive, 976, and 982; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent bolts from breaking in the latch fittings of the cargo doors, which could reduce the capability of the door latch to keep the door closed, and result in loss of a cargo door and consequent rapid depressurization of the airplane, accomplish the following:

Service Bulletin References

(a) The following information pertains to the service bulletin referenced in this AD:

(1) The term ''service bulletin'' as used in this AD, means the Accomplishment Instructions of Boeing Service Bulletin 747–53A2464, Revision 1, dated August 30, 2001.

(2) Although the service bulletin referenced in this AD specifies to submit certain information to the manufacturer, this AD does not include such a requirement.

(3) Although the service bulletin specifies that the actions therein must be accomplished prior to or concurrently with the actions in Boeing Alert Service Bulletin 747–52A2167 and Boeing Service Bulletin 747–52–2197, this AD does not include such a requirement. AD 80–14–11, amendment 39–3831, already requires accomplishment of Boeing Alert Service Bulletin 747–52A2167, Revision 1, dated March 28, 1980.

(4) Inspections and replacements accomplished before the effective date of this AD per Boeing Alert Service Bulletin 747–53A2464, dated March 15, 2001, are considered acceptable for compliance with this AD.

Initial Inspection

(b) Within 1 year after the effective date of this AD: Do a one-time detailed inspection to identify all H–11 steel bolts installed in the latch fittings of the main deck side cargo door, nose cargo door, and the forward and aft lower lobe cargo doors, as applicable. Do the inspection by checking the bolt part number stamped on the bolt head, or verifying the bolt is steel by using a magnet, per the service bulletin. If no H–11 steel bolt is found, no further action is required by this paragraph. If any H–11 steel bolt is found, do the requirements of paragraph (c) of this AD.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Follow-On Inspections/Corrective Actions

(c) For any H–11 steel bolt found during any inspection required by paragraph (b) of this AD: Before further flight, do an ultrasonic inspection for cracked or broken bolts, or replace the H–11 steel bolt with an Inconel bolt, per the service bulletin. Replace any cracked or broken bolt with an Inconel bolt before further flight per the service bulletin. Repeat the ultrasonic inspection of remaining H–11 steel bolts in the latch fittings of the main deck side cargo door, nose cargo door, and the forward and aft lower lobe cargo doors, at intervals not to exceed 18 months until the terminating action required by paragraph (d) of this AD is done.

Terminating Action

(d) Within 6 years after the effective date of this AD: Replace, with Inconel bolts, all H–11 steel bolts in the latch fittings of the main deck side cargo door, nose cargo door, and the forward and aft lower lobe cargo doors, per the service bulletin. The procedures for this replacement include

performing a detailed inspection of the bolt hole for corrosion; oversizing the bolt hole to remove any corrosion; installing a new bolt, nut, and washers; and applying sealant. Such replacement terminates the repetitive inspections required by paragraph (c) of this AD. If corrosion is found and oversizing the bolt hole within the limits specified in the service bulletin is not adequate to remove the corrosion, before further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

Parts Installation

(e) As of the effective date of this AD: No person may install, on any airplane, an H–11 steel bolt in the latch fittings of the main deck side cargo door, nose cargo door, or the forward and aft lower lobe cargo doors.

Alternative Methods of Compliance

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

Incorporation by Reference

(g) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Service Bulletin 747–53A2464, Revision 1, dated August 30, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on January 27, 2004.

Issued in Renton, Washington, on December 11, 2003.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–31195 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–163–AD; Amendment 39–13393; AD 2003–25–10]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes, that currently requires an inspection to detect chafing or damage of the electrical wires leading to the terminal strips in the center accessory compartment (CAC) area, and corrective actions if necessary. That AD also currently requires revising the wire connection stack up of certain cable terminals at the electrical power center bays in the CAC, and replacing certain terminal strips with new strips and removing applicable nameplates at electrical power center bays. This amendment requires additional actions for improving the terminal strips and revises the applicability of the existing AD to include additional airplanes. The actions specified by this AD are intended to prevent arcing and sparking damage to the power feeder cables, terminal strips, and adjacent structure, and consequent smoke and fire in the CAC. This action is intended to address the identified unsafe condition.

DATES: Effective January 27, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 27, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–24–12, amendment 39–12019 (65 FR 75615, December 4, 2000), which is applicable to certain McDonnell Douglas Model MD–11 series airplanes, was published in the **Federal Register** on July 24, 2003 (68 FR 43695). For certain airplanes, the action proposed to require revising the wire connection stack up of the cable terminals at the electrical power center bays in the center accessory compartment (CAC), as applicable; doing a one-time general visual inspection of the surrounding structure and electrical cables for chafing or damage; replacing terminal strips; removing the applicable nameplate at the electrical power center bays 1, 2, and 3 in the CAC; and doing a general visual inspection of the surrounding structure and electrical cables for arcing damage. For certain other airplanes, the action also proposed to require relocating the terminal strip, and doing a general visual inspection of the surrounding structure and electrical cables for arcing damage. The action also proposed to revise the applicability of the existing AD to include additional airplanes.

Comments

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

Conclusion

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

Cost Impact

There are approximately 163 airplanes of the affected design in the worldwide fleet. The FAA estimates that 73 airplanes of U.S. registry will be affected by this AD.

The new actions that are required by this new AD will take approximately between 1 and 7 work hours per airplane (depending on airplane configuration) to accomplish, at an

average labor rate of $65 per work hour. Required parts will cost approximately between $721 and $2,035 per airplane (depending on airplane configuration). Based on these figures, the cost impact of the requirements of this AD on U.S. operators is estimated to be between $786 and $2,490 per airplane (depending on airplane configuration).

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–12019 (65 FR 75615, December 4, 2000), and by adding a new airworthiness directive (AD), amendment 39–13393, to read as follows:

2003–25–10 McDonnell Douglas: Amendment 39–13393. Docket 2001–NM–163–AD. Supersedes AD 2000–24–12, Amendment 39–12019.

Applicability: Model MD–11 and MD–11F airplanes, as listed in Boeing Alert Service Bulletin MD11–24A097, Revision 02, dated December 4, 2002; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent arcing and sparking damage to the power feeder cables, terminal strips, and adjacent structure, and consequent smoke and fire in the center accessory compartment (CAC), accomplish the following:

Revising Wire Connection Stack Up, Inspecting, Replacing Terminal Strips, Removing the Nameplate, and Relocating Terminal Strips; As Applicable

(a) For Groups 1 through 6 airplanes as listed in Boeing Alert Service Bulletin MD11–24A097, Revision 02, dated December 4, 2002: Within 12 months after the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD per the service bulletin. Although the service bulletin references a reporting requirement, such reporting is not required by this AD.

(1) Revise the wire connection stack up of the cable terminals at the electrical power center bays 1, 2, and 3 in the CAC, as applicable, and do a one-time general visual inspection of the surrounding structure and electrical cables for chafing or damage.

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

(2) Replace the terminal strips and remove the applicable nameplate at the electrical power center bays 1, 2, and 3 in the CAC, and do a general visual inspection of the surrounding structure and electrical cables for arcing damage.

(b) For Group 7 airplanes as listed in Boeing Alert Service Bulletin MD11–24A097, Revision 02, dated December 4, 2002: Within 12 months after the effective date of this AD, relocate the terminal strip, and do a general visual inspection of the surrounding structure and electrical cables for arcing damage, per the service bulletin. Although the service bulletin references a reporting requirement, such reporting is not required by this AD.

Corrective Action

(c) If any chafing or damage is detected during any general visual inspection required by this AD, before further flight, repair or replace the damaged or chafed component with new or serviceable components, per Boeing Alert Service Bulletin MD11–24A097, Revision 02, dated December 4, 2002; except if the type of structural material that has been affected is not covered in the Structural Repair Manual, repair per a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. In addition, although the service bulletin references a reporting requirement, such reporting is not required by this AD.

Credit for Earlier Service Bulletins

(d) Applicable actions specified in this AD accomplished before the effective date of this AD per McDonnell Douglas Alert Service Bulletin MD11–24A097, dated April 3, 2000; or Revision 01, dated July 12, 2001, are acceptable for compliance with the applicable requirements of this AD.

Alternative Methods of Compliance

(e) In accordance with 14 CFR 39.19, the Manager, Los Angeles ACO, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

Incorporation by Reference

(f) Unless otherwise specified by this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin MD11–24A097, Revision 02, dated December 4, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on January 27, 2004.

Issued in Renton, Washington, on December 11, 2003.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–31196 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–169–AD; Amendment 39–13400; AD 2003–11–15 R1]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to all McDonnell Douglas Model MD–90–30 airplanes, that currently requires replacing the lanyards on the pressure relief door for the thrust reverser with new, improved lanyards, and doing associated modifications. The actions specified by that AD are intended to ensure that the lanyards on the pressure relief door have adequate strength. Lanyards of inadequate strength could allow the pressure relief door to detach from the thrust reverser in the event that an engine bleed air duct bursts, which could result in the detached door striking and damaging the horizontal stabilizer, and consequent reduced controllability of the airplane. This amendment is prompted by the fact that a certain paragraph of the existing AD prohibits installation of certain part numbers of lanyards; the numbers listed in that paragraph correspond to new, improved lanyards that are acceptable for installation. This amendment will correct these part numbers to prohibit installation of suspect lanyards while allowing installation of the new, improved lanyards. This action is intended to address the identified unsafe condition.

DATES: Effective January 27, 2004.

The incorporation by reference of Boeing Service Bulletin MD90–78–048, dated February 15, 2001, as listed in the regulations, was approved previously by the Director of the Federal Register as of July 9, 2003 (68 FR 33355, June 4, 2003).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024); and Rohr, Inc., 850 Lagoon Drive, Chula Vista, California 91910–2098. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Kolb, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5244; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 2003–11–15, amendment 39–13174 (68 FR 33355, June 4, 2003), which is applicable to all McDonnell Douglas Model MD–90–30 airplanes, was published in the **Federal Register** on August 21, 2003 (68 FR 50491). The action proposed to continue to require replacing the lanyards on the pressure relief door for the thrust reverser with new, improved lanyards, and doing associated modifications. The action also proposed to prohibit installation of certain pressure relief door lanyards.

Comments

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

Conclusion

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

Changes to 14 CFR part 39/Effect on the AD

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

Cost Impact

There are approximately 110 airplanes of the affected design in the worldwide fleet. The FAA estimates that 21 airplanes of U.S. registry will be affected by this AD. The changes in this action add no additional economic burden. The current costs for this AD are repeated for the convenience of affected operators, as follows:

It takes approximately 8 work hours per airplane to accomplish the actions currently required by AD 2003–11–15, at an average labor rate of $65 per work hour. Required parts are provided at no cost to the operator. Based on these figures, the cost impact of the actions currently required by AD 2003–11–15 is estimated to be $10,920, or $520 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–13174 (68 FR 33355, June 4, 2003), and by adding a new airworthiness directive (AD), amendment 39–13400, to read as follows:

2003–11–15 R1 McDonnell Douglas: Amendment 39–13400. Docket 2003–NM–169–AD. Revises AD 2003–11–15, Amendment 39–13174.

Applicability: All Model MD–90–30 airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure that the lanyards on the pressure relief door for the thrust reverser have adequate strength so that the door will not detach from the thrust reverser in the event that an engine bleed air duct bursts, which could result in the door striking and damaging the horizontal stabilizer, accomplish the following:

Replacement of Lanyards on the Thrust Reverser Pressure Relief Door

(a) Within 18 months after the effective date of the AD, replace the lanyards on the pressure relief door for the thrust reverser with new, improved lanyards, and accomplish associated modifications, per the Accomplishment Instructions of Boeing Service Bulletin MD90–78–048, dated February 15, 2001. The associated modifications include removing the pressure relief door, modifying the pressure relief door (including replacing existing brackets with new brackets and re-identifying the door with a new part number), modifying the lower track beam (including removing terminals, replacing the aft quick-release pin with a new pin, and re-identifying the beam with a new part number), modifying the heat shield on the lanyard assembly attach lugs, and re-installing the pressure relief door.

Note 2: Boeing Service Bulletin MD90–78–048, dated February 15, 2001, refers to International Aero Engines Service Bulletin V2500–NAC–78–0184, dated February 16, 2001, for instructions on replacing the lanyards on the pressure relief door for the thrust reverser.

Parts Installation

(b) After the effective date of this AD, no person may install a lanyard having part number (S700M1392A170) or (S700M1392A161) on the pressure relief door for the thrust reverser on any airplane.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Service Bulletin MD90–78–048, dated February 15, 2001. This incorporation by reference was approved previously by the Director of the Federal Register as of July 9, 2003 (68 FR 33355, June 4, 2003). Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on January 27, 2004.

Issued in Renton, Washington, on December 12, 2003.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–31439 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–92–AD; Amendment 39–13399; AD 2003–26–03]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes Equipped With Certain Litton Air Data Inertial Reference Units

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A319, A320, and A321 series airplanes equipped with certain Litton air data inertial reference units (ADIRU). This AD requires modifying the shelf (floor panel) above ADIRU 3, and, for certain airplanes, modifying the polycarbonate guard that covers the ADIRUs, and the ladder located in the avionics compartment, as applicable. This action is necessary to prevent failure of ADIRU 3 during flight, which could result in loss of one source of critical attitude and airspeed data and reduce the ability of the flightcrew to control the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective January 27, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 27, 2004.

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

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes equipped with certain Litton

air data inertial reference units (ADIRU) that was published in the **Federal Register** on October 8, 2003 (68 FR 58050). That action proposed to require modifying the shelf (floor panel) above ADIRU 3, and, for certain airplanes, modifying the polycarbonate guard which covers the ADIRUs, and the ladder located in the avionics compartment, as applicable.

Comments

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

Conclusion

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

Cost Impact

The FAA estimates that 200 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $65 per work hour. Required parts will cost approximately $300 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $112,000, or $560 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–26–03 Airbus: Amendment 39–13399. Docket 2002-NM–92–AD.

Applicability: Model A319, A320, and A321 series airplanes; certificated in any category; equipped with Litton air data inertial reference units (ADIRU) installed per Airbus Modification 24852, 25108, 25336, 26002, or 28218; except those airplanes on which Airbus Modification 30650 or 30872 has been accomplished.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of ADIRU 3 during flight, which could result in loss of one source of critical attitude and airspeed data and reduce the ability of the flightcrew to control the airplane, accomplish the following:

Modification

(a) Within 2 years after the effective date of this AD: Do the modifications specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD, as applicable, in accordance with paragraphs A. through D. of the Accomplishment Instructions of Airbus Service Bulletin A320–25–1248, dated February 16, 2001; as applicable.

(1) For all airplanes: Modify the shelf (floor panel) above ADIRU 3 by installing shims between the shelf and the webs of the shelf support structure.

(2) For airplanes with Airbus Modification 25900P3941 or Airbus Service Bulletin A320–25–1200 accomplished as of the effective date of this AD: Modify the polycarbonate guard (umbrella) protecting the ADIRUs by installing shims between the guard and the shelf support structure.

(3) For airplanes with Airbus Modification 23027P2852 or Airbus Service Bulletin A320–52–1038 accomplished as of the effective date of this AD: Modify the ladder located in the avionics compartment by machining the slot at the foot of the ladder to increase the depth by 0.236 inch.

Alternative Methods of Compliance

(b) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(c) The actions shall be done in accordance with Airbus Service Bulletin A320–25–1248, dated February 16, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 1: The subject of this AD is addressed in French airworthiness directive 2002–125(B), dated March 6, 2002.

Effective Date

(d) This amendment becomes effective on January 27, 2004.

Issued in Renton, Washington, on December 12, 2003.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–31270 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–243–AD; Amendment 39–13397; AD 2003–26–01]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This action requires a

one-time general visual inspection to identify the material of the rudder assembly, and corrective actions, if necessary. For airplanes with a graphite assembly, this action requires repetitive general visual inspections of the flange bolts of the rudder front spar for any loose bolts, and corrective actions, if necessary. This action is necessary to detect and correct loose bolts common to the flange of the rudder front spar and main thrust hinge and actuator assembly, as well as the auxiliary actuator support fitting, which could cause the rudder actuator to separate from the rudder during certain flight conditions, resulting in loss of rudder control and consequent loss of control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective January 7, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 7, 2004.

Comments for inclusion in the Rules Docket must be received on or before February 23, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–243–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2003–NM–243–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

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

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6440; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: The manufacturer, Boeing, has advised the FAA that it received two reports of loose bolts common to the flange of the rudder front spar and main thrust hinge and actuator assembly, as well as auxiliary actuator support fitting, on Boeing Model 737 series airplanes. In the first case, no additional damage was reported. In the second case, the holes common to the flange of the rudder front spar had become elongated and were repaired using oversized bolts.

Boeing has notified us that it has received nine additional reports of loose flange bolts. In all of the reported cases (including the original two), the rudders had a graphite spar. The airplanes on which the loose flange bolts were found had between 7,246 and 45,312 total flight hours and between 7,846 and 35,362 total flight cycles. The cause of the loose flange bolts has not yet been determined.

Loose bolts common to the flange of the rudder front spar and main thrust hinge and actuator assembly, as well as the auxiliary actuator support fitting, could cause the rudder actuator to separate from the rudder during certain flight conditions. This condition, if not detected and corrected, could result in loss of rudder control and consequent loss of control of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–55A1087, dated October 2, 2003, which describes procedures for performing a one-time general visual inspection of the rudder assembly to determine if an aluminum/fiberglass rudder assembly, or, if a graphite rudder assembly, part number 65C27234–() or 65C25841–(), is installed; performing repetitive general visual inspections of the flange bolts (Stage 1); and corrective actions, if necessary. The corrective actions include retorqueing or replacing the flange bolts as necessary, and contacting Boeing for certain conditions.

The alert service bulletin also describes additional Stage 2 and Stage 3 repetitive flange bolt inspections for certain airplanes.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Interim Action

This is considered to be interim action. We are continuing to investigate the cause of the loose flange bolts. Once the cause and final action have been identified, we may consider further rulemaking. We are, however, currently considering further rulemaking to supersede this AD to require the Stage 2 and Stage 3 repetitive inspections described in the alert service bulletin. Should we determine that those inspections are necessary, the planned compliance time would allow enough time to provide notice and opportunity for prior public comment.

Differences Between This AD and the Alert Service Bulletin

Operators should note that Boeing Alert Service Bulletin 737–55A1087, dated October 2, 2003, specifies inspections in addition to those required by this AD. As stated above, this AD does not require the Stage 2 and Stage 3 repetitive inspections because the planned compliance time for those inspections would allow enough time to provide notice and opportunity for prior public comment.

Additionally, for any aluminum/fiberglass rudder assembly having an identification plate indicating a graphite assembly, or for any graphite rudder assembly having an identification plate indicating an aluminum assembly, the alert service bulletin specifies to contact Boeing for appropriate action. This AD requires operators to contact us, or a Boeing Company Designated Engineering Representative who has been authorized by us to make such findings.

Although the Work Instructions of the alert service bulletin recommend that operators report inspection findings of any loose flange bolt to the manufacturer, this AD does not require operators to submit those inspection findings.

Explanation of Compliance Time for One-time Inspection

Operators should note that the compliance time for accomplishment of the one-time inspection of the rudder assembly to identify the material of the rudder assembly and front spar and the initial Stage 1 repetitive flange bolt inspection required by this AD is 120 days after the effective date of this AD. In developing an appropriate compliance time for this AD, we considered not only the manufacturer's recommendation, but also the degree of urgency associated with addressing the

subject unsafe condition, the significant impact on scheduling and cost for the large fleet of airplanes which must be inspected, and adequate time and availability of facilities for safe and accurate accomplishment of the inspection. In light of all of these factors, we find a 120-day compliance time for doing the flange bolt inspection to be warranted in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NM–243–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–26–01 Boeing: Amendment 39–13397. Docket 2003–NM–243–AD.

Applicability: All Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct loose bolts common to the flange of the rudder front spar and main thrust hinge and actuator assembly, as well as the auxiliary actuator support fitting, which could cause the rudder actuator to separate from the rudder during certain flight conditions, resulting in loss of rudder control and consequent loss of control of the airplane; accomplish the following:

One-Time Inspection

(a) For Groups 1, 2 and 3 airplanes, as listed in Boeing Alert Service Bulletin 737–55A1087, dated October 2, 2003: Within 120 days after the effective date of this AD, perform a one-time general visual inspection of the rudder assembly to determine if an aluminum/fiberglass rudder assembly (Group 1 airplanes), or, if a graphite rudder assembly, part number 65C27234–() or 65C25841–() (Group 2 and Group 3 airplanes) is installed; per the Work Instructions of Boeing Alert Service Bulletin 737–55A1087, dated October 2, 2003.

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

(b) If an aluminum/fiberglass assembly is found: No further action is required by paragraph (c) of this AD.

Stage 1—Repetitive Flange Bolt Inspections

(c) If a graphite assembly is found: Within 120 days after the effective date of this AD, perform a general visual inspection of the flange bolts in the main thrust hinge and actuator assembly, as well as the auxiliary actuator support fitting to detect loose bolts, per ''Stage 1—Repeat Flange Bolt Inspection'' of the Work Instructions of Boeing Alert Service Bulletin 737–55A1087, dated October 2, 2003.

(1) If no loose flange bolt is found: Repeat the inspection required by paragraph (c) of this AD at intervals not to exceed 1,500 flight cycles or 2,000 flight hours, whichever occurs first.

(2) If any loose flange bolt is found: Before further flight, do the applicable corrective actions by accomplishing all actions specified in paragraphs 4. and 5. of ''Stage 1—Repeat Flange Bolt Inspection'' of the Work Instructions of the alert service bulletin. Thereafter, repeat the inspection required by paragraph (c) of this AD at intervals not to exceed 1,500 flight cycles or 2,000 flight hours, whichever occurs first.

(d) For any aluminum/fiberglass rudder assembly having an identification plate indicating a graphite assembly, or for any graphite rudder assembly having an identification plate indicating an aluminum assembly, and the alert service bulletin specifies to contact Boeing for appropriate action: Prior to further flight, contact the Manager, Seattle Aircraft Certification Office (ACO), FAA; or a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

Parts Installation

(e) As of the effective date of this AD, no person may install on any airplane a rudder assembly having part number 65C27234–() or 65C25841–(), unless it has been inspected per paragraph (c) of this AD.

Information Submission

(f) Although the service bulletin referenced in this AD specifies to submit inspection findings to the manufacturer, this AD does not include such a requirement.

Alternative Methods of Compliance

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

Incorporation by Reference

(h) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 737–55A1087, dated October 2, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, PO Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on January 7, 2004.

Issued in Renton, Washington, on December 12, 2003.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–31273 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–61–AD; Amendment 39–13398; AD 2003–26–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319–113 and –114 Series Airplanes; and Model A320–111, –211, and –212 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A319–113 and –114 series airplanes; and Model A320–111, –211, and –212 series airplanes; that requires either a review of airplane maintenance or delivery records, or one-time inspection of the hydraulic actuators located in the pivot doors of both thrust reversers to identify the part number, and eventual replacement of certain actuators with modified or new actuators. This action is necessary to prevent jamming of a thrust reverser door during operation, or inadvertent deployment of a thrust reverser door in-flight, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective January 27, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 27, 2004.

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

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A319–113 and –114 series airplanes; and Model A320–111, –211, and –212 series airplanes; was published in the **Federal Register** on October 2, 2003 (68 FR 56792). That action proposed to require either a review of airplane maintenance or delivery records, or one-time inspection of the hydraulic actuators located in the pivot doors of both thrust reversers to identify the part number, and eventual replacement of certain actuators with modified or new actuators.

Comments

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

Conclusion

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

Cost Impact

The FAA estimates that 108 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $56,160, or $520 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–26–02 Airbus: Amendment 39–13398. Docket 2002–NM–61–AD.

Applicability: All Model A319–113 and –114 series airplanes; and Model A320–111, –211, and –212 series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent jamming of a thrust reverser door during operation or inadvertent deployment of a thrust reverser door in-flight, which could result in reduced controllability of the airplane, accomplish the following:

Inspection and Follow-on Actions

(a) Within 500 airplane flight cycles after the effective date of this AD: Do a detailed inspection of the eight hydraulic actuators located in the pivot doors of the thrust reversers (one actuator per pivot door, four pivot doors per thrust reverser, two thrust reversers per airplane) to identify the part number (P/N) of each actuator, in accordance with Airbus Service Bulletin A320–78–1020, excluding Appendix 01, dated March 28, 2001. Instead of a detailed inspection of the hydraulic actuators, a review of airplane maintenance and delivery records is acceptable if the P/N of each actuator installed on the airplane can be positively determined from that review.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, *etc.,* may be used. Surface cleaning and elaborate access procedures may be required.''

(1) For any actuator having P/Ns D23090000–1, D23090000–2, D23090000–3, or D23090000–4: Prior to the accumulation of 20,000 total actuator flight cycles, or within 250 airplane flight cycles after accomplishment of the detailed inspection or airplane records review required by paragraph (a) of this AD, whichever occurs later, replace the actuator with a modified or new actuator having part number D23090000–5 or D23090000–6, in accordance with the service bulletin.

(2) For any actuator having P/N D23090000–5: Prior to the accumulation of 30,000 total actuator flight cycles, or within 250 airplane flight cycles after the detailed inspection or airplane records review required by paragraph (a) of this AD, whichever occurs later, replace the actuator with a modified or new actuator having P/N D23090000–6, in accordance with the service bulletin.

(3) For any actuator having P/N D23090000–6: No further action is required by this paragraph.

Note 2: Airbus Service Bulletin A320–78–1020 references Rohr CFM56–5A Service Bulletin RA32078–106, dated November 16, 2000, as an additional source of service information for modification of the actuators.

(b) Once all of the actuators located in the pivot doors of the thrust reversers have P/N D23090000–6, no further action is required by paragraph (a) of this AD.

(c) For operators that do not track actuator flight cycles, or do not have a means of obtaining information regarding actuator flight cycles, engine flight cycles must be used instead of actuator flight cycles.

Parts Installation

(d) As of the effective date of this AD, no person may install an actuator having P/N D23090000–1, D23090000–2, D23090000–3, or D23090000–4 on any airplane.

Submission of Inspection Results to Manufacturer Not Required

(e) Although the service bulletin referenced in this AD specifies to submit information to the manufacturer, this AD does not include such a requirement.

Alternative Methods of Compliance

(f) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(g) The actions must be done in accordance with Airbus Service Bulletin A320–78–1020, excluding Appendix 01, dated March 28, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 2001–361(B) R1, dated September 3, 2003.

Effective Date

(h) This amendment becomes effective on January 27, 2004.

Issued in Renton, Washington on December 12, 2003.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–31271 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404, 416 and 422

RIN 0960–AE92

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income; Collection of Overdue Program and Administrative Debts Using Administrative Wage Garnishment

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: We are modifying our regulations dealing with the collection of program overpayment debts that arise under titles II and XVI of the Social Security Act (the Act) and administrative debts owed to us. Specifically, we are making some changes and establishing new regulations on the use of administrative wage garnishment (AWG) to collect such debts when they are past due. AWG is a process whereby we order the debtor's employer to withhold and pay to us up to 15 percent of the debtor's disposable pay every payday until the debt is repaid. The employer is required by law to comply with our AWG order.

EFFECTIVE DATE: These final rules are effective on January 22, 2004.

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html.* It is also available on the Internet Web site for SSA (*i.e.*, Social Security Online): *http://policy.ssa.gov/pnpublic.nsf/LawsRegs.*

FOR FURTHER INFORMATION CONTACT: Robert J. Augustine, Social Insurance

Specialist, Office of Regulations, Social Security Administration, Room 100, Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–0020 or TTY (410) 966–5609. For information on eligibility or filing for benefits: Call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778 or visit our Internet Web site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: Section 31001(o)(1) of Pub. L. 104–134 amended Chapter 37, subchapter II, of title 31, United States Code, by adding section 3720D to permit Federal agencies to use AWG to recover past due debts. We are pursuing AWG to collect past due program overpayment debts incurred under title II and title XVI of the Act and past due administrative debts (see 20 CFR 422.306(a) for examples of administrative debts). The final regulations discussed below will implement 31 U.S.C. 3720D under the guidance provided by the Department of the Treasury at 31 CFR 285.11.

Explanation of Changes to Regulations

We are creating a new subpart E in part 422 of our regulations containing the rules we will use to collect both title II and title XVI program overpayments and administrative debts by AWG. Subpart E will include the following sections that explain the conditions for our use of AWG, the rights of the debtor and the responsibilities of the employer.

In § 422.401, we describe the scope of this subpart—our use of AWG under 31 U.S.C. 3720D to recover past due debts that you owe.

Section 422.402 contains definitions of several terms used in the new subpart, including:

- Paragraph (a), defining ''administrative wage garnishment'' as the process whereby we order your employer to withhold from your disposable pay and send the amount withheld to us;
- Paragraph (b), defining the term ''debt'' to mean any amount of money or property that we determine is owed to the United States government and that arises from a program that we administer or an activity that we perform;
- Paragraph (c), defining the term ''disposable pay'' to mean the amount equal to your total compensation from an employer (including, among other things, wages or salary, bonuses, commissions and vacation pay) after deduction of health insurance premiums and amounts withheld as required by law other than amounts withheld under court order.

Section 422.403 provides that, subject to certain exceptions and conditions, we will use AWG to collect any debt that is past due. We may use AWG concurrently with other practices, such as, tax refund offset and other administrative offset conducted by the Department of the Treasury and referral of information about the debt to consumer reporting agencies. See paragraph (a). We will not use AWG to collect a debt from salary or wages paid by the United States Government. If you have been separated involuntarily from employment, we will not use AWG against you until you have been re-employed continuously for at least 12 months. We will not use AWG to recover your debt while:

- Your title II disability benefits are stopped during the reentitlement period, under 20 CFR 404.1592a(a)(2) of this chapter.
- Your Medicare entitlement is continued because you are deemed to be entitled to title II disability benefits under section 226(b) of the Social Security Act, or
- You are participating in the Ticket to Work and Self-Sufficiency Program and your ticket is in use as described in 20 CFR 411.170 through 411.255. See paragraph (b).

In paragraphs (c) and (d) of § 422.403, we describe the conditions under which we may apply AWG to recover title II and title XVI program overpayment debts, respectively. We may apply AWG if all of the following conditions are met.

- You are not receiving benefits under the program under which the overpayment occurred.
- For an overpayment under title XVI, we are not collecting the debt by reducing your title II benefits.
- We have completed our billing sequence (*i.e.*, we have sent an overpayment notice, reminder notice and past-due notice) or we have terminated or suspended collection activity.
- We have no installment payment arrangement with you, or you failed to make payment under such an arrangement for two consecutive months.
- You have not requested that we waive collection of the overpayment, or you requested waiver but we determined that we would not waive collection.
- You have not requested reconsideration of the initial overpayment determination, or you requested reconsideration but we affirmed the initial determination in whole or in part.
- We cannot recover the overpayment by adjustment of benefits payable to someone other than you.

According to 31 U.S.C. 3720D(b), we must send you written notice at least 30 days prior to taking AWG action. We will send the notice at least 60 days before we will take AWG action. Section 422.405 describes the information we will include in that notice:

- The payment of your debt is past due;
- The nature and amount of your debt;
- Our intention to collect the debt by AWG;
- The amount that could be withheld from your disposable pay (the payment schedule) under AWG;
- You may inspect and copy our records about the debt;
- You may ask us to review the debt (*i.e.*, whether you owe the amount stated in the notice) or the payment schedule stated in the notice;
- You may request an installment payment plan.

The notice will also explain that at the expiration of 60 calendar days from the date of the notice we will order your employer to begin withholding from your disposable pay, unless within that 60-day period you pay us the full amount of the debt, request review of the debt or the payment schedule or request to arrange to pay us by installments. We will keep an electronic record of the notice, showing the date we mailed it and the amount of the debt.

Section 422.410 explains the actions we will take after we send the notice. We will not send an AWG order to your employer before the expiration of 60 calendar days from the date of the notice. If within that 60-day period you request that we review the debt (see § 422.425) or the payment schedule (see § 422.415) stated in the notice or request an installment payment arrangement, we will not take further action until we send you a written notice of our decision. If within that 60-day period you do not pay the full balance of the debt, request review, or request an installment payment arrangement, we may send the AWG order to your employer without further delay. If your request for review is late, we will still perform the review even though we may send the AWG order to your employer. However, if you had good cause for failing to request review of the debt or the payment schedule on time, we will treat your request as if we received it within the 60-day period and delay further action until we send you our decision. Paragraph (b) of § 422.410 describes the circumstances that show good cause for your failure and gives

examples. If we arrange an installment payment plan with you after we send you the AWG notice and you fail to make the installment payments for two consecutive months, we may send your employer an AWG order without further delay.

As explained below in the discussion of PUBLIC COMMENTS, we revised paragraph (a)(3) of § 422.410 to ensure that the regulation is consistent with the regulation of the Department of the Treasury on suspending an AWG order pending our decision on a request for review. We also clarified the language of paragraph (b)(3) of that section regarding suspension of an AWG order when you have good cause for failing to request review on time.

Under 31 U.S.C. 3720D(b)(3) and (5) and (c), we must give you the opportunity to inspect and copy our records relating to the debt and the opportunity for a hearing on the existence and amount of the debt and the terms of the repayment schedule. We address these requirements in §§ 422.415, 422.420 and 422.425.

Section 422.415 provides that, upon your request, we will review the amount that your employer will withhold from your disposable pay (the payment schedule) and, when we find that withholding a particular amount would cause financial hardship, we will reduce that amount. We will not reduce the amount to be withheld every payday below $10.00. We will find financial hardship when evidence submitted by you shows that withholding a particular amount from your disposable pay will deprive you of income necessary to meet ordinary and necessary living expenses. Such expenses include, among other things, the cost of food, clothing, housing, medical care, insurance, and support of others for whom you are legally responsible. We will not reduce the amount the employer will withhold for financial hardship if the debt was caused by your intentional false statement or willful concealment of or failure to furnish material information.

Section 422.420 explains that we will arrange to make our records relating to the debt available for your inspection and copying if you notify us of your intention to inspect and copy them.

Section 422.425 describes the hearing process, the process by which we will review the debt at your request. Essentially, this is the same process that we employ to review the debt upon your request before we refer information to the Department of the Treasury for collection by administrative offset or refer information about the debt to consumer reporting agencies. See 20 CFR 422.317. To exercise your right to this review, you must request review and give us evidence that you do not owe all or part of the debt described in the notice or that we do not have the right to collect it. If you do not request review and give us the evidence before the expiration of 60 calendar days from the date of the notice, we may issue the AWG order without further delay. If you request review and give us the evidence within that 60-day period, or if you had good cause for failing to request review and give us the evidence on time, we will not take further AWG action unless and until we consider all of the evidence (including our own records) and send you our written findings that all or part of the debt is past due and we have the right to collect it. Our findings will include supporting rationale and will be our final decision on your request. If we find that you do not owe the debt, or the debt is not overdue, or we do not have the right to collect it, we will not send your employer an AWG order.

Section 422.430 states that, if we determine that you do not owe the debt or we do not have the right to collect it, we will cancel any AWG order that we issued and refund promptly any amount withheld from your pay under that order. Refunds will not bear interest unless Federal law or contract requires interest.

In § 422.435, we describe the AWG order, the factors that determine the amount your employer must withhold and the information that your employer must send us. Paragraph (a) describes the information that will appear in the AWG order (your name, address and social security number; the amount of the debt; information about the amount that the employer must withhold; and where to send the withheld amount). We will maintain an electronic record of the order showing the date that we mailed the order. See paragraph (b). We will require the employer to certify within 20 days of receipt of the AWG order your employment status and the amount of disposable pay available for withholding. See paragraph (c).

Paragraph (d) of § 422.435 explains how the employer will calculate the actual amount to withhold from your disposable pay on each payday and remit to us. This section implements 31 U.S.C. 3720D(b)(1) and 31 CFR 285.11(i). Usually, the amount to be withheld under the AWG order will be the lesser of the amount indicated in the order (up to 15% of disposable pay) or the amount by which disposable pay exceeds thirty times the minimum wage.

Paragraph (e) of § 422.435 discusses our rules that apply if your disposable pay is subject to more than one garnishment order. A withholding order for family support always has priority over our AWG order. Our AWG order has priority over other types of orders served after our AWG order unless Federal law provides otherwise. When your disposable pay is already subject to one or more withholding orders with higher or equal priority with our AWG order, the amount that your employer must withhold and remit to us will not be more than an amount calculated by subtracting the amount(s) withheld under the other withholding order(s) from 25% of your disposable pay. Under paragraph (f), we will have your employer withhold more than the amount calculated under these rules if you request in writing the higher rate of withholding. Moreover, as noted above, we will reduce the amount that your employer will withhold if we find under § 422.415(b) that withholding at that amount will cause you financial hardship.

In paragraphs (a) through (e) of § 422.440, we discuss the responsibilities of your employer under the AWG order. The rules require your employer to begin withholding the appropriate amount on the first payday following receipt of the AWG order, or on the first or second payday after such receipt if the employer received the AWG order within 10 days before the first payday. The rules require your employer to continue to withhold and promptly pay the withheld amount to us every payday until we have recovered the debt and any interest, penalties and administrative costs that we may charge you under applicable law. Your employer need not alter its normal pay and disbursement cycles. However, your employer cannot honor any allotment or assignment of pay by you (other than arrangements made to satisfy a family support judgement or order) to the extent that such assignment or allotment interferes with or prevents withholding under the AWG order.

In paragraph (f) of § 422.440, we explain that Federal law prohibits your employer from using an AWG order as the basis for firing, refusing to employ or disciplining you. You may file a civil action in Federal or State court against an employer who violates the prohibition. See 31 U.S.C. 3720D(e).

In § 422.445, we explain that we may file a civil action in Federal court against the employer for any amounts that it fails to withhold in compliance with our AWG order issued under proposed § 422.435, and the employer may also be liable for our attorney fees and other associated costs and damages. See 31 U.S.C. 3720D(f). We will not

bring a civil action against your employer until we terminate collection action against you in accordance with applicable Federal standards, unless earlier filing is necessary to avoid the expiration of any applicable statute of limitations period. We will deem collection to be terminated if we receive no payment on the debt for one year.

Other Changes

We are amending 20 CFR 404.527 and 416.590 to mention that we may recover title II and title XVI overpayments, respectively, under the rules in subpart E of part 422.

We are adding to 20 CFR 404.903 a new paragraph (v) to include in the list of administrative actions that are not initial determinations our determination to use AWG to collect an overpayment made under title II of the Act. We are adding to 20 CFR 416.1403(a) a new paragraph (20) to include in the list of administrative actions that are not initial determinations our determination to use AWG to collect an overpayment made under title XVI of the Act. As a result of these two revisions, the administrative review procedures in 20 CFR part 404, subpart J, and part 416, subpart N, will not apply to the determination to use AWG. Moreover, that determination is not subject to judicial review under 42 U.S.C. 405(g) or 1383(c)(3).

In addition, we corrected an obsolete reference in 20 CFR 404.527(b)(1) to the provisions of the Federal Claims Collection Standards on termination and suspension of collection activity.

Public Comments

On November 15, 2002, we published proposed rules in the **Federal Register** at 67 FR 69164 and provided a 60-day period for interested parties to comment. We received comments from 5 organizations and 3 individuals. Because some of the comments received were quite detailed, we have condensed, summarized or paraphrased them in the discussion below. We address all of the issues raised by the commenters that are within the scope of the proposed rules.

Comment: Four organizations recommended that we provide an opportunity for an oral hearing when the individual requests review of the debt or the repayment schedule. These organizations claimed that § 422.425 is not consistent with the AWG statute and the implementing regulation of the Department of the Treasury at 31 CFR 285.11. One organization stated that our regulation overlooks the need for interactive discussion between SSA and the debtor when paper review is inadequate. Another mentioned that the oral hearing should be conducted by an administrative law judge.

Response: The statute on AWG requires that, before an agency issues a garnishment order to an individual's employer, the agency must provide the individual with an opportunity for a ''hearing'' on the existence and amount of the debt and the terms of the repayment schedule stated in the agency's notice of proposed garnishment. See 31 U.S.C. 3720D(b)(5) and (c). The statute does not describe the type of hearing that the agency must provide. This matter is addressed in the regulation of the Department of the Treasury established under the authority of 31 U.S.C. 3720D(h). The Treasury regulation on AWG states at 31 CFR 285.11(f)(2) that, when requested by the debtor, the agency ''shall provide a hearing, which at the agency's option may be oral or written * * *'' The agency must provide the debtor with ''a reasonable opportunity for an oral hearing when the agency determines that the issues in dispute cannot be resolved by review of the documentary evidence, for example, when the validity of the claim turns on the issue of credibility or veracity.'' 31 CFR 285.11(f)(3)(i). When an oral hearing is not required, the agency must afford the debtor a ''paper hearing'' and ''decide the issues in dispute based upon a review of the written record.'' 31 CFR 285.11(f)(3)(iii). Moreover, the Treasury regulation provides that ''[n]othing in this section requires agencies to duplicate notices or administrative proceedings required by contract or other laws or regulations.'' 31 CFR 285.11(b)(6).

Thus, the Treasury regulation leaves to the agency's judgement the decision whether the circumstances warrant providing the opportunity for an oral hearing before taking garnishment action. Also, that regulation does not require the agency to afford the debtor an oral hearing in connection with the AWG process regarding matters on which the opportunity for an oral hearing has previously been provided under other applicable laws and regulations. We believe that the process for review provided under § 422.425 of our AWG regulation combined with the process established in other SSA regulations for review of SSA's overpayment and waiver determinations fully complies with the requirements of the statute and Treasury regulations at 31 CFR 285.11.

Well before we would send the notice to a debtor of our intention to collect a program overpayment debt by AWG, we would have sent the debtor notice of the overpayment determination that explained the overpayment and offered the debtor the opportunity to appeal that determination, to request waiver of recovery of the overpayment, and to make arrangements to repay the debt. The administrative processes provided in 20 CFR part 404, subparts F and J, and 20 CFR part 416, subparts E and N, including the informal conference with an adjudicator and the oral hearing before an administrative law judge, are available at that time.

By the time that we would send the notice of intent to garnish, the issues on which the debtor has not had the opportunity to challenge the agency can be adequately resolved by documentary evidence. Examples of these issues are whether the overpayment balance stated in the notice is accurate (reflects all payments made by the debtor), whether collection of the overpayment was waived previously by SSA, and whether the debt was discharged by (or SSA must suspend collection efforts) an order of a bankruptcy court. Under § 422.425, we will conduct the review (hearing) by examining SSA records related to the debt and any evidence submitted by the individual. When the debtor requests review on time or has good cause for a late request, we will not order the debtor's employer to withhold from the debtor's disposable pay until we issue our decision.

Some of the commenters indicated that they had concerns about the underlying overpayment determinations and overpayment notices, and had concerns that the procedures provided in § 422.425 would not be adequate to ensure a meaningful opportunity for a hearing on these matters before we would send a garnishment order. We believe that the procedures provided in current regulations at 20 CFR parts 404 and 416 are adequate to resolve these matters. If the debtor indicates in responding to the notice of intent to garnish that he or she wants us to review the overpayment determination, we would invoke those procedures when consistent with those regulations (*e.g.*, when the debtor shows good cause for extending the time to request reconsideration, a hearing before an administrative law judge, or review by the Appeals Council on the overpayment determination). See 20 CFR 404.909, 404.911, 404.933(c), 404.968(b), 416.1409, 416.1411, 416.1433(c) and 416.1468(b). Moreover, if the debtor cannot show good cause for an extension of time to review the overpayment determination, other regulations allow us to reopen and revise that determination under certain conditions. See 20 CFR 404.987–404.996 and 416.1487–416.1494. We

have concluded that these long-standing procedures adequately provide for the resolution of issues concerning the overpayment determination.

Finally, our procedures for implementing AWG would not preclude an individual from interactive discussions and exchange of information with SSA representatives about the overpayment, the garnishment process, or the options available to the individual to obtain an explanation or review of the debt, waiver of collection, etc. Like other notices that we issue regarding overpayments, the notice described in § 422.405 will contain standard language inviting the individual to contact SSA in writing, by telephone, or by visiting a local SSA office to ask questions or obtain further explanation of the debt. The notice will include telephone numbers and the address of the SSA field office located closest to the individual's address. Thus, the individual will have an opportunity for interactive discussion with SSA representatives. During that discussion, he or she may provide and receive explanations and information concerning the case. In conducting the review described in § 422.425, we will consider our records on the case and any information, explanations (oral or written) or documents furnished by the individual.

Comment: Three organizations said that our AWG notice to individuals should fully explain the right to request a reduction of the withholding based on financial hardship, and should clearly state that the request can be made at any time.

Response: We are committed to providing a full and clear written explanation of an individual's rights regarding AWG. The explanation recommended by the three organizations will appear in the notice to the debtors. Specifically, our notice informing individuals about garnishment will include an explanation of the right to request a reduction of the amount to be withheld from disposable pay based on financial hardship. Our notice will also explain that the individual can make this request at any time. If the individual shows us that the withholding schedule in question would cause financial hardship, we will lower the amount we would collect from that person's pay. We will find hardship if the withholding schedule would keep the individual from meeting the ordinary and necessary living expenses of the individual and his family.

Comment: Two organizations said that we should remain consistent with Treasury's regulations by providing a time limit for issuing our decision on the person's requests for review.

Response: Treasury's regulation, 31 CFR 285.11(f)(10), provides that an agency shall issue a written decision as soon as practicable, but no later than 60 days after the date on which a request for hearing was received by the agency. Further, the regulation provides that if the agency cannot issue the decision in that 60-day timeframe, then the agency may not issue a garnishment order (and must suspend an order that it issued) until the agency holds the hearing and renders its decision. We have revised § 422.410(a) to ensure that our policy is consistent with the Treasury regulation.

We will strive to issue a written decision on a person's request for review as soon as possible. In a case where a person requests review within the 60-day period from the date of the notice of our intent to garnish, we will not take further action to initiate garnishment until we send that person a written notice of our decision. If the person has good cause for requesting review after that 60-day period, we will not take further action, and we will suspend any AWG action already taken, until we send the decision notice. We revised § 422.410(a)(3) to provide that, if an individual requests review late without ''good cause'' and we do not make our decision on the request within 60 calendar days from the date that we received the request, we will suspend any AWG order already issued. AWG will not resume before we conduct the review and issue the notice of our decision.

Comment: One organization said we should make the following two changes to § 422.405 of the proposed regulations: (1) Provide that our written notice to individuals proposing garnishment will inform people they can request waiver; and (2) explain the differences between waiver and review. In addition, one organization said we should not initiate garnishment proceedings while the request for waiver is pending.

Response: We are not adopting the recommended changes to § 422.405. Our regulations on administrative wage garnishment implement 31 U.S.C. 3720D under the guidance of Treasury's regulation at 31 CFR 285.11. Neither of these provisions cover waiver of collection. We will, however, follow our usual practice and include detailed language describing the right to request waiver in our notice to the debtor about garnishment. We will also explain the difference between waiver and review of the debt in that same notice. While a waiver request is pending, we will not initiate garnishment. Effective on the date we receive a request, we will suspend any garnishment action that began before we received the request.

Comment: One organization stated that our decision to use AWG should be an initial determination subject to our administrative appeal process and further judicial appeal.

Response: Consistent with our regulations regarding the decision to use other practices (such as, reporting debts to consumer reporting agencies and collection through administrative offset against Federal payments) authorized by 31 U.S.C. chapter 37, we will not include the decision to use AWG among the actions listed as initial determinations in 20 CFR 404.902 and 416.1402. Those sections of our regulations contain lists of SSA determinations that affect the rights of individuals under the Social Security and Supplemental Security Income programs (among other things, entitlement to, eligibility for and amount of benefit payments). Initial determinations are subject to the administrative appeal process described in 20 CFR part 404, subpart J, and part 416, subpart N. When an individual exhausts the administrative remedies provided in those regulations, the individual may obtain further review in Federal court under sections 205(g) and 1631(c) of the Act. Because our decision to use AWG does not affect rights under these programs, it is not the type of determination described in 20 CFR 404.902 and 416.1402. Thus, in these final rules, we include the decision to use AWG among those decisions listed in 20 CFR 404.903 and 416.1403 that are not initial determinations.

We note that waiver of collection of an overpayment is a right granted by sections 204(b) and 1631(b)(1)(B) of the Act to individuals who meet the conditions prescribed in those laws. An individual notified under § 422.405 regarding AWG will have the opportunity to request waiver of collection of the overpayment before we will issue a garnishment order. An individual may request waiver of collection of the overpayment at any time. Our determination on a request for waiver is an initial determination subject to the appeal process described in subpart J of part 404 or subpart N of part 416. See 20 CFR 404.902(k) and 416.1402(c).

Comment: One organization stated that the 60-day period to submit documentary evidence will not be adequate for individuals to obtain necessary records in many cases. The organization recommended that SSA provide in § 422.425 for extension of time to obtain such evidence where the individual shows good cause.

Response: We are not changing the regulation to specifically provide for an extension of the 60-day period to submit documentary evidence. However, we will cover this matter in staff instructions on the procedures for conducting AWG. The regulation established by these final rules allows us, but does not require us, to issue the garnishment order immediately after the 60-day period expires if the individual does not give us the evidence within that period. See § 422.425(a). We will give an individual a reasonable amount of extra time to secure documentary evidence if we find that the 60-day period established in the regulation is inadequate in a particular case. The reasonable amount of extra time will depend on the individual's specific circumstances and the type of documentary evidence the individual is trying to obtain. In addition, if a person has good cause for requesting review of the debt after the 60-day period expires and also needs more time to obtain documentary evidence, we will allow that person a reasonable amount of time according to the circumstances of the case.

Comment: One organization commented that AWG should not be initiated while an individual is engaged in work activities with a Ticket to Work, or is in an extended period of eligibility. The organization expressed concern that the financial condition and long-term work prospects of such an individual are uncertain.

Response: We agree with the organization. We added paragraphs (b)(3), (4) and (5) to § 422.403 of the final regulations to provide that we will not apply AWG in the situations described in the comment. One of our strategic goals is to deliver high-quality, citizen-centered service. In pursuit of this goal, we are committed to encouraging and supporting the work activity of individuals with disabilities. To that end, our programs, including the Ticket to Work and Self-Sufficiency program, provide incentives and services to promote return to work. Also, title II disability beneficiaries can be provided an extended period of eligibility (the reentitlement period) and extended Medicare coverage while they attempt to work. Another of our strategic goals is to ensure superior stewardship of our programs and resources. One of the steps we are taking to achieve this goal is the improvement of debt management practices, and the implementation of AWG serves this objective. In pursuing both of these goals, we must find the proper balance between these activities and objectives.

Imposing AWG on individuals who are not receiving cash benefits during the reentitlement period because they are working, or during the period in which they are entitled to extended Medicare coverage following termination of their cash benefits due to work activity, or during the period in which they are participating in the Ticket to Work and Self-Sufficiency Program and have a ticket in use, could discourage them from continuing to work and, thus, could act counter to the purposes of the work incentive programs. The exclusion from AWG would be temporary if they continue to work at a substantial level. The possible negative effects on our work incentive programs would outweigh the benefits of any additional overpayment recovery that we might gain from imposing AWG on individuals during their early attempts to work.

Comment: One organization commented that we should deliver our notice of planned garnishment action in formats other than written notices for people who need special accommodations.

Response: We have a tradition of helping people who need special accommodations in their dealings with the Agency. This includes people with visual and hearing impairments, people with physical and mental disabilities and people who speak languages other than English. Depending upon the individual's needs, we will try to take special action to help the person. For example, we give all people applying for or receiving Social Security payments by reason of blindness the opportunity to choose how they want to receive SSA notices. Such people can elect to be notified by SSA in a telephone call, by certified mail and by first class mail. They can change their election at any time, and we will honor that change. At this time, however, due to a lack of contractor support for the production of Braille notices, we cannot offer that option.

In addition, our regulations on the use of AWG will provide some accommodation for people who have physical, mental, educational or linguistic limitations which prevent them from requesting review on time or from understanding the need to make a request on time. Section 422.410(b) provides that when a person has good cause for a late request, SSA will treat the request for review as if we received it on time; *i.e.*, we would not pursue garnishment (or we would stop it if it has begun) until we notify the person about our decision. In determining whether there is good cause for a late request we will take into consideration the person's physical, mental, educational or linguistic limitations.

Comment: One organization recommended that we include with our notices lists of the names and addresses of local legal aid organizations and other advocacy groups who could assist individuals who are subject to AWG.

Response: As required by law, we provide on notices of adverse determinations, covered by 20 CFR part 404, subpart J, and part 416, subpart N, information on the options for obtaining legal representation to assist individuals in their dealings with us. See sections 206(c) and 1631(d)(2)(B) of the Act and 20 CFR 404.1706 and 416.1506. We are not required by law to provide this information in our AWG notices.

When we send the initial notice of overpayment to an individual and also when we notify a person about an adverse determination regarding his or her benefits, we include the information about options available to the person to obtain legal representation or assistance. We inform the person that he can have a friend, lawyer or someone else help. We also tell the person that any local Social Security office can provide a list of groups that can help. In the notice of garnishment to the individual, we will include the address of the local Social Security office that services the person's area, as well as a toll-free telephone number the person can call with any questions. We believe that the information that the individual would receive in certain notices prior to receiving the notice about AWG, and the availability of the information about legal aid organizations and other advocacy groups in our local offices, are adequate to help a person obtain independent advice and assistance. Consequently, we do not plan to include names and addresses of local legal aid organizations and other advocacy groups in the notice of garnishment to individuals.

Comment: We received three comments from individuals. Two of the comments were not specific to the regulation and will therefore not be addressed. The third comment questioned why Federal employees are exempt from AWG under § 422.403(b)(1).

Response: Federal employees who owe debts to the Federal Government are subject to Federal salary offset under 5 U.S.C. 5514, rather than AWG under 31 U.S.C. 3720D. The regulation of the Department of the Treasury regarding AWG under 31 U.S.C. 3720D does not cover Federal salary offset. See 31 CFR § 285.11(b)(5). Thus, Federal salary offset is not covered under our regulations on AWG. However, we are

developing a Federal salary offset program.

Regulatory Procedures

Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has reviewed these final rules in accordance with E.O. 12866, as amended by E.O. 13258.

Regulatory Flexibility Act

We certify that these final regulations will not have a significant impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis, as provided in the Regulatory Flexibility Act, as amended, is not required.

Some entities, as employers of some individuals who owe debts to us, will be subjected to these final regulations and to the certification requirement in proposed § 422.435(c). However, any particular small employer is not likely to receive wage garnishment orders from us concerning a significant number of employees. Under § 422.435(c), employers of delinquent debtors must certify certain information about the debtor's status such as the debtor's employment status and earnings. This information is contained in the employer's payroll records. Therefore, it will not take a significant amount of time or result in a significant cost for an employer to complete the certification form. Even if an employer receives withholding orders from us on several employees over the course of a year, the cost imposed on the employer to complete the certifications, withhold from disposable pay, and remit those amounts to us will not have a significant economic impact on that entity. Employers will not be required to vary their normal pay cycles to comply with a withholding order that is issued under these final rules.

Federalism

We have reviewed these final rules under the threshold criteria of E.O. 13132, ''Federalism,'' and determined that they will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Although States and local governments, as employers of some individuals who owe debts to us, are subject to these final regulations and to the certification requirement in § 422.435(c), there will be a relatively small number of debtors who will meet the criteria for selection who are employed by the States and local governments. Any particular State or local government is not likely to receive AWG orders from us concerning a significant number of employees. Under § 422.435(c), States and local governments that employ delinquent debtors must certify certain information about the debtors' status such as the debtors' employment status and earnings. This information is contained in the States' or local governments' payroll records. Therefore, it will not take a significant amount of time or result in a significant cost for a State or local government to complete the certification form. Even if a State or local government receives AWG orders from us on several employees over the course of a year, the cost imposed on the State or local government to complete the certifications, withhold from disposable pay, and remit those amounts to us will not have a significant economic impact on that entity. States or local governments are not required to vary their normal pay cycles to comply with AWG orders that will be issued under these final rules.

Paperwork Reduction Act

The final rules in new subpart E of part 422 contain information collection activities at §§ 422.415, 422.425 and 422.435. However, the activities are exempt as administrative actions under 44 U.S.C. 3518(c)(1)(B)(ii) from the clearance requirements of 44 U.S.C. 3507 as amended by section 2 of Pub. L. 104–13 (May 22, 1995), the Paperwork Reduction Act of 1995.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.003 Social Security—Special Benefits for Persons Aged 72 and Over; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income)

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 416

Administrative practice and procedure; Aged, Blind, Disability benefits; Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

20 CFR Part 422

Administrative practice and procedure, Organization and functions (Government agencies), Social Security.

Dated: November 10, 2003.

Jo Anne B. Barnhart,

Commissioner of Social Security.

■ For the reasons set out in the preamble, we are amending parts 404, 416 and 422 of Title 20 of the Code of Federal Regulations as follows:

PART 404—[AMENDED]

■ 1. The authority citation for subpart F of part 404 continues to read as follows:

Authority: Secs. 204, 205(a), and 702(a)(5) of the Social Security Act (42 U.S.C. 404, 405(a) and 902(a)); 31 U.S.C. 3720A.

■ 2. Paragraph (a), introductory text, of § 404.527 is revised and paragraph (b)(1) is amended by removing ''4 CFR 104.2 or 104.3.'' at the end of the paragraph and adding in its place ''31 CFR 903.2 or 903.3.''.

The revised text reads as follows:

§ 404.527 Additional methods for recovery of title II benefit overpayments.

(a) *General.* In addition to the methods specified in §§ 404.502 and 404.520, an overpayment under title II of the Act is also subject to recovery under the rules in subparts D and E of part 422 of this chapter. Subpart D of part 422 of this chapter applies only under the following conditions:

* * * * *

■ 3. The authority citation for subpart J of part 404 is revised to read as follows:

Authority: Secs. 201(j), 204(f), 205(a), (b), (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a), (b), (d)–(h), and (j), 421, 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note).

■ 4. Section 404.903 is amended by removing the word ''and'' at the end of paragraph (t), replacing the period at the end of paragraph (u) with ''; and'', and adding paragraph (v) to read as follows:

§ 404.903 Administrative actions that are not initial determinations.

* * * * *

(v) Determining whether we will order your employer to withhold from your disposable pay to collect an overpayment you received under title II of the Social Security Act (*see* part 422, subpart E, of this chapter).

PART 416—[AMENDED]

■ 5. 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.

■ 6. Paragraph (a), introductory text, of § 416.590 is revised to read as follows:

§ 416.590 Are there additional methods for recovery of title XVI benefit overpayments?

(a) *General.* In addition to the methods specified in §§ 416.560, 416.570, 416.572 and 416.580, we may recover an overpayment under title XVI of the Act from you under the rules in subparts D and E of part 422 of this chapter. Subpart D of part 422 of this chapter applies only under the following conditions:

* * * * *

■ 7. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b).

■ 8. Section 416.1403 is amended by removing the word ''and'' at the end of paragraph (a)(18), replacing the period at the end of paragraph (a)(19) with ''; and'', and adding paragraph (a)(20) to read as follows:

§ 416.1403 Administrative actions that are not initial determinations.

(a) * * *

(20) Determining whether we will order your employer to withhold from your disposable pay to collect an overpayment you received under title XVI of the Social Security Act (see part 422, subpart E, of this chapter).

PART 422—[AMENDED]

■ 9. Subpart E is added to read as follows:

Subpart E—Collection of Debts by Administrative Wage Garnishment

Sec.

422.401 What is the scope of this subpart?
422.402 What special definitions apply to this subpart?
422.403 When may we use administrative wage garnishment?
422.405 What notice will we send you about administrative wage garnishment?
422.410 What actions will we take after we send you the notice?
422.415 Will we reduce the amount that your employer must withhold from your pay when withholding that amount causes financial hardship?
422.420 May you inspect and copy our records related to the debt?
422.425 How will we conduct our review of the debt?
422.430 When will we refund amounts of your pay withheld by administrative wage garnishment?
422.435 What happens when we decide to send an administrative wage garnishment order to your employer?
422.440 What are your employer's responsibilities under an administrative wage garnishment order?
422.445 May we bring a civil action against your employer for failure to comply with our administrative wage garnishment order?

Subpart E—Collection of Debts by Administrative Wage Garnishment

Authority: Secs. 205(a), 702(a)(5) and 1631(d)(1) of the Social Security Act (42 U.S.C. 405(a), 902(a)(5) and 1383(d)(1)) and 31 U.S.C. 3720D.

§ 422.401 What is the scope of this subpart?

This subpart describes the procedures relating to our use of administrative wage garnishment under 31 U.S.C. 3720D to recover past due debts that you owe.

§ 422.402 What special definitions apply to this subpart?

(a) *Administrative wage garnishment* is a process whereby we order your employer to withhold a certain amount from your disposable pay and send the withheld amount to us. The law requires your employer to comply with our garnishment order.

(b) *Debt* means any amount of money or property that we determine is owed to the United States and that arises from a program that we administer or an activity that we perform. These debts include program overpayments made under title II or title XVI of the Social Security Act and any other debt that meets the definition of ''claim'' or ''debt'' at 31 U.S.C. 3701(b).

(c) *Disposable pay* means that part of your total compensation (including, but not limited to, salary or wages, bonuses, commissions, and vacation pay) from your employer after deduction of health insurance premiums and amounts withheld as required by law. Amounts withheld as required by law include such things as Federal, State and local taxes but do not include amounts withheld under court order.

(d) *We, our,* or *us* means the Social Security Administration.

(e) *You* means an individual who owes a debt to the United States within the scope of this subpart.

§ 422.403 When may we use administrative wage garnishment?

(a) *General.* Subject to the exceptions described in paragraph (b) of this section and the conditions described in paragraphs (c) and (d) of this section, we may use administrative wage garnishment to collect any debt that is past due. We may use administrative wage garnishment while we are taking other action regarding the debt, such as, using tax refund offset under §§ 404.520–404.526 and 416.580–416.586 of this chapter and taking action under subpart D of this part.

(b) *Exceptions.* (1) We will not use this subpart to collect a debt from salary or wages paid by the United States Government.

(2) If you have been separated involuntarily from employment, we will not order your employer to withhold amounts from your disposable pay until you have been reemployed continuously for at least 12 months. You have the burden of informing us about an involuntary separation from employment.

(3) We will not use this subpart to collect a debt while your disability benefits are stopped during the reentitlement period, under § 404.1592a(a)(2) of this chapter, because you are engaging in substantial gainful activity.

(4) We will not use this subpart to collect a debt while your Medicare entitlement is continued because you are deemed to be entitled to disability benefits under section 226(b) of the Social Security Act (42 U.S.C. 426(b)).

(5) We will not use this subpart to collect a debt if you have decided to participate in the Ticket to Work and Self-Sufficiency Program and your ticket is in use as described in §§ 411.170 through 411.225 of this chapter.

(c) *Overpayments under title II of the Social Security Act.* This subpart applies to overpayments under title II of the Social Security Act if all of the following conditions are met:

(1) You are not receiving title II benefits.

(2) We have completed our billing system sequence (*i.e.*, we have sent you an initial notice of the overpayment, a reminder notice, and a past-due notice) or we have suspended or terminated collection activity in accordance with applicable rules, such as, the Federal Claims Collection Standards in 31 CFR 903.2 or 31 CFR 903.3.

(3) We have not made an installment payment arrangement with you or, if we have made such an arrangement, you have failed to make any payment for two consecutive months.

(4) You have not requested waiver pursuant to § 404.506 or § 404.522 of this chapter or, after a review conducted pursuant to those sections, we have determined that we will not waive collection of the overpayment.

(5) You have not requested reconsideration of the initial overpayment determination pursuant to

§§ 404.907 and 404.909 of this chapter or, after a review conducted pursuant to § 404.913 of this chapter, we have affirmed all or part of the initial overpayment determination.

(6) We cannot recover your overpayment pursuant to § 404.502 of this chapter by adjustment of benefits payable to any individual other than you. For purposes of this paragraph, an overpayment will be deemed to be unrecoverable from any individual who was living in a separate household from yours at the time of the overpayment and who did not receive the overpayment.

(d) *Overpayments under title XVI of the Social Security Act.* This subpart applies to overpayments under title XVI of the Social Security Act if all of the following conditions are met:

(1) You are not receiving benefits under title XVI of the Social Security Act.

(2) We are not collecting your title XVI overpayment by reducing title II benefits payable to you.

(3) We have completed our billing system sequence (*i.e.*, we have sent you an initial notice of the overpayment, a reminder notice, and a past-due notice) or we have suspended or terminated collection activity under applicable rules, such as, the Federal Claims Collection Standards in 31 CFR 903.2 or 31 CFR 903.3.

(4) We have not made an installment payment arrangement with you or, if we have made such an arrangement, you have failed to make any payment for two consecutive months.

(5) You have not requested waiver pursuant to § 416.550 or § 416.582 of this chapter or, after a review conducted pursuant to those sections, we have determined that we will not waive collection of the overpayment.

(6) You have not requested reconsideration of the initial overpayment determination pursuant to §§ 416.1407 and 416.1409 of this chapter or, after a review conducted pursuant to § 416.1413 of this chapter, we have affirmed all or part of the initial overpayment determination.

(7) We cannot recover your overpayment pursuant to § 416.570 of this chapter by adjustment of benefits payable to any individual other than you. For purposes of this paragraph, if you are a member of an eligible couple that is legally separated and/or living apart, we will deem unrecoverable from the other person that part of your overpayment which he or she did not receive.

§ 422.405 What notice will we send you about administrative wage garnishment?

(a) *General.* Before we order your employer to collect a debt by deduction from your disposable pay, we will send you written notice of our intention to do so.

(b) *Contents of the notice.* The notice will contain the following information:

(1) We have determined that payment of the debt is past due;

(2) The nature and amount of the debt;

(3) Information about the amount that your employer could withhold from your disposable pay each payday (the payment schedule);

(4) No sooner than 60 calendar days after the date of the notice, we will order your employer to withhold the debt from your disposable pay unless, within that 60-day period, you pay the full amount of the debt or take either of the actions described in paragraphs (b)(6) or (7) of this section;

(5) You may inspect and copy our records about the debt (*see* § 422.420);

(6) You may request a review of the debt (*see* § 422.425) or the payment schedule stated in the notice (*see* § 422.415); and

(7) You may request to pay the debt by monthly installment payments to us.

(c) *Mailing address.* We will send the notice to the most current mailing address that we have for you in our records.

(d) *Electronic record of the notice.* We will keep an electronic record of the notice that shows the date we mailed the notice to you and the amount of your debt.

§ 422.410 What actions will we take after we send you the notice?

(a) *General.* (1) We will not send an administrative wage garnishment order to your employer before 60 calendar days elapse from the date of the notice described in § 422.405.

(2) If paragraph (b) of this section does not apply and you do not pay the debt in full or do not take either of the actions described in § 422.405(b)(6) or (7) within 60 calendar days from the date of the notice described in § 422.405, we may order your employer to withhold and send us part of your disposable pay each payday until your debt is paid.

(3) If you request review of the debt or the payment schedule after the end of the 60 calendar day period described in paragraph (a)(2) of this section and paragraph (b) of this section does not apply, we will conduct the review. However, we may send the administrative wage garnishment order to your employer without further delay. If we sent the administrative wage garnishment order to your employer and we do not make our decision on your request within 60 calendar days from the date that we received your request, we will tell your employer to stop withholding from your disposable pay. Withholding will not resume before we conduct the review and notify you of our decision.

(4) We may send an administrative wage garnishment order to your employer without further delay if:

(i) You request an installment payment plan after receiving the notice described in § 422.405, and

(ii) We arrange such a plan with you, and

(iii) You fail to make payments in accordance with that arrangement for two consecutive months.

(b) *Good cause for failing to request review on time.* If we decide that you had good cause for failing to request review within the 60-day period mentioned in paragraph (a)(2) of this section, we will treat your request for review as if we received it within that 60-day period.

(1) *Determining good cause.* In determining whether you had good cause, we will consider—

(i) Any circumstances that kept you from making the request on time;

(ii) Whether our action misled you;

(iii) Whether you had any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which prevented you from making a request on time or from understanding the need to make a request on time.

(2) *Examples of good cause.* Examples of facts supporting good cause include, but are not limited to, the following.

(i) Your serious illness prevented you from contacting us yourself or through another person.

(ii) There was a death or serious illness in your family.

(iii) Fire or other accidental cause destroyed important records.

(iv) You did not receive the notice described in § 422.405.

(v) In good faith, you sent the request to another government agency within the 60-day period, and we received the request after the end of that period.

(3) *If we issued the administrative wage garnishment order.* If we determine that you had good cause under paragraph (b) of this section and we already had sent an administrative wage garnishment order to your employer, we will tell your employer to stop withholding from your disposable pay. Withholding will not resume until we conduct the review and notify you of our decision.

§ 422.415 Will we reduce the amount that your employer must withhold from your pay when withholding that amount causes financial hardship?

(a) *General.* Unless paragraph (d) of this section applies, we will reduce the amount that your employer must withhold from your pay when you request the reduction and we find financial hardship. In any event, we will not reduce the amount your employer must withhold each payday below $10. When we decide to reduce the amount that your employer withholds, we will give you and your employer written notice.

(1) You may ask us at any time to reduce the amount due to financial hardship.

(2) If you request review of the payment schedule stated in the notice described in § 422.405 within the 60-day period stated in the notice, we will not issue a garnishment order to your employer until we notify you of our decision.

(b) *Financial hardship.* We will find financial hardship when you show that withholding a particular amount from your pay would deprive you of income necessary to meet your ordinary and necessary living expenses. You must give us evidence of your financial resources and expenses.

(c) *Ordinary and necessary living expenses.* Ordinary and necessary living expenses include:

(1) Fixed expenses such as food, clothing, housing, utilities, maintenance, insurance, tax payments;

(2) Medical, hospitalization and similar expenses;

(3) Expenses for the support of others for whom you are legally responsible; and

(4) Other reasonable and necessary miscellaneous expenses which are part of your standard of living.

(d) *Fraud and willful concealment or failure to furnish information.* (1) We will not reduce the amount that your employer withholds from your disposable pay if your debt was caused by:

(i) Your intentional false statement, or

(ii) Your willful concealment of, or failure to furnish, material information.

(2) ''Willful concealment'' means an intentional, knowing and purposeful delay in providing, or failure to reveal, material information.

§ 422.420 May you inspect and copy our records related to the debt?

You may inspect and copy our records related to the debt. You must notify us of your intention to review our records. After you notify us, we will arrange with you the place and time the records will be available to you. At our discretion, we may send copies of the records to you.

§ 422.425 How will we conduct our review of the debt?

(a) *You must request review and present evidence.* If you receive a notice described in § 422.405, you have the right to have us review the debt. To exercise this right, you must request review and give us evidence that you do not owe all or part of the debt or that we do not have the right to collect it. If you do not request review and give us this evidence within 60 calendar days from the date of our notice, we may issue the garnishment order to your employer without further delay. If you request review of the debt and present evidence within that 60 calendar-day period, we will not send a garnishment order to your employer unless and until we consider all of the evidence and send you our findings that all or part of the debt is overdue and we have the right to collect it.

(b) *Review of the evidence.* If you request review of the debt, we will review our records related to the debt and any evidence that you present.

(c) *Our findings.* Following our review of all of the evidence, we will send you written findings, including the supporting rationale for the findings. Issuance of these findings will be our final action on your request for review. If we find that you do not owe the debt, or the debt is not overdue, or we do not have the right to collect it, we will not send a garnishment order to your employer.

§ 422.430 When will we refund amounts of your pay withheld by administrative wage garnishment?

If we find that you do not owe the debt or that we have no right to collect it, we will promptly refund to you any amount withheld from your disposable pay under this subpart that we received and cancel any administrative wage garnishment order that we issued. Refunds under this section will not bear interest unless Federal law or contract requires interest.

§ 422.435 What happens when we decide to send an administrative wage garnishment order to your employer?

(a) *The wage garnishment order.* The wage garnishment order that we send to your employer will contain only the information necessary for the employer to comply with the order. This information includes:

(1) Your name, address, and social security number,

(2) The amount of the debt,

(3) Information about the amount to be withheld, and

(4) Information about where to send the withheld amount.

(b) *Electronic record of the garnishment order.* We will keep an electronic record of the garnishment order that shows the date we mailed the order to your employer.

(c) *Employer certification.* Along with the garnishment order, we will send your employer a certification form to complete about your employment status and the amount of your disposable pay available for withholding. Your employer must complete the certification and return it to us within 20 days of receipt.

(d) *Amounts to be withheld from your disposable pay.* After receipt of the garnishment order issued under this section, your employer must begin withholding from your disposable pay each payday the lesser of:

(1) The amount indicated on the order (up to 15% of your disposable pay); or

(2) The amount by which your disposable pay exceeds thirty times the minimum wage as provided in 15 U.S.C. 1673(a)(2).

(e) *Multiple withholding orders.* If your disposable pay is subject to more than one withholding order, we apply the following rules to determine the amount that your employer will withhold from your disposable pay:

(1) Unless otherwise provided by Federal law or paragraph (e)(2) of this section, a garnishment order issued under this section has priority over other withholding orders served later in time.

(2) Withholding orders for family support have priority over garnishment orders issued under this section.

(3) If at the time we issue a garnishment order to your employer amounts are already being withheld from your pay under another withholding order, or if a withholding order for family support is served on your employer at any time, the amounts to be withheld under this section will be the lesser of:

(i) The amount calculated under paragraph (d) of this section; or

(ii) The amount calculated by subtracting the amount(s) withheld under the withholding order(s) with priority from 25% of your disposable pay.

(4) If you owe more than one debt to us, we may issue multiple garnishment orders. If we issue more than one garnishment order, the total amount to be withheld from your disposable pay under such orders will not exceed the amount set forth in paragraph (d) or (e)(3) of this section, as appropriate.

(f) *You may request that your employer withhold more.* If you request in writing that your employer withhold more than the amount determined under paragraphs (d) or (e) of this section, we will order your employer to withhold the amount that you request.

§ 422.440 What are your employer's responsibilities under an administrative wage garnishment order?

(a) *When withholding must begin.* Your employer must withhold the appropriate amount from your disposable pay on each payday beginning on the first payday after receiving the garnishment order issued under this section. If the first payday is within 10 days after your employer receives the order, then your employer must begin withholding on the first or second payday after your employer receives the order. Withholding must continue until we notify your employer to stop withholding.

(b) *Payment of amounts withheld.* Your employer must promptly pay to us all amounts withheld under this section.

(c) *Other assignments or allotments of pay.* Your employer cannot honor an assignment or allotment of your pay to the extent that it would interfere with or prevent withholding under this section, unless the assignment or allotment is made under a family support judgement or order.

(d) *Effect of withholding on employer pay and disbursement cycles.* Your employer will not be required to vary its normal pay and disbursement cycles in order to comply with the garnishment order.

(e) *When withholding ends.* When we have fully recovered the amounts you owe, including interest, penalties, and administrative costs that we charge you as allowed by law, we will tell your employer to stop withholding from your disposable pay. As an added precaution, we will review our debtors' accounts at least annually to ensure that withholding has been terminated for accounts paid in full.

(f) *Certain actions by an employer against you are prohibited.* Federal law prohibits an employer from using a garnishment order issued under this section as the basis for discharging you from employment, refusing to employ you, or taking disciplinary action against you. If your employer violates this prohibition, you may file a civil action against your employer in a Federal or State court of competent jurisdiction.

§ 422.445 May we bring a civil action against your employer for failure to comply with our administrative wage garnishment order?

(a) We may bring a civil action against your employer for any amount that the employer fails to withhold from your disposable pay in accordance with § 422.435(d), (e) and (f). Your employer may also be liable for attorney fees, costs of the lawsuit and (in the court's discretion) punitive damages.

(b) We will not file a civil action against your employer before we terminate collection action against you, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period. For purposes of this section, ''terminate collection action'' means that we have terminated collection action in accordance with the Federal Claims Collection Standards (31 CFR 903.3) or other applicable standards. In any event, we will consider that collection action has been terminated if we have not received any payments to satisfy the debt for a period of one year.

[FR Doc. 03–31493 Filed 12–22–03; 8:45 am]

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DEPARTMENT OF JUSTICE

28 CFR Part 15

[CIV 102F; AG Order No. 2697–2003]

RIN 1105–AA62

Certification and Decertification in Connection With Certain Suits Based Upon Acts or Omissions of Federal Employees and Other Persons

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: In cases where employees of the Federal government are sued for money damages based on alleged torts, if the Attorney General certifies that the employees (and certain non-employees) were acting within the scope of their employment at the time, the suit would be deemed an action against the United States under the Federal Tort Claims Act. This final rule conforms Department regulations to the provisions of the Federal Employees Liability Reform and Tort Compensation Act which expanded the tort protections for Federal employees (and certain non-employees) by finalizing a proposed rule the Department published on this subject on October 22, 2002.

DATES: This final rule is effective January 22, 2004.

FOR FURTHER INFORMATION CONTACT: Phyllis J. Pyles, Director, Torts Branch, Civil Division, U.S. Department of Justice, P.O. Box 888, Benjamin Franklin Station, Washington, DC 20044.

SUPPLEMENTARY INFORMATION: The Department published a proposed rule on this subject on October 22, 2002, at 67 FR 64844. No comments were received before the comment period closed on December 23, 2002, and, accordingly, the Department is finalizing the proposed rule without change.

Background

In 1961 Congress passed the Federal Drivers Act, 75 Stat. 539, which immunized Federal employees from liability for money damages based on torts involving the operation of motor vehicles within the scope of their employment. In the event that a Federal employee was sued in such a case, the statute authorized the Attorney General to issue a certification that the employee was acting within the scope of his or her employment at the time of the incident out of which the suit arose, and the suit thereafter would be deemed a tort action against the United States pursuant to the Federal Tort Claims Act, 28 U.S.C. 1346(b), 2671–2680.

In ensuing years, a number of similar certification statutes were enacted to protect medical and legal personnel employed by certain Federal agencies from tort liability for professional malpractice arising within the scope of their employment. *E.g.*, 10 U.S.C. 1054 (Department of Defense legal personnel); 10 U.S.C. 1089 (Department of Defense medical personnel); 22 U.S.C. 2509(j) (Peace Corps medical personnel); 22 U.S.C. 2702 (Department of State medical personnel); 38 U.S.C. 7316 (Department of Veterans Affairs medical personnel); 42 U.S.C. 233 (Public Health Service medical personnel); 42 U.S.C. 2458a (National Aeronautics and Space Administration medical personnel).

Most recently, the Federal Employees Liability Reform and Tort Compensation Act, 28 U.S.C. 2679(b)–(e), became law. This certification statute, which replaced the less comprehensive Federal Drivers Act, extended immunity from liability for money damages to Federal employees for all common law torts committed within the scope of their employment.

A number of certification statutes also have been enacted to protect certain non-employees from tort liability arising out of certain Federal programs. As part of the National Swine Flu Immunization Program of 1976, 90 Stat. 1113, Congress authorized the Attorney General to issue certifications in suits brought against

certain agencies, organizations, and individuals which participated in the manufacture, distribution, and administration of the swine flu vaccine. Similar authority has been conferred on the Attorney General with respect to certain suits against fiduciaries of the Federal Retirement Thrift Savings Fund (5 U.S.C. 8477(e)(4)); atomic weapon testing contractors (42 U.S.C. 2212); and certain individuals enrolled as volunteers in National Volunteer Programs (42 U.S.C. 5055(f)).

Finally, several statutes, without expressly providing for certification, confer Federal employee status on certain persons who would not otherwise be encompassed within the Federal Tort Claims Act's definition of an ''employee of the United States'' as that term is defined by 28 U.S.C. 2671. *E.g.*, 5 U.S.C. 3102 (persons employed to assist handicapped federal employees in performing duties); 5 U.S.C. 3111 (unpaid student volunteers); 7 U.S.C. 2272 (volunteers to Department of Agriculture); 10 U.S.C. 1588 (volunteers to Armed Services); 16 U.S.C. 18i (volunteers to National Park Service); 16 U.S.C. 558c (volunteers to Forest Service); 22 U.S.C. 2504 (Peace Corps volunteers); 29 U.S.C. 1706 (Job Corps enrollees); 33 U.S.C. 569c (volunteers to Army Corps of Engineers); 42 U.S.C. 3788 (volunteers to Office of Justice Programs, Bureau of Justice Assistance, National Institute of Justice Assistance, and Bureau of Justice Statistics).

Part 15 has not been revised since the enactment of the Federal Employees Liability Reform and Tort Compensation Act. The regulations were initially promulgated after passage of the Federal Drivers Act, 26 FR 11420 (1961), and revised as additional certification statutes were enacted. *See* 40 FR 4910 (1975); 42 FR 15409 (1977); 44 FR 9379 (1979); 49 FR 44995 (1984). As last revised, Part 15 comprises three sections (15.1, 15.2, and 15.3) and an appendix. Each section in turn is subdivided into three subsections which govern suits subject to (1) the Federal Drivers Act and the malpractice certification statutes; (2) the swine flu statute; and (3) the atomic weapons testing statute.

This rule revises Part 15 to conform it to the provisions of the Federal Employees Liability Reform and Tort Compensation Act, and to delete references to specific certification statutes. Section 15.1 is new and sets forth definitions of the terms ''appropriate Federal agency,'' ''Federal employee,'' and ''covered person.'' Sections 15.2, 15.3, and 15.4 cover the same subjects which were covered by the prior versions of sections 15.1, 15.2, and 15.3, respectively, except that rather than the former tripartite subdivision, each section is subdivided into two paragraphs, one of which governs suits against Federal employees, and the other which governs suits against covered persons. The appendix is removed.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 13132

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

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to Federal employees and certain non-employees against whom civil actions are filed under circumstances in which the remedy against the United States under the Federal Tort Claims Act has been made exclusive of the remedy against such Federal employees and non-employees. The regulation requires Federal employees in those circumstances promptly to deliver the process and pleadings in such actions to their employing Federal agency, and the agency to send a report concerning the matter to the appropriate United States Attorney and the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice. The regulation further requires covered non-employees in those circumstances promptly to deliver the process and pleadings in such actions to the appropriate Federal agency, and the agency to send a report concerning the matter to the appropriate United States Attorney and the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice. The rule's economic impact is minimal.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 15

Authority delegations (Government agencies), Tort claims.

■ For the reasons stated in the preamble, the Department of Justice revises 28 CFR part 15 to read as follows:

PART 15—CERTIFICATION AND DECERTIFICATION IN CONNECTION WITH CERTAIN SUITS BASED UPON ACTS OR OMISSIONS OF FEDERAL EMPLOYEES AND OTHER PERSONS

Sec.

15.1 General provisions.
15.2 Expeditious delivery of process and pleadings.
15.3 Agency report.
15.4 Removal and defense of suits.

Authority: 5 U.S.C. 301, 8477(e)(4); 10 U.S.C. 1054, 1089; 22 U.S.C. 2702; 28 U.S.C. 509, 510, and 2679; 38 U.S.C. 7316; 42 U.S.C. 233, 2212, 2458a, and 5055(f); and the National Swine Flu Immunization Program of 1976, 90 Stat. 1113 (1976).

§ 15.1 General provisions.

(a) This part contains the regulations of the Department of Justice governing the application for and the issuance of statutory certifications and decertifications in connection with certain suits based upon the acts or omissions of Federal employees and certain other persons as to whom the remedy provided by the Federal Tort Claims Act, 28 U.S.C. 1346(b) and 2672, is made exclusive of any other civil action or proceeding for money damages by reason of the same subject matter

against such Federal employees and other persons.

(b) As used in this part:

(1) *Appropriate Federal agency* means the Federal agency most closely associated with the program out of which the claim or suit arose. When it cannot be ascertained which Federal agency is the most closely associated with the program out of which the claim or suit arose, the responsible Director of the Torts Branch, Civil Division, Department of Justice, shall be consulted and will thereafter designate the appropriate Federal agency.

(2) *Federal employee* means ''employee of the United States'' as that term is defined by 28 U.S.C. 2671.

(3) *Covered person* means any person other than a Federal employee or the estate of a Federal employee as to whom Congress has provided by statute that the remedy provided by 28 U.S.C. 1346(b) and 2672 is made exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against such person.

§ 15.2 Expeditious delivery of process and pleadings.

(a) Any Federal employee against whom a civil action or proceeding is brought for money damages for loss or damage to property, or personal injury or death, on account of any act or omission in the scope of the employee's office or employment with the Federal Government, shall promptly deliver all process and pleadings served on the employee, or an attested true copy thereof, to the employee's immediate superior or to whomever is designated by the head of the employee's department or agency to receive such papers. In addition, if prior to the employee's receipt of such process or pleadings, the employee receives information regarding the commencement of such a civil action or proceeding, he shall immediately so advise his superior or the designee. If the action is brought against the employee's estate this procedure shall apply to the employee's personal representative. The superior or designee shall provide the United States Attorney for the district embracing the place where the action or proceeding is brought and the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice, information concerning the commencement of such action or proceeding, and copies of all process and pleadings.

(b) Any covered person against whom a civil action or proceeding is brought for money damages for loss or damage to property, or personal injury or death, on account of any act or omission, under circumstances in which Congress has provided by statute that the remedy provided by the Federal Tort Claims Act is made the exclusive remedy, shall promptly deliver to the appropriate Federal agency all process and pleadings served on the covered person, or an attested true copy thereof. In addition, if prior to the covered person's receipt of such process or pleadings, the covered person receives information regarding the commencement of such a civil action or proceeding, he shall immediately so advise the appropriate Federal agency. The appropriate Federal agency shall provide to the United States Attorney for the district embracing the place where the action or proceeding is brought, and the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice, information concerning the commencement of such action or proceeding, and copies of all process and pleadings.

§ 15.3 Agency report.

(a) The Federal employee's employing Federal agency shall submit a report to the United States Attorney for the district embracing the place where the civil action or proceeding is brought fully addressing whether the employee was acting within the scope of his office or employment with the Federal Government at the time of the incident out of which the suit arose, and a copy of the report shall be sent by the employing Federal agency to the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice.

(b) The appropriate Federal agency shall submit a report to the United States Attorney for the district embracing the place where the civil action or proceeding is brought fully addressing whether the person was acting as a covered person at the time of the incident out of which the suit arose, and a copy of the report shall be sent by the appropriate Federal agency to the responsible Branch Director of the Torts Branch, Civil Division, Department of Justice.

(c) A report under this section shall be submitted at the earliest possible date, or within such time as shall be fixed upon request by the United States Attorney or the responsible Branch Director of the Torts Branch.

§ 15.4 Removal and defense of suits.

(a) The United States Attorney for the district where the civil action or proceeding is brought, or any Director of the Torts Branch, Civil Division, Department of Justice, is authorized to make the statutory certification that the Federal employee was acting within the scope of his office or employment with the Federal Government at the time of the incident out of which the suit arose.

(b) The United States Attorney for the district where the civil action or proceeding is brought, or any Director of the Torts Branch, Civil Division, Department of Justice, is authorized to make the statutory certification that the covered person was acting at the time of the incident out of which the suit arose under circumstances in which Congress has provided by statute that the remedy provided by the Federal Tort Claims Act is made the exclusive remedy.

(c) A certification under this section may be withdrawn if a further evaluation of the relevant facts or the consideration of new or additional evidence calls for such action. The making, withholding, or withdrawing of certifications, and the removal and defense of, or refusal to remove or defend, such civil actions or proceedings shall be subject to the instructions and supervision of the Assistant Attorney General in charge of the Civil Division or his or her designee.

Dated: December 16, 2003.

John Ashcroft,

Attorney General.

[FR Doc. 03–31489 Filed 12–22–03; 8:45 am]

BILLING CODE 4410–12–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR PART 27

[USCG–2003–15486]

RIN 1625–AA73

Civil Monetary Penalties—Adjustments for Inflation

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is adjusting fines and other civil monetary penalties to reflect the impact of inflation. These adjustments are made in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

DATES: This final rule is effective January 22, 2004.

ADDRESSES: Material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2003–15486 and are available for

inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Mr. Robert Spears of the Office of Standards Evaluation and Development, Coast Guard, telephone 202–267–1099 or 202–267–6826. If you have questions on viewing the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, telephone 202–366–0271.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Many fines or other civil monetary penalties (CMPs) for violating Federal laws and regulations were set by Congress long ago, and their deterrent value has weakened with time due to inflation. Congress recognizes this problem and has devised a mechanism to address it. It provides mandatory inflation adjustment formulas and requires Federal agencies to adjust their CMPs using those formulas at least once every four years, making further direct involvement by Congress unnecessary. This mechanism derives from the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101–410, 104 Stat. 890, §§ 1–6, as amended by the Debt Collection Improvement Act of 1996, Pub. L. 104–134, 110 Stat. 1321, § 31001(s)(1); see 28 U.S.C. 2461 note (collectively, ''the statute'').

The Coast Guard is amending 33 CFR 27.3 to update CMP adjustments first made in 1997. We expect to repeat the adjustment process in 2007 and quadrennially thereafter. We are also making two non-substantive changes, amending 33 CFR 27.1 to make the legislative authority for CMP adjustments clearer, and removing 33 CFR 27.2 which applied specifically to the 1997 adjustments and is no longer necessary.

Regulatory Procedure

This final rule is published without prior notice of proposed rulemaking or public comment. Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for dispensing with notice and comment in this rulemaking. This rulemaking implements the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, and with the exception of the non-substantive changes described above, that legislation mandates all our actions and allows us no discretion in implementation, so that prior notice and comment is unnecessary and contrary to the public interest.

Method of Calculation

The statute (see ''Background and Purpose'') requires inflation adjustments to be based on changes in the Consumer Price Index (CPI) from June of the calendar year in which the penalties were last set or adjusted, through June of the year prior to the adjustment. The statute also includes precise rules for rounding penalty increases. It limits the first adjustments of an agency's penalties to 10 percent of the penalty amounts. Our method of calculation takes into account the General Accounting Office (GAO) report ''United States Coast Guard Implementation of the Inflation Adjustment Act,'' (GAO–03–221R, Nov. 1, 2002) and subsequent discussions with the GAO. Table A below sets forth each CMP provision which is being increased in 2003 and shows the intermediate calculations performed to arrive at the adjusted final maximum penalty contained in the last column.

BILLING CODE 4910–15–P

Table A - CMP Adjustment Calculations

U.S. Code Citation	Civil Monetary Penalty	Year penalty amount was last set	Maximum Penalty amount last set	CPI Inflation Factors	Percent needed to adjust to dollars in the year the penalty was set	Percentage increase in inflation needed to trigger next adjustment	Maximum Penalty Increase after P.L. 101-410 Rounding	Maximum Penalty Amount After Increase and P.L. 101-410 Rounding	Maximum Penalty Amount After Increase, P.L. 101-410 Rounding, and 10% Limit
14 U.S.C. 88(c)	Saving Life and Property	1997	$5,500	179.9/160.3	12.2%	7.7%	$1,000	$6,500	$-
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (first offense)	1992	3,000	179.9/140.2	28.3%	15.2%	1,000	4,000	3,300
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (subsequent offense)	1997	22,000	179.9/160.3	12.2%	9.3%	5,000	27,000	-
33 U.S.C. 471	Anchorage Ground/Harbor Regulations General	1997	110	179.9/160.3	12.2%	45.5%	0	110	-
33 U.S.C. 474	Anchorage Ground/Harbor Regulations St. Mary's River	1997	220	179.9/160.3	12.2%	22.8%	0	220	-
33 U.S.C. 495	Bridges/Failure to Comply with Regulations	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
33 U.S.C. 499	Bridges/Drawbridges	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
33 U.S.C. 502	Bridges/Failure to Alter Bridge Obstruction Navigation	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
33 U.S.C. 533	Bridges/Maintenance and Operation	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
33 U.S.C. 1208(a)	Bridge to Bridge Communication	1997	550	179.9/160.3	12.2%	7.7%	100	650	-
33 U.S.C. 1208(b)	Bridge to Bridge Communication	1997	550	179.9/160.3	12.2%	7.7%	100	650	-
33 U.S.C. 1232	PWSA Regulations	1997	27,500	179.9/160.3	12.2%	7.7%	5,000	32,500	-
33 U.S.C. 1236(b)	Vessel Navigation: Regattas or Marine Parades	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
33 U.S.C. 1236(c)	Vessel Navigation: Regattas or Marine Parades	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
33 U.S.C. 1236(d)	Vessel Navigation: Regattas or Marine Parades	1990	2,500	179.9/129.9	38.5%	18.2%	1,000	3,500	2,750
33 U.S.C. 1319(d)	Pollution Prevention	1997	27,500	179.9/160.3	12.2%	7.7%	5,000	32,500	-
33 U.S.C. 1319(g)(2)(A)	Pollution Prevention (per violation)	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
33 U.S.C. 1319(g)(2)(A)	Pollution Prevention (total under subparagraph)	1997	27,500	179.9/160.3	12.2%	7.7%	5,000	32,500	-
33 U.S.C. 1319(g)(2)(B)	Pollution Prevention (per day of violation)	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
33 U.S.C. 1319(g)(2)(B)	Pollution Prevention (total under subparagraph)	1997	137,500	179.9/160.3	12.2%	3.2%	20,000	157,500	-
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (per violation)	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (total under paragraph)	1997	27,500	179.9/160.3	12.2%	7.7%	5,000	32,500	-
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (per day of violation)	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (total under paragraph)	1997	137,500	179.9/160.3	12.2%	3.2%	20,000	157,500	-
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per day of violation)	1997	27,500	179.9/160.3	12.2%	7.7%	5,000	32,500	-
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit of hazsub discharged)	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
33 U.S.C. 1321(b)(7)(B)	Oil/Hazardous Substances: Discharges	1997	27,500	179.9/160.3	12.2%	7.7%	5,000	32,500	-
33 U.S.C. 1321(b)(7)(C)	Oil/Hazardous Substances: Discharges	1997	27,500	179.9/160.3	12.2%	7.7%	5,000	32,500	-
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit of hazsub discharged)	1997	3,300	179.9/160.3	12.2%	15.2%	0	3,300	-
33 U.S.C. 1321(j)	Oil/Hazardous Substances: Prevention Regulations	1997	27,500	179.9/160.3	12.2%	7.7%	5,000	32,500	-
33 U.S.C. 1322(j)	Marine Sanitation Devices	1997	2,200	179.9/160.3	12.2%	22.8%	0	2,200	-
33 U.S.C. 1322(j)	Marine Sanitation Devices	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
33 U.S.C. 1517(a)	Deepwater Ports Regulations	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
33 U.S.C. 1608(a)	International Regulations	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
33 U.S.C. 1608(b)	International Regulations	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
33 U.S.C. 1908(b)(1)	Pollution from Ships	1997	27,500	179.9/160.3	12.2%	7.7%	5,000	32,500	-
33 U.S.C. 1908(b)(2)	Pollution from Ships	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
33 U.S.C. 2072(a)	Inland Navigation Rules	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
33 U.S.C. 2072(b)	Inland Navigation Rules	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
33 U.S.C. 2609(a)	Shore Protection	1997	27,500	179.9/160.3	12.2%	7.7%	5,000	32,500	-
33 U.S.C. 2609(b)	Shore Protection	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-

Table A - CMP Adjustment Calculations

33 U.S.C. 2716a(a)	Oil Pollution Liability and Compensation	1997	27,500	179.9/160.3	12.2%	7.7%	5,000	32,500	-
46 U.S.C. App 1505(a)	Safe Containers for International Cargo	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
46 U.S.C. App 1805(c)(2)	Suspension of Passenger Service	1997	55,000	179.9/160.3	12.2%	4.2%	5,000	60,000	-
46 U.S.C. 2110(e)	Vessel Inspection or Examination Fees	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
46 U.S.C. 2115	Alcohol and Dangerous Drug Testing	1998	5,000	179.9/163	10.4%	9.1%	1,000	6,000	5,500
46 U.S.C. 2302(a)	Negligent Operations: Recreational Vessels	2002	5,000	183.7/179.9	2.1%	10.0%	0	5,000	-
46 U.S.C. 2302(a)	Negligent operations: Other Vessels	2002	25,000	183.7/179.9	2.1%	10.0%	0	25,000	-
46 U.S.C. 2302(c)(1)	Negligent Operations	1998	5,000	179.9/163	10.4%	9.1%	1,000	6,000	5,500
46 U.S.C. 2306(a)(2)(B)(4)	Vessel Reporting Requirements: Owner	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
46 U.S.C. 2306(b)(2)	Vessel Reporting Requirements: Master	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
46 U.S.C. 3102(c)(1)	Immersion suits	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
46 U.S.C. 3302(i)(5)	Inspection Permit	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
46 U.S.C. 3318(a)	Vessel Inspection	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
46 U.S.C. 3318 (g)	Vessel Inspection	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
46 U.S.C. 3318(h)	Vessel Inspection	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
46 U.S.C. 3318(i)	Vessel Inspection	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
46 U.S.C. 3318(j)(1)	Vessel Inspection	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 3318(j)(1)	Vessel Inspection	1990	2,000	179.9/129.9	38.5%	22.8%	1,000	3,000	2,200
46 U.S.C. 3318(k)	Vessel Inspection	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 3318(l)	Vessel Inspection	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
46 U.S.C. 3502(e)	List/Count of Passengers	1997	110	179.9/160.3	12.2%	45.5%	0	110	-
46 U.S.C. 3504(c)	Notification to Passengers	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 3504(c)	Notification to Passengers	1997	550	179.9/160.3	12.2%	7.7%	100	650	-
46 U.S.C. 3506	Copies of Laws on Passenger Vessels	1997	220	179.9/160.3	12.2%	22.8%	0	220	-
46 U.S.C. 3718(a)(1)	Dangerous Cargo Carriage	1997	27,500	179.9/160.3	12.2%	7.7%	5,000	32,500	-
46 U.S.C. 4106	Uninspected Vessels	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
46 U.S.C. 4311(b)	Recreational Vehicles	1997	110,000	179.9/160.3	12.2%	4.2%	10,000	120,000	-
46 U.S.C. 4311(b)	Recreational Vehicles	1997	2,200	179.9/160.3	12.2%	22.8%	0	2,200	-
46 U.S.C. 4311(c)	Recreational Vehicles	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
46 U.S.C. 4507	Vessel Inspection	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
46 U.S.C. 4703	Abandonment of barges	1997	1,100	179.9/160.4	12.2%	45.5%	0	1,100	-
46 U.S.C. 5116(a)	Load Lines	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
46 U.S.C. 5116(b)	Load Lines	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 5116(c)	Load Lines	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
46 U.S.C. 6103(a)	Reporting Marine Casualties	1996	25,000	179.9/156.7	14.8%	9.1%	5,000	30,000	27,500
46 U.S.C. 6103(b)	Reporting Marine Casualties	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
46 U.S.C. 8101(e)	Manning of Inspected Vessels	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
46 U.S.C. 8101(f)	Manning of Inspected Vessels	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 8101(g)	Manning of Inspected Vessels	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 8101(h)	Manning of Inspected Vessels	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
46 U.S.C. 8102(a)	Watchmen on Passenger Vessels	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
46 U.S.C. 8103(f)	Citizenship Requirements	1997	550	179.9/160.3	12.2%	7.7%	100	650	-
46 U.S.C. 8104(i)	Watches on Vessels	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 8104(j)	Watches on Vessels	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 8302(e)	Staff Department on Vessels	1997	110	179.9/160.3	12.2%	45.5%	0	110	-
46 U.S.C. 8304(d)	Officer's Competency Certificates	1997	110	179.9/160.3	12.2%	45.5%	0	110	-
46 U.S.C. 8502(e)	Coastwise Pilotage	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 8502(f)	Coastwise Pilotage	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 8503	Federal Pilots	1997	27,500	179.9/160.3	12.2%	7.7%	5,000	32,500	-
46 U.S.C. 8701(d)	Merchant Mariners Documents	1997	550	179.9/160.3	12.2%	7.7%	100	650	-
46 U.S.C. 8702(e)	Crew Requirements	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 8906	Small Vessel Manning	1996	25,000	179.9/156.7	14.8%	9.1%	5,000	30,000	27,500
46 U.S.C. 9308(a)	Pilotage: Great Lakes	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 9308(b)	Pilotage: Great Lakes	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 9308(c)	Pilotage: Great Lakes	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 10104(b)	Failure to Report Sexual Offense	1997	5,500	179.9/160.3	12.2%	7.7%	1,000	6,500	-
46 U.S.C. 10307	Posting of Agreements	1997	110	179.9/160.3	12.2%	45.5%	0	110	-
46 U.S.C. 10308(b)	Foreign Engagements by Seamen	1997	110	179.9/160.3	12.2%	45.5%	0	110	-
46 U.S.C. 10309(b)	Replacement of Lost/Deserted Seamen	1997	220	179.9/160.3	12.2%	22.8%	0	220	-
46 U.S.C. 10310	Discharge of Seamen	1997	55	179.9/160.3	12.2%	7.7%	10	65	-
46 U.S.C. 10312(c)	Foreign/Intercoastal Voyages	1997	110	179.9/160.3	12.2%	45.5%	0	110	-
46 U.S.C. 10314(a)(2)	Pay Advances to Seamen	1997	550	179.9/160.3	12.2%	7.7%	100	650	-
46 U.S.C. 10314(b)	Pay Advances to Seamen	1997	550	179.9/160.3	12.2%	7.7%	100	650	-

Table A - CMP Adjustment Calculations

46 U.S.C. 10315(c)	Allotment to Seamen	1997	550	179.9/160.3	12.2%	7.7%	100	650	-
46 U.S.C. 10321	Seamen Protection: General	1997	220	179.9/160.3	12.2%	22.8%	0	220	-
46 U.S.C. 10505(b)	Advances	1997	550	179.9/160.3	12.2%	7.7%	100	650	-
46 U.S.C. 10508(b)	Seamen Protection: General	1997	22	179.9/160.3	12.2%	22.8%	0	22	-
46 U.S.C. 10711	Effects of Deceased Seamen	1997	220	179.9/160.3	12.2%	22.8%	0	220	-
46 U.S.C. 10902(a)(2)	Complaints of Unfitness	1997	550	179.9/160.3	12.2%	7.7%	100	650	-
46 U.S.C. 10903(d)	Proceedings on Examination of Vessel	1997	110	179.9/160.3	12.2%	45.5%	0	110	-
46 U.S.C. 10907(b)	Permission to Make Complaint	1997	550	179.9/160.3	12.2%	7.7%	100	650	-
46 U.S.C. 11101(f)	Accommodations for Seamen	1997	550	179.9/160.3	12.2%	7.7%	100	650	-
46 U.S.C. 11102(b)	Medicine Chests on Vessels	1997	550	179.9/160.3	12.2%	7.7%	100	650	-
46 U.S.C. 11104(b)	Destitute Seamen	1997	110	179.9/160.3	12.2%	45.5%	0	110	-
46 U.S.C. 11105(c)	Wages on Discharge	1997	550	179.9/160.3	12.2%	7.7%	100	650	-
46 U.S.C. 11303(a)	Log Books	1997	220	179.9/160.3	12.2%	22.8%	0	220	-
46 U.S.C. 11303(b)	Log Books	1997	220	179.9/160.3	12.2%	22.8%	0	220	-
46 U.S.C. 11303(c)	Log Books	1997	165	179.9/160.3	12.2%	30.4%	0	165	-
46 U.S.C. 11506	Carrying of Sheath Knives	1997	55	179.9/160.3	12.2%	7.7%	10	65	-
46 U.S.C. 12122(a)	Identification of Vessels	1996	10,000	179.9/156.7	14.8%	22.8%	1,000	11,000	11,000
46 U.S.C. 12122(c)	Vessel Documentation	1998	100,000	179.9/163.0	10.4%	4.6%	10,000	110,000	110,000
46 U.S.C. 12309(b)	Numbering of Undocumented Vessels	1997	1,100	179.9/160.3	12.2%	45.5%	0	1,100	-
46 U.S.C. 12507(b)	Vessel Identification System	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
46 U.S.C. 14701	Measurement of Vessels	1997	22,000	179.9/160.3	12.2%	9.3%	5,000	27,000	-
46 U.S.C. 14701	Registry/Recording: Tonnage	1997	22,000	179.9/160.3	12.2%	9.3%	5,000	27,000	-
46 U.S.C. 14702	Measurement/False Statements	1997	22,000	179.9/160.3	12.2%	9.3%	5,000	27,000	-
46 U.S.C. 31309	Instruments and Liens	1997	11,000	179.9/160.3	12.2%	22.8%	0	11,000	-
49 U.S.C. 5123(a)(1)*	Hazardous Materials-Related to Vessels	1997	27,500	179.9/160.3	12.2%	9.1%	5,000	32,500	-

*Note: 49 U.S.C. 5123 (a) (1) was formerly 49 U.S.C. App 1809 (a) (1)

BILLING CODE 4910–15–C

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This rule concerns civil monetary penalties imposed for violating Federal law and regulations. It has no impact on law-abiding persons.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule concerns civil monetary penalties imposed for violating Federal law and regulations. It has no impact on law-abiding persons.

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

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we will assist small entities in understanding this rule. If you are a small entity and the Coast Guard has assessed a civil monetary penalty against you, let your hearing officer know if you need help understanding the provisions of this rule or how it applies to you.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. This rule affects only those persons who violate Federal law or regulations, and involves no discretion on the part of the Coast Guard.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

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

List of Subjects in 33 CFR Part 27

Marine safety, Oil pollution, Penalties, Vessels, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 27 as follows:

PART 27—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

■ 1. Revise the authority citation for part 27 to read as follows:

Authority: Secs. 1–6, Pub. L. 101–410, 104 Stat. 890, as amended by Sec. 31001(s)(1), Pub. L. 104–134, 110 Stat. 1321 (28 U.S.C. 2461 note); Department of Homeland Security Delegation No. 0170.1, sec. 2 (106).

■ 2. Revise § 27.1 to read as follows:

§ 27.1 Applicability.

This part implements the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, by periodically adjusting the maximum civil monetary penalty provided by statute for laws administered by the Coast Guard and assessable in either civil judicial or administrative proceedings.

§ 27.2 [Removed]

■ 3. Remove § 27.2.

■ 4. Revise § 27.3 to read as follows:

§ 27.3 Penalty Adjustment Table.

Table 1 identifies statutes administered by the Coast Guard that authorize a civil monetary penalty. The ''adjusted maximum penalty'' is the maximum penalty authorized by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, as determined by the Coast Guard.

TABLE 1.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. Code citation	Civil monetary penalty description	Adjusted maximum penalty amount ($)*
14 U.S.C. 88(c)	Saving Life and Property	6,500
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (first offense)	3,300
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (subsequent offenses)	27,000
33 U.S.C. 471	Anchorage Ground/Harbor Regulations General	110
33 U.S.C. 474	Anchorage Ground/Harbor Regulations St. Mary's river	220
33 U.S.C. 495	Bridges/Failure to Comply with Regulations	1,100
33 U.S.C. 499	Bridges/Drawbridges	1,100
33 U.S.C. 502	Bridges/Failure to Alter Bridge Obstructing Navigation	1,100
33 U.S.C. 533	Bridges/Maintenance and Operation	1,100
33 U.S.C. 1208(a)	Bridge to Bridge Communication	650
33 U.S.C. 1208(b)	Bridge to Bridge Communication	650
33 U.S.C. 1232	PWSA Regulations	32,500
33 U.S.C. 1236(b)	Vessel Navigation: Regattas or Marine Parades	6,500
33 U.S.C. 1236(c)	Vessel Navigation: Regattas or Marine Parades	6,500
33 U.S.C. 1236(d)	Vessel Navigation: Regattas or Marine Parades	2,750
33 U.S.C. 1319(d)	Pollution Prevention	32,500
33 U.S.C. 1319(g)(2)(A)	Pollution Prevention (per violation)	11,000
33 U.S.C. 1319(g)(2)(A)	Pollution Prevention (total under subparagraph)	32,500
33 U.S.C. 1319(g)(2)(B)	Pollution Prevention (per day of violation)	11,000
33 U.S.C. 1319(g)(2)(B)	Pollution Prevention (total under subparagraph)	157,500
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (per violation)	11,000
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (total under paragraph)	32,500
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (per day of violation)	11,000
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (total under paragraph)	157,500
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per day of violation)	32,500

TABLE 1.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Civil monetary penalty description	Adjusted maximum penalty amount ($)*
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit of hazsub discharged).	1,100
33 U.S.C. 1321(b)(7)(B)	Oil/Hazardous Substances: Discharges	32,500
33 U.S.C. 1321(b)(7)(C)	Oil/Hazardous Substances: Discharges	32,500
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit of hazsub discharged)..	3,300
33 U.S.C. 1321(j)	Oil/Hazardous Substances: Prevention Regulations	32,500
33 U.S.C. 1322(j)	Marine Sanitation Devices	2,200
33 U.S.C. 1322(j)	Marine Sanitation Devices	6,500
33 U.S.C. 1517(a)	Deepwater Ports Regulations	11,000
33 U.S.C. 1608(a)	International Regulations	6,500
33 U.S.C. 1608(b)	International Regulations	6,500
33 U.S.C. 1908(b)(1)	Pollution from Ships	32,500
33 U.S.C. 1908(b)(2)	Pollution from Ships	6,500
33 U.S.C. 2072(a)	Inland Navigation Rules	6,500
33 U.S.C. 2072(b)	Inland Navigation Rules	6,500
33 U.S.C. 2609(a)	Shore Protection	32,500
33 U.S.C. 2609(b)	Shore Protection	11,000
33 U.S.C. 2716a(a)	Oil Pollution Liability and Compensation	32,500
46 U.S.C. 1505(a)	Safe Containers for International Cargo	6,500
46 U.S.C. App 1805(c)(2)	Suspension of passenger service	60,000
46 U.S.C. 2110(e)	Vessel inspection or examination fees	6,500
46 U.S.C. 2115	Alcohol and dangerous drug testing	5,500
46 U.S.C. 2302(a)	Negligent operations: recreational vessels	5,000
46 U.S.C. 2302(a)	Negligent operations: other vessels	25,000
46 U.S.C. 2302(c)(1)	Negligent operations	5,500
46 U.S.C. 2306(a)(2)(B)(4)	Vessel Reporting Requirements: Owner	6,500
46 U.S.C. 2306(b)(2)	Vessel Reporting Requirements: Master	1,100
46 U.S.C. 3102(c)(1)	Immersion suits	6,500
46 U.S.C. 3302(i)(5)	Inspection Permit	1,100
46 U.S.C. 3318(a)	Vessel inspection	6,500
46 U.S.C. 3318(g)	Vessel inspection	6,500
46 U.S.C. 3318(h)	Vessel inspection	1,100
46 U.S.C. 3318(i)	Vessel inspection	1,100
46 U.S.C. 3318(j)(1)	Vessel inspection	11,000
46 U.S.C. 3318(j)(1)	Vessel inspection	2,200
46 U.S.C. 3318(k)	Vessel inspection	11,000
46 U.S.C. 3318(l)	Vessel inspection	6,500
46 U.S.C. 3502(e)	List/count of passengers	110
46 U.S.C. 3504(c)	Notification to passengers	11,000
46 U.S.C. 3504(c)	Notification to passengers	650
46 U.S.C. 3506	Copies of laws on passenger vessels	220
46 U.S.C. 3718(a)(1)	Dangerous cargo carriage	32,500
46 U.S.C. 4106	Uninspected vessels	6,500
46 U.S.C. 4311(b)	Recreational vessels (maximum for related series of violations)	120,000
46 U.S.C. 4311(b)	Recreational vessels	2,200
46 U.S.C. 4311(c)	Recreational vessels	1,100
46 U.S.C. 4507	Vessel inspection	6,500
46 U.S.C. 4703	Abandonment of barges	1,100
46 U.S.C. 5116(a)	Load lines	6,500
46 U.S.C. 5116(b)	Load lines	11,000
46 U.S.C. 5116(c)	Load lines	6,500
46 U.S.C. 6103(a)	Reporting marine casualties	27,500
46 U.S.C. 6103(b)	Reporting marine casualties	6,500
46 U.S.C. 8101(e)	Manning of inspected vessels	1,100
46 U.S.C. 8101(f)	Manning of inspected vessels	11,000
46 U.S.C. 8101(g)	Manning of inspected vessels	11,000
46 U.S.C. 8101(h)	Manning of inspected vessels	1,100
46 U.S.C. 8102(a)	Watchmen on passenger vessels	1,100
46 U.S.C. 8103(f)	Citizenship requirements	650
46 U.S.C. 8104(i)	Watches on vessels	11,000
46 U.S.C. 8104(j)	Watches on vessels	11,000
46 U.S.C. 8302(e)	Staff department on vessels	110
46 U.S.C. 8304(d)	Officer's competency certificates	110
46 U.S.C. 8502(e)	Coastwise Pilotage	11,000
46 U.S.C. 8502(f)	Coastwise Pilotage	11,000
46 U.S.C. 8503	Federal Pilots	32,500
46 U.S.C. 8701(d)	Merchant mariners documents	650
46 U.S.C. 8702(e)	Crew requirements	11,000
46 U.S.C. 8906	Small vessel manning	27,500

TABLE 1.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Civil monetary penalty description	Adjusted maximum penalty amount ($)*
46 U.S.C. 9308(a)	Pilotage: Great Lakes	11,000
46 U.S.C. 9308(b)	Pilotage: Great Lakes	11,000
46 U.S.C. 9308(c)	Pilotage: Great Lakes	11,000
46 U.S.C. 10104(b)	Failure to report sexual offense	6,500
46 U.S.C. 10307	Posting of agreements	110
46 U.S.C. 10308(b)	Foreign engagements by seamen	110
46 U.S.C. 10309(b)	Replacement of lost/deserted seamen	220
46 U.S.C. 10310	Discharge of seamen	65
46 U.S.C. 10312(c)	Foreign/intercoastal voyages	110
46 U.S.C. 10314(a)(2)	Pay advances to seamen	650
46 U.S.C. 10314(b)	Pay advances to seamen	650
46 U.S.C. 10315(c)	Allotment to seamen	650
46 U.S.C. 10321	Seamen protection: general	220
46 U.S.C. 10505(b)	Advances	650
46 U.S.C. 10508(b)	Seamen protection: general	22
46 U.S.C. 10711	Effects of deceased seamen	220
46 U.S.C. 10902(a)(2)	Complaints of unfitness	650
46 U.S.C. 10903(d)	Proceedings on examination of vessel	110
46 U.S.C. 10907(b)	Permission to make complaint	650
46 U.S.C. 11101(f)	Accommodations for seamen	650
46 U.S.C. 11102(b)	Medicine chests on vessels	650
46 U.S.C. 11104(b)	Destitute seamen	110
46 U.S.C. 11105(c)	Wages on discharge	650
46 U.S.C. 11303(a)	Log books	220
46 U.S.C. 11303(b)	Log books	220
46 U.S.C. 11303(c)	Log books	165
46 U.S.C. 11506	Carrying of sheath knives	65
46 U.S.C. 12122(a)	Identification of vessels	11,000
46 U.S.C. 12122(c)	Vessel Documentation	110,000
46 U.S.C. 12309(b)	Numbering of undocumented vessels	1,100
46 U.S.C. 12507(b)	Vessel identification system	11,000
46 U.S.C. 14701	Measurement of vessels	27,000
46 U.S.C. 14701	Registry/recording: tonnage	27,000
46 U.S.C. 14702	Measurement/false statements	27,000
46 U.S.C. 31309	Instruments and liens	11,000
49 U.S.C. 5123(a)(1)**	Hazardous materials—related to vessels	32,500

*The penalty amounts listed in this column include penalties that were adjusted in 1997 and 2003; some penalties that were adjusted in 1997 did not qualify for an adjustment this year according to the rounding rules. However, we decided to include the adjusted 1997 penalties that were not adjusted in 2003 to show the comprehensive list of civil penalties.

**49 U.S.C. 5123(a)(1) was formerly 49 U.S.C. 1809(a)(1).

Dated: December 5, 2003.

L.L. Hereth,

Rear Admiral, Coast Guard, Acting Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03–31491 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3710, 3730, 3810, 3820, 3830–3840, and 3850

[WO–620–1430–00–24 1A]

RIN 1004–AD31

Locating, Recording, and Maintaining Mining Claims or Sites; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects editorial and typographical errors in a final rule published in the **Federal Register** on October 24, 2003, regarding locating, recording, and maintaining mining claims or sites on public lands managed by the Bureau of Land Management (BLM).

EFFECTIVE DATE: November 24, 2003.

FOR FURTHER INFORMATION CONTACT: Ted Hudson, (202) 452–5042.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections reorganized the regulations on locating, filing, and maintaining mining claims or sites by consolidating provisions that were scattered in various portions of Groups 3700 and 3800 into 10 consecutive parts, placing the provisions in logical order, clarifying conflicting language, eliminating duplication, and removing obsolete provisions.

Need for Correction

As published, the final rule contained editorial and typographical errors in the preamble and regulatory text, some of which may prove to be misleading and need to be clarified and all of which need to be corrected.

■ In rule FR Doc. 03–26673 published on October 24, 2003 (68 FR 61046), make the following corrections.

■ 1. On page 61049, in the first column, correct the table under ''Part 3835'' by removing 10th row of the table beginning with ''3835.17'' and revising the 9th row of the table to read as follows:

3835.17	New; 3833.1–6(d); 3833.1–7(a)–(d); 3833.2–1

■ 2. On page 61051, in the first column, correct the first paragraph under the heading *Subpart C-Mining Law Minerals*

by removing the number ''3830.12(a)(2)'' from the third line, from the eighth line, and from the 17th line, and adding in its place in each line the number ''3830.12(a)(3)''.

■ 3. On page 61052, in the third column, correct the final paragraph that ends on page 61053 by:

■ a. Adding after ''paragraph (b)'' in the second line a comma and the phrase ''which becomes paragraph (c) in the final rule'';

■ b. Removing from the fourth line from the bottom of the page the phrase ''paragraph (b)(1)'' and adding in its place the phrase ''paragraph (c)(1)''; and

■ c. Removing from the third line from the bottom of the page the phrase ''paragraph (b)(5)'' and adding in its place the phrase ''paragraph (c)(5)''.

■ 4. On page 61053, in the first column, correct the first paragraph that continues from page 61052 by removing from the third line the phrase ''paragraph (b)(3)(iv)'' and adding in its place the phrase ''paragraph (c)(3)(iv)''.

■ 5. On page 61056, in the second column, correct the second and third paragraphs to read as follows:

Sections 3833.20 through 3833.22 describe when and how you may amend the record of a previously located mining claim or site. Sections 3833.30 through 3833.33 cover transfers of mining claims or sites.

Finally, sections 3833.90 through 3833.92 describe how to cure certain defects in your recording of mining claims or sites.

■ 6. On page 61057, in the third column, in the second to last line of the column, correct the number ''3835.34'' at the end of that line to read ''3835.33.''

■ 7. On page 61058, in the first column, correct the heading for section 3835.10 to read *''How Do I request a waiver?''*

■ 8. On page 61058, in the second column, in the sixth line of the paragraph under the heading *Section 3835.14 How do I file for a small miner waiver for newly-recorded mining claims?,* correct the number ''3835.34'' near the end of that line to read ''3835.33.''

■ 9. On page 61059, in the third column, in the first full paragraph of the column, correct the last sentence of the paragraph to read as follows: ''We have amended paragraph (h), which is numbered (9) in the final rule, as suggested by the comment.''

■ 10. On page 61060, in the second column, in line 9 of the first full paragraph, correct the number ''3836.16'' near the middle of that line to read ''3836.15.''

■ 11. On page 61061, in the first column, in the heading *Section 3737.11 When May I Acquire a Delinquent Co-Claimant's Interests In a Mining Claim Or Site?,* correct the number ''3737.11'' to read ''3837.11.''

■ 12. On page 61061, at the bottom of the first column, in the heading *Section 3737.21 How do I Notify the Delinquent Co-Claimant That I Want To Acquire His or Her Interests?,* correct the number ''3737.21'' to read ''3837.21.''

■ 13. On page 61061, at the top of the second column, in the heading *Section 3737.23 How do I Notify BLM That I Have Acquired a Delinquent Co-Claimant's Interests in a Mining Claim or Site?,* correct the number ''3737.23'' to read ''3837.23.''

■ 14. On page 61063, in the second column, in the third full paragraph, under the heading *Author,* correct the word ''proposed'' at the end of the first line to read ''final.''

§ 3830.21 [Corrected]

■ 15. On page 61067, in paragraph (f) of the table in section 3830.21, the correct the parenthetical cross-reference ''(§ 3836.30)'' to read ''(§ 3836.20).''

■ 16. On page 61068, in the second column, correct the first sentence of paragraph 3830.93(a) to read as follows:

§ 3930.93 When are defects curable?

(a) If there is a defect in your compliance with a statutory requirement, the defect is incurable if the statute does not give the Secretary authority to permit exceptions (*see* §§ 3830.91 and 3833.91 of this chapter).

* * *

* * * * *

§ 3832.42 [Amended]

■ 17. On page 61071, in the second column, in the last line of paragraph 3832.42(b)(4), correct the parenthetical cross-reference ''(*see* § 3832.28(c) of this part)'' to read ''(*see* § 3832.12(a) and (b)).''

§ 3835.14 [Corrected]

■ 18. On page 61075, in the first column, in the last line of paragraph 3835.14(b), correct the number ''3835.34'' at the end of that line to read ''3835.33.''

§ 3835.15 [Corrected]

■ 19. On page 61075, in the first column, in the third line of paragraph 3835.15(a), correct the number ''3835.34'' near the middle of that line to read ''3835.33.''

§ 3835.31 [Corrected]

■ 20. On page 61076, in the third column, (§ 3835.31(c)) in the sixth line of the column, correct the number ''3835.34'' near the middle of that line to read ''3835.33.''

Dated: December 18, 2003.

Ian Senio,

Acting Group Manager, Regulatory Affairs.

[FR Doc. 03–31551 Filed 12–22–03; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3874; MB Docket No. 03–23 RM–10633]

Radio Broadcasting Services; Conway and Vilonia, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rulemaking,* 68 FR 7964 (February 19, 2003), this document grants a petition for rulemaking filed by Creative Media, Inc, licensee of Station KASR(FM), proposing to substitute Channel 224C3 for Channel 224A at Conway, Arkansas, reallot Channel 224C3 from Conway to Vilonia, Arkansas as the community's first local aural transmission service, and modify the license for Station KASR(FM) to reflect the changes. Channel 224C3 is reallotted from Conway to Vilonia, Arkansas, at Creative's requested site 12.7 kilometers (7.9 miles) east of the community at coordinates 35–05–02 NL and 92–04–59 WL.

DATES: Effective January 23, 2004.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 03–23, adopted December 3, 2003, and released December 8, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

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 Arkansas, is amended by removing Channel 224A at Conway and by adding Vilonia, Channel 224C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–31596 Filed 12–22–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 021122284–2323–02; I.D. 121803A]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for New Jersey

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

ACTION: Closure of commercial fishery

SUMMARY: NMFS announces that the summer flounder commercial quota available to New Jersey has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in New Jersey for the remainder of calendar year 2003, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise New Jersey that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing summer flounder in New Jersey.

DATES: Effective 1801 hours, December 22, 2003, through 2400 hours, December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Jason Blackburn, Fishery Management Specialist, (978) 281–9326, e-mail *jason.blackburn@noaa.gov*

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.100.

The initial total commercial quota for summer flounder for the 2003 calendar year was set equal to 13,980,028 lb (6,341,235 kg)(68 FR 60, January 2, 2003). The percent allocated to vessels landing summer flounder in New Jersey is 16.72499 percent, resulting in a commercial quota of 2,338,158 lb (1,060,571 kg). The 2003 allocation was reduced to 2,329,010 lb (1,056,432 kg) due to research set-aside.

Section 648.101(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor state commercial quotas and to determine when a state's commercial quota has been harvested. NMFS then publishes a notification in the **Federal Register** to advise the state and to notify Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that New Jersey has harvested its quota for 2003.

The regulations at § 648.4(b) provide that Federal permit holders agree, as a condition of the permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 1801 hours, December 22, 2003, further landings of summer flounder in New Jersey by vessels holding summer flounder commercial Federal fisheries permits are prohibited for the remainder of the 2003 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 1801 hours, December 22, 2003, federally permitted dealers are also notified that they may not purchase summer flounder from federally permitted vessels that land in New Jersey for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: December 18, 2003.

Richard W. Surdi,

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

[FR Doc. 03–31602 Filed 12–18–03; 2:48 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 246
Tuesday, December 23, 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 HOMELAND SECURITY

Coast Guard

33 CFR Part 167

[USCG–2003–16712]

Port Access Routes Study: In the Approaches to Narragansett Bay and Buzzards Bay, Cleveland Ledge to the Race, Narragansett Bay East Passage, and the Areas Offshore of Connecticut, Rhode Island, and Massachusetts

AGENCY: Coast Guard, DHS.

ACTION: Notice of study; request for comments.

SUMMARY: The Coast Guard is conducting a Port Access Route Study (PARS) to evaluate the continued applicability of, and the need for modifications to, current vessel routing measures in the approaches to Narragansett Bay and Buzzards Bay, Cleveland Ledge to the Race, Narragansett Bay East Passage, and the areas offshore of Connecticut, Rhode Island, and Massachusetts. The goal of the study is to help reduce the risk of marine casualties and increase the efficiency of vessel traffic management in the study area. The recommendations of the study may lead to future rulemaking action or appropriate international agreements.

DATES: Comments and related material must reach the Docket Management Facility on or before February 23, 2004.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2003–16712 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Web Site: http://dms.dot.gov.*

(2) *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

(3) *Fax:* (202) 493–2251.

(4) *Delivery:* Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

(5) *Federal eRulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of study, call John Mauro, Project Officer, First Coast Guard District, telephone (617) 223–8355, email *jmauro@d1.uscg.mil*; or George Detweiler, Office of Vessel Traffic Management, Coast Guard, telephone (202) 267–0574, e-mail *Gdetweiler@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, telephone (202) 366–0271.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this study by submitting comments and related materials. All comments received will be posted, without change, to *http://dms.dot.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this notice of study (USCG–2003–16712), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES;** but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing comments and documents: To view comments, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Definitions

The following definitions are from the International Maritime Organization's (IMO's) ''Ships'' Routeing Guide'' (except those marked by an asterisk) and should help you review this notice:

Area to be avoided or ATBA means a routing measure comprising an area within defined limits in which either navigation is particularly hazardous or it is exceptionally important to avoid casualties and which should be avoided by all vessels or certain classes of vessels.

Deep-water route means a route within defined limits, which has been accurately surveyed for clearance of sea bottom and submerged obstacles as indicated on nautical charts.

Inshore traffic zone means a routing measure comprising a designated area between the landward boundary of a traffic separation scheme and the adjacent coast, to be used in accordance with the provisions of Rule 10(d), as amended, of the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS).

Precautionary area means a routing measure comprising an area within defined limits where vessels must navigate with particular caution and within which the direction of traffic flow may be recommended.

Recommended route means a route of undefined width, for the convenience of vessels in transit, which is often marked by centerline buoys.

Recommended track means a route which has been specifically examined to

ensure so far as possible that it is free of dangers and along which vessels are advised to navigate.

*Regulated Navigation Area or RNA** means a water area within a defined boundary for which regulations for vessels navigating within the area have been established under 33 CFR part 165.

Roundabout means a routing measure comprising a separation point or circular separation zone and a circular traffic lane within defined limits. Traffic within the roundabout is separated by moving in a counterclockwise direction around the separation point or zone.

Separation zone or separation line means a zone or line separating the traffic lanes in which vessels are proceeding in opposite or nearly opposite directions; or separating a traffic lane from the adjacent sea area; or separating traffic lanes designated for particular classes of vessels proceeding in the same direction.

Traffic lane means an area within defined limits in which one-way traffic is established. Natural obstacles, including those forming separation zones, may constitute a boundary.

Traffic Separation Scheme or TSS means a routing measure aimed at the separation of opposing streams of traffic by appropriate means and by the establishment of traffic lanes.

Two-way route means a route within defined limits inside which two-way traffic is established, aimed at providing safe passage of vessels through waters where navigation is difficult or dangerous.

Vessel routing system means any system of one or more routes or routing measures aimed at reducing the risk of casualties; it includes traffic separation schemes, two-way routes, recommended tracks, areas to be avoided, inshore traffic zones, roundabouts, precautionary areas, and deep-water routes.

Background and Purpose

Why are port access route studies required? Under the Ports and Waterways Safety Act (PWSA)(33 U.S.C. 1223(c)), the Commandant of the Coast Guard may designate necessary fairways and traffic separation schemes (TSSs) to provide safe access routes for vessels proceeding to and from U.S. ports. The designation of fairways and TSSs recognizes the paramount right of navigation over all other uses in the designated areas.

The PWSA requires the Coast Guard to conduct a study of port access routes before establishing or adjusting fairways or TSSs. Through the study process, we must coordinate with Federal, State, and foreign state agencies (as appropriate) and consider the views of maritime community representatives, environmental groups, and other interested stakeholders. A primary purpose of this coordination is to reconcile, to the extent practicable, the need for safe access routes with other reasonable uses of the waterway.

Were there previous port access route studies? The Approaches to Narragansett Bay, RI, and Buzzards Bay, MA, were last studied in 1979, and the final results were published in the **Federal Register** on January 7, 1982 (47 FR 879). The study concluded that two minor modifications to the existing TSS in the Approaches to Narragansett Bay, RI, and Buzzards Bay, MA, were needed. Both minor modifications were made and are in effect.

Why is a new port access route study necessary? Vessel size, traffic density, and channel depths and widths have changed since the 1979 study. Major changes on channel depth, channel width, and navigational aid alignment are currently underway in the Providence River and the port of Providence, RI. The report by the U.S. Army Corps of Engineers entitled ''Waterborne Commerce of the United States'' states that, from 1997 to 2001, the number of annual trips through the Cape Cod Canal decreased by 38 percent from 1,635 to 1,007; the number of trips to and from the Port of Providence, RI, decreased by 36 percent from 1,449 to 930; the number of trips to and from the Port of Fall River, MA, decreased by 18 percent from 380 to 313, and the number of trips to and from the Port of New Bedford/Fairhaven, MA, decreased by 16 percent from 2,665 to 2,242. Since 1944, a Corps of Engineers navigation project for the Cape Cod Canal has maintained a depth of 32 feet in the Cape Cod Canal. Maintenance dredging is currently underway in the Providence River, where shoaling has reduced the depths in the channel by as much as 10 to 12 feet in places. Dredging the navigation channel to a depth of 40 feet and a width of 600 feet will restore the channel to its full, congressionally authorized, project dimensions. Once the dredging is complete, vessel traffic to and from the Port of Providence and through the Cape Cod Canal should increase significantly.

What are the timeline, study area, and process of this PARS? The First Coast Guard District will conduct this PARS. The study will begin immediately and should take 6 to 12 months to complete.

The study area will encompass the approaches to Narragansett and Buzzards Bays, Cleveland Ledge to the Race, Narragansett Bay East Passage, and the areas offshore of Connecticut, Rhode Island, and Massachusetts that are used by commercial and public vessels transiting to and from Long Island Sound and the Cape Cod Canal.

As part of this study, we will consider previous studies, analyses of vessel traffic density, and agency and stakeholder experience in vessel traffic management, navigation, ship handling, and affects of weather. We encourage you to participate in the study process by submitting comments in response to this notice.

We will publish the results of the PARS in the **Federal Register**. It is possible that the study may validate existing vessel routing measures and conclude that no changes are necessary. It is also possible that the study may recommend one or more changes to enhance navigational safety and the efficiency of vessel traffic management. The recommendations may lead to future rulemakings or appropriate international agreements.

Possible Scope of the Recommendations

We are attempting to determine the scope of any safety problems associated with vessel transits in the study area. We expect that information gathered during the study will identify any problems and appropriate solutions. The study may recommend that we—

1. Maintain the current vessel routing measures;
2. Establish a deep-water route;
3. Modify the existing TSS in the Approaches to Narragansett Bay and Buzzards Bay;
4. Designate a recommended route encompassing the routes typically used by merchant and naval vessels transiting the study area;
5. Create one or more additional precautionary areas;
6. Create one or more inshore traffic zones near either or both approaches;
7. Establish an area to be avoided (ATBA) in shallow areas where the risk of grounding is present;
8. Establish, disestablish, or modify anchorage grounds; and
9. Establish a Regulated Navigation Area (RNA) with specific vessel operating requirements to ensure safe navigation near shallow water.

Questions

To help us conduct the port access route study, we request comments on the following questions, although comments on other issues addressed in this document are also welcome. In responding to a question, please explain your reasons for each answer and follow the instructions under ''Public Participation and Request for Comments'' above.

1. What navigational hazards do vessels operating in the study area face? Please describe.

2. Are there strains on the current vessel routing system, such as increasing traffic density? If so, please describe.

3. Are modifications to existing vessel routing measures needed to address hazards and strains and to improve traffic management efficiency in the study area? If so, please describe.

4. What costs and benefits are associated with the potential study recommendations listed above? What measures do you think are most cost-effective?

5. What impacts, both positive and negative, would changes to existing routing measures or new routing measures have on the study area?

Dated: December 16, 2003.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security & Environmental Protection.

[FR Doc. 03–31623 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3868; MB Docket No. 03–246, RM–10830]

Radio Broadcasting Services; Ambrose and Ocilla, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document sets forth a proposal to amend the FM Table of Allotments of the Commission's rules. The Commission requests comment on a petition filed by RTG Radio, LLC, licensee of Station WKAA(FM), Channel 249A, Ocilla, Georgia. Petitioner proposes to delete Channel 249A at Ocilla, Georgia, to allot Channel 250A at Ambrose, Georgia, and to modify the license of Station WKAA(FM) accordingly. Channel 250A can be allotted to Ambrose in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.4 km (8.3 miles) southeast of Ambrose. The coordinates for Channel 250A at Ambrose are 31–30–36 North Latitude and 82–54–48 West Longitude. *See* **SUPPLEMENTARY INFORMATION** *infra.*

DATES: Comments must be filed on or before January 30, 2004, and reply comments on or before February 17, 2004.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the petitioner as follows: David G. O'Neil, Elise Dang, Manatt, Phelps & Phillips, LLP, 1501 M Street, NW., Suite 700, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rulemaking, MB Docket No. 03–246, adopted December 3, 2003, and released December 8, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893.

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 rulemaking 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 adding Ambrose, Channel 250A and by removing Channel 249A at Ocilla.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–31608 Filed 12–22–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3891, Docket No. 02–369, RM–10611]

Radio Broadcasting Services; Quitaque, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, dismissal.

SUMMARY: This document dismisses a pending petition for rulemaking to add an FM allotment in Quitaque, Texas. The Audio Division had requested comment on a petition filed by Maurice Salsa, proposing the allotment of Channel 272A at Quitaque, Texas. *See* 67 FR 78402, December 24, 2002. Petitioner did not file comments supporting the requested allotment. This document dismisses the petition for failure to demonstrate a continuing interest in the requested allotment. The document therefore terminates the proceeding.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–369, adopted December 3, 2003, and released December 8, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–31607 Filed 12–22–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3872, Docket No. 01–261, RM–10271]

Radio Broadcasting Services; Early, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, dismissal.

SUMMARY: This document dismisses a pending petition for rulemaking to add an FM allotment in Early, Texas. The Audio Division had requested comment on a petition filed by Jeraldine Anderson, proposing the allotment of Channel 294A at Early, Texas. *See* 66 FR 52733, October 17, 2001. Petitioner filed comments supporting the requested allotment, but subsequently submitted a request for dismissal of her petition. This document dismisses the petition for failure to demonstrate a continuing interest in the requested allotment, based upon petitioner's request for dismissal. The document therefore terminates the proceeding.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 012–261, adopted December 3, 2003, and released December 8, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–31606 Filed 12–22–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3870; MB Docket No. 03–245; RM–10826]

Radio Broadcasting Services; Durant, OK, and Whitewright, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by NM Licensing LLC, licensee of Station KLAK(FM), Channel 248C2, Durant, Oklahoma. The petition proposes to reallot KLAK(FM) from Durant, Oklahoma, to Whitewright, Texas, and to provide Whitewright with its first local aural transmission service. The coordinates for requested Channel 248C2 at Whitewright, Texas are 33–30–55 NL and 96–24–16 with a site restriction of 1.2 kilometers (0.7 mile) west of Whitewright.

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 248C2 at Whitewright, Texas, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before January 30, 2004, and reply comments on or before February 17, 2004.

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: Joseph A. Belisle, Esq., Leibowitz & Associates, PA; One Southeast Third Avenue, Suite 1450; Miami, Florida 33131; and Mark N. Lipp, Esq. and J. Thomas Nolan, Esq., Vinson & Elkins, LLP; 1455 Pennsylvania Avenue, NW., Washington, DC 20004–1008.

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. 03–245, adopted December 3, 2003, and released December 8, 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, 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 Oklahoma, is amended by removing Channel 248C2 at Durant.

3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Whitewright, Channel 248C2.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division Media Bureau.

[FR Doc. 03–31605 Filed 12–22–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–3886, Docket No. 02–368, RM–10610]

Radio Broadcasting Services; Lockney, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, dismissal.

SUMMARY: This document dismisses a pending petition for rulemaking to add an FM allotment in Lockney, Texas. The Audio Division had requested comment on a petition filed by Linda Crawford, proposing the allotment of Channel 271C3 at Lockney, Texas. *See* 67 FR 78,402, December 24, 2002. Petitioner did not file comments supporting the requested allotment. This document dismisses the petition for failure to demonstrate a continuing interest in the requested allotment. The document therefore terminates the proceeding.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau (202) 418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–368, adopted December 3, 2003, and released December 8, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com*.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–31604 Filed 12–22–03; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 68, No. 246
Tuesday, December 23, 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

Agricultural Marketing Service

[Docket No. TM–03–11]

Notice of Program Continuation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice inviting proposals for fiscal year (FY) 2004 grant funds under the Federal-State Marketing Improvement Program.

SUMMARY: Notice is hereby given for proposals for FY 2004 grant funds under the Federal-State Marketing Improvement Program (FSMIP). FSMIP anticipates that approximately $1.3 million will be available for support of this program in FY 2004. States interested in obtaining funds under the program are invited to submit proposals. While only State Departments of Agriculture or other appropriate State agencies are eligible to apply for funds, State agencies are encouraged to involve industry groups, academia and community-based organizations in the development of proposals and the conduct of projects.

DATES: Funds will be allocated on the basis of one round of consideration. Proposals will be accepted through February 13, 2004.

ADDRESSES: Proposals may be sent to: FSMIP, Transportation and Marketing Programs, Agricultural Marketing Service (AMS), U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 4009 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Janise Zygmont, FSMIP Staff Officer, (202) 720–2704.

SUPPLEMENTARY INFORMATION: FSMIP is authorized under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). FSMIP provides matching grants on a competitive basis to assist State Departments of Agriculture or other appropriate State agencies in conducting studies or developing innovative approaches related to the marketing of U.S. food and agricultural products. Other organizations interested in participating in this program should contact their State Department of Agriculture's Marketing Division to discuss their proposal.

Proposals are submitted by the State Agency and must be accompanied by completed Standard Forms (SF) 424 and 424A. Note that the SF 424 has been revised and that all applicants now must have a DUNS number and provide additional contact information when applying for this or any other Federal grant program. The revised SF 424 is available at: *http://www.whitehouse.gov/omb/grants/grants_forms.html.* AMS will not approve the use of FSMIP funds for advertising or, with limited exceptions, for the purchase of equipment. Detailed program guidelines may be obtained from your State Department of Agriculture, the above AMS contact, or the FSMIP Web site: *www.ams.usda.gov/tmd/fsmip.htm.*

FSMIP funds can be requested for a wide range of marketing research and marketing service activities, including projects aimed at:

(1) Developing and testing new or more efficient methods of processing, packaging, handling, storing, transporting, and distributing food and other agricultural products;

(2) Assessing customer response to new or alternative agricultural products or marketing services and evaluating potential opportunities for U.S. producers, processors and other agribusinesses, in both domestic and international markets; and,

(3) Identifying problems and impediments in existing channels of trade between producers and consumers of agricultural products and devising improved marketing practices, facilities, or systems to address such problems.

While all proposals which fall within the FSMIP guidelines will be considered, States are encouraged to submit proposals that have regional or national significance and that foster innovation in the following areas:

(1) Market Analysis—collecting and analyzing unique and relevant economic data and transportation and marketing statistics relating to targeted domestic and international markets.

(2) Transportation and distribution—finding ways to improve efficiency and reduce barriers in local, regional, national and international transportation and distribution systems to promote free movement of U.S. food and agricultural products.

(3) Competitiveness and new markets—identifying new opportunities for traditional and non-traditional products and by-products of agricultural production and processing in domestic and international markets. Assessing consumer preferences and consumer response to marketing and labeling claims.

(4) Quality and variety—enhancing the value of food and agricultural products through improvements in product quality and traceability. Using technology to address marketing challenges and opportunities such as developing new products and innovative packaging, or improving handling and storage methods.

Starting in FY 2004, applicants have the option of submitting FSMIP applications electronically through the central Federal grants Web site, *http://grants.gov* instead of mailing hard copy documents. Applicants considering the electronic application option are strongly urged to familiarize themselves with the Federal grants Web site well before the application deadline and to begin the application process before the deadline. Additional details about the FSMIP application process for all applicants are available at the FSMIP Web site: *http://www.ams.usda.gov/tmd/fsmip.htm.*

FSMIP is listed in the ''Catalog of Federal Domestic Assistance'' under number 10.156 and subject agencies must adhere to Title VI of the Civil Rights Act of 1964, which bars discrimination in all federally assisted programs.

Authority: 7 U.S.C. 1621–1627.

Dated: December 17, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–31540 Filed 12–22–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 03–040N]

Codex Alimentarius: Meeting of the Codex Committee on Meat Hygiene

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U. S. Department of Agriculture (USDA), is sponsoring a public meeting on January 15, 2004, to provide information and receive public comments on agenda items that will be discussed at the Tenth Session of the Codex Committee on Meat Hygiene, which will be held in Auckland, New Zealand, on February 16–20, 2004. The Under Secretary recognizes the importance of providing interested parties with information about the Codex Committee on Meat Hygiene of the Codex Alimentarius Commission and to address items on the Agenda for the 10th Session of the Committee.

DATES: The public meeting is scheduled for Thursday, January 15, 2004, from 1 p.m.–4 p.m.

ADDRESSES: The public meeting will be held at the Department of Agriculture's South Building in Room 0161, 1400 Independence Avenue, SW., Washington, DC. To receive copies of the documents referenced in this notice, contact the Food Safety and Inspection Service (FSIS) Docket Clerk, USDA, FSIS, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/ccmh10/mh04_01e.htm.* If you have comments, please send an original and two copies to the FSIS Docket Clerk and reference Docket #03–040N. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edith Kennard, Staff Officer, U.S. Codex Office, FSIS, Room 4861, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250, Telephone: (202) 720–5261, Fax: (202) 720–3157.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, USDA, the Food and Drug Administration, and the Environmental Protection Agency manage and carry out U.S. Codex activities.

The Codex Executive Committee (CEC), at its 47th Session in 2000, asked that the Codex Committee on Meat Hygiene reconvene to redraft the existing codes on meat hygiene so that they reflect contemporary developments. The CEC also asked that the scope of the existing codes be broadened so as to include poultry meat hygiene. These recommendations were confirmed by the 24th Session of the Codex Alimentarius Commission in July 2001.

Issues To Be Discussed at the Public Meeting

Provisional agenda items to be discussed during the public meeting:

1. Draft Code of Hygienic Practice for Meat.
2. Proposed Draft Annex on Risk-Based Post-Mortem Examination Procedures for Meat.
3. Proposed Draft Annex on Microbiological Verification of Process Control of Meat Hygiene.
4. Discussion Paper on Hygiene Provisions for Processed Meat.

Public Meeting

At the January 15th public meeting, the agenda items, including U.S. positions, will be described and discussed. Attendees will have the opportunity to pose questions and offer comments. Comments may be sent to the FSIS Docket Room (see **ADDRESSES**). Written comments should state that they relate to activities of the 10th Session of the Codex Committee on Meat Hygiene (Docket #03–040N).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS Web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and Web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information about Listserv, contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the ''Constituent Update'' page on the FSIS Web site at *http://www.fsis.usda.gov/oa/update/update.htm.* Click on the ''Subscribe to the Constituent Update Listserv'' link, then fill out and submit the form.

Done in Washington, DC on December 17, 2003.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 03–31541 Filed 12–22–03; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 03–041N]

Public Meeting on New Technology: The State of Food Safety Technologies To Enhance Public Health

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The Food Safety and Inspection Service (FSIS) will hold a public meeting on January 13, 2004, to discuss the development and use of new food safety technologies to enhance public health.

DATES: The public meeting is scheduled for Tuesday, January 13, 2004, from 8:30 a.m. to 5 p.m.

ADDRESSES: The public meeting will be held at the Doubletree Hotel, 1616 Dodge Street, Omaha, NE 68102;

telephone (402) 346–7600. A tentative agenda will be available in the FSIS Docket Room and on the Internet at *http://www.fsis.usda.gov.* An official transcript of the meeting, when it becomes available, will be kept in the FSIS Docket Room, Room 102 Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Dr. Perfecto Santiago, Executive Associate for Program Development, at (202) 205–0699. Registration for the meeting will be onsite. FSIS encourages attendees to pre-register as soon as possible by contacting Ms. Mary Harris of the FSIS Strategic Initiatives, Partnerships and Outreach Staff at (202) 690–6497 or by e-mail to *mary.harris@fsis.usda.gov* or fax (202) 690–6500. If a sign language interpreter or other special accommodations are necessary, please contact Ms. Harris no later than December 31, 2003.

SUPPLEMENTARY INFORMATION:

Background

The 2003 FSIS Food Safety Vision Statement states that FSIS is implementing several new initiatives in order to continue towards its vision for food safety, including expediting the review and implementation of safe interventions at slaughter and processing plants. FSIS reviews new technologies that establishments plan to employ to ensure that the use of these technologies is consistent with agency regulations, and that the technologies will not adversely affect product safety, inspection procedures, or the safety of FSIS inspection program personnel. In August 2003, the Office of the Under Secretary for Food Safety, United States Department of Agriculture, announced that the Food Safety and Inspection Service (FSIS) had established a New Technology Staff to streamline the implementation of new technologies in an establishment's operations and to reduce the amount of time it takes the agency to review these new technologies. The New Technology Staff will place significant emphasis on fostering the development and use of new technologies that can help reduce pathogens on meat and poultry products.

One purpose of this public meeting is to promote and facilitate an exchange of the latest information on new and emerging technologies of public health significance. In particular, FSIS will use the meeting to explore how small and very small plants can avail themselves of these technologies in their operations. The Agency also intends to use the meeting to explore ways to reduce the time between the development and implementation of new technologies.

Main topics to be discussed at the public meeting are as follows:

(1) The Agency's new procedures and ways to expedite even further the process for making promising food safety technologies available for use, including ways that FSIS and stakeholders can work together to make emerging technology more widely available. The stakeholders include academia, state governments, industry, consumers, and other government agencies. (2) Emerging technologies that have been commercialized or will soon be commercialized. These new technologies include the following categories:

a. Pre-slaughter operation interventions that treat the animal before slaughter operations begin, such as hide treatment and bacteria exclusion in the animal;

b. Decontamination methods during slaughter and processing operations, such as antimicrobials being used on the carcass;

c. Sanitation interventions to decontaminate product contact surfaces or to treat the environment in the slaughter and processing areas to exclude or remove organisms such as Listeria monocytogenes.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS Web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and Web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the ''Constituent Update'' page on the FSIS Web site at *http://www.fsis.usda.gov/oa/update/update.htm.* Click on the ''Subscribe to the Constituent Update Listserv'' link, then fill out and submit the form.

Done in Washington, DC on December 17, 2003.

Garry L. McKee,

Administrator.

[FR Doc. 03–31542 Filed 12–22–03; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AB90

Forest Transportation System Analysis; Revisions to Road Management Policy

AGENCY: Forest Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Forest Service published on December 16, 2003 (68 FR 69986), a notice of issuance of a final directive to Forest Service Manual (FSM) Title 7700—Engineering, Chapter 7710—Transportation Atlas, Records, and Analysis, as Amendment 7700–2003–2. The notice contained an incorrect World Wide Web/Internet address.

FOR FURTHER INFORMATION CONTACT: Deborah Beighley or Nelson Hernandez, Engineering Staff, Forest Service, at (703) 605–4617 and (703) 605–4613, respectively.

CORRECTION: In the **Federal Register** issue of December 16, 2003, in FR Doc. 03–30871, page 69986, in the first column, correct the **ADDRESSES** caption to read:

ADDRESSES: The final directive, which includes a digest of the summary of changes and the revised directive text in its entirety, is available electronically via the World Wide Web/Internet at *http://www.fs.fed.us/im/directives/fsm/7700.* Single paper copies of the directive also are available by contacting the USDA Forest Service, Engineering Staff (Mail Stop 1101), 1400 Independence Avenue SW., Washington, DC 20250–1101.

Dated: December 18, 2003.

Jack L. Craven,

Acting Deputy Chief, National Forest System.

[FR Doc. 03–31654 Filed 12–22–03; 8:45 am]

BILLING CODE 3410–11–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 NOVEMBER 22, 2003–DECEMBER 17, 2003

Firm name	Address	Date petition accepted	Product
Gilmore Valve Co., Ltd	1231 Lumpkin Road, Houston, TX 77043	12/04/03	Hydraulic valves.
Stout Industries, Inc., dba Stout Marketing, Inc.	6425 W. Florissant Ave., St. Louis, MO 63166.	12/04/03	Point of sale metal signs, displays, building and canopy fascia.
William Dudek Manufacturing Company	4901 W. Armitage Avenue, Chicago, IL 60639.	12/04/03	Mounting brackets of steel for consumer articles.
Delta Machine and Tool, Inc	1501 Lexington Avenue, DeLand, FL 32724.	12/08/03	Diagnostic lancets for diabetic testing kits, custom plastic-injection molded; and injection molded bodies for surgical punches used in cardiac surgery.
Burgess Manufacturing of Oklahoma, Inc	1250 Roundhouse Road, Guthrie, OK 73044.	12/17/03	Wooden pallets.

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, DC 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: December 16, 2003.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 03–31523 Filed 12–22–03; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–866]

Certain Folding Gift Boxes From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On October 10, 2003, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain folding gift boxes from the People's Republic of China. The review covers two manufacturers/exporters and the period of review is August 6, 2001, through December 31, 2002. We gave interested parties an opportunity to comment on the preliminary results of review but received no comments. Therefore, these final results of review do not differ from the preliminary results of review.

EFFECTIVE DATE: December 23, 2003.

FOR FURTHER INFORMATION CONTACT: Jennifer Moats (Red Point), Yang Jin Chun (Yun Choy), or Thomas Schauer, Group 1, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5047, (202) 482–5760, and (202) 482–0410, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On October 10, 2003, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain folding gift boxes from the People's Republic of China (PRC). *See Preliminary Results of Antidumping Duty Administrative Review: Certain Folding Gift Boxes from the People's Republic of China*, 68 FR 58653. We gave interested parties an opportunity to comment on the preliminary results of review but received no comments. The Department has now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Order

The products covered by this antidumping duty order are certain folding gift boxes. Certain folding gift boxes are a type of folding or knock-down carton manufactured from paper or paperboard. Certain folding gift boxes are produced from a variety of recycled and virgin paper or paperboard materials, including, but not limited to, clay-coated paper or paperboard and kraft (bleached or unbleached) paper or paperboard. The scope of the order excludes gift boxes manufactured from paper or paperboard of a thickness of more than 0.8 millimeters, corrugated

paperboard, or paper mache. The scope of the order also excludes those gift boxes for which no side of the box, when assembled, is at least nine inches in length.

Certain folding gift boxes are typically decorated with a holiday motif using various processes, including printing, embossing, debossing, and foil stamping, but may also be plain white or printed with a single color. The subject merchandise includes certain folding gift boxes, with or without handles, whether finished or unfinished, and whether in one-piece or multi-piece configuration. One-piece gift boxes are die-cut or otherwise formed so that the top, bottom, and sides form a single, contiguous unit. Two-piece gift boxes are those with a folded bottom and a folded top as separate pieces. Certain folding gift boxes are generally packaged in shrink-wrap, cellophane, or other packaging materials, in single or multi-box packs for sale to the retail customer. The scope of the order excludes folding gift boxes that have a retailer's name, logo, trademark or similar company information printed prominently on the box's top exterior (such folding gift boxes are often known as ''not-for-resale'' gift boxes or ''give-away'' gift boxes and may be provided by department and specialty stores at no charge to their retail customers). The scope of the order also excludes folding gift boxes where both the outside of the box is a single color and the box is not packaged in shrink-wrap, cellophane, other resin-based packaging films, or paperboard.

Imports of the subject merchandise are classified under *Harmonized Tariff Schedules of the United States* (HTSUS) subheadings 4819.20.00.40 and 4819.50.40.60. These subheadings also cover products that are outside the scope of the order. Furthermore, although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Analysis of the Comments Received

No parties submitted comments on the preliminary results of review. Accordingly, there is no concurrent issues and decision memorandum or analysis memorandum issued with these final results of review. Further, we have made no changes in the calculations since the preliminary results of review.

Final Results of Review

We determine the following percentage weighted-average dumping margins exist for folding gift boxes for the period August 6, 2001, through December 31, 2002:

Exporter/manufacturer	Margin (percent)
Red Point Paper Products Co., Ltd	0.00
PRC-wide rate (including Yun Choy, Ltd.)	164.75

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated, whenever possible, an exporter/importer (or customer)-specific assessment value for subject merchandise. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review. We will direct CBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the importer's entries during the review period.

Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of folding gift boxes entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash-deposit rates for the reviewed companies will be the rates established above; (2) for previously investigated or reviewed companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters (except for Max Fortune, which was excluded from the antidumping duty order) will be the ''PRC-wide'' rate; and (4) the cash deposit rate for all other non-PRC exporters will be the rate applicable to the PRC exporter that supplied that exporter.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (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 terms of an APO is a sanctionable violation.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: December 17, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E3–00614 Filed 12–22–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–802]

Gray Portland Cement and Clinker From Mexico; Notice of Extraordinary Challenge Committee's Final Decision and Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extraordinary Challenge Committee's final decision and amended final results of antidumping duty administrative review.

SUMMARY: On October 30, 2003, the Extraordinary Challenge Committee issued its decision to deny the Department of Commerce's April 13, 2000, extraordinary challenge petition with respect to a determination made by the Binational Panel in the final results of administrative review of the antidumping duty order on gray portland cement and clinker from Mexico covering the period August 1, 1994, through July 31, 1995. As there is now a final and conclusive decision in this case, we are amending the amended final results of review and we will instruct U.S. Customs and Border Protection to liquidate entries subject to this review.

EFFECTIVE DATE: December 23, 2003.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Mark Ross, Office of AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3477 or (202) 482–4794, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 9, 1997, the Department of Commerce (the Department) published in the **Federal Register** the final results of the administrative review of the antidumping duty order on gray portland cement and clinker from Mexico (62 FR 17148) (amended May 5, 1997) [1] (*Fifth Review Final Results*).

CEMEX, S.A. de C.V. (CEMEX), GCC Cemento, S.A. de C.V. (GCCC) [2], and the Southern Tier Cement Committee (the petitioner) contested various aspects of the Department's *Fifth Review Final Results*. On June 18, 1999, the Binational Panel (the Panel) issued an order remanding to the Department the *Fifth Review Final Results*. Specifically, the Panel instructed the Department to implement the following: (1) Exclude the respondents' home-market sales of bagged Type I cement from the foreign like product in the calculation of normal value; (2) re-examine the record evidence to determine whether a constructed-export-price offset should be granted; (3) recalculate the difference-in-merchandise adjustment to reflect the exclusion of home-market sales of bagged cement; (4) correct certain ministerial errors.

On November 15, 1999, the Department issued the final results of redetermination on remand, and on February 10, 2000, the Panel affirmed these results and dismissed the case. *See* Secretariat File No. USA–97–1904–01. On April 30, 2000, the Department filed an extraordinary challenge petition with the Extraordinary Challenge Committee (ECC). On October 30, 2003, the ECC determined that the Department's petition did not meet the criteria required for an extraordinary challenge review and thus denied the Department's petition. Therefore, as there is now a final and conclusive ECC decision in this action, we are amending our amended final results of review and we will instruct U.S. Customs and Border Protection (Customs) to liquidate entries subject to this review.

Amendment to Amended Final Results

Pursuant to section 516A(g) of the Tariff Act of 1930, as amended (the Act), we are now amending the amended final results of the administrative review of the antidumping duty order on gray portland cement and clinker from Mexico for the period August 1, 1994, through July 31, 1995. Based on the final results of redetermination on remand, the weighted-average antidumping margin for CEMEX and GCCC changes from 73.69 percent to 44.89 percent.

The Department will determine and Customs will assess appropriate antidumping duties on entries of the subject merchandise exported by firms covered by this review.

We are issuing and publishing this determination and notice in accordance with section 516A(g) of the Act.

Dated: December 17, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E3–00615 Filed 12–22–03; 8:45 am]

BILLING CODE 3510–DS–S

[1] *See Gray Portland Cement and Clinker from Mexico: Amended Final Results of Antidumping Duty Administrative Review,* 62 FR 24414 (May 5, 1997).

[2] Cementos de Chihuahua, S.A. de C.V., was GCCC's formal name during this segment of the proceeding.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–820]

Certain Hot-Rolled Carbon Steel Flat Products from India: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review.

SUMMARY: In response to requests from Indian producers/exporters of the subject merchandise, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain hot-rolled carbon steel flat products (HRS) from India. The review covers one producer/exporter of subject merchandise during the period of review (POR), May 3, 2001, through November 30, 2002. The Department has preliminarily determined that no dumping margin exists for the manufacturer/exporter during the POR. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties as appropriate. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 23, 2003.

FOR FURTHER INFORMATION CONTACT: Timothy P. Finn or Kevin Williams, AD/CVD Enforcement, Office IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0065 or (202) 482–2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2001, the Department published in the **Federal Register** the antidumping duty order on HRS from India. *See Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 60194 (December 3, 2001) (*Amended Final Determination*). On December 2, 2002, the Department published a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on HRS from India. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 67 FR 71533 (December 2, 2002). On December 30 and 31, 2002, Essar Steel Ltd. (Essar) and Tata Iron and Steel Company Ltd. (Tata), Indian producers/exporters of subject merchandise, requested administrative reviews of their entries during the POR. On January 15, 2003, the Department initiated an administrative review of Essar and Tata. National Steel Corporation, Nucor Corporation, and United States Steel Corporation, petitioners in this proceeding, did not request an administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 68 FR 3009 (January 22, 2003).

On January 3, 2003, the Department issued an antidumping questionnaire to Essar and Tata. The Department received Essar's responses to the questionnaire in January and February 2003. On January 15, 2003, Essar requested that it be allowed to report cost and home market sales information for periods other than the POR. On February 25, 2003, the Department allowed Essar to limit the reporting period for its home market sales to the period May 1, 2002, through January 31, 2003. On March 5, 2003, Tata withdrew its request for an administrative review.

On April 29, 2003, the Department allowed Essar to expand the POR for cost reporting purposes to include the month of April 2001. The Department issued supplemental questionnaires to Essar in March, April, May, June and July 2003, and received timely responses. On June 27, 2003, Essar requested that it be excluded from reporting sales from stockyards. On August 6, 2003, the Department granted Essar's request regarding its stockyard sales.

On August 27, 2003 and November 4, 2003, the Department published in the **Federal Register** notices extending the deadline for issuing the preliminary results in this case until no later than November 3, 2003, and December 15, 2003, respectively. *See Certain Hot-Rolled Carbon Steel Flat Products from India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 51557 (August 27, 2003); *also see Certain Hot-Rolled Carbon Steel Flat Products from India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 62430 (November 4, 2003).

Scope of the Review

The products covered by the antidumping duty order are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of the order.

Specifically included within the scope of the order are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of the order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of the order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of the order:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to the order is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel flat products covered by the order, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Review

The POR is May 3, 2001, through November 30, 2002.

Final Partial Rescission of Review

As provided in 19 CFR 351.213(d)(1), ''the Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' Tata withdrew its request for an administrative review within 90 days of the date of publication of the notice of initiation of the instant administrative review and no other party requested an administrative review of Tata. Therefore, the Department is rescinding the instant administrative review with respect to Tata.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), the Department conducted a verification of the sales and cost information provided by Essar. The Department conducted this verification using standard verification procedures

including: on-site inspection of the manufacturer's facilities, examination of relevant sales, cost, production and financial records and selection of relevant source documentation as exhibits. The Department's verification findings are identified in the sales and cost verification memoranda dated December 15, 2003, the public versions of which are on file in the Central Records Unit (CRU), room B099 of the main Commerce building.

Use of Partial Adverse Facts Available

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline for submission of the information, or in the form and manner requested, (C) significantly impedes an antidumping or countervailing proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. In selecting from among the facts otherwise available, section 776(b) of the Act provides that if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference that is adverse to the interests of the party. The Act provides that an adverse inference may include reliance on information derived from the petition, a final determination in an antidumping investigation or review, or any other information placed on the record. *See* section 776(b)(1), (2), (3), and (4) of the Act.

During the administrative review, Essar withheld certain information requested by the Department regarding its relationships with certain companies, and reported information regarding such relationships that does not agree with the Department's verification findings. Moreover, the record indicates that Essar significantly impeded the proceeding with respect to the issue of affiliation and did not cooperate by acting to the best of its ability to comply with the Department's requests for information regarding its relationships with the companies at issue. Therefore, as partial adverse facts available, the Department has preliminarily determined that Essar is affiliated with all of the companies in the Essar Group, as well as the companies identified in footnote 41 of Essar's 2001/2002 Annual Report. Additionally, we applied an adverse inference by determining that Essar did not engage in arm's-length transactions with the Essar Group companies and the footnote 41 companies that it failed to identify as affiliated parties. Specifically, we determined that the costs that Essar incurred as a result of its transactions with these companies are less than the costs it would have incurred had the transactions been conducted with unaffiliated parties. Transactions with these companies affect Essar's general and administrative (G&A) expenses, financing expenses, and manufacturing overhead expenses. As adverse facts available, we recalculated the G&A ratio used by Essar using information contained in Ispat Industries Ltd.'s (Ispat) 2000–2001 financial statements. We also adjusted Essar's manufacturing overhead expenses and financial expenses based on available information regarding the amount by which the costs that Essar incurred as a result of its transactions with affiliated parties are less than market prices. For a complete discussion of our use of adverse facts available, see the memorandum from Thomas F. Futtner, Acting Director, Office IV, to Holly A. Kuga, Acting Deputy Assistant Secretary, dated December 15, 2003 (Facts Available Memorandum), which is on file in the CRU.

Section 776(c) of the Act provides that when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The percentage used to increase Essar's manufacturing overhead and financial expenses is not considered secondary information because it is based on information obtained during the course of this review from Essar. Therefore, the Department is not required to corroborate this percentage. With respect to the G&A expenses, we obtained Ispat's 2000–2001 financial statements from the public record of the investigation of certain cold-rolled carbon steel flat products from India. *See Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela; Notice of Initiation of Antidumping Duty Investigations*, 66 FR 54198, 54207 (October 26, 2001). These financial statements cover the period April 1, 2000, through March 31, 2001, which predates the POR by one fiscal year. Publicly available data from independent sources that relate to the relevant time period are generally considered to be both relevant and reliable because they are contemporaneous with the period under consideration and not generated for purposes of the trade action. Because Ispat is an Indian producer of hot-rolled carbon steel flat products and its 2000–2001 financial statements are publicly available and cover a period close in time to the POR, the Department considers these statements to have probative value, and therefore, to be corroborated.

Date of Sale

Essar reported the invoice date for both its home market and U.S. sales to be the date of sale. Although the Department maintains a presumption that the invoice date is the date of sale (19 CFR 351.401(i)), ''[i]f the Department is presented with satisfactory evidence that the material terms of sale are finally established on a date other than the date of invoice, the Department will use that alternative date as the date of sale.'' *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27349 (May 19, 1997) (Preamble). Because the record evidence does not indicate that the material terms of home market sales are finally established on a date other than the date of the invoice, consistent with the methodology employed with respect to Essar in the investigation, the Department is preliminarily using the invoice date as the date of Essar's home market sales. However, with respect to Essar's U.S. sales, the Department found no evidence of changes to the material terms of sale after the contract date (*e.g.*, changes to the price, quantity, production or shipment schedules). Therefore, the Department is preliminarily using the contract date as the date of Essar's U.S. sales.

Fair Value Comparison

In order to determine whether Essar sold HRS to the United States at less than normal value (NV), the Department compared the export price (EP) of individual U.S. sales to the monthly weighted-average NV of sales of the foreign like product made in the ordinary course of trade (see section 777A(d)(2) of the Act; see also section 773(a)(1)(B)(i) of the Act). The methodology used to compare sales and to calculate EP and NV are described in the ''Comparison Methodology'', ''Export Price,'' and ''Normal Value'' sections of this notice.

Comparison Methodology

In accordance with section 771(16) of the Act, the Department considered all products within the scope of this review that Essar produced and sold in the comparison market during the POR to be foreign like products for purposes of determining appropriate product comparisons to HRS sold in the United States. The Department determined that the home market is the appropriate comparison market because the aggregate quantity of Essar's home market sales of foreign like product is more than five percent of the aggregate quantity of its U.S. sales of subject merchandise (*see* section 773(a)(1)(C) of the Act and the ''Normal Value'' section of this notice, below). The Department compared U.S. sales to sales made in the home market within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. Where there were no sales of identical merchandise made in the home market in the ordinary course of trade, the Department compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making product comparisons, the Department selected identical and most similar foreign like products based on the physical characteristics reported by Essar in the following order of importance: painted or not painted; quality; carbon content; yield strength; thickness; width; cut-to-length or coil; tempered or not tempered; pickled or not pickled; edge trim; and with or without patterns in relief.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practical, the Department determined NV based on sales in the home market at the same level of trade (LOT) as the EP sales. The NV LOT is that of the starting-price sales in the home market. For EP sales, the U.S. LOT is also the level of the starting-price sale.

To determine whether NV sales are at a different LOT than the EP sales, we examined stages in the marketing process and selling activities along the chain of distribution between the producer and the unaffiliated customer. If the home market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the home market sales on which NV is based and the home market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

In determining whether separate LOTs exist, we obtained information from Essar about the marketing stages for the reported U.S. and home market sales, including a description of the selling activities performed by Essar for each channel of distribution. In identifying LOTs for EP and home market sales, we considered the selling functions reflected in the starting price before any adjustments. *See* 19 CFR 351.412(c)(1)(i) and (iii). We expect that, if claimed LOTs are the same, the selling functions and activities of the seller at each level should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the selling functions and activities of the seller for each group should be dissimilar.

In its questionnaire responses, Essar reported that during the POR, it sold the foreign like product in the home market through one channel of distribution and in the United States through one channel of distribution. We found that Essar engaged in similar selling activities for all home market sales. There are also no differences in the selling functions performed in the U.S. channel of distribution. Based on the similarity of the selling functions, we have determined that Essar sold HRS at one LOT in the home market and one LOT in the U.S. market. We also found that the selling activities performed by Essar in the home market are similar to those performed in the U.S. market. Specifically, Essar engaged in price negotiations, contacted customers, processed orders, made freight arrangements, collected payments and extended credit, and provided warranty services in both markets at similar levels of intensity. Therefore, we have preliminarily determined that the LOTs in the home and U.S. markets are the same LOT. Thus, a LOT adjustment is not required for comparison of U.S. sales to home market sales.

Export Price

In calculating U.S. price, the Department used EP, as defined in section 772(a) of the Act, because the merchandise was sold, prior to importation, by Essar to unaffiliated purchasers in the United States. We calculated EP based on the packed, delivered prices charged to unaffiliated customers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price, where applicable, for foreign movement expenses (including brokerage and handling and inland freight), international freight, U.S. duties and importer handling fees. In accordance with section 772(c)(1)(C) of the Act, we increased EP by the countervailing duty (CVD) rate attributable to the export subsidies found in the CVD investigation of HRS from India (the ongoing first administrative review of the CVD order has not yet been completed).

Essar claimed an adjustment for duty drawback under the Duty Free Remission Scheme (DFRC). The Department applies a two-pronged test to determine whether to grant a respondent a duty drawback adjustment pursuant to section 772(c)(1)(B) of the Act. Specifically, the Department grants a respondent a duty drawback adjustment if it finds that: (1) Import duties and rebates are directly linked to, and are dependent upon, one another, and (2) the company claiming the adjustment can demonstrate that there are sufficient imports of raw materials to account for the duty drawback received on exports of the manufactured product. *See Steel Wire Rope from the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 61 FR 55965, 55968 (October 30, 1996).

However, Essar failed to demonstrate that it received a duty drawback from the Government of India (GOI) under the DFRC program. In fact, Essar indicated that its application for the DFRC program had not yet been approved. *See* Essar's April 22, 2003 supplemental questionnaire response at 62. At verification, company officials again reported that Essar had yet to receive approval of its application for the DFRC program. Because there is no evidence that Essar received duty drawback under the DFRC program, we have not increased U.S. price by the amount of drawback claimed by Essar.

Normal Value

After testing home market viability, whether sales to affiliates were at arm's-length prices, and whether home market sales failed the cost test, we calculated NV as noted in subsection 4, ''Calculation of NV,'' below.

1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, whether the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), see 19 CFR 351.404(b)(2), we compared Essar's volume of home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1) of the Act. Because Essar's aggregate volume of home market sales of the foreign like

product is greater than five percent of its aggregate volume of U.S. sales of subject merchandise, we determined that the home market is viable and have used the home market as the comparison market.

2. Affiliated-Party Transactions and Arm's-Length Test

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's-length. See 19 CFR 351.403(c). Sales to affiliated customers for consumption in the home market that were determined not to be at arm's-length were excluded from our analysis. Essar reported sales of the foreign like product to affiliated end-users and resellers. To test whether these sales were made at arm's-length prices, the Department compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c), and in accordance with the Department's practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's-length. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). We included in our NV calculations those sales to affiliated parties that were made at arm's length prices.

3. Cost of Production (COP) Analysis

In the investigation of HRS from India, the most recently completed segment of this proceeding, the Department disregarded Essar's home market sales that failed the cost test. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Hot-Rolled Carbon Steel Flat Products From India*, 66 FR 22157 (May 3, 2001) (a portion of Essar's home market sales continued to be disregarded in the final determination). Accordingly, pursuant to section 773(b)(2)(A)(ii) of the Act, the Department, initiated a COP investigation of Essar for purposes of this administrative review. We conducted the COP analysis as described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, for the POR based on the sum of materials and fabrication costs, G&A expenses, and packing costs. We relied on Essar's cost data, as submitted, except as noted below:

1. Essar purchased iron-ore pellets, an input used to manufacture the merchandise under review, from an affiliated party, Hy-Grade Pellets Limited (Hy-Grade), at a price below Hy-Grade's COP. Pursuant to section 773(f)(3) of the Act, we adjusted the reported per-unit cost of iron-ore pellets to reflect Hy-Grade's COP.
2. We disallowed Essar's reported scrap offset because the offset was based, in part, on sales of scrap to affiliated parties.
3. As indicated in the ''Use of Partial Adverse Facts Available'' above, we based Essar's G&A expenses on adverse facts available and made an adverse adjustment to Essar's manufacturing overhead expenses and financial expenses. See Facts Available Memorandum.

For further information regarding each of the above adjustments, see the calculation memorandum from Timothy P. Finn, Senior Import Compliance Specialist, to the File, dated December 15, 2003, on file in the CRU.

B. Test of Comparison Market Sales Prices

As required under section 773(b) of the Act, we compared the adjusted weighted-average COPs to home market sales of the foreign like product, in order to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a model-specific basis, we compared the adjusted COPs to home market prices, less any applicable movement charges and direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, if less than 20 percent of Essar's sales of a given product were made at prices below the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in ''substantial quantities.'' If 20 percent or more of Essar's sales of a given product during the POR were made at prices below the COP, we determined that such sales were made in substantial quantities within an extended period of time (*i.e.*, a period of one year). Further, because we compared prices to POR-average costs, we determined that the below-cost prices would not permit recovery of all costs within a reasonable time period, and thus, we disregarded the below-cost sales in accordance with sections 773(b)(1) and (2) of the Act.

We found that for certain products, Essar made home market sales at prices below the COP within an extended period of time in substantial quantities. Further, we found that these sales prices did not permit the recovery of costs within a reasonable period of time. Therefore, we excluded these sales from our analysis in accordance with section 773(b)(1) of the Act.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV by adding together Essar's materials, fabrication, selling and G&A expenses and interest expenses and profit. In accordance with section 773(e)(2)(A) of the Act, we based selling and G&A expenses and profit on the amounts incurred by Essar in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the home market.

4. Calculation of NV

We calculated NV from ex-factory prices to unaffiliated customers in the home market. These prices include charges for packing. We made deductions from the starting price, when appropriate, for discounts and rebates, and movement expenses and domestic brokerage and handling. See section 773(a)(6)(B)(ii) of the Act. In accordance with section 773(a)(6)(A) and (B) of the Act, we added U.S. packing costs to, and deducted home market packing costs from, the starting price. In addition, in accordance with section 773(a)(6)(C)(iii) of the Act, we made circumstance of sale (COS) adjustments to the starting price by deducting direct selling expenses incurred on home market sales from the starting price and adding U.S. direct selling expenses to the starting price.

Currency Conversion

Pursuant to section 773A(a) of the Act, we converted foreign currencies into U.S. dollars using the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average percentage

margin exists for the period May 3, 2001, through November 30, 2002:

Manufacturer/Exporter	Margin (percent)
Essar Steel Ltd.	0.00

The Department will disclose the calculations used in its analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the publication date of this notice. *See* 19 CFR 351.310(c). If requested, a hearing will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. *See* 19 CFR 309(c). Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 7 days after the deadline for filing case briefs. *See* 19 CFR 309(d). Parties who submit written arguments are requested to submit with each argument: (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we request that parties submitting written comments provide the Department with an additional copy of the public version of any such comments on a diskette. The Department will publish the notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any written comments or hearing, within 120 days from the publication date of this notice.

Assessment Rate

Upon completion of this administrative review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer-specific assessment rate for merchandise subject to this review. If the importer-specific assessment rate is above *de minimis*, we will instruct CBP to assess the importer-specific rate uniformly on all entries made during the POR. The Department will issue appropriate assessment instructions directly to the CBP within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct CBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the importers' entries during the review period.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review (except that if the rate is *de minimis, i.e.*, less than 0.5 percent, no cash deposit rate will be required); (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate of 38.72 percent, which is the ''all others'' rate established in the LTFV investigation.[1] *See Amended Final Determination.* These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 15, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E3–00613 Filed 12–22–03; 8:45 am]

BILLING CODE 3510–DS–S

[1] The ''all others'' cash deposit rate, applied by CBP, is reduced to account for the export subsidy rate found in the countervailing duty investigation. The adjusted ''all others'' rate is 23.87 percent.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–807]

Notice of Amended Antidumping Duty Order; Certain Hot-Rolled Carbon Steel Flat Products From The Netherlands

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended antidumping duty order.

SUMMARY: On November 29, 2001, the Department of Commerce (the Department) published the antidumping duty order on certain hot-rolled carbon steel flat products (hot-rolled steel) from the Netherlands. *See Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From the Netherlands*, 66 FR 59565 (November 29, 2001). As a result of the Court of International Trade's (the Court's) decisions in *Corus Staal BV, et al.* v. *United States*, 283 F. Supp. 2d 1357 (CIT 2003) (*Corus Staal BV III*) and *Corus Staal BV, et al.* v. *United States*, 279 F. Supp. 2d 1363 (CIT 2003) (*Corus Staal BV II*), we are publishing this notice of amended antidumping duty order.

FOR FURTHER INFORMATION CONTACT: Deborah Scott (202) 482–2657 or Robert James at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

EFFECTIVE DATE: December 23, 2003.

SUPPLEMENTARY INFORMATION:

Scope of the Order

For purposes of this order, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included within the scope of this order are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTS), are products in which: (i) Iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this order:

Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, ASTM specifications A543, A387, A514, A517, A506).

Society of Automotive Engineers (SAE)/American Iron and Steel Institute (AISI) grades of series 2300 and higher.

Ball bearings steels, as defined in the HTS.

Tool steels, as defined in the HTS.

Silico-manganese (as defined in the HTS) or silicon electrical steel with a silicon level exceeding 2.25 percent.

ASTM specifications A710 and A736.

USS Abrasion-resistant steels (USS AR 400, USS AR 500).

All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).

Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTS.

The merchandise subject to this order is classified in the HTS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled flat-rolled carbon steel flat products covered by this order, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under this order is dispositive.

Amended Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act of 1930, as amended (Tariff Act), the Department published its final determination that sales of hot-rolled steel from the Netherlands were being made at less than fair value in the United States. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products*, 66 FR 50408 (October 3, 2001) and accompanying Issues and Decision Memorandum, *as amended, Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products*, 66 FR 55637 (November 2, 2001) (collectively, *Final Determination*). On November 13, 2001, the International Trade Commission notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act that an industry in the United States is materially injured by reason of less-than-fair-value imports of certain hot-rolled steel from the Netherlands. On November 29, 2001, the Department published in the **Federal Register** the antidumping duty order on hot-rolled steel from the Netherlands. *See Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From the Netherlands*, 66 FR 59565 (November 29, 2001) (*Antidumping Duty Order*).

Subsequent to the publication of the Department's antidumping duty order, the petitioners (National Steel Corporation, Bethlehem Steel Corporation, and United States Steel Corporation) and the respondent (Corus Staal BV and Corus Steel USA Inc. (collectively, Corus)) challenged certain aspects of the Department's *Final Determination* before the Court. In addition, the Department requested a voluntary remand with respect to the inadvertent omission of the proper language from the antidumping duty order to cease collection of provisional measures six months after the publication of the preliminary determination, in accordance with section 733(d) of the Tariff Act. On March 7, 2003, the Court issued a remand order to the Department for the sole purpose of revising its antidumping duty order to preclude collection of provisional measures beyond the six-month period pursuant to section 733(d) of the Tariff Act, and also to explain its practice of interpreting the provisional measures time period, *i.e.*, in calendar months or the equivalent in six 30-day periods. *See Corus Staal BV* v. *United States*, 259 F. Supp. 2d 1253 (CIT 2003). *See Certain Hot-Rolled Carbon Steel Flat Products From the Netherlands: Notice of Final Court Decision and Suspension of Liquidation*, 68 FR 60912 (October 24, 2003) for a summary of the ensuing litigation.

On September 29, 2003, the Court affirmed the Department's remand determination and entered a final judgment order in regards to the *Final Determination* and *Antidumping Duty Order*. *See Corus Staal BV III; see also Corus Staal BV II.* As a result, the Department is now amending the antidumping duty order on hot-rolled steel from the Netherlands to lift suspension of liquidation 180 days from the date of publication of the preliminary determination in the **Federal Register** until the date of

publication of the *Antidumping Duty Order*. Because the preliminary determination was published on May 3, 2001, and the *Antidumping Duty Order* was published on November 29, 2001, the Department will issue instructions to Customs and Border Protection (Customs) to terminate suspension of liquidation of all entries of subject merchandise made between October 30, 2001, and November 28, 2001, inclusive, without regard to antidumping duties (*i.e.*, release all bonds and refund all cash deposits). In addition, in accordance with section 736(a)(1) of the Tariff Act, the Department will also instruct Customs to resume collection, effective November 29, 2001, of a cash deposit equal to the estimated weighted-average antidumping duty margins published in the *Final Determination*. Effective November 29, 2001, Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate applies to all exporters of subject hot-rolled steel from the Netherlands not specifically listed. The weighted-average dumping margins are as follows:

Producer/manufacturer/ exporter	Cash deposit rate (percent)
Corus Staal BV	2.59
All Others	2.59

This notice constitutes the amended antidumping duty order with respect to certain hot-rolled carbon steel flat products from the Netherlands. Interested parties may contact the Department's Central Records Unit, room B–099 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This amended order is published in accordance with section 736(a) of the Tariff Act of 1930, as amended.

Dated: December 16, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E3–00616 Filed 12–22–03; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Silicon Metal From Brazil: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of an antidumping duty administrative review.

SUMMARY: On August 22, 2003, in response to a request made by the petitioners [1], the Department of Commerce (the Department) published a notice of initiation of an antidumping duty administrative review of silicon metal from Brazil, for the period of review (POR) July 1, 2002, through June 30, 2003. Because the petitioners have withdrawn their request for review, and there were no other requests for review for this time period, the Department is rescinding this review in accordance with 19 CFR 351.213 (d)(1).

EFFECTIVE DATE: December 23, 2003.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor, telephone: (202) 482–5831, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 2, 2003, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on silicon metal from Brazil, covering the POR July 1, 2002, through June 30, 2003. *See Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review*, 68 FR 39511 (July 2, 2003). On August 22, 2003, pursuant to a request made by the petitioners, the Department initiated an administrative review of Companhia Ferroligas Minas Gerais-Minasligas (Minasligas) and Companhia Brasileira Carbureto de Calcio (CBCC), both of which are subject to the antidumping duty order on silicon metal from Brazil for the POR July 1, 2002, through June 30, 2003. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part* 68 FR 50750, 50751 (August 22, 2003). On November 19, 2003, the petitioners withdrew their request for an administrative review of Minasligas.

[1] The petitioners are Elkem Metals Company and Globe Metallurgical Inc.

Rescission of Review

19 CFR 351.213(d)(1) provides that a party that requests an administrative review may withdraw the request within 90 days after the date of publication of the notice of initiation of the requested administrative review. Since the notice of initiation of this administrative review was published on August 22, 2003, and the petitioners, the party requesting this administrative review, withdrew their request for review within 90 days after the date of publication of the notice of initiation, the Department is rescinding the administrative review of the antidumping duty order on silicon metal from Brazil for the period July 1, 2002, through June 30, 2003, in accordance with 19 CFR 351.213(d)(1).

Further, we are rescinding the review with respect to CBCC because, since the initiation of this current review, the Department has revoked the order in part, with respect to CBCC, effective for entries made on or after July 1, 2002. *See Silicon Metal from Brazil: Final Results of Antidumping Duty Administrative Review and Revocation of Order in Part* 68 FR 57670, 57671 (October 6, 2003).

This notice is in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: December 18, 2003.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E3–00617 Filed 12–22–03; 8:45 am]

BILLING CODE 3510–25–U

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Duty-Free Entry of Scientific Instrument

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington,

DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

Docket Number: 03–054. *Applicant:* Frostburg State University, Department of Biology, 101 Braddock Road, Compton Science Center, Frostburg, MD 21532. *Instrument:* Electron Microscope, Model JEM–1011. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument is intended to be used for science-related educational purposes in the course BIO 436/536, Electron Microscopy for Biologists. *Application accepted by Commissioner of Customs:* December 10, 2003.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 03–31595 Filed 12–22–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121203C]

Vessel Monitoring Systems (VMS); Certification of New VMS Unit for Use in Northeast Fisheries

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

ACTION: Notice of VMS unit certification.

SUMMARY: NMFS announces the approval and certification of the Boatracs FMCT/G (Fisheries Mobile Communications Transceiver/Global Positioning System (GPS) based) VMS unit for use in all fisheries in the northeastern United States in which VMS units are required.

DATES: This new FMCT/G VMS unit can be used effective December 23, 2003.

FOR FURTHER INFORMATION CONTACT: Northeast Office for Law Enforcement, VMS Program, telephone 978–281–9213.

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR 648.9 set forth VMS requirements for fisheries in the northeastern United States that require the use of VMS for fishery monitoring and/or reporting. Specifically, § 648.9(b) lists minimum VMS performance criteria that a VMS unit must meet in order to be certified for use.

The Administrator, Northeast Region, NMFS, has reviewed all components of the FMCT/G and other information provided by the vendor and has certified the following unit for use in all Northeast fisheries in which VMS units are required: Boatracs FMCT/G, available from Boatracs, 1935 Cordell Court, El Cajon, CA 92020–0911, Telephone: (619) 438–6000,1–800–336–8722.

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

Dated: December 16, 2003.

Bruce C. Morehead,

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

[FR Doc. 03–31613 Filed 12–22–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071703A]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Exempted Fishing Permit

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

ACTION: Disapproval of an exempted fishing permit(EFP).

SUMMARY: NMFS announces that it has disapproved the request for an exempted fishing permit (EFP) from Florida Offshore Aquaculture, Inc., of Madeira Beach, FL. The EFP would have authorized a 24–month feasibility study for net cage culture of cobia, mahi-mahi, greater amberjack, Florida pompano, red snapper and cubera snapper at a site approximately 33 statute miles (53 km) WSW. of Johns Pass, FL.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, 727–570–5305; fax: 727–570–5583; e-mail: *peter.eldridge@noaa.gov*.

SUPPLEMENTARY INFORMATION: The EFP was requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b), concerning scientific research activity, exempted fishing permits, and exempted educational activity.

Florida Offshore Aquaculture, Inc., requested an EFP to determine the feasibility of raising fish in the exclusive economic zone approximately 33 miles (53 km) WSW. of Johns Pass, FL. Initially, the project intended to raise juvenile cobia in four cages during the first year. The applicant intended to expand the project to eight cages with cobia, mahi-mahi, greater amberjack, Florida pompano, red snapper and cubera snapper. The applicant stated that disease-free fingerlings would be obtained from the Aquaculture Center of the Florida Keys (59300 Overseas Highway, Marathon, FL, phone (305) 743–6135) and the Marine Science Institute of the University of Texas (750 Channel View Drive, Port Aransas, TX, phone (361) 749–6795). Further, the applicant stated that the brood stock and their spawn would be genetically tagged using the satellite DNA method.

On July 30, 2003, NMFS published in the **Federal Register** a notice of receipt of an application for an exempted fishing permit with a request for comments on the EFP (68 FR 44745). During the public comment period, 340 individuals opposed the granting of the EFP. In addition, one shrimp firm opposed the EFP because it would disrupt their operations. Six environmental organizations opposed granting the EFP and stated that an Environmental Impact Statement (EIS) rather than an Environmental Assessment (EA) should be prepared for this project. In July 2003, the Florida Department of Environmental Protection (FDEP) expressed concerns about the EA and requested that the EA be revised to reflect their concerns. The Florida Department of Agriculture and Consumer Services supported the permit application.

Consistent with the requirements of 50 CFR 600.745(b)(3)(i), NMFS provided copies of the EFP application and information to the State of Florida, the Gulf of Mexico Fishery Management Council (Council), the U.S. Coast Guard (Coast Guard), and Region 4 of the Environmental Protection Agency (EPA) along with information on the EFP's effects on target species.

The Council considered the EFP request at its September 2003 meeting, and strongly recommended that the EFP for Florida Offshore Aquaculture, Inc. be denied. The Coast Guard and the EPA did not respond to the NMFS request for comments. On October 27, 2003, the Florida Department of Environmental Protection commented that the revised EA lacked adequate information pertaining to the environmental effects of caged aquaculture operations in warm waters, particularly the Gulf of Mexico, and the potential for short- and long-term environmental impacts due to expansion of the facility. Also, they stated that the precedent setting nature of the proposed action warrants a

thorough evaluation under the National Environmental Policy Act.

The major issues of concern, as indicated by the Council, environmental organizations, and individuals, included: (1) the applicant made false statements in connection with the application; (2) which vessel would be used for transporting feed and fish to and from the cages; (3) who would conduct the DNA fingerprinting that would allow tracking of the aquaculture fish throughout their sale; (4) possible escapement and its impact on wild stocks; (5) the type of food used for feeding; (6) possible transfer of diseases to wild fish; (7) timing of cage placement offshore; (8) timing of acquiring fingerlings; (9) the expertise and ability of the applicant to undertake the endeavor; (10) associated penalties for violating the EFP; (11) who is responsible for any environmental damage; (12) staff expertise on treating disease; (13) how disease outbreaks would be treated; (14) liability and environmental insurance; (15) paper trail on aquacultured fish throughout the marketing chain; (16) possible conflicts or impacts on or with other fishing activities; (17) possible interactions of wild fish or other organisms with the cages; (18) response to storm events; (19) why a smaller number of cages will not be used if this is a feasibility study; and (20) the range of species for possible stocking.

Given the inexperience of the applicant and the false information in the application, it appears that the applicant lacks the capability to comply with the conditions of the EFP. It is likely that the project could impact significantly the surrounding habitat and marine fishery resources. Virtually all of the agencies and environmental organizations stated that the proposed action required either an EIS or a thorough analysis of the environmental impacts. Given the precedent setting nature of the action, NMFS concurs that the proposed action warrants an EIS.

The Council is developing a generic amendment and an EIS to determine the feasibility of conducting and regulating aquaculture projects in Federal waters in the Gulf of Mexico. This effort is expected to be completed within 2 years. This process will result in extensive public input and appears necessary to ensure that no unanticipated consequences will result from proposed future aquaculture projects. NMFS will work with the Council and support the development of the generic amendment and EIS.

Given the precedent setting nature of the project and the need for full public input into the process, especially the need for an EIS, NMFS believes that it is premature to grant an EFP at this time. Rather, applicants should work closely with the Council to develop appropriate procedures for establishing and maintaining future aquaculture projects in Federal waters. Thus, NMFS denies the application for an EFP.

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

Dated: December 17, 2003.

Bruce C. Morehead,

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

[FR Doc. 03–31611 Filed 12–22–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Notice, Establishment of a Frequency Assignment Coordination Web Site

AGENCY: National Telecommunications and Information Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Telecommunications and Information Administration (NTIA), as part of an agreement with the Federal Communications Commission (FCC) in its Allocations and Service Rules for the 71–76 GHz, 81–86 GHz and 92–95 GHz Bands Report and Order, plans to establish a Web-based coordination system to facilitate frequency assignment coordination between federal and non-federal operations within the 70, 80, and 90 GHz bands.[1] Until the complete web-based coordination system is operational, NTIA and the federal agencies will continue to process private sector assignments for coordination within 14 working days of the FCC providing those assignment requests to NTIA. Although the automated coordination system will not be ready for use for several months, NTIA is publicly announcing that the following Web site <*http://ntiacsd.ntia.doc.gov/webcoord/status.cfm*> can be accessed by non-federal applicants to determine the status of their frequency assignment applications for these bands at any point in time.

FOR FURTHER INFORMATION CONTACT: Karl B. Nebbia, Office of Spectrum Management, Deputy Associate Administrator, at (202) 482–1850, or electronic mail: *knebbia@ntia.doc.gov;* or Thomas Woods, Office of Spectrum Management, Frequency Assignment Branch Chief, at (202) 482–1132, or electronic mail: *twoods@ntia.doc.gov*.

SUPPLEMENTARY INFORMATION: New technologies are making widespread beneficial use of the 70, 80, and 90 GHz bands possible for the first time. These bands, which are shared between federal and non-federal users, can now be used to offer a broad range of new products and services, such as high-speed wireless local area networks, and to increase access to broadband services, including access systems for the Internet. In order to accelerate the introduction of these technologies, NTIA and the FCC have agreed to use an innovative Web-based frequency coordination mechanism to coordinate use between the federal and non-federal sectors. The FCC's recent Allocations and Service Rules Order for the 71–76 GHz, 81–86 GHz, and 92–95 GHz bands, set in motion the steps necessary to implement these technologies. The NTIA/FCC agreement calls for the formulation of a plan for the web-based frequency coordination mechanism within four months of the release of the Allocations and Service Rules Order.[2] Within another four months, the interactive system would be operational. This new system will allow non-federal users to use a Web site to determine whether they have any potential conflict with federal users. Non-federal user applicants will be required to input certain information into a database. Once that information has been submitted, it will be processed within minutes and a determination will be made on whether or not the applicant can move forward in planning for their system's operational use within those bands of spectrum.

Until the complete Web-based system is operational, however, federal and non-federal users will continue to coordinate their assignments through NTIA's Interdepartment Radio Advisory Committee (IRAC) Frequency Assignment Subcommittee (FAS). To help each applicant know the status of a particular application with respect to its FAS review, NTIA will provide status information at *http://ntiacsd.ntia.doc.gov/webcoord/status.cfm.* This site will identify when non-federal applications for these bands have been submitted to the FAS, when those applications completed federal agency review, and the final result.

While not a part of the agreement regarding the automated mechanism for the 70, 80, 90 GHz bands, the 21.2–23.6

[1] Allocations and Service Rules for the 71–76 GHz, 81–86 GHz, and 92–95 GHz Bands, WT Docket No. 02–146, Report and Order, FCC 03–248 at ¶54 (released, Nov. 4, 2003) (Allocations and Service Rules Order).

[2] *See id.* at ¶ 2.

GHz band is also shared between federal and non-federal users and presents similar coordination challenges. Accordingly, NTIA will also provide on this Web site status information regarding the processing of non-federal applications for that band.

Dated: December 17, 2003.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 03–31511 Filed 12–22–03; 8:45 am]

BILLING CODE 3510–60–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

December 17, 2003.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: December 23, 2003.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection Web site at *http://www.customs.gov*. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel Web site at *http://otexa.ita.doc.gov*.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (*see* **Federal Register** notice 68 FR 1599, published on January 13, 2003). Also *see* 67 FR 63632, published on October 15, 2002.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 17, 2003.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 8, 2002, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 2003 and extends through December 31, 2003.

Effective on December 23, 2003, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
335	310,668 dozen.
338/339	3,633,517 dozen.
635	434,602 dozen.
638/639	3,095,642 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2002.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E3–00612 Filed 12–22–03; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in the Socialist Republic of Vietnam

December 17, 2003.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection.

EFFECTIVE DATE: December 23, 2003.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection Web site at *http://www.customs.gov*. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel Web site at *http://otexa.ita.doc.gov*.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (*see* **Federal Register** notice 68 FR 1599, published on January 13, 2003). Also *see* 68 FR 26575, published on May 16, 2003.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 17, 2003.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on May 12, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man–made fiber textiles and textile products, produced or manufactured in Vietnam and exported during the eight-month period which began on May 1, 2003 and extends through December 31, 2003.

Effective on December 23, 2003, you are directed to adjust the limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and Vietnam:

Category	Restraint limit [1]
301	405,533 kilograms.
332	2,667 dozen pairs.
333	5,440 dozen.
338/339	10,463,635 dozen.
435	18,267 dozen.
440	767 dozen.
447	36,827 dozen.
448	13,713 dozen.

Category	Restraint limit [1]
620	1,997,227 square meters.

[1] The limits have not been adjusted to account for any imports exported after April 30, 2003.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E3–00610 Filed 12–22–03; 8:45 am]

BILLING CODE 3510–DR–S

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 04–C0001]

Lifelike Co., d/b/a My Twinn, a Corporation, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Flammable Fabrics Act in the **Federal Register** in accordance with the terms of 16 CFR Part 1605. Published below is a provisionally-accepted Settlement Agreement with The Lifelike Company, d/b/a My Twinn, a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by January 7, 2004.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 04–C0001, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Dennis C. Kacoyanis, Trial Attorney, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7587.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated:December 16, 2003.

Todd A. Stevenson,

Secretary.

Consent Order Agreement

The Lifelike Company, d/b/a My Twinn (''Respondent''''Lifelike''), a corporation, enters into this Consent Order Agreement (''Agreement'') with the staff of the Consumer Product Safety Commission (''the staff'') pursuant to the procedures set forth in section 1605.13 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Flammable Fabrics Act, 16 CFR part 1605.

This Agreement and Order are for the purpose of settling allegations of the staff that Respondent sold purple satin pajamas made from 100% polyester and rosebud nightgowns made from 100% polyester that failed to comply with the Standards for the Flammability of Children's Sleepwear (''Sleepwear Standards''), 16 CFR parts 1615 and 1616.

Respondent and the Staff Agree

1. The Consumer Product Safety Commission (''Commission'') is an Independent regulatory agency of the United States Government. The Commission has jurisdiction over this matter under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051 *et seq.,* the Flammable Fabrics Act (FFA), 15 U.S.C. 1191 *et seq.,* and the Federal Trade Commission Act (FTCA), 15 U.S.C. 41 *et seq.*

2. Respondent is a corporation organized and existing under the laws of the State of Delaware with its principal corporate offices located at 5655 South Yosemite Street, Suite 2121, Greenwood, Village, CO 80111.

3. Respondent is now, and has been engaged in one or more of the following activities: The sale, or the offering for sale, in commerce, or the importation into the United States or the introduction, delivery for introduction, transportation or causing to be transported, in commerce, or the sale or delivery after sale or shipment in commerce, children's sleepwear garments that are subject to the Sleepwear Standards.

4. This Agreement is for the purpose of settling the allegations of the accompanying Complaint. This Agreement does not constitute an admission by Respondent that it violated the law. The Agreement becomes effective only upon its final acceptance by the Commission and service of the incorporated Order upon Respondent.

5. The parties agree that this Consent Order Agreement resolves the allegations of the Complaint and the Commission shall not initiate any civil or administrative action against Respondent for those alleged violations set forth in the Complaint.

6. Upon final acceptance of this Agreement by the Commission and issuance of the Final Order, Respondent knowingly, voluntarily, and completely waives any rights it may have in this matter (a) to an administrative or judicial hearing, (b) to judicial review or other challenge or contest of the validity of the Commission's actions, (c) to a determination by the Commission as to whether Respondent failed to comply with the CPSA, FFA, FTCA, and the underlying regulations, (d) to a statement of findings of fact and conclusions of law, and (e) to any claims under the Equal Access to Justice Act.

7. Upon provisional acceptance of this Agreement by the Commission, this Agreement shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1605.13d). If the Commission does not receive any written objections within 15 days, the Agreement will be deemed finally accepted on the 20th day after the date it is published in the **Federal Register**.

8. In settlement of the staff's allegations of the Complaint, Respondent agrees to comply with the attached Order incorporated herein by reference.

9. Upon a violation of the attached Order by Respondent, the Commission reserves the right to take appropriate legal action against Respondent for all violations listed in the Complaint and for all violations occurring after the date of this Agreement and respondent waives the statute of limitations.

10. For any violation occurring after the date of this Agreement, if the Commission finds that Respondent has manufactured for sale, sold, or offered for sale, in commerce, or imported into the United States, or introduced, delivered for introduction, transported or caused to be transported, in commerce, of any product, fabric, or related material which fails to comply with the Sleepwear Standards, Respondent will pay to the Commission upon demand a penalty in the amount of five (5) times the retail value of the product in question. This provision does not preclude the Commission from taking additional action including, but not limited to, civil, administrative, and/or criminal actions under sections 5, 6, and 7 of the FFA, 15 U.S.C. 1194, 1195, and 1196; sections 2 and 21 of the CPSA, 15 U.S.C. 2069 and 2070; and

sections 10 and 17(b) of the FTCA 15 U.S.C. 50 and 57(b).

11. Respondent reserves its right to challenge the Commission's findings under paragraphs 9 and 10 of this Agreement before the Commission and to have the court review whether the Commission's decision was arbitrary and capricious.

12. The Commission may publicize the terms of this Consent Order Agreement.

13. This Agreement, and the Complaint accompanying the Agreement, may be used in interpreting the Order. Agreements, understandings, representations, or interpretations, made outside this Consent Order Agreement may not be used to vary or contradict its terms.

14. Upon acceptance of the Agreement, the Commission shall issue the following Order.

15. The provisions of this Agreement shall apply to Respondent and each of its successors and assigns.

Dated: September 29, 2003.

Respondent, the Lifelike Co.

Dennis W. Scruggs,
Executive Vice President and Chief Financial Officer, The Lifelike Company, d/b/a My Twinn, 5655 South Yosemite Street, Suite 212, Greenwood Village, CO 80111.

Commission Staff

Alan H. Schoem,
Assistant Executive Director, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207–0001.

Eric L. Stone,
Director, Legal Division, Office of Compliance.

Dated: September 29, 2003.

Dennis C. Kacoyanis,
Trial Attorney, Office of Compliance.

Order

It is hereby ordered that Respondent, its successors, and assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other business entity, or through any agency, device, or instrumentality, do forthwith cease and desist from manufacturing for sale, selling, or offering for sale, in commerce, or importing into the United States or introducing, delivering for introduction, transporting or causing to be transported, in commerce, any product, fabric, or related material that fails to comply with the flammability requirements of the Standards for the Flammability of Children's Sleepwear, 16 CFR parts 1615 and 1616.

It is further ordered That following service upon Respondent of the Final Order in this matter, Respondent will notify the Commission within 30 days following the consummation of the sale of a majority of its stock or following a change in any of its corporate officers responsible for compliance with the terms of this Consent Agreement and Order.

By direction of the Commission, this Consent Agreement and Order is provisionally accepted pursuant to 16 CFR 1605.13, and shall be placed on the public record, and the Secretary is directed to publish the provisional acceptance of the Consent Order Agreement in the Commission's Public Calendar and in the **Federal Register**

So ordered by the Commission, this 16th day of December, 2003.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

Complaint

Nature of Proceedings

Pursuant to the provisions of the Flammable Fabrics Act (FFA), as amended, 15 U.S.C. 1191 *et seq.*; the Federal Trade Commission Act (FTCA), as amended, 15 U.S.C. 41 *et seq.*; and the Standards for the Flammability of Children's Sleepwear (Sleepwear Standards), 16 CFR parts 1615 and 1616, the Consumer Product Safety Commission having reason to believe that the Lifelike Company, d/b/a My Twinn®, 5655 South Yosemite Street, Suite 212, Greenwood, CO 80111, has violated the provisions of said Acts; and further, it appearing to the Commission that a proceeding by it in respect to those violations would be in the public interest, therefore, it hereby issues its complaint stating its charges as follows:

1. Respondent the Lifelike Company, d/b/a My Twinn® is a corporation organized and existing under the laws of the State of Colorado, with its principal place of business located at 5655 South Yosemite Street, Suite 212, Greenwood Village, CO 80111.

2. Respondent is now and has been engaged in the sale, or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported, ion commerce, or the sale or delivery after a sale or shipment in commerce, as the term ''commerce'' is defined in section 2(b) of the FFA, 15 U.S.C. 119(b), ''children's sleepwear'' as defined in 16 CFR 1615.1 and 1616.1.

3. From October 15, 1999, through December 3, 1999, Respondent imported into the United States, sold, and offered for sale, in commerce, introduced, delivered for introduction, transported or caused to be transported, in commerce, and sold or delivered after a sale or shipment in commerce 4,366 pairs of purple satin pajamas made from 100% polyester that failed to meet the flammability requirements of the Children's Sleepwear Standards, 16 CFR parts 1615 and 1616, in violation of section 3(a) of the FFA, 15 U.S.C. 1192(a).

4. In 2001, Respondent sold, and offered for sale, in commerce, introduced, delivered for introduction, transported or caused to be transported, in commerce, and sold or delivered after a sale or shipment in commerce, 2,103 pairs of purple satin pajamas, GPU 072899, made from 100% polyester that failed to meet the flammability requirements of the Children's Sleepwear Standards, 16 CFR parts 1615 and 1616, in violation of section 3(a) of the FFA, 15 U;.S.C. 1192(a).

5. In 2001, Respondent sold, and offered for sale, in commerce, introduced, delivered for introduction, transported or caused to be transported, in commerce, and sold or delivered after a sale or shipment in commerce 3,564 rosebud nightgowns, GPU 072600, made from 100% polyester that failed to meet the flammability requirements of the Children's Sleepwear Standards, 16 CFR parts 1615 and 1616, in violation of section 3(a) of the FFA, 15 U.S.C. 1192(a).

6. The acts by Respondent set forth in paragraphs 3 through 5 of the complaint are unlawful and constitute an unfair method of competition and an unfair and deceptive practice in commerce under the FTCA, in violation of section 3(a) of the FFA, 15 U.S.C. 1192(a), for which a cease and desists order may be issued against Respondent pursuant to section 5(b) of the FFA, 15 U.S.C. 1194(b), and section 5 of the FTCA, 15 U.S.C. 45.

Relief Sought

7. The staff seeks the issuance of a cease and desist order against Respondent pursuant to section 5(b) of the FFA, 15 U.S.C. 1194(b), and section 5 of the FTCA, 15 U.S.C. 45.

Wherefore, the premises considered, the Commission hereby issues this Complaint on the 11th day of December, 2003.

By direction of the Commission.
Alan H. Schoem,
Assistant Executive Director, Office of Compliance.

[FR Doc. 03–31495 Filed 12–22–03; 8:45 am]
BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Draft Selection Criteria for Closing and Realigning Military Installations Inside the United States

AGENCY: Office of the Deputy Under Secretary of Defense (Installations and Environment), DoD.

ACTION: Notice.

SUMMARY: This notice publishes the draft selection criteria that will be used by the Department of Defense to make closure and realignment recommendations that will be reviewed by the 2005 Defense Base Closure and Realignment Commission.

DATES: Comments should be submitted to the Department of Defense at the address shown below by January 28, 2004, to be considered in the formulation of the final criteria.

ADDRESSES: Interested parties should submit written comments to: Office of the Deputy Under Secretary of Defense (Installations & Environment), ATTN: Mr. Peter Potochney, Director, Base Realignment and Closure, Room 3D814, the Pentagon, Washington DC, 20301–3300. Please cite this **Federal Register** announcement in all correspondence. Interested parties may also forward their comments via facsimile at 703–695–1496.

FOR FURTHER INFORMATION CONTACT: Mr. Mike McAndrew, Base Realignment and Closure Office, ODUSD(I&E), (703) 614–5356.

SUPPLEMENTARY INFORMATION:

A. Background

The Defense Base Closure and Realignment Act of 1990, as amended (the Act), establishes the authority by which the Secretary of Defense may close or realign military installations inside the United States. Section 2913(a) of the Act requires the Secretary of Defense to publish the selection criteria proposed to be used by the Secretary in making recommendations for the closure or realignment of military installations inside the United States by December 31, 2003, for a 30-day public comment period. Section 2913(e) requires the Secretary of Defense to publish the final selection criteria no later than February 16, 2004. The final selection criteria are subject to Congressional disapproval by Act of Congress until March 15, 2004.

B. Relationship to Previous Criteria

Since the 1991 Base Realignment and Closure (BRAC) round, the Department of Defense (DoD) has used the same, publicly accepted, selection criteria to make its closure and realignment recommendations. The Department first published these criteria for public comment in a November 30, 1990 (55 FR 49678), **Federal Register** notice. Based on comments received, the proposed criteria were appropriately amended. The February 15, 1991 (56 FR 6374), **Federal Register** notice contained an analysis of public comments received and a description of the changes DoD made to the draft criteria. Having not been disapproved by Congress, the final criteria were used to make recommendations to the 1991 Defense Base Closure and Realignment Commission. Subsequently, the DoD, in a December 15, 1992 (57 FR 59334), and a December 9, 1994 (59 FR 63769), **Federal Register** notice, announced that it would use the same final criteria to make recommendations to the 1993 and 1995 Defense Base Closure and Realignment Commissions, respectively.

The Act specifies that the selection criteria shall ensure that military value is the primary consideration in making closure and realignment recommendations. It also lists specific considerations that military value must include and special considerations that the selection criteria must address. The eight criteria proposed for this round were based on the accepted, tested, and proven criteria used in past BRAC rounds. These criteria now incorporate statutory requirements and stress the Department's capabilities based approach to performing missions.

C. Draft Selection Criteria

It is proposed that the Department of Defense use the following criteria in making recommendations for the closure or realignment of military installations inside the United States:

• In recommending military installations for closure or realignment, the Department of Defense will, giving priority consideration to military value (criteria 1–4), consider:

Military Value

1. The current and future mission capabilities and the impact on operational readiness of the Department of Defense's total force, including the impact on joint warfighting, training, and readiness.

2. The availability and condition of land, facilities and associated airspace (including training areas suitable for maneuver by ground, naval, or air forces throughout a diversity of climate and terrain areas and staging areas for the use of the Armed Forces in homeland defense missions) at both existing and potential receiving locations.

3. The ability to accommodate contingency, mobilization, and future total force requirements at both existing and potential receiving locations to support operations and training.

4. The cost of operations and the manpower implications.

Other Considerations

5. The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the closure or realignment, for the savings to exceed the costs.

6. The economic impact on existing communities in the vicinity of military installations.

7. The ability of both the existing and potential receiving communities' infrastructure to support forces, missions, and personnel.

8. The environmental impact, including the impact of costs related to potential environmental restoration, waste management, and environmental compliance activities.

D. Previous Federal Register References

1. 55 FR 49678, November 30, 1990: Proposed selection criteria and request for comments.

2. 55 FR 53586, December 31, 1990: Extend comment period on proposed selection criteria.

3. 56 FR 6374, February 15, 1991: Published selection criteria and analysis of comments.

4. 57 FR 59334, December 15, 1992: Published selection criteria.

5. 59 FR 63769, December 9, 1994: Published selection criteria.

Dated: December 18, 2003.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–31631 Filed 12–19–03; 10:00 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 23, 2004.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public

participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: December 17, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: New.

Title: Social and Character Development Research Program National Evaluation.

Frequency: On occasion.

Affected Public: Not-for-profit institutions; Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 32,160.

Burden Hours: 13,868.

Abstract: The Social and Character Development (SACD) National Evaluation will evaluate the success of seven school-based interventions designed to promote positive social and character development among elementary school children. The research will determine, through randomized field trials, whether one or more program interventions produce meaningful effects. The study's three primary research questions are: (1) Do the SACD interventions affect social-emotional competence, school climate, positive and negative behavior, and academic achievement? (2) For whom, and under what conditions, are the interventions effective? and (3) What is the process by which the interventions affect children's behavior? Data collection activities will include the administration of surveys to children, teachers, principals, and primary caregivers; school observations, and school record abstractions over a three year period: from 2004–05 to 2006–07. Results from the evaluation will provide education professionals with information they need to make informed choices about which intervention to adopt.

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 2428. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address vivian_reese@ed.gov. Requests may also be electronically mailed to the Internet address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to 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. 03–31513 Filed 12–22–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 22, 2004.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Melanie Kadlic, 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 *Melanie_Kadlic@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: December 17, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: Revision.

Title: Even Start Classroom Literacy Interventions and Outcomes (CLIO) Study.

Frequency: Semi-Annually.

Affected Public: Individuals or household; State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden

Responses: 19,939.

Burden Hours: 8,766.

Abstract: CLIO will test the effectiveness for children and parents of promising early childhood education and parenting education interventions in a sample of Even Start projects to determine: (1) Whether enhanced interventions that focus on literacy and integrate early childhood and parenting

education are more effective than existing Even Start services; (2) the relative effectiveness of different interventions; and (3) the relative contribution of enhanced parenting education to program results.

Requests for copies of the submission for OMB review: Comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2425. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to 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. 03–31514 Filed 12–22–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 22, 2004.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Melanie Kadlic, 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 *Melanie_Kadlic@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: December 17, 2003.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: New.

Title: American Indian Supplement to the NAEP, Field Test 2004.

Frequency: One time.

Affected Public:

State, local, or tribal gov't, SEAs or LEAs; individuals or household.

Reporting and Recordkeeping Hour Burden Responses: 1,300.
Burden Hours: 325.

Abstract: This study is a field test for a planned supplement to the National Assessment of Educational Progress (NAEP). The study will determine the feasibility of oversampling the American Indian and Alaska Native student population. In addition to a standard assessment, it includes special background questionnaires for student, teacher, and school components. A three-year clearance is requested.

Requests for copies of the submission for OMB review: Comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2363. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Katrina Ingalls at *Katrina.Ingalls@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. 03–31515 Filed 12–22–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Innovation and Improvement; Overview Information; Teaching American History Grant Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2004

Catalog of Federal Domestic Assistance (CFDA) Number: 84.215X.

DATES:

Applications Available: December 23, 2003.

Deadline for Notice of Intent to Apply: February 5, 2004.

Deadline for Transmittal of Applications: March 2, 2004.

Deadline for Intergovernmental Review: May 3, 2004.

Eligible Applicants: Local educational agencies (LEAs)—including charter schools that are considered LEAs under State law and regulations—working in partnership with one or more of the following entities:

- Institutions of higher education (IHE).
- Non-profit history or humanities organizations.
- Libraries and museums.

Estimated Available Funds: Although the Congress has not enacted a final appropriation for FY 2004, the Department is inviting applications for this competition now so that it may be prepared to make awards following final action on the Department's appropriations bill. Based on the congressional action to date, we estimate that $100,000,000 will be available for new awards under this competition. The actual level of funding depends on final congressional action.

Estimated Range of Awards: Total funding for a three-year project period is $350,000–1,000,000 for LEAs with enrollments of less than 300,000

students; and $500,000–2,000,000 for LEAs with enrollments above 300,000 students.

Estimated Average Size of Awards: Total for all three years is $750,000.

Estimated Number of Awards: 100–135.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: Teaching American History grants support projects to raise student achievement by improving teachers' knowledge, understanding, and appreciation of traditional American history. Grant awards assist local educational agencies (LEAs), in partnership with entities that have extensive content expertise, to develop, document, evaluate, and disseminate innovative, cohesive models of professional development. By helping teachers to develop a deeper understanding and appreciation of traditional American history as a separate subject matter within the core curriculum, these programs improve instruction and raise student achievement.

Priorities: This competition includes one absolute priority and two invitational priorities that are explained in the following paragraphs. To be considered for funding, each applicant must address the absolute priority regarding Partnerships with Other Agencies or Institutions. These priorities are as follows.

In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 2351(b) of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (Pub. L. 107–110).

Absolute Priority: For FY 2004, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Partnerships With Other Agencies or Institutions

Each applicant must propose to work in collaboration with one or more of the following:

- IHE.
- Non-profit history or humanities organizations.
- Libraries or museums.

Note: Each applicant is encouraged to include in its application an assurance from appropriate officials of the agency or institution(s) with which it will work in partnership. This assurance may include information about how the partnering agency or institution(s) will help the applicant implement the proposed project.

Under this competition we are particularly interested in applications that address the following priorities.

Invitational Priorities: For FY 2004 these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1—Experimental and Quasi-Experimental Evaluation Designs

The Secretary is particularly interested in receiving applications that propose evaluation plans that are based on rigorous scientifically based research methods to assess the effectiveness of a particular intervention. The Secretary intends that this priority will allow program participants and the Department to determine whether the project produces meaningful effects on student achievement or teacher performance.

Evaluation methods using an experimental design are best for determining project effectiveness. Thus, the project should use an experimental design under which participants—*e.g.*, students, teachers, classrooms, or schools—are randomly assigned to participate in the project activities being evaluated or to a control group that does not participate in the project activities being evaluated.

If random assignment is not feasible, the project may use a quasi-experimental design with carefully matched comparison conditions. This alternative design attempts to approximate a randomly assigned control group by matching participants—*e.g.*, students, teachers, classrooms, or schools—with non-participants having similar pre-program characteristics.

In cases where random assignment is not possible and an extended series of observations of the outcome of interest precedes and follows the introduction of a new program or practice, regression discontinuity designs may be employed.

For projects that are focused on special populations in which sufficient numbers of participants are not available to support random assignment or matched comparison group designs, single-subject designs such as multiple baseline or treatment-reversal or interrupted time series that are capable of demonstrating causal relationships can be employed.

Proposed evaluation strategies that use neither experimental designs with random assignment nor quasi-experimental designs using a matched comparison group nor regression discontinuity designs will not be considered responsive to the priority when sufficient numbers of participants are available to support these designs. Evaluation strategies that involve too small a number of participants to support group designs must be capable of demonstrating the causal effects of an intervention or program on those participants.

The proposed evaluation plan must describe how the project evaluator will collect—before the project intervention commences and after it ends—valid and reliable data that measure the impact of participation in the program or in the comparison group.

In determining the quality of the evaluation method, we will consider the extent to which the applicant presents a feasible, credible plan that includes the following:

(1) The type of design to be used (that is, random assignment or matched comparison). If it will be matched comparison, the applicant should include in the plan a discussion of why random assignment is not feasible.

(2) Outcomes to be measured.

(3) A discussion of how the applicant plans to assign students, teachers, classrooms, or schools to the project and control group or match them for comparison with other students, teachers, classrooms, or schools.

(4) A proposed evaluator, preferably independent, with the necessary background and technical expertise to carry out the proposed evaluation. (An independent evaluator does not have any authority over the project and is not involved in its implementation.)

Invitational Priority 2—Traditional American History

The Secretary is particularly interested in receiving applications that propose projects that address traditional American history, meaning, for example, projects that teach the significant issues, episodes, and turning points in the history of the United States, and how the words and deeds of individual Americans have determined the course of our Nation. This history teaches how the principles of freedom and democracy, articulated in our founding documents, have shaped—and continue to shape—America's struggles and achievements, as well as its social, political, and legal institutions and relations. Applicants are invited to propose projects that enable students to gain an understanding of these principles and of the historical events and people that best illustrate them.

Program Authority: 20 U.S.C. 6721 *et seq.*, Part C, subpart 4, of Title II of the Elementary and Secondary Education Act of 1965, as reauthorized by the No Child Left Behind Act of 2001.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 86, 97, 98 and 99.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: Although the Congress has not enacted a final appropriation for FY 2004, the Department is inviting applications for this competition now so that it may be prepared to make awards following final action on the Department's appropriations bill. Based on the congressional action to date, we estimate that $100,000,000 will be available for new awards under this competition. The actual level of funding depends on final congressional action.

Estimated Range of Awards: Total funding for a three-year project period is $350,000–1,000,000 for LEAs with enrollments of less than 300,000 students; and $500,000–2,000,000 for LEAs with enrollments above 300,000 students.

Estimated Average Size of Awards: Total for all three years is $750,000.

Estimated Number of Awards: 100–135.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* Local educational agencies (LEAs)—including charter schools that are considered LEAs under State law and regulations—working in partnership with one or more of the following entities:

- Institutions of higher education (IHE).
- Non-profit history or humanities organizations.
- Libraries and museums.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.215X.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting one of the program contact persons listed under **FOR FURTHER INFORMATION CONTACT** elsewhere in this notice. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Notice of Intent to Apply: The Department will be able to develop a more efficient process for reviewing grant applications if it has a better understanding of the number of LEAs that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify the Department with a short e-mail indicating the applicant's intent to submit an application for funding. The e-mail need not include information regarding the content of the proposed application, only the applicant's intent to submit it. The Secretary requests that this e-mail notification be sent no later than February 5, 2004, to Christine Miller at: *TeachingAmericanHistory@ed.gov*.

Applicants that fail to provide this e-mail notification may still apply for funding. Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 25 single-sided, double-spaced pages printed in 12 point font or larger. If the applicant is addressing the invitational priority for evaluation, the narrative must be limited to 30 single-sided, double-spaced pages printed in 12 point font or larger. The page limit does not apply to the title page, the Application for Federal Assistance (ED 424), the one-page abstract, the budget summary form (ED 524) and the narrative budget justification, any curriculum vitae, the bibliography of literature cited, or the assurances and certifications.

Our reviewers will not read any pages of your application that—

- Exceed the page limit if you apply these standards; or
- Exceed the equivalent of the page limit if you apply other standards.

3. *Submission Dates and Times:*

Applications Available: December 23, 2003.

Deadline for Notice of Intent to Apply: February 5, 2004.

Deadline for Transmittal of Applications: March 2, 2004.

The dates and times for the transmittal of applications by mail or hand (including a courier service or commercial carrier) are in the application package for this competition. The application package also specifies the hours of operation of the e-Application Web site.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: May 3, 2004.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Instructions and requirements for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this competition.

Application Procedures: The Government Paperwork Elimination Act (GPEA) of 1998 (Pub. L. 105–277) and the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106–107) encourage us to undertake initiatives to improve our grant processes. Enhancing the ability of individuals and entities to conduct business with us electronically is a major part of our response to these Acts. Therefore, we are taking steps to adopt the Internet as our chief means of conducting transactions in order to improve services to our customers and to simplify and expedite our business processes.

Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to

comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

We are requiring that applications for grants under Teaching American History—CFDA Number 84.215X be submitted electronically using the Electronic Grant Application System (e-Application) available through the Department's e-GRANTS system. The e-GRANTS system is accessible through its portal page at: *http://e-grants.ed.gov*

If you are unable to submit an application through the e-GRANTS system, you may submit a written request for a waiver of the electronic submission requirement. In your request, you should explain the reason or reasons that prevent you from using the Internet to submit your application. Address your request to: Christine Miller, U.S. Department of Education, 400 Maryland Avenue, SW., room 5C126, FB–6, Washington, DC 20202–6200. Please submit your request no later than two weeks before the application deadline date.

If, within two weeks of the application deadline date, you are unable to submit an application electronically, you must submit a paper application by the application deadline date in accordance with the transmittal instructions in the application package. The paper application must include a written request for a waiver documenting the reasons that prevented you from using the Internet to submit your application.

Pilot Project for Electronic Submission of Applications: We are continuing to expand our pilot project for electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. Teaching American History—CFDA Number 84.215X is one of the programs included in the pilot project. If you are an applicant under Teaching American History, you must submit your application to us in electronic format or receive a waiver.

The pilot project involves the use of e-Application. If you use e-Application, you will be entering data online while completing your application. You may not e-mail an electronic copy of a grant application to us. The data you enter online will be saved into a database. We shall continue to evaluate the success of e-Application and solicit suggestions for its improvement.

If you participate in e-Application, please note the following:

- When you enter the e-Application system, you will find information about its hours of operation. We strongly recommend that you do not wait until the application deadline date to initiate an e-Application package.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Your e-Application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
- Within three working days after submitting your electronic application, fax a signed copy of the Application for Federal Education Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.

2. The institution's Authorizing Representative must sign this form.

3. Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424.

4. Fax the signed ED 424 to the Application Control Center at (202) 260–1349.

- We may request that you give us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you are prevented from submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

1. You are a registered user of e-Application and you have initiated an e-Application for this competition; and

2. (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time) on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) one of the persons listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (*see* VII. Agency Contacts) or (2) the e-GRANTS help desk at 1–888–336–8930.

You may access the electronic grant application for Teaching American History at: *http://e-grants.ed.gov.*

V. Application Review Information

Selection Criteria: The following selection criteria for this program are in 34 CFR 75.210 and 20 U.S.C. 6721:

1. *Meeting the statutory requirements.* (Total of 50 points)

(a) *Project quality* (40 points). The Secretary considers the quality of the proposed project by considering how well the applicant describes a plan for development, implementation, and strengthening of programs to teach traditional American history as a separate academic subject (not as a component of social studies) within elementary school and secondary school curricula, including the implementation of activities—

(i) To provide professional development and teacher education activities with respect to American history; and

(ii) To improve the quality of instruction.

Note. The Secretary encourages the applicant to include a discussion of the specific history content to be covered by the grant; the format in which the applicant will deliver the history content; and the quality of the staff and consultants responsible for delivering these content-based professional development activities. The applicant may also attach curriculum vitae for individuals who will provide the content training to the teachers.

The Secretary also encourages applicants to provide a description of plans to demonstrate how teachers are using the knowledge acquired from project activities to improve the quality of instruction. This description may include plans for reviewing how teachers' lessons planning and classroom teaching are affected by their participation in project activities.

(b) *Partnership(s)* (10 points). The Secretary considers how well the applicant describes a plan that meets the statutory requirement to carry out activities under the grant in partnership with one or more of the following:

(i) An institution of higher education.

(ii) A nonprofit history or humanities organization.

(iii) A library or museum.

Note: The Secretary encourages the applicant to provide the rationale for selecting the partners and explain the specific activities that the partner(s) will contribute to the grant during each year of the project. The Secretary also encourages the applicant to include a memorandum of understanding or detailed letters of commitment from the partner(s) in an appendix to the application narrative.

2. *Significance* (20 points). The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers—

(a) The national significance of the proposed project; and

(b) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

Note: The Secretary encourages the applicant to discuss the significance of the proposed project, including national significance. For example, the applicant could include information on: the extent to which teachers in the LEA are not certified in history or social studies; student achievement data in American history; and rates of student participation in courses such as Advanced Placement American History.

3. *Quality of the management plan* (10 points). The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(a) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(b) The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

4. *Quality of the project evaluation* (20 points). The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

Note: The Secretary encourages applicants to align evaluation plans with the project design explained under the *Project Quality* criterion.

Note: The Secretary encourages the applicant to include benchmarks to monitor progress toward specific project objectives and also outcome measures to assess the impact on teaching and learning or other important outcomes for project participants. The Secretary also encourages applicants to identify the individual and/or organization that has agreed to serve as evaluator for the project and describe the qualifications of that evaluator. Applicants are encouraged to indicate (1) what types of data will be collected; (2) when various types of data will be collected; (3) what methods will be used to collect data; (4) what data collection instruments will be developed and when; (5) how the data will be analyzed; (6) when reports of results and outcomes will be available; and (7) how the applicant will use the information collected through the evaluation to monitor the progress of the funded project and to provide accountability information about both success at the initial site and effective strategies for replication in other settings. Applicants are encouraged to devote an appropriate level of resources to project evaluation.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* We have established one performance indicator for Teaching American History. The indicator is: Students in experimental and quasi-experimental studies of educational effectiveness of Teaching American History projects will demonstrate higher achievement on course content measures and/or statewide U.S. history assessments than students in control and comparison groups.

We will track this indicator through the use of two measures. We will gather data for these measures through those grantees who are using experimental and quasi-experimental evaluation designs.

Measure One: Percentage of students in studies of educational effectiveness who demonstrate higher achievement than those in control and comparison groups.

Measure Two: Percentage of school districts that demonstrate higher educational achievement for students than those in control or comparison groups.

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Christine Miller, Alex Stein, Harry Kessler, or Claire Geddes, U.S. Department of Education, 400 Maryland Avenue, SW., room 5C126, Washington, DC 20202–6200. Telephone: (202) 260–8766 (Christine Miller); (202) 205–9085 (Alex Stein); (202) 708–9943 (Harry Kessler); or (202) 260–8757 (Claire Geddes) or by e-mail: *teachingamericanhistory@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to one of the program contact persons listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: December 18, 2003.

Nina S. Rees,

Deputy Under Secretary for Innovation and Improvement.

[FR Doc. 03–31567 Filed 12–22–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Fernald

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Fernald. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, January 13, 2004, 6 p.m.–9 p.m.

ADDRESSES: Fernald Closure Project Site, 7400 Willey Road, Trailer 214, Hamilton, OH 45013–9402.

FOR FURTHER INFORMATION CONTACT: Doug Sarno, The Perspectives Group, Inc., 1055 North Fairfax Street, Suite 204, Alexandria, VA 22314, at (703) 837–1197, or e-mail; *djsarno@theperspectivesgroup.com.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE in areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

6 p.m.—Call to Order
6–6:30 p.m.—Chair's Remarks, Ex Officio Announcements and Updates
6:30–8 p.m.—Discuss Groundwater Treatment Alternatives
8–8:15 p.m.—Status of Risk-Based End States Policy at Fernald
8:15–8:45 p.m.—Update on Stewardship Issues
—Comments on Draft Institutional Controls Plan
—Comments on Legacy Management Strategic Plan
—Coalition for Post-Closure Involvement in Fernald
8:45–9 p.m.—Public Comment and Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Board chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Board chair at the address or telephone number listed below. Requests must be received five days prior to the meeting and a reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer, Gary Stegner, Public Affairs Office, Ohio Field Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to the Fernald Citizens' Advisory Board, c/o Phoenix Environmental Corporation, MS–76, Post Office Box 538704, Cincinnati, OH 43253–8704, or by calling the Advisory Board at (513) 648–6478.

Issued at Washington, DC, on December 18, 2003.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 03–31526 Filed 12–22–03; 8:45 am]

BILLING CODE 6450–01–P

U.S. DEPARTMENT OF ENERGY

Office of Science; High Energy Physics Advisory Panel

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the High Energy Physics Advisory Panel (HEPAP). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, February 9, 2004; 8:30 a.m. to 6 p.m. and Tuesday, February 10, 2004; 8:30 a.m. to 4 p.m.

ADDRESSES: Hilton Washington Embassy Row, 2015 Massachusetts Avenue, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Bruce Strauss, Executive Secretary; High Energy Physics Advisory Panel; U.S. Department of Energy; SC–20/Germantown Building, 1000 Independence Avenue, SW., Washington, DC 20585–1290; Telephone: (301) 903–3705.

SUPPLEMENTARY INFORMATION: *Purpose of Meeting:* To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda: Agenda will include discussions of the following:

Monday, February 9, 2004, and Tuesday, February 10, 2004.

- Discussion of Department of Energy High Energy Physics Programs
- Discussion of National Science Foundation Elementary Particle Physics Program
- Reports on and Discussions of Topics of General Interest in High Energy Physics
- Public Comment (10-minute rule)

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Panel, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Bruce Strauss, 301–903–3705 or *Bruce.Strauss@science.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Panel will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for public review and copying within 90 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW., Washington, DC between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on December 18, 2003.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 03–31525 Filed 12–22–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC04–10–000, et al.]

FPL Energy New Mexico Wind, LLC, et al.; Electric Rate and Corporate Filings

December 9, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. FPL Energy New Mexico Wind, LLC and FPL Energy American Wind, LLC

[Docket EC04–10–000]

Take notice that on December 4, 2003, FPL Energy New Mexico Wind, LLC and FPL Energy American Wind, LLC (Applicants) submitted for filing a revision to Attachment A of Applicant's application that was approved by the Commission's November 26, 2003, Order in Docket No. EC04–10–000. Applicants' filing contains a request for expedited clarification of the Commission's November 26, 2003, Order, as well as a request for a shortened comment period.

Comment Date: December 11, 2003.

2. Covanta Energy Corporation

[Docket No. EC04–22–000]

Take notice that on December 4, 2003, Covanta Energy Corporation submitted a Notice of Withdrawal of its November 13, 2003, application in the above-referenced proceeding.

Comment Date: December 26, 2003.

3. Oswego Cogen Company, LLC; Sithe/Independence Equity LLC; and Sithe/Independence Power Partners, L.P.

[Docket No. EC04–33–000]

Take notice that on December 5, 2003, Oswego Cogen Company, LLC (Oswego), Sithe/Independence Equity LLC (Equity), and Sithe/Independence Power Partners, L.P. (Independence) (collectively, the Applicants) filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization of a disposition from Oswego to Equity of a 40% limited partnership interest in Independence. Independence states it owns a 1,060 MW generating facility in Oswego, New York. Applicants state that the transaction will have no adverse effect on competition, rates or regulation.

Comment Date: December 26, 2003.

4. Onondaga Cogeneration Limited Partnership

[Docket Nos. EC04–34–000 and ER00–895–002]

Take notice that on December 5, 2003, Onondaga Cogeneration Limited Partnership (Onondaga), submitted an application pursuant to section 203 of the Federal Power Act and a notice of status change, seeking authorization for an internal restructuring. This internal restructuring, together with a subsequent transaction, would result in the transfer of indirect control of certain jurisdictional facilities associated with Onondaga's 91–MW dual fuel, combined-cycle merchant energy facility located in Geddes, New York. Onondaga requests expedited consideration of its application and certain waivers.

Onondaga states that the transaction will have no effect on competition, rates or regulation and is in the public interest.

Comment Date: December 26, 2003.

5. Sithe Energy Marketing, L.P., AG-Energy, L.P., Power City Partners, L.P., Seneca Power Partners, L.P., Sterling Power Partners, L.P., and Sithe/Independence Power Partners, L.P.

[Docket Nos. ER02–2202–003, ER98–2782–005, and ER03–42–004]

Take notice that on December 4, 2003, Sithe Energy Marketing, L.P., AG-Energy, L.P., Power City Partners, L.P., Seneca Power Partners, L.P., Sterling Power Partners, L.P., and Sithe/Independence Power Partners, L.P. (collectively, the Sithe Entities) tendered for filing a notice of change in status pursuant to section 205 of the Federal Power Act with respect to their authority to engage in wholesale sales of capacity, energy and ancillary services at market-based rates. The change in status involves the transfer of Oswego Cogen Company, LLC's 40% ownership interests in Sithe/Independence Power Partners, L.P. to Sithe/Independence Equity LLC, a transaction that will result in Sithe Energies, Inc. holding, directly and indirectly, 100% of the ownership interests in Sithe/Independence Power Partners, L.P.

Comment Date: December 26, 2003.

6. New York Independent System Operator Inc.

[Docket No. ER03–690–003]

Take notice that on November 26, 2003, New York Independent System Operator Inc. (NYISO) filed a Report on Market Competitiveness at the New York Independent System Operator Proxy Busses. NYISO states that this report was filed in compliance with directives in the Commission's August 22, 2003 Order Conditionally Accepting Proposed Tariff Revisions, 104 FERC ¶ 61,220.

Comment Date: December 26, 2003.

7. Columbus Southern Power Company

[Docket No. ER04–150–001]

Take notice that on November 20, 2003, Columbus Southern Power Company (CPS) submitted for filing a Certificate of Concurrence related to a November 3, 2003, Notice of Cancellation of its Service Agreement No. 3. CPS states that the certificate was not signed at the time of the cancellation and is now ready to be included with the cancellation.

Comment Date: December 19, 2003.

8. NEO California Power LLC

[Docket No. ER04–220–001]

Take notice that on December 5, 2003, NEO California Power LLC (NEO California) tendered for filing revised rate schedule sheets for the Must-Run Service Agreement (RMR Agreement) between NEO California and the California Independent System Operator Corporation (California ISO) an amendment to one of the revised rate schedule sheets that was filed in ER04–220–000 on November 21, 2003.

Comment Date: December 26, 2003.

9. APN Starfirst, LP

[Docket No. ER04–226–001]

Take notice that on December 5, 2003, APN Starfirst, LP (Starfirst) filed an amended Rate Schedule FERC No. 1 to comply with Federal Energy Regulatory Commission requirements in Order 614.

Comment Date: December 26, 2003.

10. Central Hudson Gas & Electric Corporation

[Docket No. ER04–258–000]

Take notice that on December 4, 2003, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 63, effective June 18, 1981, in Docket No. ER81–604–000.

Central Hudson states that the contract was terminated in accordance with its terms as a result of the sale, on January 30, 2001, of the Central Hudson electric generation units designated in the contract.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the regulations to permit the Notice of Cancellation to be effective February 1, 2001.

Central Hudson states that a copy of its filing was served on Orange & Rockland Utilities, Inc., and the State of New York Public Service Commission.

Comment Date: December 26, 2003.

11. Central Hudson Gas & Electric Corporation

[Docket No. ER04–259–000]

Take notice that on December 4, 2003, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 66, effective April 19, 1983, in Docket No. ER83–533–000. Central Hudson states that the contract was terminated in accordance with its terms as a result of the sale, on January 30, 2001, of the Central Hudson electric generation units designated in the contract. Central Hudson requests

waiver on the notice requirements set forth in 18 CFR 35.11 of the regulations to permit the notice of cancellation to be effective February 1, 2001. Central Hudson states that a copy of its filing was served on New York State Electric and Gas Corporation, and the State of New York Public Service Commission.

Comment Date: December 26, 2003.

12. Tampa Electric Company

[Docket No. ER04–260–000]

Take notice that on December 4, 2003, Tampa Electric Company (Tampa Electric) tendered for filing a Notice of Cancellation of its transaction-specific service agreement with Cargill Fertilizer, Inc. (Cargill) under Tampa Electric's open access transmission tariff. Tampa Electric proposes that the cancellation be made effective on January 1, 2004. Tampa Electric states that copies of the filing have been served on Cargill and the Florida Public Service Commission.

Comment Date: December 26, 2003.

13. PJM Interconnection, L.L.C.

[Docket No. ER04–261–000]

Take notice that on December 4, 2003, PJM Interconnection, LLC (PJM), submitted for filing an interconnection service agreement (ISA) among PJM, American Project Development Corp/ American Hydro Power Company/ American Hydro Power Partners, L.P. and Pennsylvania Electric Company. PJM requests a waiver of the Commission's 60-day notice requirement to permit a November 4, 2003, effective date for the ISA. PJM states that copies of this filing were served upon the parties to the agreements and the state regulatory commissions within the PJM region.

Comment Date: December 26, 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. E3–00611 Filed 12–22–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC04–36–000, et al.]

Sunbury Generation, LLC, et al.; Electric Rate and Corporate Filings

December 11, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Sunbury Generation, LLC, and Duquesne Power, L.P.

[Docket No. EC04–36–000]

Take notice that on December 8, 2003, Sunbury Generation, LLC (Sunbury) and Duquesne Power, L.P. (Duquesne) (collectively, Applicants) tendered for filing an application requesting all necessary authorizations under section 203 of the Federal Power Act, 16 U.S.C. 824b, for Applicants to engage in the transfer from Sunbury to Duquesne of (1) an approximately 436 MW generating facility located in Snyder County, Pennsylvania, and (2) Sunbury's Rate Schedule FERC No. 2.

Applicants state that copies of this filing have been served on the Pennsylvania Public Utility Commission.

Comment Date: December 29, 2003.

2. New York Independent System Operator, Inc.; Dynegy Power Marketing, Inc.

[Docket No. EL03–26–001]

Take notice that on December 5, 2003, the New York Independent System Operator, Inc. (NYISO) and Dynegy Power Marketing, Inc. (Dynegy) are jointly submitting exhibits presented to the Arbitrator in American Arbitration Association proceeding no. 13 198 00247 02. The exhibits were not previously filed with the Commission.

NYISO and Dynegy state that certain information relating to the level of bids is confidential and therefore are requesting privileged treatment for portions of the Exhibits pursuant to 18 CFR 388.112.

Comment Date: December 19, 2003.

3. KES Kingsburg, L.P.

[Docket Nos. EL04–33–000 and QF86–155–004]

Take notice that on December 8, 2003, KES Kingsburg, L.P. (Kingsburg) filed in the above-referenced dockets a request for a temporary waiver of the efficiency standard for its qualifying cogeneration facility in Kingsburg, California (the Facility), pursuant to section 292.205(c) of the Commission's regulations. Kingsburg requests waiver for calendar year 2003 due to unforeseen mechanical failures within the Facility's steam turbine.

Comment Date: January 7, 2004.

4. City of Vernon, California

[Docket No. EL04–34–000]

Take notice that on December 8, 2003, the City of Vernon, California (Vernon) tendered for filing the annual update to its Transmission Revenue Balancing Account Adjustment (TRBA Adjustment) and to Appendix I of its Transmission Owner Tariff (TO Tariff), to reflect that update.

Vernon also states that pursuant to paragraph 1.4 of the Settlement approved in Docket No. EL02103, 102 FERC 61,141 (Feb. 5, 2003), Vernon is providing to the California Independent System Operator Corporation (ISO) on a confidential basis for ISO review and verification, and submitting to the Commission on a confidential basis under 18 CFR 388.112, a volume of certain confidential data. Vernon states that nonconfidential, redacted versions of this data are also being filed with the Commission and served.

Consistent with the ISO's FERC Electric Tariff, Vernon requests a January 1, 2004, effective date for its filing.

Vernon states that copies of this filing have been served on the California Independent System Operator Corporation and the seven other Participating Transmission Owners, as well as served upon all individuals on the service list in Commission Docket No. EL03–31.

Comment Date: December 29, 2003.

5. Tenaska Alabama II Partners, L.P.

[Docket No. ER01–137–001]

Take notice that on December 8, 2003, Tenaska Alabama II Partners, L.P.

(Tenaska Alabama II) submitted for filing with the Federal Energy Regulatory Commission its triennial updated market analysis in accordance with Appendix B of the Commission's Order issued December 8, 2000, and certain revisions to its FERC Electric Tariff, Original Volume. No. 1 Tenaska Alabama II states that this filing includes incorporation of the Market Behavior Rules set forth in the Commission's November 17, 2003, Order in Docket Nos. EL01–118–000 and EL01–118–001, Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations, 105 FERC ¶ 61,218 (2003).

Comment Date: December 29, 2003.

6. New York Independent System Operator, Inc.

[Docket No. ER01–3001–008]

Take notice that on December 1, 2003, the New York Independent System Operator, Inc. (NYISO) submitted a report which addresses: (1) The NYISO's existing demand response programs, the status of real-time demand response mechanisms, and the effects of demand response programs on wholesale prices; and (2) the status of new generation resources in the New York Control Area. This submittal represents the NYISO's fifth report in compliance with the Commission's October 25, 2001, Order.

The NYISO states it has served a copy of this filing upon all parties that have executed service agreements under the NYISO's Open Access Transmission Tariff and Market Administration and Control Area Services Tariff.

Comment Date: December 22, 2003.

7. Innovative Technical Services, L.L.C.

[Docket No. ER03–763–001]

Take notice that on December 3, 2003, Innovative Technical Services, L.L.C. (InTech-LLC) submitted a compliance filing to incorporate the market behavior rules adopted by the Commission on November 17, 2003, in Docket Nos. EL01–118–000 and EL01–118–001, into InTech-LLC's market based tariff.

Comment Date: December 29, 2003.

8. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–1312–001]

Take notice that on December 8, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed information amending its September 8, 2003, filing, to revise the Midwest ISO's Open Access Transmission Tariff (OATT) by incorporating certain procedures relating to station power service. Midwest ISO states that the September 8, 2003 filing was made pursuant to section 205 of the Federal Power Act 16 U.S.C. 824(d), and part 35 of the regulations of the Federal Energy Regulatory Commission 18 CFR 35 *et seq.*

Comment Date: December 29, 2003.

9. White Pine Copper Refinery, Inc.

[Docket No. ER04–262–000]

Take notice that on December 5, 2003, White Pine Copper Refinery, Inc. (White Pine) filed with the Commission a Petition for acceptance of its initial rate schedule, FERC Electric Tariff, Original Volume No. 1, and request for authority to sell electric energy at market-based rates, certain blanket approvals, and waiver of certain Commission regulations. White Pine has requested waiver of the 60-day notice period in order to allow an effective date of December 5, 2003.

Comment Date: December 29, 2003.

10. Nordic Marketing of Massachusetts, L.L.C.

[Docket No. ER04–263–000]

Take notice that on December 5, 2003, Nordic Marketing of Massachusetts, L.L.C. petitioned the Commission to: Accept for filing its Rate Schedule FERC No. 1, which will permit it to sell electric energy and capacity to wholesale customers at market-based rates and permit transmission capacity reassignment; waive 60 days' notice and allow that rate schedule to become effective upon acceptance, but no later than February 3, 2004; and, grant such other waivers and blanket authorizations as have been granted to other power marketers.

Comment Date: December 29, 2003.

11. Nordic Marketing of Michigan L.L.C.

[Docket No. ER04–264–000]

Take notice that on December 5, 2003, Nordic Marketing of Michigan, L.L.C. petitioned the Commission to: accept for filing its Rate Schedule FERC No. 1, which will permit it to sell electric energy and capacity to wholesale customers at market-based rates and permit transmission capacity reassignment; waive 60 days' notice and allow that rate schedule to become effective upon acceptance, but no later than February 3, 2004; and, grant such other waivers and blanket authorizations as have been granted to other power marketers.

Comment Date: December 29, 2003.

12. Nordic Marketing of New York, L.L.C.

[Docket No. ER04–265–000]

Take notice that on December 5, 2003, Nordic Marketing of New York, L.L.C. petitioned the Commission to: Accept for filing its Rate Schedule FERC No. 1, which will permit it to sell electric energy and capacity to wholesale customers at market-based rates and permit transmission capacity reassignment; waive 60 days' notice and allow that rate schedule to become effective upon acceptance, but no later than February 3, 2004; and, grant such other waivers and blanket authorizations as have been granted to other power marketers.

Comment Date: December 29, 2003.

13. Central Vermont Public Service Corporation

[Docket No. ER04–266–000]

Take notice that on December 5, 2003, Central Vermont Public Service Corporation (Central Vermont) filed an executed version of Second Revised Service Agreement No. 15, a Network Integration Transmission Service Agreement and Network Operating Agreement (Revised Service Agreement) with Vermont Electric Cooperative, Inc. (VEC) under Central Vermont's FERC Electric Tariff, Second Revised Volume No. 7 (OATT).

Central Vermont states that copies of the filing were served upon the VEC and the Vermont Public Service Board.

Comment Date: December 29, 2003.

14. Pacific Gas and Electric Company

[Docket No. ER04–267–000]

Take notice that on December 11, 2003, Pacific Gas and Electric Company (PG&E) tendered for filing Generator Special Facilities Agreement (GSFA), and Generator Interconnection Agreement (GIA) and Letter Amendment Extensions between PG&E and Geysers Power Company, LLC (Geysers Power), and Notices of Termination of PG&E Rate Schedules FERC Nos. 204 and 205, as supplemented, and Notice of Termination of PG&E 2nd Revised Service Agreement No. 1 under FERC Electric Tariff, Sixth Revised Volume No. 5.

PG&E states that copies of this filing have been served upon Geysers Power, the California Independent System Operator Corporation and the California Public Utilities Commission.

Comment Date: December 29, 2003.

15. Duquesne Power, L.P.; Duquesne Light Co.; Monmouth Energy, Inc.; Metro Energy, L.L.C.; NM Colton Genco, L.L.C.; NM Mid-Valley Genco, L.L.C.; NM Milliken Genco, L.L.C.

[Docket Nos. ER04–268–000, ER98–4159–003, ER99–1293–002, ER01–2317–002, ER03–320–003, ER03–321–003, and ER03–322–003]

Take notice that on December 8, 2003, Duquesne Power, L.P., Duquesne Light Co., Monmouth Energy, Inc., Metro Energy, L.L.C., NM Colton Genco, L.L.C., NM Mid-Valley Genco, L.L.C., and NM Milliken Genco, L.L.C., tendered for filing a Notice of Change in Status and applications for certain waivers and authorizations under section 205 of the Federal Power Act.

Comment Date: December 29, 2003.

16. The Morenci Water and Electric Company

[Docket No. OA04–2–000]

Take notice that on December 5, 2003, The Morenci Water and Electric Company tendered for filing a request for a disclaimer of jurisdiction that it is not a public utility under the Federal Power Act and a waiver of the reciprocity requirement, or in the alternative, a waiver of the requirements of Order Nos. 888 and 889 and certain regulations.

Comment Date: January 5, 2004.

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. E3–00609 Filed 12–22–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7601–7]

Applicability of the Safe Drinking Water Act to Submetered Properties Docket: OW–2003–0065

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) finalized a memorandum that outlined its revised policy regarding regulatory requirements under the Safe Drinking Water Act (SDWA) for submetered properties. The revised policy is shown in the **SUPPLEMENTARY INFORMATION** section of this notice, in its final memorandum form. Under SDWA section 1411, the national primary drinking water regulations apply to public water systems (PWS) that have their own water source, treat, or ''sell'' water. EPA staff and program managers have previously issued memoranda stating that any building or property owner who meets the definition of a PWS and receives water from a regulated public water system, but bills tenants separately for this water, is ''selling'' the water and therefore is independently subject to SDWA's drinking water requirements. As a way to promote full cost and conservation pricing to achieve water conservation, the EPA is changing its interpretation of section 1411 as it applies to submetered properties. EPA believes that the addition of a submeter should not in any way change the quality of water provided to customers on these properties.

In general, the scope of this policy is not intended to extend where the property in question has a large distribution system, serves a large population or serves a mixed (commercial/residential) population (*e.g.*, many military installations/facilities or large mobile home parks).

DATES: EPA's revised policy, as described in the section I.A. memorandum, effective December 16, 2003.

ADDRESSES: Related documents, including EPA's response to public comments on the subject policy, can be accessed at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. For more information, *see* section I..B.1 of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For more information please contact Ronald Bergman by phone at 202–564–3823, or by e-mail at *bergman.ronald@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Final Revised Policy

Today, EPA is publishing a memorandum revising current policy regarding regulatory requirements under the Safe Drinking Water Act (SDWA) of submetered properties. The memorandum changes EPA's interpretation of section 1411 as it applies in the specific context of submetering and direct billing of tenants. EPA published a proposed memo in the **Federal Register** on August 28, 2003 (68 FR 51777) and solicited public comments for 60 days. Comments were received from a variety of stakeholders, including State, county, and local governments, apartment building owners and associations, utility companies, and housing associations. Generally, commenters strongly supported the proposed policy and agreed that submetering promotes water conservation.

Memorandum

Subject: Applicability of the Safe Drinking Water Act to Submetered Properties.

From: G. Tracy Mehan III, Assistant Administrator.

To: Regional Administrators, Regions I–X.

The purpose of this memorandum is to announce EPA's revised policy concerning the applicability of the Safe Drinking Water Act (SDWA) to submetered properties. Submetering, as applied in this policy, means a billing process by which a property owner (or association of property owners, in the case of co-ops or condominiums) bills tenants based on metered total water use; the property owner is then responsible for payment of a water bill from a public water system. Under the revised policy, a property owner who installs submeters to track usage of water by tenants on his or her property will not be subject to SDWA regulations solely as a result of taking the administrative act of submetering and billing. Property owners must receive all of their water from a regulated public water system to qualify under the terms

of this policy revision for submetered properties.

EPA proposed the revised policy in the **Federal Register** on August 28, 2003 (68 FR 51777) and requested public comment. In response, the Agency received strong support for the revised policy on submetering from a variety of stakeholders. In light of this response, and because a key objective of the Agency is to promote water efficiency and conservation, EPA has decided to change the policy for submetering.

Throughout the country, submetering of apartment buildings has been found to be an effective but little-used tool to support water conservation. Water conservation is an integral part of watershed protection, particularly in arid and drought-stricken areas. In addition to helping reduce the risk of water shortages, water conservation also provides other important benefits. Water conservation helps ensure in-stream flows, thereby providing protection for ecosystems, which can become out of balance when demands stress water resources. Water conservation also helps reduce stress on water supply and wastewater infrastructure making them less prone to failure. Further, the use of submeters to measure water consumption is a necessary pre-requisite to achieving full-cost and conservation pricing.

Background

Section 1401 of SDWA defines a public water system (PWS) as a system that provides water through pipes or other constructed conveyances to the public for human consumption, if the system has at least 15 service connections or regularly serves at least 25 people. Under SDWA section 1411, the SDWA national primary drinking water regulations apply to PWSs that have their own water source, treat, or ''sell'' water. EPA staff and program managers had issued several memoranda stating that any building or property owner who met the definition of a PWS and received water from a regulated public water system without adding further treatment, but billed tenants separately for this water, would be considered to be ''selling'' the water and, therefore, would be independently subject to SDWA's drinking water requirements. Today's memorandum reflects a change in EPA's interpretation of section 1411 as it applies in the specific context of submetering.

The EPA memoranda referenced above were based on a single statement in the 1974 legislative history for the SDWA in which Congress explained its intent in enacting section 1411. In that legislative history, the Committee report stated that it ''intends to exempt businesses which merely store and distribute water provided by others, unless that business sells water as a separate item or bills separately for water it provides.'' [1] Under EPA's previous interpretation, an owner of an apartment building or similar property who is exempt under section 1411 but merely installed a submeter and billed the tenants for the water, or simply began billing tenants (even without a submeter), would then be considered to be operating a fully regulated public water system, even though there had been no other change relevant to the delivery or potential health concerns associated with the water. This application of the legislative history has been cited as a discouragement to submetering and, as a result, to water conservation measures.

After further review, we no longer believe that Congress originally intended the statute to be applied in this manner, or that it should continue to be the Agency's interpretation for the following reasons:

- The legislative history from 1974 does not specifically address the submetering of apartment buildings or similar properties for water conservation purposes. Rather, the legislative history was one Committee's attempt to explain broadly what the term ''selling'' water in section 1411 might mean. The statute itself does not define the term ''selling'' or suggest an interpretation that any billing of water would automatically trigger full SDWA regulation.
- Some owners of apartment buildings and other multifamily housing expressed concern that, under EPA's previous policy, the installation of submeters subjected them to the full regulatory requirements of the Safe Drinking Water Act (SDWA), comparable to the requirements imposed on water utilities.
- In 1996, a Congressional committee expressed its concern that this application of SDWA might discourage the practice of submetering, as owners of a multifamily housing property (*e.g.*, apartment buildings and/or complexes) would become subject to national primary drinking water regulations if they billed separately for water. Congress asked that EPA review its guidance on this matter to prevent unnecessary requirements that do not further public health protection and that might inhibit water conservation efforts.[2] In response, EPA agreed to reconsider the matter and issue further guidance.[3]
- EPA's approach in previous memoranda may have created a disincentive to water conservation, which can undermine water quality over the long term.
- Simply applying the concept of ''sell'' to every billing transaction is not appropriate.

Revised Policy

Consistent with Congressional requests to reconsider this matter, the Agency now believes that certain property owners, who had not previously been (or would not be) subject to SDWA's national primary drinking water regulations, and who install submeters to accurately track usage of water by tenants on his or her property, should not be subject to regulations solely as a result of taking the action to submeter and bill.

The addition of a submeter should not in any way change the quality of water provided to customers on the property. A PWS that provides water to a property maintains responsibility for providing public notification under 40 CFR 141.201(c) (or approved State equivalent) to consumers. In addition, the PWS must make ''good faith'' efforts to provide the tenants with the annual Consumer Confidence Reports under 40 CFR 141.155(b). A submetered property would still be considered a PWS under SDWA section 1401, hence States and EPA would retain the ability to take corrective action under SDWA's emergency powers authority (section 1431) if public health risks arise.

Scope of Revised Policy

EPA received numerous comments asking that the revised policy be expanded beyond apartment buildings. EPA agrees that submetering to achieve water conservation may be appropriate for other property types, which share similar characteristics to an apartment building, and likewise should not be considered as ''selling'' under SDWA section 1411, simply because a submeter is installed and the property owner begins direct billing for the water. This description is the basis for the definition of submetering. Determinations of whether billing for water is a ''sale'' for purposes of section 1411, and whether systems are ''submetering'' as that term is used in this policy, should be made by the Primacy Agency.

[1] H. Rept. 93–1185 (93rd Cong., 2nd Session), reprinted in A Legislative History of the Safe Drinking Water Act, Committee Print Serial 97–9 (1982) at 549.

[2] H. Rept. 104–632 at 55 (1996).

[3] H. Rept. 104–632 (104th Cong., 2d Sess.) at 55 and 134 (1996).

In making a determination, the Primacy Agency should consider if the property has certain characteristics, such as a limited distribution system with no known backflow or cross connection issues; the majority of its plumbing is within a structure instead of underground; and property ownership is a single/individual (or association of property owners, in the case of co-ops or condominiums). Of course, for any system to be excluded under section 1411, it must receive all of its water from a regulated public water system.

In general, the scope of this policy is not intended to extend where the property in question has a large distribution system, serves a large population or serves a mixed (commercial/residential) population (*e.g.*, many military installations/facilities or large mobile home parks).

Although EPA is not requiring that submetered systems be regulated, each State has the flexibility to determine whether, and how, to best track properties that submeter. For example, in Alabama, the State defines a submetered property as a ''segmented public water system'' and requires that it have access to a certified operator. Texas requires that submetered properties allow access to the property by the public water system that provides it with water, register with the Texas Commission on Environmental Quality, and follow regulations for submetering.

While submetering and billing for water usage may positively induce water conservation actions, States may still want to take other steps to ensure that property owners and others convert to water efficient fixtures and appliances. For example, Texas requires that apartment buildings have water-efficient plumbing fixtures and appliances as a condition of approval of a submetered billing system.

Ratio Utility Billing Systems (RUBS) and Hybrid Billing Systems (HWH)

Several commenters raised the issue of ratio utility billing systems (RUBS) [4] and other allocation billing systems. Some commenters suggested that EPA should include this type of billing in the revised policy because it would have no negative effect on water quality. Other commenters encouraged EPA to exclude RUBS, stating that RUBS may not result in water conservation, and may, in fact, reduce incentives to install submeters and charge on the basis of actual water usage. Water savings, if any, from RUBS and hot water hybrid billing systems (HWH) are uncertain. At this time, EPA believes that RUBS or other allocation billing systems do not meet the definition of submetering, as used in this policy, and do not encourage water conservation. Therefore, a property using these billing systems is not addressed by this policy. Primacy Agencies will need to determine whether such properties are ''selling'' water within the meaning of SDWA section 1411.

This memorandum clarifies EPA's policy change and reconfirms our strong interest in advocating water conservation. Any previous EPA statements or policy memoranda on this issue are superceded by this memorandum.

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

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OW–2003–0065. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

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 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 section I.B.1. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Dated: December 17, 2003.

G. Tracy Mehan III,

Assistant Administrator, Office of Water.

[FR Doc. 03–31588 Filed 12–22–03; 8:45 am]

BILLING CODE 6560–50–P

[4] A ratio utility billing system (RUBS) or an allocation formula, divides a property's water bill among its residents based on a ratio of floor space, number of occupants, or some other quantitative measure. With RUBS, a price signal based on actual use is not sent to the tenant as with submetering, and the amount of water saved by these systems is unclear. A hot water hybrid (HWH) billing system is a combination of submetering and allocation where hot water is submetered and a formula is applied to estimate the resident's total water use based on the volume of hot water metered. HWH systems provide more of a price signal than RUBS but less than that for submetering.

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

December 11, 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 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 (PRA) comments should be submitted on or before February 23, 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: 3060–0439

Title: Regulations Concerning Indecent Communications by Telephone

Form Number: N/A

Type of Review: Extension of a currently approved collection

Respondents: Business or other for-profit entities; Individuals or households

Number of Respondents: 10,200

Estimated Time per Response: 0.13 hrs. (8 mins.) (avg.)

Frequency of Response: On occasion reporting requirements; Third party disclosure

Total Annual Burden: 1,632 hours

Total Annual Cost: None

Needs and Uses: Under Section 223 of the Communications Act of 1932, as amended, telephone companies are required, to the extent technically feasible, to prohibit access to indecent communications from the telephone of a subscriber who has not previously requested access. 47 CFR Section 64.201 implements Section 223 and contains several information collection requirements: (1) A requirement that certain common carriers block access to indecent messages unless the subscriber seeks access from the common carrier (telephone company) in writing; (2) A requirement that adult message service providers notify their carriers of the nature of their programming; and (3) A requirement that a provider of adult message services request that their carrier identify it as such in bills to its subscribers. The information requirements are imposed on carriers, adult message service providers, and those who solicit their services to ensure that minors are denied access to material deemed indecent.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–31598 Filed 12–22–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

December 12, 2003.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility; and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before February 23, 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 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: 3060–0787.

Type of Review: Extension of a currently approved collection.

Title: Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket No. 94–129, FCC 03–42.

Form Number: N/A.

Respondents: Business or other for-profit entities; individuals or households; State, local, or tribal government.

Number of Respondents: 35,035.

Estimated Time per Response: 1 to 10 hours.

Frequency of Response: Recordkeeping; on occasion and biennial reporting requirements; third party disclosure.

Total Annual Burden: 145,869 hours.

Total Annual Cost: $51,187,500.

Needs and Uses: On March 17, 2003, the FCC released the *Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking*, CC Docket No. 94–129, FCC 03–42 (*Third Order on Reconsideration*), in which the Commission revised and clarified certain rules to implement Section 258 of the 1996 Act. On May 23, 2003, the Commission also released an Order (CC Docket No. 94–129, FCC 03–116) clarifying certain aspects of the *Third Order on Reconsideration*. The rules and requirements implementing section 258 can be found primarily at 47 CFR part 64. The modified and revised rules will strengthen the ability of our rules to deter slamming, while protecting consumers from carriers that may take advantage of consumer confusion over different types of telecommunications services. This *Third Order of Reconsideration* also contains a *Further Notice of Proposed Rulemaking*, in which we seek comment on rule modifications with respect to third party verifications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–31599 Filed 12–22–03; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

December 16, 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 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 (PRA) comments should be submitted on or before February 23, 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: 3060–0346.

Title: Section 78.27, License Conditions.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; business and other for-profit entities; and not-for-profit institutions.

Number of Respondents: 50.

Estimated Time per Response: 10 mins. (0.167 hrs.).

Total Annual Burden: 8 hours.

Total Annual Costs: None.

Needs and Uses: 47 CFR 78.27 requires licensees of Cable Television Relay Service (CARS) stations to notify the FCC in writing when the station commences operation. A CARS licensee, which needs additional time to complete construction of the station, must request an extension of time from the FCC 30 days prior to the expiration of the one-year construction period. The Commission uses these filings to provide accurate CARS channel usage for frequency coordination, to prevent warehousing of spectrum, and to prevent frequency interference.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–31600 Filed 12–22–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

December 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, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before February 23, 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 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: 3060–1040.

Title: Broadcast Ownership Rules, MB Docket No. 02–277 and MM Docket Nos. 02–235, 02–327, and 00–244.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 12.

Estimated Time per Response: 2–10 hours.

Frequency of Response: One-time reporting requirement.

Total Annual Burden: 12 hours.

Total Annual Cost: None.

Needs and Uses: On June 2, 2003, the Commission adopted a Report and Order and Notice of Proposed Rulemaking (R&O), *In the Matter of 2002 Biennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996,* MM Docket No. 02–277, *Cross Ownership of Broadcast Stations and Newspapers,* MM Docket No. 01–235, *Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets,* MM Docket No. 01–317, *Definition of Radio Markets,* MM Docket No. 00–244, and *Definition of Radio Markets for Areas Not Located in an Arbitron Survey Areas Not Located in an Arbitron Survey Area,* MB Docket No. 03–130, FCC 03–127. That R&O contained several one-time reporting requirements which were outside of form collections, affecting licensees with: Temporary waivers, conditional waivers, pending waiver requests, extensions of waiver, or requests for permanent waivers of the broadcast ownership rules. These reporting requirements were adopted to ensure compliance with the new broadcast ownership rules and to ensure the rules' effectiveness.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–31601 Filed 12–22–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1177]

Privacy Act of 1974; Notice of Amendment of System of Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice; amendment of systems of records.

SUMMARY: In accordance with the Privacy Act, the Board of Governors of the Federal Reserve System (Board) is amending three systems of records, entitled Payroll and Leave (BGFRS–7), Biographical File of Federal Reserve Bank Officers (BGFRS–12), and Federal Reserve System Bank Supervision Staff Qualifications (BGFRS–13) to include new routine uses, as well as reflect changes in the format and maintenance of some records. We invite public comment on this publication.

DATES: Comment must be received on or before January 22, 2004.

ADDRESSES: Comments should refer to Docket No. OP–1177, and should be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. However, because paper mail in the Washington area and at the Board of Governors is subject to delay, please consider submitting your comments by e-mail to *regs.comments@federalreserve.gov,* or faxing them to the Office of the Secretary at 202/452–3819 or 202/452–3102. Members of the public may inspect comments in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. on weekdays pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boutilier, Managing Senior Counsel, (202/452–2418), Legal Division. For the hearing impaired *only*, contact Telecommunications Device for the Deaf (TDD) (202–263–4869).

SUPPLEMENTARY INFORMATION: Neither of the systems for Payroll and Leave and Biographical Files of Federal Reserve Officers had been updated for several years. The current revisions to these two systems reflect changes in records retained and the increasing use of electronic storage of Board records. In addition, the system managers have been changed to reflect an internal reorganization at the Board.

The system of records on Federal Reserve System Bank Supervision Staff Qualifications has been revised to reflect the inclusion of Board employees as well as Federal Reserve Bank employees in the files, and the use of electronic data bases to record the qualifications and assignments of the employees.

All three systems of records were reviewed for their routine uses and appropriate amendments to those routine uses have been made.

In accordance with 5 U.S.C. 552a(r), a report of these amended systems of records is being filed with the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget. These amendments will become effective on February 16, 2004, without further notice, unless the Board publishes a notice to the contrary in the **Federal Register**.

Accordingly, the systems of records entitled Payroll and Leave (BGFRS–7), Biographical File of Federal Reserve Bank Officer Personnel (BGFRS–12), and Federal Reserve System Bank Supervision Staff Qualifications (BGFRS–13).

BGFRS–7

SYSTEM NAME:

Payroll and Leave.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Board of Governors of the Federal Reserve System, 20th and Constitution, NW., Washington, DC 20551. Some information is electronically stored off-site on behalf of the Board by a contractor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present employees and members of the Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payroll records, including pay statements; requests for deductions; tax and social security withholdings; Board retirement deductions; voluntary withholdings for the Board's Thrift Plan or FERS, savings bonds, CFC, and insurance; tax forms; W–2 forms; overtime requests; leave data; and worker's compensation data. Leave records, including compensatory time, and codes indicating reasons for taking leave, such as family illness, or military leave.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 11 of the Federal Reserve Act (12 U.S.C. 248(i) and 248(l)).

PURPOSE(S):

These records are used by the Board for payroll, attendance, leave, insurance, tax, retirement, budget, and cost accounting programs, and to facilitate compliance with statutory requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information in the records may be used for the following purposes.

a. By the National Archives and Records Administration in connection with records management inspections and its role as Archivist.

b. To disclose to contractors, agents, or volunteers performing or working on a contract, service, cooperative agreement, or job for the Board.

c. To disclose information to Federal, State, local, and professional licensing boards, Board of Medical Examiners, or to the Federation of State Medical Boards or a similar non-government entity which maintains records concerning individuals' employment histories or concerning the issuance, retention or revocation of licenses, certifications or registration necessary to practice an occupation, profession or specialty, in order to obtain information relevant to a Board decision concerning the hiring, retention or termination of an employee or to inform a Federal agency or licensing boards or the appropriate non-government entities about the health care practices of a terminated, resigned or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal agency.

d. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the Board becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

e. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to a Board decision to hire or retain an employee, issue a security clearance, conduct a security or suitability investigation of an individual, classify jobs, let a contract, or issue a license, grant, or other benefits.

f. To disclose to a Federal agency or to a Federal Reserve Bank, in response to its request, or at the initiation of the Board, information in connection with the hiring of an employee, issuing a security clearance, conducting a security or suitability investigation of an individual, classifying positions, letting a contract, or issuing a license, grant, or other benefit by the requesting agency or Federal Reserve Bank, or the lawful statutory, administrative, or

investigative purpose of the agency to the extent that the information is relevant and necessary to the requesting agency's or Federal Reserve Bank's decision.

g. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

h. To disclose information to another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Board or United States is a party to the judicial or administrative proceeding.

i. To disclose information to the Department of Justice or in a proceeding before a court, adjudicative body, or other administrative body before which the Board is authorized to appear, when:

(1) The Board or any employee of the Board in his or her official capacity; or

(2) Any employee of the Board in his or her individual capacity where the Department of Justice or the Board has agreed to represent the employee; or

(3) The United States (when the Board determines that the litigation is likely to affect the Board) is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Board is deemed by the Board to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

j. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

k. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, or other functions vested in the Commission.

l. To disclose information to the Merit Systems Protection Board or the Office of Special Counsel in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, *e.g.*, as prescribed in 5 U.S.C. chapter 12, or as may be authorized by law.

m. To disclose information in connection with the investigation and resolution of allegations of unfair labor practices before the Federal Reserve Board Labor Relations Panel when requested.

n. To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

o. To provide information to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal for the purposes of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Law, Pub. L. 104–193).

p. To appropriate Federal and State agencies to provide required reports including data on unemployment insurance.

q. To the Social Security Administration to report FICA deductions.

r. To charitable institutions to report contributions.

s. To the Internal Revenue Service and to State, local, tribal and territorial governments for tax purposes.

t. To the Office of Personnel Management in connection with programs administered by that office.

u. To an employee, agent, contractor, or administrator of any Board, Federal Reserve System, or Federal government employee benefit or savings plan, any information necessary to carry out any function authorized under such plan, or to carry out the coordination or audit of a benefit or savings plan.

v. To officials of labor organizations recognized under applicable law when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

w. To a Federal agency for the purpose of collecting a debt owed the Federal government through administrative or salary offset or the offset of tax refunds

x. To other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

y. To the Department of Defense, National Oceanic and Atmospheric Administration, U.S. Public Health Service, Department of Veterans Affairs, and the U.S. Coast Guard needed to effect any adjustments in retired or retained pay required by the dual compensation provisions of 5 U.S.C. 5532.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Storage. Electronic and paper files.

Retrievability. Filed by name, Social Security number, and employee number.

Safeguards. Access to and use of these records is limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized access. Electronic files are protected by passwords. Paper records are stored in cabinets and a safe.

Retention and disposal: Various; minimum of one year from date of annual audit; maximum of indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Human Resources Function, Management Division, Board of Governors of the Federal Reserve System, 20th and Constitution, NW., Washington, DC 20551.

NOTIFICATION PROCEDURE:

Inquiries should be sent to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Internal personnel forms, federal, state, and local tax forms, employee authorizations and directive forms, insurance forms, leave and overtime reports, federal and state garnishment forms.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

BGFRS–12

SYSTEM NAME:

Biographical File of Federal Reserve Bank Officers.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Board of Governors of the Federal Reserve System, 20th and Constitution Ave., NW., Washington, DC 20551.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal Reserve Bank officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains a variety of biographical information on the Reserve Bank officers, as well as personnel actions that occurred during that officer's employment by the Federal Reserve System. The biographical information includes System employment date; birth date; tenure; medical; education; gender; ethnicity; veteran status; past and present salaries, group levels, department, and position titles. Personnel actions include, but are not limited to: appointment, promotion, reassignment, transfer, demotion, awards, and separation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 11 and 21 of the Federal Reserve Act (12 U.S.C. 248 and 12 U.S.C. 485).

PURPOSE(S):

These records are collected and maintained to assist the Board in its role as supervisor of the Federal Reserve Banks.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the National Archives and Records Administration in connection with records management inspections and its role as Archivist.

b. To disclose to contractors, agents, or volunteers performing or working on a contract, service, cooperative agreement, or job for the Board.

c. By Federal Reserve System officials for purposes of review in connection with appointments, transfers, promotion, function reassignments, adverse actions, reassignment to non-officer status, and determination of qualifications of an individual.

d. To publish name, title and department/function data for the directory of officers of the Federal Reserve Banks.

e. To provide reports to Congress, agencies, and the public on characteristics of the work force.

f. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or man-power studies. May also be utilized to respond to general requests for information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

g. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the Board becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

h. To disclose information to another Federal agency, a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Board or United States is a party to the judicial or administrative proceeding.

i. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Storage: Records are maintained in file folders, loose-leaf notebooks, and an electronic database.

Retrievability: Electronic records are indexed by combination of name or identification number. Records in file folders and notebooks are maintained by Federal Reserve Districts.

Safeguards: Records are maintained in lockable metal file cabinet or metal file cabinets in secured rooms with access limited to those whose official duties require access. Access to the electronic database is controlled through assignment of security clearances to appropriate personnel.

Retention and disposal: Records are retained by the system manager until the officer separates from the Federal Reserve System, at which time they are sent to the Board's Records for permanent file, where they are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System, 20th and Constitution Ave, NW., Washington, DC 20551.

NOTIFICATION PROCEDURE:

Inquiries should be sent to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure'' above.

RECORD SOURCE CATEGORIES.

Information in this system of records comes from either the individual to whom it applies, or data provided by Federal Reserve System officials and employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

BGFRS–13

SYSTEM NAME:

Federal Reserve System Bank Supervision Staff Qualifications.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW., Washington, DC 20551; and the twelve Federal Reserve Banks, located in Boston, MA; New York, NY; Philadelphia, PA; Cleveland, OH; Richmond, VA; Atlanta, GA; Chicago, IL; St. Louis, MO; Minneapolis, MN; Kansas City, MO; Dallas, TX; and San Francisco, CA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present bank supervision staff employed by the Federal Reserve System, who are located at the Board of Governors and the twelve Federal Reserve Banks. Bank supervision staff includes bank examiners and selected supervision staff in the Federal Reserve System.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to the skills, qualifications, training, and experience of bank supervision staff. It also contains information regarding past and present assignments and current availability of individual bank supervision staff employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 11 of the Federal Reserve Act, (12 U.S.C. 248(a) and 248(l)).

PURPOSE(S):

These records are collected and maintained to assist the Board in performing its statutory duty to examine state member banks, bank holding companies, financial holding companies

and affiliates of such institutions. The information is used to assist in career development of examiners and other bank supervision staff. The information also aids the Board and the Reserve Banks in selecting qualified bank supervision staff for particular assignments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information in the records may be used:

a. To disclose information to Federal Reserve Banks, contractors, or agents in connection with work performed on behalf of the Board.

b. To disclose information to the National Archives and Records Administration in connection with records management inspections and its role as Archivist.

c. To disclose pertinent information to the appropriate federal, state, or local agency responsible for investigation, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Board becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

d. To disclose to a Federal Reserve Bank or a federal agency in the executive, legislative, or judicial branch of government, in response to its request, information in connection with the hiring of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, or the lawful statutory, administrative, or investigative purpose of the Federal Reserve Bank or agency to the extent that the information is relevant or necessary to the requesting Federal Reserve Bank's or agency's decision or action.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

g. To disclose information to another federal agency, to a court, or to a party in litigation before a court or in an administrative proceeding being conducted by a federal agency when the Board or Federal government is a party to the judicial or administrative proceeding.

h. To disclose to an authorized appeal grievance examiner, formal complaints examiner, administrative judge, equal employment opportunity investigator, arbitrator, mediator or other duly authorized official engaged in investigation, administrative resolution or settlement of a grievance, complaint or appeal filed by an employee.

i. To disclose information to officials of state or local bar associations or disciplinary boards or committees when they are investigating complaints against attorneys in connection with their representation of a party before the Board, Equal Employment Opportunity Commission, or a court.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Storage: These records are maintained in file folders and in electronic media.

Retrievability: These records are retrievable by the name of and/or a unique assigned identification number for the individual on whom they are maintained.

Safeguards: Access to, and use of, these records is limited to those persons whose official duties require such access.

Retention and disposal: Records regarding training are removed from the active file when the employee leaves the Federal Reserve System and deleted five years later. Records in other parts of this system are currently under review to determine the appropriate retention period and will be retained until the appropriate retention period has been established.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Banking Supervision and Regulation, and Director, Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th and Constitution, NW., Washington, DC 20551.

NOTIFICATION PROCEDURE:

Inquiries should be sent to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW., Washington, DC 20551. The request should contain the individual's name, date of birth, Social Security number, identification number (if known), approximate date of record, and type of position.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

The records come from the individual to whom the record pertains, and personnel and training records regarding the individual that are maintained by the Board and Federal Reserve Banks.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, December 17, 2003.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 03–31510 Filed 12–22–03; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–04–16]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–E11, Atlanta, GA 30333. Written

comments should be received within 60 days of this notice.

Proposed Project: Mechanisms of Foodborne Infectious Disease Outbreaks—New—Epidemiology Program Office (EPO), Centers for Disease Control and Prevention (CDC).

This study will systematically determine how local and state health departments find out about disease outbreaks. While it is assumed that speed and accuracy of outbreak detection can be improved, there is little reported analysis of current detection methods at the state and local levels. Great attention is being focused on improving infectious disease outbreak detection in the United States (U.S.), heightened by concerns of U.S. vulnerability to bioterrorist attack, and the inclusion of the development of enhanced syndromic surveillance systems. This information can be used to identify ineffective successful methods, and to motivate investments in alternative methods for outbreak detection.

The investigation will consist of a collection of available documentation about the outbreak and administration of a questionnaire to the local or state health department representative who identified each of 250 different outbreaks, which are sampled from the Electronic Foodborne Outbreak Reporting System (EFORS) database. The questionnaire will consist of both closed- and open-ended items, and will be administered via Web-form or telephone interview. The initial 250 outbreak sample will be stratified by State, partly in order to reasonably distribute survey burden. With an anticipated 80% response rate, the final sample will be approximately 200 outbreaks (and respondents).

Additional efforts to reduce survey burden will include completion of as many of the questionnaire items as possible prior to administration (based on supporting documents), and Web-form or telephone administration options. There will be no cost to respondents.

Respondents	No. of respondents	No. of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
State and Local Health Departments Representatives	200	1	1	200
Total				200

Dated: December 16, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–31524 Filed 12–22–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Filing of Annual Reports

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing, as required by the Federal Advisory Committee Act, that the agency has filed with the Library of Congress the annual reports of those FDA advisory committees that held closed meetings during fiscal year 2003.

ADDRESSES: Copies are available from the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20857, 301–827–6860.

FOR FURTHER INFORMATION CONTACT: Theresa L. Green, Committee Management Officer, Advisory Committee Oversight and Management Staff (HF–4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1220.

SUPPLEMENTARY INFORMATION: Under section 13 of the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR 14.60(c), FDA has filed with the Library of Congress the annual reports for the following FDA advisory committees through September 30, 2003:

Center for Biologics Evaluation and Research
- Biological Response Modifiers Advisory Committee
- Vaccines and Related Biological Products Advisory Committee

Center for Drug Evaluation and Research
- Anti-Infective Drugs Advisory Committee
- Arthritis Advisory Committee
- Cardiovascular and Renal Drug Advisory Committee
- Gastrointestinal Drug Advisory Committee

National Center for Toxicological Research
- Science Advisory Board to the National Center for Toxicological Research
- Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (Ranch Hand Advisory Committee)

Center for Devices and Radiological Health
- Medical Devices Advisory Committee (consisting of reports for the Circulatory System Devices Panel; Gastroenterology and Urology Devices Panel; General and Plastic Surgery Devices Panel; Dental Products Panel; Obstetrics and Gynecology Devices Panel; Neurological Devices Panel; Ophthalmic Devices Panel; Orthopaedic and Rehabilitation Devices Panel; Radiological Devices Panel)

Annual reports are available for public inspections between 9 a.m. and 4 p.m., Monday through Friday at the following locations:

1. The Library of Congress, Madison Bldg., Newspaper and Current Periodical Reading Room, 101 Independence Ave. SE., rm. 133, Washington, DC; and

2. The Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Dated: December 15, 2003.

Peter J. Pitts,

Associate Commissioner for External Relations.

[FR Doc. 03–31494 Filed 12–22–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Methods and Compositions of Defensin-Antigen Fusion Proteins and Chemokine-Antigen Fusion Proteins as Vaccines for Tumors and Viral Infection

Arya Biragyn (NCI).

PCT Application No. PCT/US01/43830 filed 19 Nov 2001 (DHHS Reference No. E–024–2002/0–PCT–02).

Licensing Contact: Catherine Joyce; (301) 435–5031; *joycec@mail.nih.gov*.

This invention relates to the development of a vaccine for increasing the immunogenicity of a tumor antigen, thus useful for the treatment of cancer, as well as a vaccine for increasing the immunogenicity of a viral antigen, thus allowing treatment of viral infection. In particular, the present invention provides a fusion protein comprising a defensin or chemokine fused to either a tumor antigen or viral antigen which is administered as either a protein or nucleic acid vaccine to elicit an immune response effective in treating cancer or effective in treating or preventing viral infection. In particular, the C–C chemokine macrophage inflammatory protein (MIP–3α) was shown to be particularly effective in increasing the immunogenicity of a tumor antigen. Aspects of this work have been published as a PCT patent application with publication number WO 03/025002.

This technology is available for licensing on an exclusive or a non-exclusive basis.

Dated: December 16, 2003.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 03–31652 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: (301) 496–7057; fax: (301) 402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Improved Endogenous Opioid Anti-Nociception With Reduced Neurodegeneration, Hyperalgesia, Allodynia and Tolerance

Amina Woods, Toni Shippenberg, and Lawrence Sharp (NIDA).

U.S. Provisional Application No. 60/459,830 filed 01 Apr 2003 (DHHS Reference No. E–276–2001/0–US–01).

Licensing Contact: Norbert Pontzer; (301) 435–5502; *pontzern@mail.nih.gov*.

Endogenous opioid peptides and receptors evolved to modulate nociceptive input in response to injury. One of those peptides, dynorphin, acts on the kappa opioid receptor subtype to produce analgesia without sedation, respiratory depression or constipation. Prior to this invention, dynorphin was not an acceptable analgesic because of certain severe toxic side effects, when given in doses higher than physiological concentrations, mainly NMDA mediated neurotoxicity. Dynorphin produces its deleterious side effects by producing an NMDA mediated motor paralysis. In disease states such as stroke, spinal cord injury or neuropathic pain, activation of NMDA receptors by endogenous dynorphin may lead to neurodegeneration, hyperalgesia and allodynia. Tolerance to opiate drugs may also be mediated by the NMDA actions of dynorphin. This invention provides materials and methods to block NMDA receptor activation by dynorphin thus allowing the use of exogenous dynorphin as a beneficial nociceptive agent without side effects and preventing pathological actions of endogenous dynorphin in response to injury. Experimental data demonstrate: (1) attenuation of motor activity deficits, flaccid paralysis and mechanical allodynia produced by dynorphin administration; (2) reduction of infarct size and locomotor deficits after cerebral ischemia; (3) the reduction of morphine tolerization; and (4) so far no visible side effects.

Pain Control by the Selective Local Ablation of Nociceptive Neurons

Michael Iadarola and Zoltan Olah (NIDCR).

PCT/US01/09425 filed 22 Mar 2001, published as WO 02/076444 (DHHS Reference No. E–109–2000/0–PCT–02).

Licensing Contact: Norbert Pontzer; (301) 435–5502; *np59n@nih.gov*.

The vanilloid receptor (VR) is a cation channel predominantly expressed on the peripheral processes and perikarya of nociceptive primary afferent neurons. Previous studies have shown that activation of the peripheral receptors by agonists such as capsaicin from hot peppers, or the much more potent resiniferatoxin, produces acute pain sensation which may be followed by desensitization. These inventors discovered that administration of VR agonists in the vicinity of neuronal cell bodies expressing the VR receptor can actually destroy those cells. To control pain and inflammatory disorders, the present invention provides methods and kits for the selective ablation of pain sensing neurons. For example, the intraganglionic administration of a VR agonist selectively ablates primary afferent nociceptive neurons without impairing other sensory modalities. This invention will greatly enhance the ability to control pain, inflammation and other conditions mediated by nociceptive neurons while sparing mental function and other sensations.

This research has been described, in part, in Olah et al., J. Biol. Chem., 276, pp. 11021–11030, 2001.

Dated: December 17, 2003.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 03–31653 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Advisory Committee to the Director, NIH.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee to the Director, NIH.

Date: January 12, 2004.

Time: 8:30 a.m. to 5 p.m.

Agenda: Topics proposed for discussion include scientific presentations, budget update, NIH Roadmap, and workgroup updates.

Place: National Institutes of Health, Building 31, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Shelly Pollard, ACD Coordinator, Building 2, National Institutes of Health, Bethesda, MD 20892, 301–496–0959.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *http://www.nih.gov/about/director/acd.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: December 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31497 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel, Basic Science.

Date: February 23–24, 2004.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Dale Birkle, PhD, Scientific Review Administrator, NIH/NCCAM, 6707 Democracy Blvd., Democracy Two Building, Suite 401, Bethesda, MD 20892, (301) 451–6570, *birkled@mail.nih.gov.*

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel, Clinical Science.

Date: February 26–27, 2004.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Martin H. Goldrosen, PhD, Chief, Office of Scientific Review, National Center for Complementary and Alternative Medicine, National Institutes of Health, 6707 Democracy Blvd., Ste. 106, Bethesda, MD 20892–5475, (301) 451–6331, *goldrosm@mail.nih.gov.*

Dated: December 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31505 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the National Advisory Council for Complementary and Alternative Medicine (NACCAM) meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

A portion of the meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussion could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Complementary and Alternative Medicine.

Date: January 30, 2004.

Closed: 8:30 a.m. to 12 noon.

Agenda: To review and evaluate grant applications and/or proposals.

Open: 1 p.m. to adjournment.

Agenda: The agenda includes Opening Remarks and the Annual State of the Center Report by Director, NCCAM, Overview of Activities at the National Center for Research Resources, Role of GCRCs—Launching New Areas of Research, and other business of the Council.

Place: Neuroscience Conference Center, 6001 Executive Boulevard, Conference Rooms C and D, Rockville, MD 20852.

Contact Person: Jane F. Kinsel, Ph.D., M.B.A., Executive Secretary, National Center for Complementary and Alternative Medicine, National Institutes of Health, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, (301) 496–6701.

The public comments session is scheduled from 4:30–5 p.m. Each speaker will be permitted 5 minutes for their presentation. Interested individuals and representatives of organizations are requested to notify Dr. Jane Kinsel, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, Maryland, 20892, (301) 496–6701, Fax: (301)

480–0087. Letters of intent to present comments, along with a brief description of the organization represented, should be received no later than 5 p.m. on January 20, 2004. Only one representative of an organization may present oral comments. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting may be considered for oral presentation, if time permits, and at the discretion of the Chairperson. In addition, written comments may be submitted to Dr. Jane Kinsel at the address listed above up to ten calendar days (February 9, 2004) following the meeting.

Copies of the meeting agenda and the roster of members will be furnished upon request by contacting Dr. Jane Kinsel, Executive Secretary, NACCAM, National Institutes of Health, 6707 Democracy Boulevard, Suite 401, Bethesda, Maryland 20892, (301) 496–6701, Fax (301) 480–0087, or via email at *naccames@mail.nih.gov.*

Dated: December 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 03–31557 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (6 U.S.C. Appendix 2), notice is hereby given of meetings of the National Diabetes and Digestive and Kidney Diseases Advisory Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Diabetes and Digestive and Kidney Disease Advisory Council.

Date: February 4–5, 2004.

Open: February 4, 2004, 8:30 a.m. to 12 p.m.

Agenda: To present the Director's Report and other scientific presentations.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Closed: February 5, 2004, 9:45 a.m. to 10:15 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Open: February 5, 2004, 10:15 a.m. to adjournment.

Agenda: Continuation of the Director's Report and other scientific presentations.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: Robert D. Hammond, PhD, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, 6707 Democracy Blvd. Room 715, MSC 5452, Bethesda, MD 20892–5452, 301–594–8834, *hammondr@extra.niddk.nih.gov.*

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council, Diabetes, Endocrinology, and Metabolic Diseases Subcommittee.

Date: February 4–5, 2004.

Open: February 4, 2004, 1 p.m. to 4 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Closed: February 4, 2004, 4 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Closed: February 5, 2004, 8 a.m. to 8:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Open: February 5, 2004, 8:30 a.m. to 9:30 a.m.

Agenda: Continuation of the review of the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: Robert D. Hammond, PhD, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, 6707 Democracy Blvd, Room 715, MSC 5452, Bethesda, MD 20892–5452, 301–594–8834, *hammondr@extra.niddk.nih.gov.*

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council Digestive Diseases and Nutrition Subcommittee.

Date: February 4–5, 2004.

Open: February 4, 2004, 1 p.m. to 3 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 9, Bethesda, MD 20892.

Closed: February 4, 2004, 3:15 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 9, Bethesda, MD 20892.

Open: February 5, 2004, 8 a.m. to 9:30 a.m.

Agenda: Confinuation of the review of the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 9, Bethesda, MD 20892.

Contact Person: Robert D. Hammond, PhD, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, 6707 Democracy Blvd, Room 715, MSC 5452, Bethesda, MD 20892–5452, 301–594–8834, *hammond@extra.niddk.nih.gov.*

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council Kidney, Urologic, and Hematologic Diseases Subcommittee.

Date: February 4–5, 2004.

Open: February 2, 2004, 1 p.m. to 5:30 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 7, Bethesda, MD 20892.

Closed: February 5, 2004, 8 a.m. to 9:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 7, Bethesda, MD 20892.

Contact Person: Robert D. Hammond, PhD, Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, 6707 Democracy Blvd, Room 715, MSC 5452, Bethesda, MD 20892–5452, 301–594–8834, *hammondr@extra.niddk.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a phone I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *http://www.niddk.nih.gov/fund/divisions/DEA/Council/coundesc.htm.,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: December 16, 2003

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31500 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Dental and Craniofacial Research Council.

Date: January 20, 2004.

Closed: 8:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892.

Open: 10:30 a.m. to 4 p.m.

Agenda: Director's Report, Budget Update, Scientific Presentation, Concept Clearances.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Norman S. Braveman, Assistant to the Director, NIH—NIDCR, Building 45, Room 4AN–24, Bldg 45 Rm 4AN24 (301) 594–208, Bethesda, MD 20892, 301 594–2089, *NORMAN.BRAVEMAN@NIH.GOV.*

Information is also available on the Institute's/Center's home page: *http://www.nidcr.nih.gov/discover/nadrc.index.htm,* where an agenda and any additional information for the meeting will be posted when available.

Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: December 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31501 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 04–25, Review of R21s.

Date: January 13, 2004.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca Roper, MS, MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, National Inst of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr., room 4AN32E, Bethesda, MD 20892, (301) 451–5096.

Name of Committee: National Institute of Dental Craniofacial Research Special Emphasis Panel 04–21, Review T32s.

Date: January 29, 2004.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Lynn M. King, PhD, Scientific Review Administrator, Scientific Review Branch, 45 Center Dr., Rm 4AN–38K, National Institute of Dental & Craniofacial Research, National Institutes of Health, Bethesda, MD 20892–6402, 301–594–5006.

Name of Committee: National Institute of Dental Craniofacial Research Special Emphasis Panel 04–31, Review of R01s.

Date: February 23, 2004.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372, *george_hausch@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: December 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31502 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Child Health and Human Development Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Child Health and Human Development Council.

Date: January 29–30, 2004.

Open: January 29, 2004, 8:30 a.m. to Adjournment.

Agenda: (1) A report by the Director, NICHD; (2) a presentation by the Contraception and Reproductive Health Branch; and other Council business.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conf. Room 6, Bethesda, MD 20892.

Closed: January 30, 2004, 8:30 a.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conf. Room 6, Bethesda, MD 20892

Contact Person: Mary Plummer, Committee Management Officer, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E01, Bethesda, MD 20892, 301–594–7232.

Information is also available on the Institute's/Center's home page: *www.nichd.nih.gov/about/nachhd.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: December 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31503 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, the Immunology of Ricin.

Date: January 8, 2004.

Time: 10 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone conference call).

Contact Person: Tracy A. Shahan, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2606, *tshahan@niaid.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Pathogenesis of PVN.

Date: January 9, 2004.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone conference call).

Contact Person: Tracy A. Shahan, PHD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2606, *tshahan@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS.)

Dated: December 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31504 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, The Role of PPARB in Environmental Liver Disease.

Date: February 4–5, 2004.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Contact Person: Janice B. Allen, PhD, Scientific Review Administrator, Scientific Review Ranch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, (919) 541–7556.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: December 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31553 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Development of an Indoor Allergen Assay for Asthma Studies.

Date: February 12, 2004.

Time: 10:30 a.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Janice B. Allen, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P. O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, (919) 541–7556.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safely Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: December 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31554 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Reduction of Allergen Levels in Residential Dwellings.

Date: February 26, 2004.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS, Building 4401, 79 T. W. Alexander Drive, Room 122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Sally Eckert-Tilotta, PhD, National Inst. of Environmental Health Sciences, Office of Program Operations, Scientific Review Branch, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1446, *eckertt1@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: December 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31555 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Metabonomics of the Liver.

Date: February 18, 2004.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, Room 122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: RoseAnne M. McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–0752.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS).

Dated: December 17, 2003.

LaVerne Y. Stringfield

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31556 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Unsolicited Program Project Grant Application.

Date: January 12, 2004.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817. (Telephone Conference Call).

Contact Person: Annie Walker-Abbey, Scientific Review Administrator, Scientific Review Program, NIAID/DEA, 6700B Rockledge Drive, RM 2217, MSC–7616, Bethesda, MD 20892–7616, 301–451–2761.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31558 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Development and Validation of High Throughput in Vitro Estrogen Receptor (ER) and Androgen Receptor (AR) Binding Assays.

Date: February 19, 2004.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, 122, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: RoseAnne M. McGee, Associate Scientific Review Administrator, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Inst. of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–0752.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.142, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: December 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31560 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of meetings of the National Advisory Allergy and Infectious Diseases Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Allergy and Infectious Diseases Council, Acquired Immunodeficiency Syndrome Subcommittee.

Date: January 26, 2004.

Closed: 8:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room A, Bethesda, MD 20892.

Open: 1 p.m. to adjournment.

Agenda: Program advisory discussions and presentations.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room E1/E2, Bethesda, MD 20892.

Contact Person: John J. McGowan, PhD, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council, Microbiology and Infectious Diseases Subcommittee.

Date: January 26, 2004.

Closed: 8:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room F1/F2, Bethesda, MD 20892.

Open: 1 p.m. to adjournment.

Agenda: Program advisory discussions and presentations.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room F1/F2, Bethesda, MD 20892.

Contact Person: John J. McGowan, PhD, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council, Allergy, Immunology and Transportation Subcommittee.

Date: January 26, 2004.

Closed: 8:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room D, Bethesda, MD 20892.

Open: 1 p.m. to adjournment.

Agenda: Program advisory discussions and presentations.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room D, Bethesda, MD 20892.

Contact Person: John J. McGowan, PhD, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council.

Date: January 26, 2004.

Open: 10:30 a.m. to 11:40 a.m.

Agenda: Report from NIAID Director on Institute programs and a report on the Immune Tolerance Network.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room E1/E2, Bethesda, MD 20892.

Closed: 11:40 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room E1/E2, Bethesda, MD 20892.

Contact Person: John J. McGowan, PhD, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *www.niaid.nih.gov/facts/facts.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31561 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of a meeting of the National Advisory General Medical Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory General Medical Sciences Council.

Date: January 22–23, 2004.

Closed: January 22, 2004, 8:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1 and E2, 9000 Rockville Pike, Bethesda, MD 20892.

Open: January 22, 2004, 10:30 a.m. to 5 p.m.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, new potential opportunities and other business of Council.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1 and E2, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: January 23, 2004, 8:30 a.m. to adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1 and E2, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Ann A. Hagan, Phd, Acting Associate Director, Division of Extramural Activities, 45 Center Drive, Room 2AN24G, MSC6200, Bethesda, MD 20892–6200, (301) 594–3910, *hagana@nigms.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *http://www.nigms.nih.gov/about/advisory_council.html*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Centers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: December 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31562 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contract Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism.

Date: February 4–5, 2004.

Closed: February 4, 2004, 5:30 p.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Closed: February 5, 2004, 8:30 a.m. to 9:30 a.m.

Agenda: To review and evaluate the Board of Scientific Counselor's Report.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Open: February 5, 2004, 9:30 a.m. to 3 p.m.

Agenda: Program documents.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Kenneth R. Warren, PhD, Director, Office of Scientific Affairs, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Willco Building, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–4375, *kwarren@niaaa.nih.gov.*

Information is also available on the Institute's/Center's home page: *silk.nih.gov/silk/niaaa1/about/roster.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: December 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31563 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Special Emphasis Panel 1 for Unsolicited Biodefense P01 Applications.

Date: January 14, 2004.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, Md 20817. (Telephone Conference Call).

Contact Person: Stefani T. Rudnick, Phd, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 496–2550, *srudnick@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31564 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of a meeting of the AIDS Research Advisory Committee, NIAID.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: AIDS Research Advisory Committee, NIAID.

Date: January 26, 2004.

Time: 1 p.m. to 6 p.m.

Agenda: Framework for DAIDS Clinical Research in a Global Environment.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room E1/E2, Bethesda, MD 20892.

Contact Person: Rona L. Siskind, Executive Secretary, AIDS Research Advisory Committee, Division of AIDS, NIAID/NIH, Room 4139, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7601, (301) 435–3732.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31565 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Disease; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Biodefense and Emerging Infectious Disease Research Opportunities.

Date: January 16, 2004.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817. (Telephone Conference Call).

Contact Person: Clayton C. Huntley, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 451–2570, *ch405t@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: December 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31566 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The portions of the meeting devoted to the review and evaluation of journals for potential indexing by the National Library of Medicine will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended. Premature disclosure of the titles of the journals as potential titles to be indexed by the National Library of Medicine, the discussions, and the presence of individuals associated with these publications could significantly frustrate the review and evaluation of individual journals.

Name of Committee: Literature Selection Technical Review Committee.

Date: February 5–6, 2004.

Open: February 5, 2004, 9 a.m. to 11 a.m.

Agenda: Administrative reports and program discussions.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, Center Drive, Bethesda, MD 20814.

Closed: February 5, 2004, 11 a.m. to 5 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, Center Drive, Bethesda, MD 20814.

Closed: February 6, 2004, 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, Center Drive, Bethesda, MD 20814.

Contact Person: Sheldon Kotzin, MLS, Chief, Bibliographic Services Division, Division of Library Operations, National Library of Medicine, 8600 Rockville Pike, Bldg 38A/Room 4N419, Bethesda, MD 20894.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this Notice. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interest person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: December 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 03–31496 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, December 22, 2003, 1 p.m. to December 22, 2003, 2 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on December 8, 2003, 68 FR 68404–68405.

The meeting will be held December 15, 2003. The time and location remain the same. The meeting is closed to the public.

Dated: December 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31498 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, December 15, 2003, 1 p.m. to December 15, 2003, 2:30 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on December 3, 2003, 68 FR 67689–67690.

The meeting will be held December 22, 2003, from 11 a.m. to 12:30 p.m. The location remains the same. The meeting is closed to the public.

Dated: December 16, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31499 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Vaccine.

Date: December 19, 2003.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Kenneth A Roebuck, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Yeast Molecular Biology.

Date: December 22, 2003.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150, *politisa@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bioanalytical Special Review.

Date: January 7, 2004.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Noni Byrnes, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7806, Bethesda, MD 20892, (301)–435–1217, *byrnesn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Muculoskeletal Sciences.

Date: January 9, 2004.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SB 50R: PAR–03–032: Bioengineering Research Partnerships.

Date: January 16, 2004.

Time: 10 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *dhindsad@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844,

93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 17, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–31559 Filed 12–22–03; 8:45 am]

BILLING CODE 4140–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–288]

Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports

AGENCY: International Trade Commission.

ACTION: Notice of determination.

EFFECTIVE DATE: December 15, 2003.

SUMMARY: Section 7 of the Steel Trade Liberalization Program Implementation Act of 1989 (''the Act''), as amended (19 U.S.C. 2703 note), which concerns local feedstock requirements for fuel ethyl alcohol imported by the United States from CBERA-beneficiary countries, requires the Commission to determine annually the U.S. domestic market for fuel ethyl alcohol during the 12-month period ending on the preceding September 30. The domestic market determination made by the Commission is to be used to establish the ''base quantity'' of imports that can be imported with a zero percent local feedstock requirement. The base quantity to be used by the U.S. Customs Service in the administration of the law is the greater of 60 million gallons or 7 percent of U.S. consumption as determined by the Commission. Beyond the base quantity of imports, progressively higher local feedstock requirements are placed on imports of fuel ethyl alcohol and mixtures from the CBERA-beneficiary countries.

For the 12-month period ending September 30, 2003, the Commission has determined the level of U.S. consumption of fuel ethyl alcohol to be 2.67 billion gallons. Seven percent of this amount is 186.9 million gallons (these figures have been rounded). Therefore, the base quantity for 2004 should be 186.9 million gallons.

FOR FURTHER INFORMATION CONTACT: Devry Boughner (202) 205–3313, *dboughner@usitc.gov,* in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart, *wgearhart@usitc.gov,* of the Commission's Office of the General Counsel at (202) 205–3091.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Background: For purposes of making determinations of the U.S. market for fuel ethyl alcohol as required by section 7 of the Act, the Commission instituted Investigation No. 332–288, Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports, in March 1990. The Commission uses official statistics of the U.S. Department of Energy to make these determinations as well as the PIERS database of the Journal of Commerce, which is based on U.S. export declarations.

Section 225 of the Customs and Trade Act of 1990 (Pub. L. 101–382, August 20, 1990) amended the original language set forth in the Steel Trade Liberalization Program Implementation Act of 1989. The amendment requires the Commission to make a determination of the U.S. domestic market for fuel ethyl alcohol for each year after 1989.

Issued: December 18, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–31655 Filed 12–22–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–432 and 731–TA–1024–1028 (Final)]

Prestressed Concrete Steel Wire Strand from Brazil, India, Korea, Mexico, and Thailand

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: December 18, 2003.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: Effective July 16, 2003, the Commission established a schedule for the conduct of the final phase of the subject investigations (68 FR 52614, September 4, 2003). By Executive Order announced on December 9, 2003, the Executive Departments and Agencies of the Federal Government are scheduled to close on Friday, December 26, 2003. The Commission, therefore, is revising its schedule as follows: the Commission will make its final release of information on December 29, 2003 and final party comments are due on January 2, 2004.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

Issued: December 19, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–31690 Filed 12–22–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJJDP) Docket No. 1394]

Office of Juvenile Justice and Delinquency Prevention: Meeting of the Juvenile Justice Advisory Committee

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Office of Justice Programs, Justice.

ACTION: Notice of meeting.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention is announcing a meeting of the Juvenile Justice Advisory Committee in Point Clear, Alabama, from January 12–14, 2004, at the meeting times and location noted below.

DATES: The schedule of events is as follows:

Monday, January 12, 2004

9 a.m.–5 p.m. Juvenile Justice Advisory Committee Training (Closed Session)

Tuesday, January 13, 2004

9 a.m.–12 p.m. Juvenile Justice Advisory Committee Training (Closed Session)

12 p.m.–1:30 p.m. Informal Personnel Discussion (Closed Session)

1:30 p.m.–3 p.m. Organizational Discussion (Open Session)

3 p.m.–5 p.m. Working Group—Subcommittee Organization (Closed Session)

Wednesday, January 14, 2004

9 a.m.–10:15 a.m. Subcommittee Reporting (Open Session)

10:30 a.m.–12 p.m. Closing Remarks (Open Session)

ADDRESSES: The meeting will take place at the Grand Hotel Marriott, One Grand Boulevard, Point Clear, Alabama, 36564.

FOR FURTHER INFORMATION CONTACT: Timothy Wight, Designated Federal Official, OJJDP, at 202–514–2190 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Juvenile Justice Advisory Committee, established pursuant to section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2), will meet to carry out its advisory functions under section 223(f)(2)(C–E) of the Juvenile Justice and Delinquency Prevention Act of 2002. This is an administrative and organizational meeting of the Committee wherein the members will be addressed by the Administrator of OJJDP, receive training concerning the provisions of the Federal Advisory Committee Act, elect a Committee chair and vice-chair, and organize into sub-committees.

Members of the public who wish to attend the open sessions of the meeting should notify the Juvenile Justice Resource Center at 301–519–5790 (Karen Goldstein) or 301–519–5245 (Carol Sadler)by 5 p.m., ET, on January 5, 2004. Notification may also be sent to the following e-mail address: *JJAC@jjrc.org.* Please indicate your name, address, phone number, and which open sessions you are expecting to attend.

J. Robert Flores,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 03–31552 Filed 12–22–03; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 15, 2003.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor. To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or by E-Mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Mine Safety and Health Administration (MSHA), Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316 / this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Mine Safety and Health Administration.

Title: Gamma Radiation Exposure Records.

OMB Number: 1219–0039.

Affected Public: Business or other for-profit.

Type of Response: Recordkeeping.

Frequency: Annually.

Number of Respondents: 2.

Number of Annual Responses: 2.

Estimated Time Per Response: 1 hour.

Total Burden Hours: 2.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Title 30, CFR § 57.5047 requires that gamma radiation surveys be conducted annually in all underground mines where radioactive ores are mined. The Standard also requires, where average gamma radiation measurements are in excess of 2.0 milliroentgens per hour in the working place, that gamma radiation dosimeters be provided for all persons affected, and that records of cumulative individual gamma radiation exposure be kept. These recordkeeping requirements are necessary to protect miners from adverse health affects resulting from occupational exposure to gamma radiation.

Type of Review: Extension of a currently approved collection.

Agency: Mine Safety and Health Administration.

Title: Mine Rescue Teams; Arrangements for Emergency Medical Assistance; and Arrangements for Transportation for Injured Persons.

OMB Number: 1219–0078.

Affected Public: Business or other for-profit.

Type of Response: Recordkeeping, Reporting, and Third party disclosure.

Frequency: On occasion; Bi-monthly; Monthly; and Annually.

Average Response Time: Varies from 15 minutes to 4 hours.

Cite/Reference	Annual responses	Hour burden
30 CFR 49.2:		
Coal	117	117
Metal/Non-metal	31	31
30 CFR 49.3 and 49.4:		
Coal	2	4
Metal/Non-metal	11	22
30 CFR 49.6:		
Coal	14,868	4,510
Metal/Non-metal	14,904	4,521
30 CFR 49.7:		
Coal	1,652	3,511
Metal/Non-metal	1,656	3,519
30 CFR 49.8:		
Coal	7,623	4,226
Metal/Non-metal	7,673	4,631
30 CFR 49.9:		
Coal	117	233
Metal/Non-metal	31	62
30 CFR 75.1713–1:		
Coal	117	233
30 CFR 75.1702:		
Coal	166	332

Cite/Reference	Annual responses	Hour burden
Coal total	24,662	13,166
Metal/Non-metal total	24,306	12,786
Grand total	48,968	25,952

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $561,306.

Description: Under 30 CFR part 49, Mine Rescue Teams, the regulations set standards related to the availability of mine rescue teams; alternate mine rescue capability for small and remote mines and mines with special mining conditions; inspection and maintenance records of mine rescue equipment and apparatus; physical requirements for mine rescue team members and alternates; and experience and training requirements for team members and alternates. Parts 75 and 77 requires that coal mine operators make arrangements with a licensed physician, medical service, medical clinic, or hospital and with an ambulance service to provide 24-hour emergency medical assistance and transportation. That information is to be posted at the mine.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–31537 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 11, 2003.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor. To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or E-Mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316/this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment Standards Administration.

Type of Review: Extension of a currently approved collection.

Title: Notice of issuance of insurance policy.

OMB Number: 1215–0059.

Affected Public: Business or other for-profit and State, Local, or Tribal Government.

Type of Response: Reporting.

Frequency: Annually.

Number of Respondents: 60.

Annual Responses: 4,000.

Estimated Time Per Response: 10 minutes.

Total Burden Hours: 667.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $1,800.

Description: The CM–921 provides insurance carriers with the means to supply the Department of Labor with information showing that a responsible coal mine operator is insured against its Federal Black Lung compensation liability pursuant to the requirements established in the Federal Black Lung Benefits Act. The CM–921 is authorized by 20 CFR part V, subpart C, 726.208–213.

Agency: Employment Standards Administration.

Type of Review: Extension of a currently approved collection.

Title: Representative Fee Request.

OMB Number: 1215–0078.

Affected Public: Business or other for-profit and individuals or households.

Type of Response: Reporting.

Frequency: On occasion.

Number of Respondents: 12,700.

Number of Annual Responses: 12,700.

Estimated Time Per Response: 30 minutes for Longshore filings and 1 hour for FECA filings.

Total Burden Hours: 7,850.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $17,215.

Description: Individuals filing for compensation benefits with the Office of Workers' Compensation Programs (OWCP) may be represented by an attorney or other representative. The representative is entitled to request a fee for services under the Federal Employees' Compensation Act (FECA), 20 CFR 10.700–703, and under the Longshore and Harbor Workers' Compensation Act (LHWCA), 20 CFR 702.132. The fee must be approved by the OWCP before any demand for payment can be made by the representative. This information collection request sets forth the criteria for the information, which must be presented by the respondent in order to have the fee approved by the OWCP. The information collection does not have a particular form or format; the respondent must present the information in any format which is convenient and which meets all the required information criteria. The Department of Labor seeks the extension of approval to collect this information in order to carry out its responsibility to approve representative fees under the two Acts.

Agency: Employment Standards Administration.

Type of Review: Extension of a currently approved collection.

Title: Request for Employment Information.

OMB Number: 1215–0105.

Affected Public: Business or other for-profit.

Type of Response: Reporting.

Frequency: On occasion.

Number of Respondents: 500.

Number of Annual Responses: 500.

Estimated Time Per Response: 15 minutes.

Total Burden Hours: 125.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $200.

Description: The Form CA–1027 is used to collect information about a claimant's employment. The information is necessary to determine continued eligibility for compensation

payments under the Federal Employee's Compensation Act (5 U.S.C. 8106).

Agency: Employment Standards Administration.

Type of Review: Extension of a currently approved collection.

Title: Provider Enrollment Form.

OMB Number: 1215–0137.

Affected Public: Business or other for-profit.

Type of Response: Reporting.

Frequency: On occasion.

Number of Respondents: 12,600.

Number of Annual Responses: 12,600.

Estimated Time Per Response: 8 minutes.

Total Burden Hours: 1,676.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $5,040.

Description: The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101, *et seq.,* the Black Lung Benefits Act (BLBA), 30 U.S.C. 901 *et seq.,* and the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384 *et seq.,* and the Longshore and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. 901 *et seq.* These statutes require OWCP to pay for medical and vocational rehabilitation services provided to beneficiaries. In order for OWCP's billing contractor to pay providers of these services with its automated bill processing system, providers must ''enroll'' with one or more of the OWCP programs that administer the statues by submitting certain profile information, including identifying information, tax I.D. information, and whether they possess specialty or sub-specialty training. Form OWCP–1168 is used to obtain this information from each provider. If this information is not obtained before the provider submits his or her first bill, the bill payment process is prolonged and increases the burden on providers. The Department of Labor seeks approval for the extension of this information collection in order to carry out a wide range of automated medical bill ''edits'', such as, the identification of duplicate billings, the application of pertinent fee schedules that apply to the programs, utilization review, and fraud and abuse detection. This information is also used to furnish timely and detailed reports to providers on the status of previously submitted bills.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 03–31538 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–CK–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 15, 2003.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor. To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or E-Mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL, Office of Management and Budget, Room 10235, Washington, DC 20503 (202–395–7316/this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Assistant Secretary for Policy.

Type of Review: Revision of a currently approved collection.

Title: National Agriculture Workers Survey (NAWS).

OMB Number: 1225–0044.

Affected Public: Individuals or households and farms.

Type of Response: Reporting.

Frequency: Annually.

Number of Respondents: 5,200.

Number of Annual Responses: 5,344.

Estimated Time Per Response: 20 minutes to conduct employer interviews; 15 minutes for the Occupational Injury Supplement; and 50 minutes for the Primary Questionnaire.

Total Burden Hours: 3,570.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: NAWS provides an understanding of the manpower resources available to U.S. agriculture. It is the national source of information on the demographic, occupational health and employment characteristics of hired crop workers.

Ira Mills,

Departmental Clearance Officer.

[FR Doc. 03–31539 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,915]

Advanced Design and Knits, Inc., Copiague, NY; 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, and ex-worker on behalf of workers at Advanced Design and Knits, Inc. Copiague, New York.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 16th day of October, 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–31527 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,402]

Alamac American Knits LLC, Lumberton, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 31, 2003 in

response to a petition filed by a company official on behalf of workers at Alamac American Knits LLC, Lumberton, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC this 14th day of November 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–31534 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,405]

Authentic Fitness Corp., Los Angeles, CA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 1, 2003 in response to a worker petition filed on behalf of workers at Authentic Fitness Corporation, Commerce, California.

The petitioning group of workers is covered by an earlier petition filed on October 1, 2003 (TA–W–53,132) that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC this 13th day of November, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–31535 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,179]

Kulicke & Soffa Industries, Inc., Willow Grove, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 8, 2003 in response to a petition filed by a company official on behalf of workers at Kulicke & Soffa Industries, Inc., Willow Grove, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 3rd day of November, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–31528 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,370]

Fishing Vessel (F/V) Laurie B, Ketchikan, AK; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 29, 2003 in response to a petition filed by a company official on behalf of workers of F/V Laurie B, Ketchikan, Alaska.

All workers were separated from the subject firm more than one year before the date of the petition. Section 223(b) of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 12th day of November 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–31532 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,398]

Lumenis, Santa Clara, CA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 31, 2003, in response to a petition filed on behalf of workers at Lumenis, Santa Clara, California. The workers produced medical laser systems and fiber optic hand-pieces.

The petition regarding the investigation has been deemed invalid. In order to establish a valid petition, all petitioners must have been employed at the subject firm during the one year period prior to the petition. Not all three petitioners meet this requirement of a valid petition. Consequently, the investigation has been terminated.

Signed in Washington, DC this 14th day of November 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–31533 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,223]

Nighswonger Contract Cutting, Coquille, OR; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 14, 2003 in response to a petition filed by the South Coast Business Employment Corporation on behalf of workers at Nighswonger Contract Cutting, Coquille, Oregon.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC this 14th day of November 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–31530 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,191]

Snap-Tite, Inc., dba Autoclave Engineers Division, Erie, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 8, 2003 in response to a worker petition filed by a company official on behalf of workers at Snap-tite, Inc., dba Autoclave Engineers Division, Erie, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 14th day of November, 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–31529 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,459]

SPX, Lindberg Division, Watertown, WI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on November 6, 2003 in response to a worker petition filed on behalf of workers at SPX, Lindberg Division, Watertown, Wisconsin.

The petitioning group of workers is covered by an earlier petition instituted on October 31, 2003 (TA–W–53,399) that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC this 14th day of November 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–31536 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–53,368]

Fishing Vessel (F/V) Susan Tendering, Kodiak, AK; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 29, 2003 in response to a petition filed by a company official on behalf of workers of F/V Susan Tendering, Kodiak, Alaska.

All workers were separated from the subject firm more than one year before the date of the petition. Section 223(b) of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 12th day of November 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–31531 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0197 (2004)]

Construction Fall Protection Plans and Training Requirements (29 CFR 1926.502 and 1926.503); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comment.

SUMMARY: OSHA solicits comments concerning its proposal to extend OMB approval of the information collection requirement contained in the construction standard for fall protection. The Standard allows employers to develop alternative procedures to the use of conventional fall protection systems when the systems are infeasible or create a greater hazard. The alternative procedures (plan) must be written. Also, employers who use safety net systems may certify that the installation meets the standard's criteria in lieu of performing a drop-test on the net. In addition, employers are required to prepare training certification records for their employees. The plan and certification records ensure that employers comply with the requirements to protect workers from falls, which account for the largest number of fatalities among construction workers.

DATES: Comments must be submitted by the following dates:

Hard Copy: Your comments must be submitted by (postmarked or received) by February 23, 2004.

Facsimile and electronic transmission: Your comments must be received by February 23, 2004.

ADDRESSES:

I. Submission of Comments

Regular mail, express delivery, hand-delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Docket No. ICR–1218–0197 (2004), Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m. EST.

Facsimile: If your comments, including any attachments, are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648. You must include the docket number of this document, Docket No. ICR–1218–0197 (2004), in your comments.

Electronic. You may submit comments, but not attachments, through the Internet at *http://ecomments.osha.gov.*

II. Obtaining Copies of Supporting Statement for the Information Collection

The Supporting Statement for the Information Collection is available for downloading from OSHA's Web site at *http://www.osha.gov.* The supporting statement is available for inspection and copying in the OSHA Docket Office, at the address listed above. A printed copy of the supporting statement can be obtained by contacting Todd Owen at (202) 693–2222.

FOR FURTHER INFORMATION CONTACT: Noah Connell, Directorate of Construction, OSHA, U.S. Department of Labor, Room N–3467, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–2020.

SUPPLEMENTARY INFORMATION:

I. Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA webpage. Please note you cannot attach materials such as studies or journal articles to electronic comments. If you have additional materials, you must submit three copies of them to the OSHA Docket Office at the address above. The additional materials must clearly identify your electronic comments by name, date, subject and docket number so we can attach them to your comments. Because of security-related problems there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 for information about security procedures concerning the delivery of materials by express delivery, hand delivery and messenger service.

II. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is correct. The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The standards on Construction Fall Protection Systems Criteria and Practice (29 CFR 1926.502) and Training Requirements (29 CFR 1926.503) ensure that employers provide the required fall protection for their employees. Accordingly, these standards have the following paperwork requirements: Paragraphs (c)(4)(ii) and (k) of 29 CFR 1926.502, which specify certification of safety nets and development of fall-protection plans, respectively, and paragraph (b) of 29 CFR 1926.502, which requires employers to certify training records. The training-certification requirement specified in paragraph (b) of 29 CFR 1926.503 documents the training provided to employees potentially exposed to fall hazards. A competent person must train these employees to recognize fall hazards and in the use of procedures and equipment that minimize these hazards. An employer must verify compliance with this training requirement by preparing and maintaining a written certification record that contains the: Name or other identifier of the employee receiving the training; the date(s) of the training; and the signature of the competent person who conducted the training or of the employer.

III. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

IV. Proposed Actions

OSHA is proposing to extend the information collection requirements in the Construction Fall Protection Plans and Records (29 CFR 1926.502 and 1926.503). The Agency is proposing to increase the burden by 149,895 hours, from 771,166 hours to 921,061 hours, mainly as a result of increasing the estimated number of fall protection plans. The fall protection plan and certification records of net drop test and training are needed to help employees identify fall hazards and to know which protective measures are to be used.

OSHA will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the Construction Fall Protection Plans and Records Standard.

Type of Review: Extension of a currently-approved information collection requirement.

Title: Construction Fall Protection Plans and Training Requirements in Construction (29 CFR 1926.502 and 1926.503).

OMB Number: 1218–0197.

Affected Public: Business or other for-profit.

Number of Respondents: 100,080.

Frequency: On occasion.

Average Time Per Response: Varies (*i.e.,* 5 minutes (.08 hour) to certify a safety net to 65 minutes to develop and write a fall-protection plan).

Estimated Total Burden Hours: 921,061.

Estimated Cost (Operation and Maintenance): 0.

V. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC on December 17, 2003.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 03–31550 Filed 12–22–03; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Study of IMLS Funded Digital Collections and Content—Focus Groups, Submission for OMB Review, Comment Request

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Notice of requests for new information collection approval.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this proposed information collection request, with applicable supporting documentation, may be obtained by calling the Institute of Museum and Library Services, Director of Research and Technology, Rebecca Danvers at (202) 606–2478. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606–8636.

DATES: Comments must be received by January 22, 2004. The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

ADDRESSES: For a copy of the information collection request contact: Rebecca Danvers, Director of Research

and Technology, Institute of Museum and Library Services, 1100 Pennsylvania Ave., NW., Room 223, Washington, DC 20506.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services Act, Public Law 104–208. The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs. In the National Leadership Grant Program, IMLS funds the digitization of library and museum collections.

This study is to determine the feasibility of using the Open Archives Initiative (OAI) Metadata Harvesting Protocol to aggregate and provide integrated item-level search access to the digitization projects funded by the Institute of Museum and Library Services through the National Leadership Grant Program.

II. Current Action

To develop an effective Open Archives Initiative metada harvesting protocol information will be collected from focus groups of resource developers.

Agency: Institute of Museum and Library Services

Title: Study of IMLS Funded Digital Collections and Content

OMB Number: none.

Agency Number: 3137.

Frequency: Once.

Affected Public: Museums and libraries that created digital collections with IMLS funding.

Number of Respondents: 20, in two focus groups.

Estimated Time Per Respondent: 1.5 hours.

Total Burden Hours: 30.

Total Annualized capital/startup costs: n/a.

Total Costs: $1,125.

FOR FURTHER INFORMATION CONTACT: Comments should be sent to the Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316.

Dated: December 17, 2003.

Rebecca Danvers,

Director, Research and Technology.

[FR Doc. 03–31518 Filed 12–22–03; 8:45 am]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–305]

Nuclear Management Company, LLC, Kewaunee Nuclear Power Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. DPR–43, issued to Nuclear Management Company, LLC (the licensee), for operation of the Kewaunee Nuclear Power Plant, located in Kewaunee County, Wisconsin. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise the Kewaunee Nuclear Power Plant operating license and technical specifications (TSs) to increase the licensed rated power by 6.0 percent from 1673 megawatts thermal (MWt) to 1772 MWt.

The proposed action is in accordance with the licensee's application dated May 22, 2003.

The Need for the Proposed Action

The proposed action permits an increase in the licensed core thermal power from 1673 MWt to 1772 MWt for the Kewaunee Nuclear Power Plant, providing the flexibility to obtain a higher electrical output from the Kewaunee Nuclear Power Plant with minimal modifications.

Environmental Impacts of the Proposed Action

The licensee has submitted an environmental evaluation supporting the proposed stretch power uprate and provided a summary of its conclusions concerning the radiological and non-radiological environmental impacts of the proposed action.

Radiological Environmental Assessment

The stretch power uprate will increase the activity level of radioactive isotopes in the primary and secondary coolant. Due to leakage or process operations, fractions of these fluids are transported to the liquid and gaseous radwaste systems where they are processed prior to discharge. As the activity levels in the primary and secondary coolant are increased, the activity level of radwaste inputs is proportionately increased. Regulatory guidance relative to methodology to be utilized to establish whether the radwaste effluent releases from a pressurized-water reactor meet the requirements of 10 CFR part 20 and 10 CFR part 50, appendix I, is provided in NUREG–0017, Revision 1. The NUREG–0017 methodology is independent of the length of the fuel cycle.

The maximum expected increase in the reactor coolant source (associated with the chemical group with the largest percentage increase) is approximately 17.6 percent for noble gas activity. This increase is primarily a combination of the impact of core power uprate and reduction in reactor coolant system (RCS) mass. Considering the accuracy and error bounds of the operational data utilized in NUREG–0017, this percentage change is well within the uncertainty of the existing NUREG–0017-based expected reactor coolant isotopic inventory used for radwaste effluent analyses and corrected for a facility with this power rating.

As discussed above, there is approximately a 17.6 percent increase assumed for the liquid releases as input activities are based on the largest long-term RCS activity increase for any chemical grouping and on waste volumes which are essentially independent of power level within the applicability range of NUREG–0017. Tritium releases in liquid effluents are assumed to increase approximately 11.4 percent (corresponding to the effective increase in core power) since the facility is changing its power rating, without changing its operational procedures. However, for all liquid releases, the power uprate analysis conservatively used the worst case scaling factor for all isotopes between the pre-uprate case and the uprate case.

For all noble gases (limiting chemical group), there will be a maximum 17.6 percent increase in effluent releases due to the core power uprate. Gaseous releases of Kr-85 in actuality will increase by approximately 11.4 percent. Isotopes with shorter half lives will have increases slightly greater than the percentage increase in power level. The decrease in RCS mass (approximately 5 percent) contributes to the increased concentration of this chemical group in the RCS (the primary removal term for the non-Kr-85 noble gases is decay in the RCS) such that the impact of power uprate is conservatively approximated at 17.6 percent. The impact of the power uprate in iodine releases is approximated by the power level increase. The other components of the gaseous release (that is, particulates via the building ventilation systems and

water activation gases) are not impacted by the power uprate using the methodology outlined in NUREG–0017. Tritium releases in the gaseous effluents increase in proportion to the increased tritium production, which is directly related to core power and is pathway allocated in the analysis in the same ratio as pre-power uprate releases. For particulates, the methodology of NUREG–0017 specifies the release rate per year per unit per building ventilation system. This is not dependent on power level. Thus, there is no change calculated for the power uprate. However, a 17.6 percent increase will be conservatively addressed.

The maximum increase in doses for gaseous and liquid effluents is estimated to be 17.6 percent. The estimated doses are a very small fraction of that allowable under appendix I.

Only minor, if any, changes in waste generation volume are expected. However, it is expected that the activity levels for most of the solid waste would increase proportionately to the increase in long half life coolant activity. Thus, while the total longlived activity contained in the waste is expected to be bounded by the percentage of the power uprate, the increase in the overall volume of waste generation resulting from the power uprate is expected to be minor.

The licensee stated that the power uprate has no significant impact on the expected annual radwaste effluent releases or doses (that is, all doses remain a small percentage of allowable Appendix I doses). The licensee concluded that following the power uprate, the liquid and gaseous radwaste effluent treatment system will remain capable of maintaining normal operation offsite doses within the requirements of 10 CFR Part 50, Appendix I.

Dose Consideration

The stretch power uprate will impact the radiation source terms in the core and the expected radiation source terms in the coolant. The actual increase in radiation levels due to the power uprate will not significantly affect radiation zoning or shielding requirements in the various areas of the plant because it is expected that the increase due to the power uprate will be offset by (1) the conservative analytical techniques typically used to establish shielding requirements, (2) the conservatism in the pre-power uprate design-basis RCS source terms used to establish the radiation zones, and (3) the plant TSs that limit the RCS concentrations to levels well below the design-basis source terms. Individual worker exposures will be maintained within acceptable limits by the site as-low-as-is-reasonably-achievable program that controls access to radiation areas. The licensee stated that the stretch power uprate has no significant effect on normal plant operation radiation zones and shielding requirements.

Following the power uprate, the licensee stated that the post-LOCA vital area operator dose estimates will remain within the regulatory limits of NUREG–0578, Item 2.1.6.b and NUREG–0737 II.B.2 and II.B.3.

Non-Radiological Environmental Assessment

The licensee assessment included determining whether the power uprate will cause the plant to exceed the National Pollutant Discharge Elimination System (NPDES) permits' effluent discharge limitations and other conditions associated with operation of the plant. This review is based upon information contained in the State of Wisconsin, Department of Natural Resources (WDNR), WPDES Permit No. WI–0001571–06–0 and the Final Environmental Statement for the Kewaunee Nuclear Power Plant. The WPDES permit was effective beginning on August 1, 2002, and expires June 30, 2005. The licensee stated that there are no requirements in the NPDES Permit impacted by the power uprate. Circulating water outlet temperature rise increases by approximately 1.5 °F due to the power uprate. The total temperature rise across the condenser would be 16.7 °F. No change in the circulating water flow is required due to the power uprate. The 1.5 °F increase in the circulating water outlet temperature rise is acceptable because it is within the licensee's WPDES Permit No. WI–0001571–06–0.

Summary

The NRC has completed its evaluation of the proposed action and concludes that there are no significant environmental impacts associated with the proposed action.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It has a small affect on nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the Kewaunee Nuclear Power Plant, dated December 1972.

Agencies and Persons Consulted

On November 4, 2003, the staff consulted with the Wisconsin State official, Jeff Kitzembul of the Public Service Commission—Electric Division, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated May 22, 2003. 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 O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/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 e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 16th day of December 2003.

For the Nuclear Regulatory Commission.

L. Raghavan,

Chief, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–31577 Filed 12–22–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Notice

AGENCY: Nuclear Regulatory Commission.

DATES: Weeks of December 22, 29, 2003, January 5, 12, 19, 26, 2004.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of December 22, 2003

There are no meetings scheduled for the Week of December 22, 2003.

Week of December 29, 2003—Tentative

There are no meetings scheduled for the Week of December 29, 2003.

Week of January 5, 2004—Tentative

There are no meetings scheduled for the Week of January 5, 2004.

Week of January 12, 2004—Tentative

Wednesday, January 14, 2004

9:30 a.m. Briefing on Status of Office of Chief Information Officer Programs, Performance, and Plans (Public Meeting) (Contact: Jacqueline Silber, 301–415–7330)

This meeting will be webcast live at the Web address *http://www.nrc.gov.*

Week of January 19, 2004—Tentative

Wednesday, January 21, 2004

1:30 p.m. Discussion of Security Issues (Closed—Ex. 1)

Week of January 26, 2004—Tentative

There are no meetings scheduled for the Week of January 26, 2004.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Timothy J. Frye, (301) 415–1651.

Additional Information: By a vote of 3–0 on December 17, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of (1) SECY–03–0195 (Final Rule: 10 CFR Part 50, Financial Information Requirements for Applications to Renew of Extend the Term of an Operating License for a Power Reactor); and (2) SECY–03–0211 (Dominion Nuclear Connecticut, Inc., Millstone Nuclear Power Station, Unit 2)'' be held on December 18, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555, (301) 415–1969. In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: December 18, 2003.

Timothy J. Frye,

Technical Coordinator, Office of the Secretary.

[FR Doc. 03–31669 Filed 12–19–03; 11:02 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from November 27 through December 11, 2003. The last biweekly notice was published on December 9, 2003 (68 FR 68654).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays.

Copies of written comments received may be examined at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By January 22, 2004, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: June 11, 2003, as supplemented by letter dated August 20, 2003, and October 13, 2003.

Description of amendment request: The proposed amendment would modify Technical Specification (TS) 5.5.16, ''Containment Leakage Rate Testing Program'' to allow a one-time extension of the containment Type A leak rate test interval from once in 10 years to once in 15 years.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change to TS 5.5.16 provides a one-time extension of the containment Type A test interval to 15 years for HBRSEP (H. B. Robinson Steam Electric Plant), Unit No. 2. The proposed TS change does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. The containment vessel is designed to provide a leak-tight barrier against the uncontrolled release of radioactivity to the environment in the unlikely event of postulated accidents. As such, the containment vessel is not considered as the initiator of an accident. Therefore, the proposed TS change does not involve a significant increase in the probability of an accident previously evaluated.

The proposed change involves only a one-time change to the interval between containment Type A tests. Types B and C leakage testing will continue to be performed at the intervals specified in 10 CFR part 50, Appendix J, Option A, as required by the HBRSEP, Unit No. 2, TS. As documented in NUREG–1493, ''Performance-Based Containment Leakage-Test Program,'' industry experience has shown that Types B and C containment leak rate tests have identified a very large percentage of containment leak paths, and that the percentage of containment leak paths that are detected only by Type A testing is very small. In fact, an analysis of 144 integrated leak rate tests, including 23 failures, found that none of the failures involved a containment liner breach. NUREG–1493 also concluded, in part, that reducing the frequency of containment Type A testing to once per 20 years results in an imperceptible increase in risk. The HBRSEP, Unit No. 2, test history and risk-based evaluation of the proposed extension to the Type A test interval supports this conclusion. The design and construction requirements of the containment vessel, combined with the containment inspections performed in accordance with the American Society of Mechanical Engineers (ASME) Code, Section XI, and the Maintenance Rule (10 CFR 50.65) provide a high degree of assurance that the containment vessel will not degrade in a manner that is detectable only by Type A testing. Therefore, the proposed TS change does not involve a significant increase in the consequences of an accident previously evaluated.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated.

The proposed change to TS 5.5.16 provides a one-time extension of the containment Type A test interval to 15 years for HBRSEP, Unit No. 2. The proposed change to the Type A test interval does not result in any physical changes to HBRSEP, Unit No. 2. In addition, the proposed test interval extension does not change the operation of HBRSEP, Unit No. 2, such that a failure mode involving the possibility of a new or different kind of accident from any accident previously evaluated is created.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety.

The proposed change to TS 5.5.16 provides a one-time extension of the containment Type A test interval to 15 years for HBRSEP, Unit No. 2. The NUREG–1493 study of the effects of extending containment leak rate testing found that a 20 year extension for Type A testing resulted in an imperceptible increase in risk to the public. NUREG–1493 found that, generically, the design containment leak rate contributes a very small amount to the individual risk, and that the decrease in Type A testing frequency would have a minimal affect on this risk, since most potential leak paths are detected by Type B and C testing.

The proposed change only involves a one-time extension of the interval for containment Type A testing; the overall containment leak rate specified by the HBRSEP, Unit No. 2, TS is being maintained. Type B and C testing will continue to be performed at the frequency required by the HBRSEP, Unit No. 2, TS. The regular containment inspections being performed in accordance with the ASME Code, Section XI, and the Maintenance Rule (10 CFR 50.65) provide a high degree of assurance that the containment will not degrade in a manner that is only detectable by Type A testing. In addition, a plant-specific risk evaluation demonstrates that the extension of the Type A test interval from 10 years to 15 years results in a ''very small'' increase in risk for those accident sequences influenced by Type A testing and a ''small'' increase in risk when compared to the test frequency of 3 tests per 10 years.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based on the above discussion, Progress Energy Carolinas, Inc., has determined that the requested change does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Steven R. Carr, Associate General Counsel—Legal Department, Progress Energy Service Company, LLC, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Allen G. Howe.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: March 20, 2003.

Description of amendment request: The amendments would revise the Technical Specifications to update the heatup, cooldown, criticality, and inservice test pressure and temperature limits for the reactor coolant system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

First Standard

Does operation of the facility in accordance with the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated.

Response: No.

The proposed changes to the reactor coolant system (RCS) pressure-temperature (P/T) limits are developed utilizing the methodology of ASME (American Society of Mechanical Engineers) XI, 10 CFR (part) 50 Appendix G, in conjunction with the methodology of Code Case N–640. Usage of these methodologies provides compliance with the underlying intent of 10 CFR (part) 50 Appendix G and provides operational limits that ensure failure of the reactor vessel will not occur. The proposed changes to allow operation with two pumps capable of injecting into the RCS and utilization of the residual heat removal (RHR) suction relief valves has been evaluated and determined to provide adequate protection of the RCS from the worst case pressure transient.

The probability of any design basis accident (DBA) is not affected by these changes, nor are the consequences of any DBA affected by these changes. The P/T limits, and low temperature overpressure protection (LTOP) setpoints, and T_{enable} value are not considered to be initiators or contributors to any accident analysis addressed in the Catawba UFSAR (updated final safety analysis report).

The proposed changes do not adversely affect the integrity of the RCS such that its function in the control of radiological consequences is affected. The changes do not alter any assumption previously made in the radiological consequence evaluations nor affect the mitigation of the radiological consequences of an accident previously evaluated. The proposed changes to the TS are consistent with the intent of the flexibility currently provided in NUREG–1431, Standard Technical Specifications for Westinghouse Plants, Revision 2.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated in the updated final safety analysis report (UFSAR) because the accident analysis assumptions and initial conditions will continue to be maintained.

Second Standard

Does operation of the facility in accordance with the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated.

Response: No.

The proposed change does not involve any physical alteration of plant systems, structures, or components. The requirements for the P/T limit curves and LTOP setpoints remain in place. The fundamental approach follows approved ASME and Westinghouse report methodology. The proposed curves and change to the enable temperature for LTOP system reflect changes in material properties acknowledged and managed by regulation and an upgrade in technology, which has been approved by ASME.

The proposed changes to allow operation with two pumps capable of injecting into the RCS and utilization of the RHR suction relief valves has been evaluated. The evaluation has shown that both the PORVs (power-operated relief valves) and RHR suction relief valves provide adequate relief protection of the RCS from the worst case pressure transient and provide equivalent protection to that already allowed by the current TS (technical specification).

The proposed changes do not introduce new failure mechanisms for system structures, or components not already considered in the UFSAR. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created because no new failure mechanisms or initiating events have been introduced.

Third Standard

Does operation of the facility in accordance with the proposed amendment involve a significant reduction in the margin of safety.

Response: No.

The proposed changes are developed utilizing the methodology of ASME XI, 10 CFR (part) 50 Appendix G, in conjunction with Code Case N–640 and Code Case N–641 methodology. Usage of these methodologies provides compliance with the underlying intent of 10 CFR (part) 50 Appendix G and provides operational limits that ensure failure of the reactor vessel will not occur. Although the Code Cases constitute relaxation from the current requirements of 10 CFR (part) 50 Appendix G, the alternative methodology allowed by the Code is based on industry experience gained since the inception of the 10 CFR (part) 50 Appendix G requirements for which some of the requirements have now been determined to be excessively conservative. The more appropriate assumptions and provisions allowed by the Code Cases maintain a margin of safety that is consistent with the intent of 10 CFR (part) 50 Appendix G, *i.e.*, with regard to the margin originally contemplated by 10 CFR (part) 50 Appendix G for determination of RCS P/T limits.

The analyses completed for this proposed TS amendment demonstrate that established acceptance criteria continue to be met. Specifically, the P/T limit curves, LTOP setpoints, allowances for operating two pumps, utilization of RHR suction relief valves and LTOP T_{enable} values provide acceptable margin to vessel fracture under both normal operation and LTOPs design basis (mass addition and heat addition) accident conditions. The proposed changes to the TS are consistent with the intent of the flexibility currently provided in NUREG–1431, Standard Technical Specifications for Westinghouse Plants, Revision 2. Therefore, there will be no significant reduction in a margin of safety as a result of the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Lisa F. Vaughn , Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201–1006.

NRC Section Chief: John A. Nakoski.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois; Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendment request: March 28, 2003, as supplemented by letter dated October 23, 2003.

Description of amendment request: The proposed amendments would revise the technical specifications to reduce the main steam line low pressure primary containment isolation allowable value.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Current licensing bases events remain bounding for ATWS, transient, and accident analyses. For the bounding events, a reduction in the allowable value for the MSL LPIS produces no significant change in the limiting results with respect to the acceptance criteria. The proposed change does not alter the response of plant equipment to transient conditions, nor does it introduce any new equipment, modes of system operation or failure mechanisms. The proposed change does not adversely impact structures, systems, or components.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

ECCS–LOCA Performance

In the analyses used to evaluate the ECCS-LOCA performance, the MSIVs are assumed to close at the start of the accident for all break locations. Therefore, the low pressure isolation trip is not used in the LOCA analyses and the LOCA analysis results are not affected by the reduction in the LPIS.

For large breaks in the MSL (both inside and outside containment), the MSIV closure is initiated by a high steam line flow signal at the beginning of the event, well before the LPIS is reached. For these cases, the ECCS performance is not affected by the reduction in the LPIS.

If the steam line break is too small to result in a high flow isolation signal, MSIV closure may be initiated by another signal (*e.g.*, high steam line tunnel temperature or low reactor water level) or it may occur due to the LPIS trip. In either case, steam line breaks of any size are not the limiting events with respect to ECCS performance, and a 40 psi reduction in the LPIS will not affect compliance with the acceptance criteria of 10 CFR 50.46, ''Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors.''

Based on the above discussions, the reduction of the MSIV LPIS has no adverse impact on the plant response to a LOCA or on compliance with the acceptance criteria of 10 CFR 50.46.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of a previously evaluated ECCS-LOCA accident.

Containment System Response

In evaluating containment response to pipe breaks inside containment, the MSIVs are assumed to close at the start of the accident for all break locations in the containment system response analyses. Therefore, the low pressure isolation trip is not assumed and the analysis results are not affected by the reduction in the LPIS.

In the event that MSIV closure does not occur at the beginning of the accident, MSL isolation is effectively achieved as the pressure regulator closes the turbine control and bypass valves in an attempt to maintain turbine throttle pressure at the regulator setpoint of approximately 925 psig. Thus, for events other than breaks in the main steam

line, isolation occurs before the LPIS is reached.

For large breaks in the MSL (both inside and outside containment), the MSIV closure is initiated by a high steam line flow signal at the beginning of the event, well before the LPIS is reached. For these cases, the containment system response is not affected by the reduction in the LPIS. For a steam line break too small to result in a high flow isolation signal, MSIV closure may be initiated by another signal (*e.g.*, low reactor water level) or it may occur due to the LPIS trip. Small breaks do not determine the peak drywell shell temperature and equipment qualification (EQ) envelope. Large breaks, as characterized in Section 3.3.2 of Attachment 4, are large enough to depressurize the reactor irrespective of the MSIV closure. Hence, a 40-psi reduction in the LPIS will not affect the peak drywell shell temperature or the drywell temperature EQ envelope.

Based on the above discussions, the reduction of the MSIV LPIS has no adverse impact on the containment system response.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated for containment system response.

Subcompartment Pressurization

The MSL break mass and energy release used in the evaluation are based on steady-state reactor operating conditions. Therefore, the low pressure isolation trip is not used in the subcompartment pressurization analysis. In addition, the peak annulus pressurization loads occur at the beginning of the event, well before MSIV closure can occur.

The subcompartment pressurization results are not affected by the reduction in the MSL LPIS.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated for subcompartment pressurization.

Appendix R Fire Protection

The reactor system response for the Appendix R fire protection analysis was performed during the Extended Power Uprate (EPU) project. The sequence of events for the analysis shows that closure of the MSIVs is initiated on low-low reactor water level. However, before the LPIS setpoint is reached, the turbine control valves closing on low inlet pressure effectively isolate steam flow following a scram. The revised LPIS has no adverse impact on the reactor system response to an Appendix R fire protection event.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated for Appendix R fire protection.

Station Blackout

The initiating event for a station blackout, a loss of off-site power, results in MSIV closure at the beginning of the event. The reduction of the MSL LPIS has no adverse impact on the reactor system response during a station blackout.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of a previously evaluated station blackout event.

High Energy Line Break

The steam line break analysis assumes closure of the MSIVs due to high steam line flow at the beginning of the event. Thus, the low pressure isolation trip is not used in the analyses and the results are not adversely affected by the reduced LPIS.

The steam line break case determines the short-term peak steam tunnel temperature. However, the range of break sizes for which the low pressure isolation trip initiates MSIV closure is limited. Such a break must be large enough to depressurize the vessel below the pressure regulator setpoint, approximately 925 psig, but small enough such that high steam line flow trip does not result. Although such cases could result in an increase in the mass and energy released, similar to a larger line break, isolation will still occur before the LPIS is reached. The isolation will occur as a result of Main Steam Line Tunnel Temperature—High for any leak greater than 1% rated steam flow. Thus, a 40 psig reduction in the LPIS will not adversely affect the peak temperature in the steam tunnel. In addition, the dynamic effects (*e.g.*, pipe whip and jet impingement) on other structures, systems and components are unaffected by the reduced LPIS.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of a high energy line break accident previously evaluated.

Radiological Consequences

The MSIVs are assumed to close due to high steam line flow at the start of an accident in the analysis. The low pressure isolation trip is not used in the mass release analysis and the radiological consequences are not affected by the reduction of the LPIS.

If the steam line break is too small to cause a high flow isolation signal, MSIV closure may be initiated by another signal (*e.g.*, high steam tunnel temperature or low reactor water level) or it may result from the low pressure isolation trip. Thus, a 40 psig reduction in the LPIS will have no adverse impact on the radiological consequences. The radiological consequences of a reduction in the MSL LPIS are addressed further in Section 6 of this attachment.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated for radiological consequences.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

General Electric Company (GE) evaluated the impact of reducing the LPIS analytical limit from 825 to 785 psig, including analysis of transient and safety related licensing bases for DNPS, Units 2 and 3, and QCNPS, Units 1 and 2. Current licensing bases events remain bounding for ATWS, transient, and accident analyses. The proposed change revises the allowable value of TS Table 3.3.6.1–1, Function 1.b, but does not alter the instrumentation or control logic of the Primary Containment Isolation System.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

Response: No.

The revised LPIS does not change the current licensing bases events, which remain bounding for ATWS, transient and accident analyses. The conclusion that a reduction in the MSIV LPIS will not have an adverse impact on plant accident analyses is valid. The LPIS was analyzed by GE during the EPU project for impact on safety limits and safety margins and was determined to be a non-impacted item. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Vice President, General Counsel, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348.

NRC Section Chief: Anthony J. Mendiola.

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: August 19, 2003.

Description of amendment request: The proposed amendments would modify Technical Specification (TS) 5.5.13, ''Primary Containment Leakage Rate Testing Program,'' by identifying a specific exception to the testing guidance contained in Regulatory Guide (RG) 1.163, ''Performance-Based Containment Leak-Test Program.''

LaSalle County Station (LSCS) Units 1 and 2 conduct their leakage rate testing of the primary containments to the requirements of 10 CFR 50.54(o) and 10 CFR part 50, Appendix J, Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors,'' Option B as modified by approved exemptions. Additionally, the program is in accordance with the guidelines contained in RG 1.163. The proposed TS change would take exception to RG 1.163 guidance by allowing the testing of potential valve atmospheric leakage paths (*e.g.*, valve stem packing), that are not exposed to reverse direction Type B or C leakage test pressure during the regularly scheduled Type A test. A list of the potential valve atmospheric leakage paths, the leakage rate measurement method and the acceptance criteria will be contained in the program. This exception will be

applicable only to valves that are not isolable from the primary containment free air space.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in probability or consequences of an accident previously evaluated.

The proposed change will revise LaSalle County Station, Units I and 2, Technical Specification (TS) 5.5.13, ''Primary Containment Leakage Rate Testing Program'' by identifying a specific exception to the testing guidance contained in Regulatory Guide (RG) 1.163, ''Performance-Based Containment Leak-Test Program.''

The function of the primary containment is to isolate and contain fission products released from the reactor Primary Coolant System (PCS) following a design basis Loss of Coolant Accident (LOCA) and to confine the postulated release of radioactive material to within limits. The probability of an accident previously evaluated is not dependent on the test-frequency of the primary containment Type A, B or C testing. The test interval associated with primary containment testing is not a precursor of any accident previously evaluated. The proposed specific exception to the testing guidance contained in RG 1.163 will continue to test all potential valve atmospheric leakage paths and will not be a precursor to a Design Basis Accident (DBA). Containment testing does provide assurance that the LaSalle County Station primary containments will not exceed allowable leakage rate values specified in the Technical Specifications and will continue to perform their design function following an accident.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not affect the control parameters governing unit operation or the response of plant equipment to transient conditions. The proposed change does not introduce any new equipment, modes of system operation or failure mechanisms.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The integrity of the primary containment is verified through Type B and Type C local leak rate tests (LLRTs) and the overall leak tight integrity of the primary containment is verified by a Type A integrated leak rate test (ILRT) as required by 10 CFR part 50, Appendix J, ''Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors.'' These tests are performed to verify the essentially leak tight characteristics of the primary containment at the design basis accident pressure. The proposed change for a specific exception to the testing guidance contained in Regulatory Guide (RG) 1.163 will continue to test all potential valve atmospheric leakage paths and does not effect the test acceptance criteria for Type A, B or C testing. Therefore, LSCS has determined that the proposed change provides an equivalent level of protection as that currently provided.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Edward J. Cullen, Deputy General Counsel, Exelon BSC—Legal, 2301 Market Street, Philadelphia, PA 19101.

NRC Section Chief : Anthony J. Mendiola.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station Unit No. 2, Oswego County, New York

Date of amendment request: November 20, 2003.

Description of amendment request: The licensee proposes to revise the safety limit minimum critical power ratio (SLMCPR) values in section 2.1.1.2 of the Technical Specifications (TSs). The SLMCPR values are based on cycle-specific calculations done for the next fuel cycle, Cycle 10, using methodology previously approved by the Nuclear Regulatory Commission (NRC).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the three standards of 10 CFR 50.92(c). The NRC staff's analysis is presented below:

The first standard requires that operation of the unit in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed SLMCPR values, calculated using an NRC-approved methodology, will be made in a manner such that conservatism is maintained through compliance with applicable NRC regulations and guidance. No hardware design change is involved with the proposed amendment, thus there will be no adverse effect on the functional performance of any plant structure, system, or component (SSC). All SSCs will continue to perform their design functions with no decrease in their capabilities to mitigate the consequences of postulated accidents. SLMCPR values were not previously factored into the probability of accidents, nor were they factored into scenarios of previously analyzed accidents. Accordingly, the revised SLMCPR values will lead to no increase in the consequences of an accident previously evaluated, and no increase of the probability of an accident previously evaluated.

The second standard requires that operation of the unit in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment is not the result of a hardware design change, nor does it lead to the need for a hardware design change. There is no change in the methods the unit is operated. As a result, all SSCs will continue to perform as previously analyzed by the licensee, and previously evaluated and accepted by the NRC staff. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

The third standard requires that operation of the unit in accordance with the proposed amendment will not involve a significant reduction in a margin of safety. Since the licensee did not propose to exceed or alter a design basis or safety limit, the proposed amendment will not affect in any way the performance characteristics and intended functions of any SSC. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

Based on the NRC staff's analysis, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Richard J. Laufer.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: November 21, 2003.

Description of amendment request: The proposed amendment would allow the position of a rod to be monitored by

a means other than the movable incore detectors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change provides an alternative method for the monitoring of the position of a rod once the position of the rod is verified using the moveable incore detector system. The proposed monitoring of stationary gripper coil parameters provides a reasonably similar approach to rod position monitoring as that provided by the movable incore detector system. In particular, the ability to immediately detect a rod drop or misalignment is not directly provided by the movable incore detector system or by the monitoring of stationary gripper coil parameters. Additionally, neither the movable incore detector system, nor the monitoring of stationary gripper coil parameters, provides the capability to verify rod position following a reactor trip or shutdown. Therefore, the monitoring of stationary gripper coil parameters, in lieu of the use of the movable incore detector system, provides an equivalent and acceptable method of monitoring rod position while a position indicator is inoperable.

Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. As described above, the proposed change provides only an alternative method of monitoring the position of a rod. No new accident initiators are introduced by the proposed alternative manner of performing rod position monitoring. The proposed change does not affect the reactor protection system or the reactor control system. Hence, no new failure modes are created that would cause a new or different kind of accident from any accident previously evaluated.

Therefore, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

No. The bases for TS (Technical Specification) 3.1.8 state that the operability of the rod position indicators is required to determine control rod positions and thereby ensure compliance with the control rod alignment and insertion limits. The proposed change does not alter the requirement to determine rod position but provides an alternative method for monitoring the position of the affected rod after the position of the rod is verified using the moveable incore detector system. As a result, the initial conditions of the accident analysis are preserved and the consequences of previously analyzed accidents are unaffected.

Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Section Chief: Allen G. Howe.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of consideration of issuance of amendment to facility operating license, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action *see* (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: December 13, 2002, as supplemented September 25, 2003.

Brief description of amendments: These amendments changed the Technical Specifications (TSs) by removing the requirement to have the charging pumps operable when thermal power is greater than 80% of rated thermal power. The change also removes Surveillance Requirement 3.5.2.4 for verifying the required charging pump flow rate. The change to TS 3.5.2 does not modify any other charging pump requirements in the Technical Requirements Manual (*e.g.*, requirements of charging pump availability for boration and cooldown remain in effect).

Date of issuance: December 3, 2003.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 260 and 237.

Renewed Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** *February 18, 2003 (68 FR 7812).*

The September 25, 2003, supplemental letter provided clarifying information that did not enlarge the scope of the amendment as noticed in the original **Federal Register** notice or change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated December 3, 2003.

No significant hazards consideration comments received: No.

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: May 28, 2003, as supplemented November 25, 2003.

Brief description of amendments: These amendments changed the reactor pressure vessel pressure-temperature limit cooldown curves in the Calvert Cliffs 1 and 2 Technical Specifications by incorporating a different range of temperatures for which a maximum cooldown rate of 100°F/hr is acceptable.

Date of issuance: December 9, 2003.

Effective date: As of the date of issuance to be implemented within 120 days.

Amendment Nos.: 261 and 238.

Renewed Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 8, 2003 (68 FR 40701).

The November 25, 2003, supplemental letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated December 9, 2003.

No significant hazards consideration comments received: No.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana.

Date of amendment request: March 14, 2003, as supplemented by letter dated June 24, 2003.

Brief description of amendment: The amendment revises Technical Specification (TS) 3.8.1, ''AC Sources—Operating,'' Surveillance Requirements (SRs) pertaining to the testing of the Division 1 and 2 standby diesel generators (DGs). Specifically, the proposed changes eliminate mode restrictions that previously prevented performance of SRs during Modes 1 and 2 for the Division 1 and 2 DGs. The changes allow the performance of SR 3.8.1.9 and SR 3.8.1.10 for the Division 1 and 2 DGs during any plant operating mode.

Date of issuance: November 7, 2003.

Effective date: As of the date of issuance and shall be implemented 30 days from the date of issuance.

Amendment No.: 137.

Facility Operating License No. NPF–47: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** (68 FR 18275). The June 24, 2003, supplemental letter provided clarifying information that did not change the scope of the original **Federal Register** notice or the original no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 7, 2003.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: May 28, 2003, as supplemented on June 24, 2003.

Brief description of amendment: The amendment revised Technical Specification (TS) Section 3.4.3, ''RCS Pressure and Temperature (P/T) Limits,'' and section 3.4.12, ''Low Temperature Overpressure Protection (LTOP),'' to incorporate revised reactor pressure vessel P/T limits and overpressure protection system limits to allow operation up to 20 effective full-power years. Specifically, the amendment changed TS Figures 3.4.3–1 to 3.4.3–3 and TS Figures 3.4.12–1 to 3.4.12–4.

Date of issuance: December 3, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 220.

Facility Operating License No. DPR–64: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 22, 2003 (68 FR 43389).

The June 24 letter provided clarifying information that did not enlarge the scope of the amendment request or change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 3, 2003.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: May 1, 2003, as supplemented by letter dated September 30, 2003.

Brief description of amendment: The amendment modifies the surveillance testing requirements for the containment spray system by deleting the requirement to verify the position of valves that are locked, sealed, or otherwise secured in their correct position (and by deleting wording regarding the verified valves being positioned to take suction from the refueling water tank), and replacing the quantitative allowable pump degradation value with a requirement to verify the pumps perform in accordance with the Inservice Testing Program.

Date of issuance: December 4, 2003.

Effective date: As of the date of issuance to be implemented within 60 days from the date of issuance.

Amendment No.: 252.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 27, 2003 (68 FR 28851).

The September 30, 2003, supplemental letter provided clarifying information that did not change the scope of the original **Federal Register** notice or the original no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 4, 2003.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station (DNPS), Units 2 and 3, Grundy County, Illinois

Date of application for amendments: February 27, 2003, as supplemented on July 17, July 31, September 11, and November 25, 2003.

Brief description of amendments: The amendments revise Technical Specification Section 3.4.9, ''Reactor Coolant System Pressure and Temperature (P/T) Limits,'' incorporating revisions to the P/T limit curves. The amendment also deletes the license conditions specified in DNPS Unit 2 Facility Operating License Section 2.C(8) and DNPS Unit 3 Facility Operating License Section 3.P, ''Pressure-Temperature Limit Curves.''

Date of issuance: November 26, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days of the date of issuance.

Amendment Nos.: 205/197.

Facility Operating License Nos. DPR–19 and DPR–25: The amendments revised the Facility Technical Specifications and license conditions specified in the Facility Operating Licenses.

Date of initial notice in ***Federal Register***: August 5, 2003 (68 FR 46242).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 26, 2003.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: November 26, 2002.

Brief description of amendments: These amendments revised TS 3.1.3.1, ''Control Rod Operability,'' by adding new Limiting Condition for Operation criteria and applicable ACTION requirements for scram discharge volume (SDV) vent and drain valves. The changes also modified TS 3.6.3, ''Primary Containment Isolation Valves,'' to clarify the relationship between TS 3.1.3.1 and TS 3.6.3 regarding SDV vent and drain valves.

Date of issuance: November 26, 2003.

Effective date: As of date of issuance and shall be implemented within 60 days.

Amendment Nos.: 168 and 131.

Facility Operating License Nos. NPF–39 and NPF–85: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register***: January 7, 2003 (68 FR 803).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 26, 2003.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Beaver County, Pennsylvania

Date of application for amendments: March 26, 2003.

Brief description of amendments: These amendments modify Technical Specifications (TSs) 4.0.1 and 4.0.3 to be consistent with the Improved Standard Technical Specifications. The amendments also modify the TS requirements for missed surveillances in TS 4.0.3 to be consistent with the Nuclear Regulatory Commission-approved Technical Specification Task Force (TSTF), Standard Technical Specification Change TSTF–358, Revision 6.

Date of issuance: November 25, 2003.

Effective date: As of the date of its issuance and shall be implemented within 60 days.

Amendment Nos.: 258 and 140.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register***: June 24, 2003 (68 FR 37577).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 25, 2003.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: December 9, 2002, as supplemented by letter dated August 28, 2003.

Brief description of amendments: The changes would revise Technical Specification (TS) 3.75, ''Auxiliary Feedwater System,'' Surveillance Requirement (SR) 3.7.5.2 Frequency. Specifically, the wording of the Frequency of SR 3.7.5.2 would change from ''31 days on a Staggered Test Basis'' to ''In accordance with the Inservice Testing Program.'' This change is requested to implement recommendations of the Standard Technical Specifications for Combustion Engineering Plants, NUREG–1432, Revision 2.

Date of issuance: November 25, 2003.

Effective date: November 25, 2003, to be implemented within 60 days of issuance.

Amendment Nos.: Unit 2—191; Unit 3—182.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register***: January 7, 2003 (68 FR 812).

The August 28, 2003, supplemental letter provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 25, 2003.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: November 14, 2002, as supplemented by letters dated October 30, and November 6, 2003.

Brief description of amendments: The amendments revise the Updated Final Safety Analysis Report (UFSAR) to eliminate the turbine missile design basis.

Date of issuance: December 2, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance. The UFSAR changes shall be implemented in the next periodic update to the UFSAR in accordance with 10 CFR 50.71(e).

Amendment Nos.: Unit 1—158; Unit 2—146.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the UFSAR.

Date of initial notice in ***Federal Register***: February 18, 2003 (68 FR 7821).

The October 30, and November 6, 2003, supplemental letters provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the ***Federal Register*** on February 18, 2003 (68 FR 7821).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 2, 2003.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 22, 2003, as supplemented by letters dated September 10 and September 30, 2003.

Brief description of amendments: The amendments change the pressurizer safety valve lift tolerance, as specified in Technical Specification (TS) 3.4.2.2, ''Reactor Coolant System,'' from plus/minus (±) 2 percent (%) to +2% and −3%.

Date of issuance: December 2, 2003.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment Nos.: Unit 1—159; Unit 2—147.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the TSs.

Date of initial notice in ***Federal Register****:* June 24, 2003 (68 FR 37583).

The September 10 and September 30, 2003, supplemental letters provided clarifying information that was within the scope of the original ***Federal Register*** notice (68 FR 37583) and did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 2, 2003.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260, and 50–296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of application for amendments: August 7, 2003.

Description of amendment request: The amendments modified Technical Specification (TS) requirements for mode change limitations to adopt Industry/TS Task Force (TSTF) change TSTF–359, ''Increase Flexibility in Mode Restraints.''

Date of issuance: December 1, 2003.

Effective date: Date of issuance, to be implemented within 60 days.

Amendment Nos.: 249, 286 & 244.

Facility Operating License Nos. DPR–33, DPR–52, and DPR–68. Amendments revised the TSs.

Date of initial notice in **Federal Register***:* October 14, 2003 (68 FR 59221).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 1, 2003.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–327, Sequoyah Nuclear Plant (SQN), Units 1 and 2, Hamilton County, Tennessee

Date of application for amendment: March 13, 2003, as supplemented July 30, 2003.

Description of amendment: The amendment revises the boron concentration requirements in Technical Specifications (TSs) 3.5.2, ''Cold Leg Accumulators,'' and 3.5.5, ''Refueling Water Storage Tank.'' The revised boron concentration requirement is a function of the number of tritium producing burnable absorber rods (TPBARs) in the core.

Date of issuance: December 1, 2003.

Effective date: As of the date of issuance to be implemented no later than startup from an outage in which TPBARs are loaded into the reactor.

Amendment Nos.: 289 & 279.

Facility Operating License Nos. DPR–77 and DPR–79: Amendment revised the TSs.

Date of initial notice in **Federal Register***:* April 15, 2003 (68 FR 18286). The supplemental letter provided clarifying information only and did not change the scope of the original amendment request or the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 1, 2003.

No significant hazards consideration comments received: No.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day notice of consideration of issuance of amendment, proposed no significant hazards consideration determination, and opportunity for a hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Assess and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By January 22, 2004, the licensee may file

a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and electronically on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If there are problems in accessing the document, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of the continuing disruptions in delivery of mail to United States government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the petition for leave to intervene and request for hearing should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Southern Nuclear Operating Company, Inc., et al., Docket No. 50–425, Vogtle Electric Generating Plant, Unit 2, Burke County, Georgia

Date of amendment request: November 5, 2003.

Description of amendment request: The proposed amendment would extend the surveillance interval for the Memories Test portion of the Actuation Logic Test for: (1) Power Range Block (Switch position 1), (2) Intermediate Range Block (Switch position 2), (3) Source Range Block (Switch positions 3 and 4), (3) Safety Injection (SI) Block, Pressurizer (Switch positions 5 and 6), (4) SI Block, High Steam Pressure Rate (Switch positions 7 and 8), (5) Auto SI Block (Switch position 9), and (6) Feedwater Isolation on P14 or SI (Switch positions 10 and 11). In addition to the functions listed above, the licensee is requesting an extension of the surveillance interval for the portions of the Actuation Logic Test for Feedwater Isolation on P14 or SI that pass through the memories circuits and the Power Range block of the Source Range Trip test for the Unit 2 Train B Solid State Protection System to the next refueling outage at the end of Cycle 10 or the next Unit 2 shutdown to MODE 5, whichever comes first.

Date of issuance: December 3, 2003.

Effective date: December 3, 2003.

Amendment No.: 108.

Facility Operating License No. NPF–81: Amendment revises the technical specifications.

Public comments requested as to proposed no significant hazards consideration (NSHC): Yes. November 18, 2003 (68 FR 65092). The notice provided an opportunity to submit

comments on the Commission's proposed NSHC determination. No comments have been received. The notice also provided an opportunity to request a hearing by December 18, 2003, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment, finding of exigent circumstances, state consultation, and final NSHC determination are contained in a safety evaluation dated December 3, 2003.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

NRC Section Chief: John A. Nakoski.

Dated in Rockville, Maryland, this 15th day of December, 2003.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 03–31314 Filed 12–22–03; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B and C in the excepted service as required by 5 CFR 6.6 and 213.103.

FOR FURTHER INFORMATION CONTACT: Deborah Grade, Director, Washington Services Branch, Center for Talent Services, Division for Human Resources Products and Services, (202) 606–5027.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedule C between October 1, 2003, and October 31, 2003. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 is published each year.

Schedule A

No Schedule A appointments for October 2003.

Schedule B

No Schedule B appointments for October 2003.

Schedule C

The following Schedule C appointments were approved for October 2003:

Section 213.3303 Executive Office of the President

Office of Management and Budget

BOGS60004 Special Assistant to the Administrator, Office of Information and Regulatory Affairs. Effective October 08, 2003.

BOGS60034 Staff Assistant to the Director, Office of Management and Budget. Effective October 15, 2003.

BOGS60012 Confidential Assistant to the Controller, Office of Federal Financial Management. Effective October 17, 2003.

BOGS60027 Confidential Assistant to the Administrator, Office of Information and Regulatory Affairs. Effective October 27, 2003.

BOGS00039 Confidential Assistant to the Associate Director for Legislative Affairs. Effective October 31, 2003.

Office of National Drug Control Policy

QQGS00023 Confidential Assistant to the Chief of Staff. Effective October 21, 2003.

Section 213.3304 Department of State

DSGS60487 Congressional Affairs Manager to the Assistant Secretary for International Organizational Affairs. Effective October 01, 2003.

DSGS60531 Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective October 01, 2003.

DSGS60575 Writer-Editor to the Assistant Secretary for Oceans, International Environment and Science Affairs. Effective October 02, 2003.

DSGS60544 Strategic Planning Officer to the Coordinator for International Information Programs. Effective October 10, 2003.

DSGS60703 Special Assistant to the Assistant Secretary for Economic and Business Affairs. Effective October 22, 2003.

DSGS60701 Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective October 24, 2003.

DSGS60702 Special Assistant to the Deputy Chief of Protocol. Effective October 24, 2003.

DSGS60712 Special Advisor to the Assistant Legal Adviser for African Affairs. Effective October 28, 2003.

Section 213.3305 Department of the Treasury

DYGS60250 Director, Public Affairs to the Deputy Assistant Secretary (Public Affairs). Effective October 09, 2003.

Section 213.3306 Office of the Secretary of Defense

DDGS00755 Personal & Confidential Assistant to Assistant Secretary of Defense (Special Operations/Low Intensity Conflict). Effective October 02, 2003.

DDGS00756 Staff Assistant to the Deputy Assistant Secretary of Defense (Eurasia). Effective October 03, 2003.

DDGS16758 Deputy White House Liaison to the Special Assistant to the Secretary of Defense for White House Liaison. Effective October 10, 2003.

Section 213.3307 Department of the Army

DWGS00086 Special Assistant to the Army General Counsel. Effective October 08, 2003.

DWGS60075 Special Assistant to the Assistant Secretary of the Army (Installations, Logistics and Environment). Effective October 08, 2003.

Section 213.3308 Department of the Navy

DNGS60056 Confidential Assistant to the Assistant Secretary Financial Management. Effective October 16, 2003.

Section 213.3310 Department of Justice

DJGS00034 Special Assistant to the Assistant Attorney General, Criminal Division. Effective October 02, 2003.

DJGS00217 Counsel to the Director, Violence Against Women Office. Effective October 02, 2003.

DJGS00123 Senior Counsel to the Director, Office of Public Affairs. Effective October 10, 2003.

DJGS00254 Counselor to the Assistant Attorney General. Effective October 16, 2003.

DJGS00432 Senior Counsel to the Director of the Executive Office for United States Attorneys. Effective October 16, 2003.

DJGS00255 Counsel to the Assistant Attorney General. Effective October 17, 2003.

DJGS00268 Counsel to the Assistant Attorney General. Effective October 22, 2003.

DJGS00258 Counsel to the Assistant Attorney General. Effective October 30, 2003.

DJGS00380 Principal Deputy Director to the Director, Office of Public Affairs. Effective October 30, 2003.

DJGS00377 Staff Assistant to the Director, Office of Public Affairs. Effective October 31, 2003.

Section 213.3311 Department of Homeland Security

DMGS00137 Special Assistant to the Under Secretary for Information Analysis and Infrastructure Protection. Effective October 03, 2003.
DMGS00127 Director of Legislative Affairs for Secretarial Offices to the Assistant Secretary for Legislative Affairs. Effective October 06, 2003.
DMGS00141 Press Secretary to the Assistant Secretary for Public Affairs. Effective October 16, 2003.
DMGS00128 Director of Legislative Affairs for Information Analysis and Infrastructure Protection to the Assistant Secretary for Legislative Affairs. Effective October 17, 2003.
DMGS00135 Confidential Assistant to the Director, State and Local Affairs. Effective October 20, 2003.
DMGS00136 Confidential Assistant to the Director, State and Local Affairs. Effective October 20, 2003.
DMOT00138 Policy Analyst to the Administrator, Transportation Security Administration. Effective October 20, 2003.
DMGS00133 Assistant Director for Legislative Affairs to the Assistant Secretary for Legislative Affairs. Effective October 21, 2003.
DMGS00140 Senior Advisor to the Privacy Officer. Effective October 24, 2003.
DMGS00144 External Affairs Coordinator to the Chief of Staff. Effective October 24, 2003.
DMOT00139 Director of Special Projects for Transportation Security Policy to the Assistant Administrator for Transportation Security Policy. Effective October 27, 2003.
DMGS00146 Policy Advisor to the Chief of Staff. Effective October 29, 2003.
DMGS00148 Public Affairs Specialist to the Director of Communications for Information Analysis and Infrastructure Protection. Effective October 29, 2003.
DMGS00138 Deputy Assistant Secretary for Legislative Affairs (Senate) to the Assistant Secretary for Legislative Affairs. Effective October 30, 2003.
DMGS00143 Senior Advance Representative to the Chief of Staff. Effective October 30, 2003.
DMGS00150 Public Affairs Specialist to the Director of Communications for Information Analysis and Infrastructure Protection. Effective October 31, 2003

Section 213.3312 Department of the Interior

DIGS00545 Special Assistant (Communications Program Manager) to the Director, National Park Service. Effective October 03, 2003.
DIGS06077 Special Assistant—External and Intergovernmental Affairs to the Director, External and Intergovernmental Affairs. Effective October 10, 2003.
DIGS50001 Counselor to the Assistant Secretary—Indian Affairs. Effective October 10, 2003.
DIGS06078 Confidential Assistant (Press Secretary) to the Director, External and Intergovernmental Affairs. Effective October 23, 2003.

Section 213.3313 Department of Agriculture

DAGS00198 Special Assistant to the Special Assistant. Effective October 28, 2003.

Section 213.3314 Department of Commerce

DCGS60583 Special Assistant to the Assistant Secretary for Administration and Chief Financial Officer. Effective October 01, 2003.
DCGS00429 Confidential Assistant to the Director, Office of White House Liaison. Effective October 09, 2003.
DCGS00492 Confidential Assistant to the Executive Assistant. Effective October 09, 2003.
DCGS00461 Confidential Assistant to the Chief Economist and Special Advisor to the Secretary. Effective October 10, 2003.
DCGS00298 Special Assistant to the Deputy Assistant Secretary for Communications and Information. Effective October 31, 2003.
DCGS00639 Press Secretary to the Director of Public Affairs. Effective October 31, 2003.

Section 213.3315 Department of Labor

DLGS60219 Special Assistant to the Chief of Staff. Effective October 03, 2003.
DLGS60272 Special Assistant to the Director of Public Liaison. Effective October 06, 2003.
DLGS60195 Special Assistant to the Assistant Secretary for Employment Standards. Effective October 14, 2003.
DLGS60025 Senior Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective October 31, 2003.
DLGS60178 Special Assistant to the Director, 21st Century Workforce. Effective October 31, 2003.

Section 213.3316 Department of Health and Human Services

DHGS60523 Executive Director, President's Council on Physical Fitness and Sports to the Assistant Secretary, Health. Effective October 06, 2003.
DHGS60026 Special Assistant to the Director, Public Affairs Office. Effective October 15, 2003.
DHGS60167 Confidential Assistant to the Assistant Secretary for Public Affairs. Effective October 27, 2003.

Section 213.3317 Department of Education

DBGS00298 Confidential Assistant to the Deputy Director of Communications, Office of Public Affairs. Effective October 16, 2003.

Section 213.3318 Environmental Protection Agency

EPGS03606 Press Secretary to the Associate Assistant Administrator for Public Affairs. Effective October 10, 2003.

Section 213.3331 Department of Energy

DEGS00380 Assistant to the Chief of Staff and Congressional Specialist to the Assistant Secretary for International Affairs. Effective October 29, 2003.

213.3332 Small Business Administration

SBGS60195 Special Assistant to the Associate Administrator for Field Operations. Effective October 17, 2003.
SBGS60011 Deputy Associate Administrator to the Associate Administrator for Communications/Public Liaison. Effective October 20, 2003.
SBGS60091 Special Assistant to the Associate Administrator for Communications/Public Liaison. Effective October 20, 2003.
SBGS60200 Special Assistant to the Deputy Associate Administrator for Congressional and Legislative Affairs. Effective October 20, 2003.

Section 213.3334 Federal Trade Commission

FTGS60006 Congressional Liaison Specialist to the Chairman. Effective October 16, 2003.

Section 213.3337 General Services Administration

GSGS00063 Director of Marketing to the Deputy Associate Administrator for Communications. Effective October 22, 2003.
GSGS60073 Special Assistant to the Chief of Staff. Effective October 31, 2003.

Section 213.3342 Export-Import Bank

EBSL00032 Senior Vice President of Congressional Affairs to the President and Chairman. Effective October 31, 2003.

Section 213.3367 Federal Maritime Commission

MCGS60006 Counsel to the Commissioner to a Member. Effective October 31, 2003.

Section 213.3382 National Endowment for the Humanities

NHGS60076 Director, We the People Office to the Deputy Chairman. Effective October 31, 2003.

Section 213.3384 Department of Housing and Urban Development

DUGS60534 Deputy Director to the Director, Center for Faith-Based and Community Initiatives. Effective October 22, 2003.

DUGS60337 Director of Media Development to the Assistant Secretary for Public Affairs. Effective October 24, 2003.

DUGS60317 Special Assistant to the Regional Director. Effective October 30, 2003.

Section 213.3391 Office of Personnel Management

PMGS00044 Executive Director to the Director. Effective October 10, 2003.

PMGS00045 Special Assistant to the Chief of Staff. Effective October 29, 2003.

Section 213.3394 Department of Transportation

DTGS60159 Special Assistant to the Associate Administrator for Policy. Effective October 10, 2003.

DTGS60292 Associate Director for Intergovernmental Affairs to the Deputy Assistant Secretary for Governmental Affairs. Effective October 10, 2003.

Section 213.3397 Federal Housing Finance Board

FBOT00005 Staff Assistant to the Chairman. Effective October 15, 2003.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 03–31575 Filed 12–22–03; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the American Stock Exchange LLC (Vasogen Inc., Common Stock, No Par Value) File No. 0–29350

December 17, 2003.

Vasogen Inc., a Canada corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, no par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Board of Directors (''Board'') of the Issuer approved a resolution on December 9, 2003 to withdraw the Issuer's Security from listing on the Amex and to list such Security on the Nasdaq National Market System (''Nasdaq NMS''). The Board states that it considered the following reason in its decision to withdraw the Security from listing and registration on the Amex: listing on the Nasdaq NMS represents a logical next step to support of the Issuer's growth while offering shareholders increased liquidity.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in Canada, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

The Issuer's application relates solely to the withdrawal of the Securities from listing on the Amex and from registration under section 12(b) of the Act[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before January 9, 2004, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 03–31546 Filed 12–22–03; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of Bio-Imaging Technologies, Inc. To Withdraw Its Common Stock, $.00025 Par Value, From Listing and Registration on the American Stock Exchange LLC File No. 1–11182

December 17, 2003.

Bio-Imaging Technologies, Inc., a Delaware corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $.00025 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Board of Directors (''Board'') of the Issuer unanimously approved a resolution on November 5, 2003 to withdraw the Issuer's Security from listing on the Amex and to list the Security on the Nasdaq National Market System (''Nasdaq NMS''). The Board states that it is taking such action because the Board believes that listing on the Nasdaq NMS will provide additional liquidity to the Issuer's stockholders and provide additional benefits to the Issuer and its stockholders such as, among other things, greater coverage by analysts and greater interest by institutional investors.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in Delaware, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

The Issuer's application relates solely to the withdrawal of the Securities from listing on the Amex and from registration under section 12(b) of the Act[3] and shall not affect its obligation

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before January 9, 2004, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 03–31547 Filed 12–22–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of DepoMed, Inc., To Withdraw its Common Stock, No Par Value From Listing and Registration on the American Stock Exchange LLC File No. 1–13111

December 17, 2003.

DepoMed, Inc., a California corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, no par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Board of Directors (''Board'') of the Issuer unanimously approved a resolution on December 5, 2003 to withdraw the Issuer's Security from listing on the Amex and list to list the Security on the Nasdaq National Market System (''Nasdaq NMS''). The Board states that it considered the following reasons in its decision to withdraw the Security from listing and registration on the Amex: (i) the Board believes that it would be in the best interest of the Issuer and its shareholders that the Security be listed for trading on the Nasdaq NMS in order to improve the trading volume and liquidity of the Security that may be obtained through increased investor awareness afforded by the Nasdaq NMS; and (ii) the Board believes that there is no advantage to listing the Security on both Amex and the Nasdaq NMS and that it is, therefore, in the best interests of the Issuer and its shareholders to delist the Security from the Amex.

The Issuer stated in its application that it has met the requirements of Amex Rule l8 by complying with all applicable laws in California, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

The Issuer's application relates solely to the withdrawal of the Securities from listing on the Amex and from registration under section 12(b) of the Act[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before January 9, 2004, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. [5]

Jonathan G. Katz,

Secretary.

[FR Doc. 03–31548 Filed 12–22–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of GB Holdings, Inc. and its Wholly-Owned Subsidiaries Greate Bay Hotel and Casino, Inc. and GB Property Funding Corp., To Withdraw its 11% Notes (Due 2005) From Listing and Registration on the American Stock Exchange LLC File No. 1–15064

December 17, 2003.

GB Holdings, Inc., (''Holdings''), and its wholly-owned subsidiaries Greate Bay Hotel and Casino, Inc. (''Operating'') and GB Property Funding Corp. (''Funding''), incorporated in the States of Delaware and New Jersey (together the ''Issuer''), have filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw the 11% Notes (due 2005) issued by Funding and guaranteed by Operating and Holdings (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Board of Directors (''Board'') of the Issuer, by unanimous written consent, dated November 11, 2003, determined to withdraw the Issuer's Security from listing on the Amex. The Board states that it reached its decision to withdraw the Security from listing and registration on the Amex after concluding that the existing listing has not resulted in an active trading market, which, the Board believes, results from several factors, including the fact that: (i) There are only 44 noteholders of record; (ii) an affiliate of the Issuer owns approximately 58% of the aggregate principal amount of the Security and six record holders own approximately 95.3% of the aggregate principal amount of the Security; and (iii) in the past 60 days only $3,717,000 of the Security has been traded on the Amex. Accordingly, the continued listing of the Security does not serve either the Issuer's interest or the interests of the holders of the Security because an active trading market on the Amex has not developed.

The Issuer stated in its application that it has met the requirements of Amex Rule l8 by complying with all applicable laws in the States of Delaware and New Jersey, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

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[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

The Issuer's application relates solely to the withdrawal of the Securities from listing on the Amex and from registration under section 12(b) of the Act [3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before January 9, 2004, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. [5]

Jonathan G. Katz,

Secretary.

[FR Doc. 03–31549 Filed 12–22–03; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 09/79–0420]

Aspen Ventures III, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Aspen Ventures III, L.P., of 1000 Fremont Avenue, Suite 200, Los Altos, California 94024, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.703, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') rules and regulations (13 CFR 107.730 (2001)). Aspen Ventures III, L.P. proposes to provide equity financing to RedSiren, Inc. of 650 Smithfield Street Suite 900, Pittsburgh, Pennsylvania 15222. The financing is contemplated for general corporate purposes including research and development, sales and marketing expansion and working capital.

This financing is brought within the purview of §107.730(a)(1) of the regulations because Aspen Ventures III L.P.'s limited partner Redleaf Group, Inc. (an investor in Aspen Ventures III) and an Associate of Aspen Ventures III, L.P., currently owns greater than 10 percent of RedSiren, Inc. and therefore is considered an Associate Aspen Ventures III, L.P., as defined in §107.50 of the regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

Dated: December 11, 2003.

Jeffrey D. Pierson,

Associate Administrator for Investment.

[FR Doc. 03–31519 Filed 12–22–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 09/79–0432]

TeleSoft Partners II, SBIC, LP; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that TeleSoft Partners II SBIC, L.P., of 1450 Fashion Island Blvd, Suite 610, San Mateo, California 94404, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') rules and regulations (13 CFR 107.730 (2001)). TeleSoft Partners II, SBIC, L.P. proposes to provide equity financing to Aarohi Communications, Inc. of 405 River Oaks Parkway, San Jose, California 95134, and to CreekPath Systems, Inc., of 7420 E. Dry Creek Parkway, Suite 100, Longmont, Colorado 80503. The financings are contemplated for general corporate purposes including working capital, product development and marketing.

The financings are brought within the purview of §107.730(a)(1) of the Regulations because TeleSoft Partners II, L.P. and TeleSoft Partners II QP, L.P., Associates of TeleSoft Partners II, SBIC, LP, currently own greater than 10 percent of Aarohi Communications, Inc. and CreekPath Systems, Inc. and therefore each company is considered an Associate TeleSoft Partners II, SBIC, L.P., as defined in §107.50 of the regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

Dated: November 24, 2003.

Jeffrey D. Pierson,

Associate Administrator for Investment.

[FR Doc. 03–31520 Filed 12–22–03; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below: (OMB)

Office of Management and Budget (OMB), *Attn:* Desk Officer for SSA, New Executive Building, Room 10235, 725 17th St., NW, Washington, DC 20503, Fax: 202–395–6974.

Social Security Administration (SSA), DCFAM, *Attn:* Reports Clearance Officer, 1338 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SSA Reports Clearance Officer at (410)–965–0454 or by writing to the address listed above.

1. *Pain Report-Child—20 CFR 416.912 and 416.1512—0960–0540.* The information collected by form SSA–3371-BK will be used to obtain the types of information specified in the regulations, and to provide disability interviewers (and applicants/claimants in self-help situations) with a convenient means of recording the information obtained. This information is used by the State disability determination services (DDS) adjudicators and administrative law judges to assess the effects of symptoms on functionality for determining disability under the Social Security Act. The respondents are applicants for Supplemental Security Income (SSI) benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 250,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 62,500 hours.

2. *Medical Permit Parking Application—41 CFR 101–20.104–2—0960–0624.* SSA issues medical parking assignments at SSA-owned and -leased facilities to individuals who have a medical condition which meets the criteria for medical parking. In order to issue a medical parking permit, SSA must obtain medical evidence from the applicant's physician. Form SSA–3192-F4 is used to collect this information. SSA then uses the information to determine whether the individual qualifies for a medical parking permit and whether or not to issue the permit. The respondents are physicians of applicants for medical parking permits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 144.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 144 hours.

3. *Certification of Prison Records by Prison Officials—20 CFR 422.107—0960-NEW.* When a valid agreement is in place, prison officials provide to SSA specific information to attest to the identity of certain incarcerated U.S. citizens who need replacement Social Security cards. The information the prison officials provide will be taken from the official prison files and will be used by SSA to establish the applicant's identity in the Social Security card process. The respondents are prison officials who certify identity of prisoners applying for replacement Social Security cards.

Type of Request: New information collection.

Number of Respondents: 1,000.

Frequency of Response: 200.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 10,000 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at (410) 965–0454, or by writing to the address listed above.

1. *Blood Donor Locator Service—20 CFR 401.200—0960–0501.* Section 1141(a) of the Social Security Act and 42 U.S.C. 1320b-11 require that participating State agencies provide the SSA Blood Donor Locator Service (BDLS) with specific information on blood donors who have tested positive for Human Immunodeficiency Virus (HIV). SSA uses the information to identify the donor and to locate the donor's address in SSA records for the purpose of notifying the states and assuring that states meet regulatory requirements to qualify for using the BDLS. SSA will retain no record of the request or the information after processing has been completed. The respondents are participating State agencies acting on behalf of authorized blood donor facilities.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 10.

Frequency of Response: 5.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 13 hours.

2. *Discrimination Complaint Form—0960–0585.* The information collected on form SSA–437 is used by SSA to investigate and formally resolve complaints of discrimination based on race, color, national origin, sex, age, religion, and retaliation in any program or activity conducted by SSA. A person who believes that he or she has been discriminated against on any of the above bases may file a written complaint of discrimination. The information will be used to identify the complainant; identify the alleged discriminatory act; ascertain the date of such alleged act; obtain the identity of the individual(s)/facility/component that allegedly discriminated; and ascertain other relevant information that would assist in the investigation and resolution of the complaints. The respondents are individuals who allege discrimination on the grounds described above.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 98.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 98 hours.

3. *Pre-1957 Military Service Federal Benefit Questionnaire—20 CFR 404.1301–1371—0960–0120.* Form SSA–2512 collects data used in the claims adjudication process to grant gratuitous military wage credits, when applicable, and solicits sufficient information to make a determination of eligibility. The respondents are individuals who are applying for Social Security benefits on the record of a wage earner with pre-1957 military service.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 12,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Average Burden: 2,000 hours.

4. *Application for Supplemental Security Income—20 CFR 416.305–335—0960–0229.* The information collected using Form SSA–8000–BK (or during a personal interview) is needed and is used to determine eligibility for SSI and the amount of benefits payable to the applicant. The respondents are applicants for SSI payments.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 1,128,374.

Frequency of Response: 1.

Average Burden Per Response: 40 minutes.

Estimated Annual Burden: 752,249 hours.

5. *Statement of Household Expenses and Contributions—20 CFR 416.1130–1148—0960–0456.* Eligibility for Supplemental Security Income (SSI) is based on need. A factor for determining need is whether an individual receives in-kind support and maintenance in the form of food and shelter provided by other persons. SSA collects information on form SSA–8011–F3 to determine the existence and amount of in-kind support and maintenance received by a claimant/beneficiary of SSI. SSA uses the information to determine eligibility and payment amount under this program. The respondents are members of SSI claimants'/beneficiaries' households.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 400,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 100,000 hours.

Dated: December 16, 2003.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 03–31521 Filed 12–22–03; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Social Security Acquiescence Ruling 03–1(7)]

Blakes v. Barnhart; Court Cases Involving Sections 12.05 and 112.05 of the Listing of Impairments That Are Remanded for Further Proceedings—Titles II and XVI of the Social Security Act

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(2), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 03–1(7).

EFFECTIVE DATE: December 23, 2003.

FOR FURTHER INFORMATION CONTACT: Cassia Parson, Office of Acquiescence and Litigation Coordination, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–0446, or TTY (800) 966–5609.

SUPPLEMENTARY INFORMATION: We are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 402.35(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals' decision as explained in this Social Security Acquiescence Ruling. This Social Security Acquiescence Ruling will apply to all decisions where the Agency issued a final decision prior to the effective date of the 2000 mental impairment rules (September 20, 2000), and the Commissioner's new final decision after court remand was issued or will be issued on or after December 23, 2003. If we made a decision on your application for benefits prior to September 20, 2000, under Sections 12.05 and or 112.05 of the Listings of Impairments and the court remanded the case to us for further administrative proceedings, you may request application of this Social Security Acquiescence Ruling. You must demonstrate, pursuant to 20 CFR 404.985(b)(2) or 416.1485(b)(2), that application of the Ruling could change our prior decision in your case.

Additionally, when we received this precedential Court of Appeals' decision and determined that a Social Security Acquiescence Ruling might be required, we began to identify those claims that were pending before us within the circuit that might be subject to readjudication if an Acquiescence Ruling were subsequently issued. Because we determined that an Acquiescence Ruling is required and are publishing this Social Security Acquiescence Ruling, we will send a notice to those individuals whose claims we have identified which may be affected by this Social Security Acquiescence Ruling. The notice will provide information about the Acquiescence Ruling and the right to request readjudication under the Ruling. It is not necessary for an individual to receive a notice in order to request application of this Social Security Acquiescence Ruling to the prior decision on his or her claim as provided in 20 CFR 404.985(b)(2) or 416.1485(b)(2), discussed above.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e) or 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c) or 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(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.)

Dated: October 31, 2003.

Jo Anne B. Barnhart,

Commissioner of Social Security.

Acquiescence Ruling 03–1(7)

Blakes v. *Barnhart*, 331 F.3d 565 (7th Cir. 2003)—Cases Involving Sections 12.05 and 112.05 of the Listing of Impairments That Are Remanded By a Court for Further Proceedings Under Titles II and XVI of the Social Security Act.

Issue: For cases originally decided by Administrative Law Judges (ALJs) or the Appeals Council before September 20, 2000, which version of listing 12.05 or 112.05 to use on remand from a Federal court in the Seventh Circuit, and how that listing should be applied.

Statute/Regulation/Ruling Citation: Sections 205(b)and (g), 223, 1614(a)(3)and(4)of the Social Security Act (42 U.S.C. 405(b) and (g), 423, 1382c(a)(3) and (4)); 20 CFR 404.1505, 404.1520, 404.1520a, 404.1525, 416.905, 416.906, 416.920, 416.920a, 416.924, 416.925, and 20 CFR Part 404, Subpart P, Appendix 1, sections 12.05 and 112.05.

Circuit: Seventh (Illinois, Indiana, Wisconsin).

Blakes v. *Barnhart*, 331 F.3d 565 (7th Cir. 2003).

Applicability of Ruling: This Ruling applies only to court remands at the Administrative Law Judge (ALJ) hearing and Appeals Council levels of the administrative review process.

Description of Case: Sandra Blakes applied for Supplemental Security Income payments based on disability on behalf of her son, Lamanuel Wolfe, Jr., in 1998, when Lamanuel was 5 years old. At the ALJ hearing, Blakes presented evidence that Lamanuel was being treated for a seizure disorder and had received services for speech and language delays. There was also evidence of Stanford-Binet IQ testing in February 1999 that resulted in a composite score of 81 and subarea scores as low as 70.

The ALJ accepted the intelligence testing scores as valid. The ALJ also acknowledged that Lamanuel was receiving services for speech and language delays and being treated for a possible seizure disorder. The ALJ noted a speech and language assessment which demonstrated severe delays in speech intelligibility and receptive and expressive language. However, the ALJ rejected Lamanuel's claim that the requirements of the listing for mental retardation were met because the evidence did not establish that Lamanuel had mental retardation. The ALJ stated that the examiner who performed the intelligence testing specifically stated that Lamanuel had a good prognosis, and that his language problems caused only minimal effects on his activities of daily living. In light of that examiner's findings, the ALJ concluded that the evidence did not describe a person who has mental retardation. The ALJ also found that Lamanuel's impairments did not medically equal any listing or

functionally equal the listings. Therefore, she found that Lamanuel was not disabled.

The Appeals Council denied the request for review and the claimant appealed to the United States District Court for the Eastern District of Wisconsin. The United States Magistrate Judge recommended that the ALJ's decision be affirmed, because the conclusion that Lamanuel did not have mental retardation was supported by substantial evidence. The district court adopted the Magistrate Judge's report and recommendation, and found that the ALJ had adequately supported her conclusion that Lamanuel did not have mental retardation. The district court therefore affirmed the Social Security Administration's (SSA's) final decision.

On appeal to the United States Court of Appeals for the Seventh Circuit, Blakes offered several arguments. Blakes argued that the ALJ failed to build a ''logical bridge'' between the evidence and her conclusions, and that the ALJ relied on her own judgment about the cause of Lamanuel's impairments without any medical support in the record for that judgment. In addition, she argued that the ALJ should have called upon a medical expert to testify at the hearing, and that Lamanuel's impairments met the requirements of Listing 112.05D. [1]

In remanding the case for further proceedings, including testimony from an expert witness, the Court of Appeals held that the ALJ must apply the pre-September 20, 2000, version of listing 112.05 in this case as the Court interpreted it. The Court noted that after the ALJ had decided the case, SSA issued final rules that, among other things, revised Listings 12.05 and 112.05.[2] The court stated that the new version of listing 112.05 ''introduced a new, dual requirement'' that an individual satisfy the diagnostic description of the introductory paragraph and one of the six sets of criteria following the introductory paragraph. The Court of Appeals held that the pre-September 20, 2000, version of the Listings that had been applied by the ALJ in her decision did not require an individual to meet the diagnostic description for mental retardation, only the other criteria of the Listing. The Court of Appeals also held that, on remand, the ALJ should apply the Court of Appeals' interpretation of the pre-September 20, 2000, version of the listings.

Statement As To How Blakes Differs From SSA's Interpretation

Our interpretation of the pre-September 20, 2000, version of Listings 12.05 and 112.05 is the same as our interpretation of the current listings. The diagnostic description of mental retardation contained in the introductory paragraph of these Listings, or ''capsule definition,'' is an integral part of their criteria, as in all of the mental disorders listings. For example, in Acquiescence Ruling 98-2(8), acquiescing in the decision in *Sird* v. *Chater*, 105 F.3d 401 (8th Cir. 1997), we explained that ''SSA's interpretation of the [pre-September 2000 version of] Listing [12.05] is that, if an individual has:

(1) mental retardation, i.e., significantly subaverage general intellectual functioning with deficits in adaptive behavior initially manifested during the developmental period, or autism, i.e., a pervasive developmental disorder characterized by social and significant communication deficits originating in the developmental period;

(2) a valid verbal, performance or full scale IQ in the range specified by Listing 12.05C; and

(3) a physical or other mental impairment that is severe within the meaning of 20 CFR 404.1520(c) or 416.920(c), the individual's impairments meet Listing 12.05C.''[3] Therefore, the revisions that became effective on September 20, 2000, were intended only to clarify sections 12.00A and 112.00A of the introductory text of the mental disorders listings and were not a change in policy. *See* 65 FR at 50776, 50779.

The holding is also inconsistent with our interpretation of the effective date provision of the final rules that became effective on September 20, 2000. We interpret the effective date provision of the final mental disorders rules to mean that, when a court decides a case after the effective date of the final rules, reverses the Commissioner's final decision, and remands the case for further administrative proceedings, we will apply the provisions of the final rules on remand to the entire period at issue in the claim. We do not apply the version of our rules that the adjudicator applied at the time the case originally was adjudicated, since that decision has been vacated. Rather, as is the case with respect to other determinations and decisions, we apply our current rules to the entire period at issue.

The Court of Appeals, on the other hand, concluded that, on remand, the ALJ should apply the pre-September 20, 2000, version of the Listings (as the Court interpreted it, different from our intent), even though the ALJ will issue the hearing decision after the September 20, 2000, effective date of the final rules.

Explanation of How SSA Will Apply the Blakes Decision Within the Circuit

This Ruling applies only to cases in which the claimant resides or resided in Illinois, Indiana, Wisconsin at the time of the court remand and applies only to ALJ hearing or Appeals Council decisions made pursuant to a court's remand order.

This Ruling applies to any case involving:

(1) A final ALJ's or Appeals Council's decision, made prior to September 20, 2000, that was appealed to and remanded by the court, and; and

(2) Evidence of a medically determinable mental impairment to be evaluated under Listings 12.05 or 112.05.

In deciding cases that meet the criteria in the preceding two paragraphs, the ALJ or Appeals Council will apply the Seventh Circuit's interpretation of the pre-September 20, 2000, version of Listings 12.05 or 112.05. The ALJ or the Appeals Council will not require that the claimant meet the capsule definition of mental retardation in order to meet Listing 12.05 or 112.05. To meet a listing, the claimant need only satisfy the requirements of subsections A through D of listing 12.05 or subsections A through F of listing 112.05, as appropriate to the individual's age.

[FR Doc. 03–31522 Filed 12–22–03; 8:45 am]

BILLING CODE 4191–02–F

[1] Although *Blakes* was a title XVI childhood disability case involving the application of Listing 112.05D, similar principles also apply to disability claims involving Listing 12.05 under title II and title XVI of the Act. Therefore, this Ruling extends to both title II and title XVI disability claims involving Listings 12.05 and 112.05.

[2] *See* 65 FR 50746 (2000). The final rules were published on August 21, 2000, and they became effective on September 20, 2000. *Id.* at 50746.

[3] We rescinded Acquiescence Ruling 98-2(8) when re revised the mental disorders listings in 2000. 65 FR 50784 (2000).

DEPARTMENT OF STATE

[Public Notice 4564]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Annunciation and The Bridge at Courbevoie''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March

27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 *note, et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 (68 FR 19875), I hereby determine that the objects to be included in the exhibition ''The Annunciation and The Bridge at Courbevoie,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit objects at The J. Paul Getty Trust, Los Angeles, CA from on or about January 13, 2004 to on or about April 25, 2004 and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: 202/619–6981). The address is Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: December 16, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–31581 Filed 12–22–03; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4566]

Culturally Significant Objects Imported for Exhibition Determinations: ''A Beautiful and Gracious Manner: The Art of Parmigianino''

DEPARTMENT: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended by Delegation of Authority No. 236–3 of August 28, 2000 [65 FR 53795], and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibit, ''A Beautiful and Gracious Manner: The Art of Parmigianino,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with foreign lenders. I also determine that the temporary exhibition or display of the objects at The Frick Collection, New York, New York, from on or about January 27, 2004, to on or about April 18, 2004, and possible additional venues yet to be determined is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: December 11, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–31583 Filed 12–22–03; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4563]

Culturally Significant Objects Imported for Exhibition Determinations: ''Love Letters: Dutch Genre Paintings in the Age of Vermeer''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Love Letters: Dutch Genre Paintings in the Age of Vermeer,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit objects at the Bruce Museum of Arts and Science, Greenwich, CT from on or about January 31, 2004 to on or about May 2, 2004 and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: 202/619–6981). The address is Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: December 16, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–31580 Filed 12–22–03; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4567]

Culturally Significant Objects Imported for Exhibition Determinations: ''Return of the Buddha: The Qingzhou Discoveries''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Return of the Buddha: The Qingzhou Discoveries,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Arthur M. Sackler Gallery, Smithsonian Institution, from on or about March 20, 2004 until on or about August 8, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these

Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Damir Arnaut, the Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6982). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: December 11, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–31584 Filed 12–22–03; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4565]

Culturally Significant Objects Imported for Exhibition Determinations: ''Turner and Venice''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 *note, et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257, I hereby determine that the objects to be included in the exhibition ''Turner and Venice,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners and/or custodian. I also determine that the exhibition or display of the exhibit objects at the Kimbell Art Museum, Fort Worth, Texas, from on or about February 15, 2004 to on or about May 30, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Walter R. Sulzynsky, the Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–5078). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: December 11, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–31582 Filed 12–22–03; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4560]

Determinations Pursuant to Executive Order 13224 Relating to Jaish e-Mohammed and Lashkar e-Tayyiba

The Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and the Secretary of Homeland Security, has amended the designation of Jaish e-Mohammed pursuant to Executive Order 13224 to add the following names as aliases:

Khuddam-ul-Islam
Khudamul Islam
Kuddam e Islami.

The Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and the Secretary of Homeland Security, has amended the designation of Lashkar e-Tayyiba pursuant to Executive Order 13224 to add the following names as aliases:

al Mansoorian
al Mansooreen
Army of the Pure
Army of the Pure and Righteous.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously'', no prior notice need be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

Dated: December 16, 2003.

William P. Pope,

Acting Coordinator for Counterterrorism, Department of State.

[FR Doc. 03–31569 Filed 12–22–03; 5:00 pm]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 4561]

Redesignation of Foreign Terrorist Organizations

Pursuant to section 219 of the Immigration and Nationality Act, as amended, 8 U.S.C. 1189, the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, hereby redesignates, effective December 23, 2003, the following two organizations as foreign terrorist organizations:

Lashkar e-Tayyiba

Also known as Lashkar e-Toiba
Also known as Lashkar-i-Taiba
Also known as al Mansoorian
Also known as al Mansooreen
Also known as Army of the Pure
Also known as the Army of the Righteous
Also known as the Army of the Pure and Righteous

Jaish e-Mohammed

Also known as the Army of Mohammed
Also known as Mohammed's Army
Also known as Tehrik ul-Furqaan
Also known as Khuddam-ul-Islam
Also known as Khudamul Islam
Also known as Kuddam e Islami

Dated: December 16, 2003.

William P. Pope,

Acting Coordinator for Counterterrorism, Department of State.

[FR Doc. 03–31570 Filed 12–22–03; 5:00 pm]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 4562]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: 2004 Summer Institute for English Language Educators from South Africa

SUMMARY: The African Programs Branch, Office of Academic Exchange Programs of the Bureau of Educational and Cultural Affairs announces an open competition for the 2004 Summer Institute for English Language Educators from South Africa. Accredited, post-secondary educational institutions meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to provide a six-week academic training program for approximately 28 English language educators form South Africa. Subject to availability of funds, one grant will be awarded to conduct the 2004 Institute.

Important Note: This Request for Grant Proposals contains language in the ''Shipment and Deadline for Proposals'' section that is significantly different from that used in the past. Please pay special attention to procedural changes as outlined.

Program Information

Overview

American institutions of higher education having an acknowledged reputation in the field of English-as-a-Second Language (ESL) and in curriculum design may apply to develop and deliver a six-week summer program for approximately twenty-eight English language educators from South Africa. The Summer Institute should be programmed to encompass about 45 days and should begin on or about June 14, 2004. A variation in start date, up to one week beyond June 14, 2004, will be considered if it is necessitated by the host institution's academic calendar. The first five weeks of the program will consist of academic coursework specializing in project-based ESL materials development/delivery focusing on three content-based areas: HIV-AIDS, civic education and civil society, and economics/entrepreneurship). The Institute will include instruction in classroom management and curriculum design to support these ESL content-based projects at the secondary and tertiary levels. Participants, with the help of the host institution, will develop a web site for all projects. The sixth week will consist of an escorted cultural and educational tour of Washington DC.

The 2004 Summer Institute for English Language Educators from South Africa will provide participants with intensive training in the fundamentals of content-based ESL materials development/delivery, continuous assessment, classroom management and curriculum design. These four areas are critical in South Africa where educators are attempting to create a new English curriculum in a context of educational transformation and Outcomes Based Education (OBE). Given the need to teach content-based English across the South African curriculum, English language educators are key personnel for quality learning. Presently, there exists a severe shortage of skilled classroom educators. South African teachers will need to produce and deliver culturally appropriate and pedagogically sound content-based materials in a multi-cultural setting.

The Summer Institute will also provide structured exposure to U.S. culture and the diversity of America. The challenges of teaching in a multi-cultural society should be a component of the program. The program should maintain a relative balance among discussion sessions, lectures and collaborative workshops. A web site is recommended for participants' projects. Lengthy lectures should be kept to a minimum. Participants should be given ample opportunity to work together and learn from each other as well as from their American instructors. Given the project-based orientation exploring the themes of HIV-AIDS, civic education and civil society, and economics/entrepreneurship, participants will be able to share not only content but relevant ESL materials with their colleagues and home institutions. Participants will receive an educational materials allowance.

Few participants will have visited the United States previously. In view of this, an initial orientation to the university community and a brief introduction to U.S. society and education should be an integral part of the Institute and should be held on the first two to three days of the program.

Guidelines

Applicants should design a two-part program:

(1) A five-week academic program supporting South Africa's goal of education transformation through the delivery of intensive training in content-based materials development, classroom management, continuous assessment and curriculum design for Outcomes Based Education (OBE) and ESL learning (English across the curriculum) at the secondary and tertiary levels. Division of the group into 3–4 manageable project teams, each with a selected thematic/content focus and each targeting the particular needs of the secondary and tertiary levels is essential. Training should be sensitive to any special needs of the South African participants.

(2) A one-week escorted visit to Washington, DC, planned, arranged, and conducted by the Institute Program Director and principal Institute staff. The Washington program should be seen as an integral part of the Summer Institute, complementing and reinforcing both the academic and thematic content. This escorted visit should take place at the end of the Institute. Programming in Washington will include a half-day briefing session at the Bureau of Educational and Cultural Affairs, United States Department of State. Additionally, visits to such organizations as TESOL, a regional university, local school systems and teacher resource centers, are encouraged. A visit to the Embassy of South Africa should also be planned. Proposals may include cultural and educational visits en route to Washington, if such stops contribute to program quality and are cost-effective. The participants will return to South Africa at the conclusion of the Washington program.

Specific areas to address in the Institute are:

1. Materials development/delivery with an emphasis on content-based ESL instruction. Techniques for continuous assessment should also be addressed. Thematic issues should include HIV-AIDS, civic education and civil society and entrepreneurship/economics.

2. Classroom management (for secondary levels).

3. Education Technology:

(a) Introduction and/or enrichment of computer-based word processing and appropriate software for participants who lack these skills. Introduction to computer networks for ESL professionals.

(b) Introduction and/or enrichment of knowledge of e-mail and the Internet as pedagogic and research tools.

4. Visits to:

(a) Local institutions and organizations related to thematic areas.

(b) On-going ESL classes at the host institution, other universities, and in local educational or community centers, providing participants with opportunities to observe ESL methodology, materials, and multi-cultural classrooms featuring content-based language learning across the curriculum.

5. Involvement of participants in American culture through community/cultural activities. This should include interaction with Americans from a variety of backgrounds.

6. Formative evaluation and adjustment of program components accordingly, as well as summative evaluation of the entire Institute upon its completion.

In accordance with the objectives of the Summer Institute, participants will concentrate on their thematic program projects. However, the academic program should provide time for interaction with American students, faculty, and school administrators, and the local community to promote mutual understanding between the people of the United States and South Africa. In this regard, the Institute should incorporate cultural features such as community and cultural activities, field trips to places of local interest; home stays with families in the area (with other educators if possible), and events that will bring the participants into contact with Americans from a variety of backgrounds.

Programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

Participants

Participants, to be selected by Public Affairs Section of the U.S. Embassy in Pretoria, will be South African educators involved with English language instruction. Professionally, they can be teacher-trainers, subject advisors, curriculum developers, and learning facilitators/coordinators. The selected participants will be drawn from public and private sectors including the national and provincial departments of education, teacher resource centers, non-governmental organizations, university departments of education and teacher training colleges.

Minimum qualification for all participants will be a three-year teacher-training diploma with preference given to candidates with university degrees. Recruitment will concentrate on English language educators who are actively involved at secondary and tertiary levels, some of whom may be relatively inexperienced but are identified as having leadership potential. Depending upon availability of funds, approximately 28 participants from South Africa will participate in the Institute.

Program Elements

The proposal should be designed to support the following specific activities:

1. Pre-program communication among participants and the U.S. institution to facilitate an exchange of ideas developed for the Institute. Communication should be e-mail based.

2. Creation of a Web site identifying the program goals/syllabus and on-going participant thematic projects. The site should be a dynamic resource, with weekly updates during the duration of the program, and regular updates in South Africa following program completion. The web site should display each of the three completed theme-based projects. The participants should develop site content, while site construction and Internet hosting should be provided by the grantee institution. All Institute participants should receive a CD-ROM of their Web site creation.

3. A five-week academic program comprising coursework on

—Project-based English for content-based instruction,
—Theory and practice of continuous assessment,
—Use of the Internet and web resources for educators,
—Leadership training to enable participants to conduct workshops upon return to their countries. Training should meet the special needs of participants from South Africa.

4. Cultural activities facilitating interaction among the South African participants, American students, faculty, and administrators and the local community to promote mutual understanding between the people of the United States and the people of South Africa, planned within the five-week academic program.

5. A one-week, escorted, cultural and educational visit to Washington, DC, complementing and reinforcing the academic material. The visit will be planned, arranged and conducted by the Institute Program Director and staff.

6. Follow-on communication among participants and the U.S. institution to continue exchanges of ideas developed during the Institute.

7. Assistance to participants in selecting, purchasing and shipping materials to use in follow-on activities and training projects in South Africa.

Orientation: The host institution should plan to conduct either a pre-program needs assessment if time allows, or a needs assessment upon the arrival of the participants. The Institute Director should be prepared to adjust program emphasis as necessary to respond to participants' professional concerns.

The Public Affairs Section of the U.S. Embassy, Pretoria, will hold a pre-departure orientation for all participants in South Africa. The grantee institution will be expected to provide general orientation materials for this meeting. This material might include a tentative program outline with suggested goals and objectives, relevant background information about the U.S. institutions and individuals involved in the project, and information about the local housing, climate, and available services.

Program Administration

All Summer Institute programming and administrative logistics, management of the academic program and the educational tour, and on-site arrangements will be the responsibility of the grantee institution.

The grantee institution is responsible for arrangements for lodging, food, maintenance and local travel for participants while at the host institution and in Washington. The host institution should strive to balance cost-effectiveness in accommodations and meal plans with flexibility for differing diets and personal habits among the participants. Single rooms or housing in residential suites, which offer privacy, are preferable.

The Bureau will provide the grantee institution with participants' curricula vitae and travel itineraries and will be available to offer guidance throughout the Institute. The Bureau will arrange participants' international travel. The participants will arrive directly at the Institute site from their home countries. It is expected that the Institute program staff will make arrangements to have participants met upon arrival at the airport nearest the host campus. Departures will be from Washington, DC. Participants will be given international tickets, which will include the leg from the host institution to Washington, DC, if necessary. The Institute staff will plan for ground transportation to and from Washington area airports.

Proposals should describe the available health care system and the plan to provide health care access to Institute participants. The Department of State will provide limited health insurance coverage to all participants. The host institution will be responsible for enrolling the participants in the insurance program with materials supplied by the Department.

Budget Guidelines: Applicants must submit a comprehensive line-item budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity in order to provide clarification.

The Bureau anticipates awarding one grant in an amount not-to-exceed $175,000 to support program and administrative costs required to implement this program. Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs are limited to $60,000. Therefore, such organizations are ineligible for this competition. The Bureau encourages applicants to provide maximum levels of cost-sharing and funding from private sources in support of its programs.

Allowable costs for the program include the following:

1. Instructional costs (for example: instructors' salaries, honoraria for outside speakers, educational course materials);

2. Lodging, meals, and incidentals for participants;

3. Expenses associated with cultural activities planned for the group of participants;

4. Administrative costs as necessary.

5. U.S. ground transportation costs to U.S. appointments, meetings and to/from airports.

Proposals should maximize cost sharing through private sector support

as well as institutional direct funding contributions.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/E/AF–04–01.

FOR FURTHER INFORMATION CONTACT: The African Programs Branch, ECA/A/E/AF, Room 232, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Tel: (202) 619–5376 and fax (202) 619–6137, e-mail: *eberelso@pd.state.gov* to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer, Ellen Berelson on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

New OMB Requirement: An OMB policy directive published in the **Federal Register** on Friday, June 27, 2003, requires that all organizations applying for Federal grants or cooperative agreements must provide a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when applying for all Federal grants or cooperative agreements on or after October 1, 2003. The complete OMB policy directive can be referenced at *http://www.whitehouse.gov/omb/fedreg/062703_grant_identifier.pdf.* Please also visit the ECA Web site at *http://exchanges.state.gov/education/rfgps/menu.htm* for additional information on how to comply with this new directive.

Shipment and Deadline for Proposals

Important Note: The deadline for this competition is Friday, February 6, 2004. In light of recent events and heightened security measures, proposal submissions must be sent via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.) and be shipped no later than the above deadline. The delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Applicants must follow all instructions in the Solicitation Package. The original and 8 copies of the application should be sent to:

U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/E/AF–04–01, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) format on a PC-formatted disk. The Bureau will provide these files electronically to the Public Affairs Section at the U.S. Embassy for its review.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.''

Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Adherence to All Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements. ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 401–9810, FAX: (202) 401–9809.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for grants resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission. Proposals should demonstrate effective use of community and regional resources to enhance the cultural and educational experiences of participants.

2. *Program planning:* Relevant work plan and a detailed calendar should demonstrate substantive undertakings and logistical capacity. Plan and calendar should adhere to the program overview and guidelines described above. The proposal should clearly demonstrate how the institution will meet the program's objectives.

3. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve a substantive academic program and effective cross-cultural communication with South African participants. Proposal should show evidence of strong on-site administrative capabilities with specific discussion of how logistical arrangements will be undertaken.

4. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

7. *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

8. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives are recommended.

9. *Cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

10. *Cost-sharing:* Proposals should maximize cost sharing through other private sector support as well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries* * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations* * *and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: December 17, 2003.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–31579 Filed 12–22–03; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 4534]

Cultural Property Advisory Committee Notice of Meeting

In accordance with the provisions of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 *et seq.*) there will be a meeting of the Cultural Property Advisory Committee on Tuesday, January 13, 2004, from approximately 9:30 a.m. to 5 p.m., and on Wednesday, January 14, 2004, from approximately 9:30 a.m. to 12 noon, at the United States Department of State, Annex 44, 301 4th St., SW., Washington, DC. Pursuant to 19 U.S.C. 2605(g), the Committee will conduct a review of the ''Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of El Salvador Concerning the Imposition of Import Restrictions on Certain Categories of Archaeological Material from the Pre-Hispanic Cultures of the Republic of El Salvador;'' and the ''Agreement between the Government of the United States of America and the Government of the Republic of Nicaragua Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Hispanic Cultures of the Republic of Nicaragua.'' The Committee's review will focus attention on Article II of each agreement.

Portions of the meeting will be closed pursuant to 5 U.S.C. 552b(c)(9)(B). There will also be an open session to receive comments from interested parties regarding these two agreements. The open portion of the meeting will be held from approximately 1:30 to 2:30 p.m. on January 13. Seating is limited. Persons wishing to attend this open portion of the meeting must notify the Cultural Property office at (202) 619–6612 by 5 p.m. (EDT) Wednesday, January 7, 2004, to arrange for admission. Persons wishing to present oral comments at the open portion of the meeting, or to submit written comments for the Committee's consideration, must provide them in writing by 5 p.m., (EDT) January 7, 2004. All comments may be faxed to (202) 260–4893. Oral presentations will be limited to ensure time for the Committee to pose questions. Information about the Convention on

Cultural Property Implementation Act and these two agreements may be found at *http://exchanges.state.gov/culprop.*

Dated: December 11, 2003.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–31578 Filed 12–22–03; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 4568]

Bureau of Administration; Notice of Availability of Alternative Fueled Vehicle (AFV) Report for Fiscal Year 2003

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The U.S. Department of State, Bureau of Administration, is issuing this notice in order to comply with the Energy Policy Act of 1992 and 42 U.S.C. 13218(b). The purpose of this notice is to announce the public availability of the Department of State's interim Fiscal Year 2003 report at the following Web site: *http://www.state.gov/m/a/26931.htm.* A final report will be made available upon completion of data collection.

FOR FURTHER INFORMATION CONTACT: Questions regarding reports on the AFV report Web site should be addressed to the Domestic Fleet Management and Operations Division (A/OPR/GSM/FMO) [Attn: Barry Shpil], 2201 C Street NW (Room B258), Washington, DC 20520, phone 202–647–3628.

Dated: December 9, 2003.

Vincent J. Chaverini,

Deputy Assistant Secretary Office of Operations, Department of State.

[FR Doc. 03–31585 Filed 12–22–03; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2003–15642 and FMCSA–2001–11060]

Safety Auditor Certification; Notice of Statutory Compliance Date

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of statutory compliance date.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) gives notice that after December 31, 2003, all safety inspections, audits, and compliance reviews will be conducted by FMCSA or State employees certified under the Certification of Safety Auditors, Safety Investigators, and Safety Inspectors interim final rule (67 FR 12776, Mar. 19, 2002; 67 FR 41196, Jun. 17, 2002) (commonly referred to as the ''Certification rule'') or qualified under the grandfather provisions of 49 U.S.C. 31148(b). The Certification rule was one of three interim final rules set aside by the U.S. Court of Appeals for the Ninth Circuit on January 16, 2003, on the grounds that FMCSA failed to comply with statutory environmental impact analysis requirements in developing these regulations. On July 28, 2003, FMCSA notified the public (68 FR 44378) that, as authorized by Sec. 211 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA), the Secretary of Transportation (Secretary) had extended by 12 months the agency's December 31, 2002, statutory deadline for compliance with the safety certification requirements. The extension of the statutory compliance deadline provided FMCSA the necessary time to comply with the court's mandate by preparing an Environmental Assessment (EA) for the Certification rule. The EA concluded that implementation of the Certification rule would have no adverse environmental consequences and, in fact, would likely have a positive, if minimal, impact on the affected environment. On October 2, 2003, the agency issued a notice announcing the EA's availability in the docket and requesting public comment (68 FR 56863). The agency received no comments on the EA. Following the close of the public comment period, FMCSA prepared a Finding of No Significant Impact document for the Certification rule. The Finding of No Significant Impact is attached to the EA in the docket. Compliance with the statutory certification requirement by FMCSA and its State partners will assure the agency's continued fulfillment of its statutory responsibilities to reduce crashes, injuries, and fatalities involving large trucks and buses.

DATES: Compliance with 49 U.S.C. 31148(b) begins January 1, 2004.

FOR FURTHER INFORMATION CONTACT: Mary Pat Woodman, Chief of the Enforcement and Compliance Division (MC–ECE), (202) 366–9699, FMCSA, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

Sec. 210 of the Motor Carrier Safety Improvement Act (MCSIA) of 1999 (Pub. L. 106–159, 113 Stat. 1748) directs that all motor carriers (both foreign and domestic) granted new operating authority must undergo a safety audit within 18 months of commencing operations in interstate commerce in the United States [49 U.S.C. 31144(c)(1)]. Sec. 211 of the MCSIA requires that any safety audit conducted after December 31, 2002, be performed by: (1) A motor carrier safety auditor certified under rules established for that purpose, or (2) a Federal or State employee qualified to perform such an audit or review at the time MCSIA was enacted [49 U.S.C. 31148(b)]. The legislation gives the Secretary oversight responsibility for these motor carrier safety auditors and investigators, including the authority to decertify them [49 U.S.C. 31148(e)]. In addition, section 31148(c) authorizes the Secretary to extend (by no more than 12 months) the December 31, 2002, deadline for compliance with the safety certification requirements of MCSIA if it is determined that the rulemaking required by the statute cannot be timely implemented.

As required by Sec. 211, FMCSA published an interim final rule entitled ''Certification of Safety Auditors, Safety Investigators, and Safety Inspectors,'' establishing procedures to certify and maintain certification for safety auditors, inspectors, and investigators (67 FR 12776, Mar. 19, 2002; 67 FR 41196, Jun. 17, 2002). The rule amends 49 CFR parts 350 and 385 to provide for three types of certification, as follows: (1) Certification to conduct safety audits, (2) certification to conduct compliance reviews, and (3) certification to conduct roadside vehicle and driver inspections. The Certification rule took effect on July 17, 2002 (67 FR 41196).

The rule requires certification not only for Federal employees performing safety audits, inspections, and compliance reviews but also for State and local employees conducting these activities under the Motor Carrier Safety Assistance Program (MCSAP). States must certify that safety employees meet minimal Federal standards as a condition of their continued participation in the MCSAP. Federal and MCSAP employees qualified to perform compliance reviews on December 9, 1999, are grandfathered by 49 U.S.C. 31148(b)(2) and are not required to be certified under the rule. The Certification rule extended this grandfather period to include personnel who were fully trained and performing

compliance reviews or roadside inspections before June 17, 2002. Both grandfathered employees and those certified under the rule will be required to maintain their certification by completing a minimum number of safety review activities each year.

The 2002 Department of Transportation (DOT) Appropriations Act (Pub. L. 107–87, 115 Stat. 833, December 18, 2001) had stipulated that FMCSA could not expend funds on processing applications of Mexico-domiciled motor carriers for authority to operate in the United States beyond the border commercial zones, as recommended by an international arbitration panel convened pursuant to the North American Free Trade Agreement, until FMCSA published, among other things, a number of regulations including the Certification rule. (This condition was again imposed in the 2003 DOT Appropriations Act [Pub. L. 108–7, 117 Stat. 11, February 20, 2003]). Another precondition for processing such applications was publication of a rule implementing Sec. 210 of the MCSIA. An interim final rule entitled ''New Entrant Safety Assurance Process'' (New Entrant rule), establishing procedures to heighten the agency's safety scrutiny of new entrant motor carriers, including standards and procedures regarding the safety audits mandated by Sec. 210, was published on May 13, 2002 (67 FR 31978) and became effective on January 1, 2003.

On January 16, 2003, the U.S. Court of Appeals for the Ninth Circuit set aside the Certification rule and two other FMCSA rules establishing application and safety monitoring procedures for Mexico-domiciled motor carriers seeking authority to operate beyond the border commercial zones. The court concluded that FMCSA failed to comply with statutory environmental impact analysis requirements in developing these regulations. See *Public Citizen* v. *DOT,* 316 F.3d 1002 (9th Cir. 2003). Specifically with respect to the Certification rule, the court determined that because the rule did not fall within any of the existing DOT categorical exclusions, FMCSA acted arbitrarily and capriciously by failing to conduct an EA for the rule. DOT's petition for rehearing was denied on April 10, 2003. Consequently, the court's mandate setting aside the three rules took effect on April 18, 2003.

On July 17, 2003, the Secretary notified the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that, in accordance with his authority under 49 U.S.C. 31148(c), he had extended the deadline for compliance with the statutory certification requirements to December 31, 2003, while FMCSA acted to comply with the court's mandate. FMCSA notified the public of this extension (68 FR 44378, Jul. 28, 2003).

On August 26, 2003, FMCSA issued a notice to advise the public that a Programmatic Environmental Impact Statement (PEIS) would be prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*), as amended, and a General Conformity Evaluation would be made pursuant to the Clean Air Act [42 U.S.C. 7506(c)(1)], before promulgation of the rules on application and safety monitoring procedures for Mexico-domiciled carriers seeking U.S. operating authority (68 FR 51322, Aug. 26, 2003). The notice also announced that FMCSA was preparing an EA for the Certification rule and that a supplemental Notice of Intent would be issued if, based on the EA, the agency determined that preparation of an Environmental Impact Statement (EIS) is required.

On September 8, 2003, the United States sought Supreme Court review of the Ninth Circuit decision that invalidated the rules concerning Mexico-domiciled carriers, but did not seek review on the exclusion issues that pertained solely to the Certification rule. The following month, FMCSA issued a notice announcing the availability of an EA for the Certification rule and requesting public comment (68 FR 56863, Oct. 2, 2003). On December 15, 2003, the Supreme Court granted the Government's petition for review.

Environmental Assessment and Finding of No Significant Impact

The EA noted that the Certification rule is intended to promote more accurate safety audits, inspections, and compliance reviews by ensuring that these activities are conducted by highly trained personnel certified by FMCSA or by State or local governments. The procedures established under the rule preserve and formalize training requirements and practices that have been in effect within the DOT system for more than 20 years. Implementation of these procedures will not require FMCSA to engage in any new activities or to construct new inspection facilities, classroom facilities, or roadways; nor will the certification program, in and of itself, increase the number of safety inspections performed. Although the New Entrant rule created a new kind of review—the ''safety audit'' of new entrant carriers—the training required for safety auditor certification is merely a simplified, less comprehensive version of that required to conduct compliance reviews and roadside vehicle and driver inspections.

Therefore, the Certification rule will neither increase commercial vehicular traffic congestion, noise levels, and land use nor adversely impact air quality. Likewise, the certification process will have no measurable impact in conventional analysis areas such as visual, cultural, and aesthetic resources, geology and soils, water resources and hydrology, biological and ecological resources, energy consumption, socioeconomics, and environmental justice.

As required by DOT Order 5610.1C, Procedures for Considering Environmental Impacts, September 18, 1979, as amended on July 13, 1982, and July 30, 1985, and the Council on Environmental Quality's regulations implementing NEPA, the EA also analyzed the potential environmental impact of failure to implement the proposed certification procedures (the No Action Alternative). Under this scenario, the agency would withdraw the Certification rule and make no changes to the safety fitness regulations at 49 CFR part 385. In addition, FMCSA considered two alternative actions. As detailed in the EA, we judged all three alternatives to be inadequate.

The EA concluded that insofar as the certification program increases the government's ability to identify potentially unsafe carriers and vehicles and remove them from the Nation's roads, it will have positive, if minimal, effects on air quality, noise levels, and public safety. Accordingly, FMCSA anticipates that the Certification rule will produce a net positive impact on the affected environment, and has determined that an EIS for the rule is not required. The agency received no public comments on the EA.

As noted in the Background section of this document, the FY 2002 and 2003 DOT Appropriations Acts made issuance of the Certification rule a precondition to FMCSA's expenditure of funds on the processing of Mexico-domiciled motor carrier applications for authority to operate in the United States beyond the border commercial zones. Nevertheless, the EA does not attempt to analyze the prospective environmental impacts of Mexico-domiciled carriers operating in the United States. This is because the PEIS and General Conformity Evaluation required by the Ninth Circuit Court decision are already being undertaken with respect to the two other rules discussed in the Background section that are preconditions to the processing of

applications of Mexican carriers for operating authority beyond the border commercial zones. Unless the Ninth Circuit Court decision is reversed or the relevant terms of the DOT Appropriations Acts are not extended, FMCSA cannot process applications of Mexico-domiciled motor carriers seeking authority to operate beyond the border commercial zones until a PEIS and General Conformity Evaluation have been completed and considered by FMCSA. Implementing the Certification rule will not affect that prohibition.

Further, the Certification rule standing alone will have no impact on prospective Mexican truck and bus operations beyond the border commercial zones. For example, it will not affect either the number of Mexico-domiciled vehicles entering the United States or the number and duration of safety inspections of these vehicles. Indeed, unlike the application and safety monitoring rules, which apply solely to Mexico-domiciled motor carriers, the only connection between the Certification rule and the operation of Mexican carriers beyond the border commercial zones is the contingency Congress created when it made issuance of the rule one of the preconditions to the processing of these carriers' applications for operating authority.

As noted above, FMCSA received no public comments in response to the EA. Following the close of the public comment period, the agency prepared a Finding of No Significant Impact document for the Certification rule. FMCSA's full Environmental Assessment and Finding of No Significant Impact are available in the docket.

In accordance with the agency's statutory obligation under 49 U.S.C. 31148(b), FMCSA and its State partners will comply with the statutory certification requirement effective January 1, 2004.

Issued on: December 18, 2003.

Annette M. Sandberg,

Administrator.

[FR Doc. 03–31597 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Pipeline Safety: Potential Service Disruptions in Supervisory Control and Data Acquisition Systems

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

ACTION: Notice; issuance of advisory bulletin.

SUMMARY: RSPA's Office of Pipeline Safety (RSPA/OPS) is issuing this advisory notice to owners and operators of gas and hazardous liquid pipelines who use Supervisory Control and Data Acquisition (SCADA) systems. Pipeline owners and operators should establish thorough testing regimes when they design and implement modifications and enhancements of their SCADA systems. Owners and operators should consider using off-line or developmental workstations to test changes, then deploy the changes on-line under close monitoring at times when few operational changes are expected on the pipeline. Applying these techniques will help ensure that changes in the SCADA system environment do not have an unexpected effect on pipeline operations.

FOR FURTHER INFORMATION CONTACT: Richard Huriaux, (202) 366–4565; or by e-mail, *richard.huriaux@rspa.dot.gov.* This document can be viewed at the RSPA/OPS home page at *http://ops.dot.gov.* General information about the RSPA/OPS programs can be obtained by accessing RSPA's home page at *http://rspa.dot.gov.*

I. Advisory Bulletin (ADB–03–09)

To: Owners and Operators of Gas and Hazardous Liquid Pipeline Systems Who Use SCADA Systems.

Subject: Potential Service Disruptions in SCADA Systems.

Purpose: To inform pipeline owners and operators of the potential for service disruptions in SCADA systems caused by maintenance or enhancements of SCADA system configuration and other critical databases, and the possibility of those disruptions leading to or aggravating pipeline releases.

Advisory: Each pipeline owner or operator should review their procedures for the upgrading, configuring, maintaining, and enhancing its SCADA system. If not well thought out and thoroughly tested, such changes could cause inadvertent service disruptions in the SCADA system. Resulting conditions could may impede controllers responsible for operating the pipeline from promptly recognizing and reacting to abnormal conditions, and could potentially impact the controllers' abilities to restore normal operations. Owners and operators should ensure that SCADA system modifications do not degrade overall SCADA performance to an unacceptable level. To further reduce the potential effect of service disruptions, responsible personnel should coordinate significant and non-routine SCADA modifications to occur at times when no significant changes to pipeline operations are anticipated.

It is good practice for owners and operators of pipeline systems to periodically review their SCADA system configurations, operating procedures, and performance measurements to ensure that the SCADA computer servers are functioning as intended. Owners and operators should consider using off-line or development workstations/servers to help ensure that impending changes are tested as thoroughly as possible before moving the changes into production. Although off-line or development workstations can be valuable, they may not fully represent timing, load and other factors that will be present in the production environment. System modifications should be implemented via structured and managed processes to reduce the likelihood of unforeseen problems. Such controlled processes are especially important if an owner or operator makes changes directly in the on-line environment.

In addition, owners or operators should periodically confirm that associated design and maintenance personnel, whether employees, contractors, or third-party providers, are adequately skilled to perform SCADA system modifications without causing undesirable consequences. These same personnel should be cognizant of the critical system attributes that should be monitored during the testing phase of implementation.

SUPPLEMENTARY INFORMATION:

II. Background

This advisory bulletin responds to National Transportation Safety Board (NTSB) Recommendation P–02–05, which suggested that RSPA/OPS: ''[i]ssue an advisory bulletin to all pipeline owners and operators who use supervisory control and data acquisition (SCADA) systems advising them to implement an off-line workstation that can be used to modify their SCADA system database or to perform developmental and testing work independent of their on-line systems. Advise owners and operators to use the off-line system before any modifications are implemented to ensure that those modifications are error-free and that they create no ancillary problems for controllers responsible for operating the pipeline.''

During an earlier investigation of a pipeline incident, RSPA/OPS inspectors identified inadequate SCADA performance as an operational safety

concern, and published advisory bulletin ADB–99–03 on July 16, 1999 (64 FR 38501). That advisory identified eroding SCADA performance as a contributing factor to the accident.

Through subsequent analysis, it has become apparent that SCADA performance in general can be adversely impacted by system configuration changes, upgrades, or modifications to critical databases. There are several ways that pipeline owners and operators can reduce the risk of such conditions:

(1) Ensure that personnel assigned to these duties are adequately skilled in the maintenance and upgrading of the SCADA system configuration and critical databases.

(2) Know what critical metrics can be monitored that provide thorough and representative measures of system performance during testing and after the changes are implemented.

(3) Consider making the changes first on an isolated, off-line, or development workstation or processor, to test the effect of the changes prior to moving the work into the production environment.

(4) Recognize that the use of off-line or development workstations/servers to test impending changes can be valuable, but probably does not fully represent timing, load, and other factors present in the production environment.

(5) Know the limits and bounds of the testing regime, so that adequate and targeted vigilance may be applied during final testing and after initial implementation into the production environment.

(6) Coordinate significant and non-routine SCADA system modifications with pipeline controller operating personnel, so that revisions are implemented and tested at times when no significant changes to pipeline operations are anticipated.

Although NTSB Recommendation P–02–05 called only for an advisory bulletin, RSPA/OPS has taken additional actions to improve SCADA and controller operations and our inspection process. RSPA/OPS has initiated a study on the safety evaluation of pipeline SCADA technology. In early 2004, RSPA/OPS will revise its SCADA inspection protocols. Later in 2004, RSPA/OPS will begin development of a new, multi-tiered approach to inspection of SCADA systems.

RSPA/OPS has also initiated a study of Controller Certification in compliance with Section 13(b) of the Pipeline Safety Improvement Act of 2002. Section 13(b) of the Pipeline Safety Improvement Act of 2002 (PSIA), directs the Secretary of Transportation to develop tests and other requirements for certifying the qualifications of individuals who operate computer-based systems for controlling the operations of pipelines. The RSPA/OPS project team is evaluating current operator personnel qualification practices for pipeline controllers in collaboration with a study team sponsored by the gas and hazardous liquid industry. RSPA/OPS will develop an approach to certification programs and will undertake pilot testing. Through research and pilot program evaluations, RSPA/OPS will determine the best combination of prescriptive and performance-based requirements that should be considered as certification criteria for pipeline controllers.

Issued in Washington, DC on December 17, 2003.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 03–31574 Filed 12–22–03; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–S

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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453–S, S Corporation Declaration and Signature for Electronic Filing.

DATES: Written comments should be received on or before February 23, 2004 to be assured of consideration.

ADDRESSES: Direct all written comments to Robert M. Coar, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to 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: S Corporation Declaration and Signature for Electronic Filing.

OMB Number: 1545–1867.

Form Number: 8453–S.

Abstract: Form 8453–S is necessary to enable the electronic filing of Form 1120S U.S. Income Tax Return for an S Corporation. The form is created to meet the stated Congressional policy that paperless filing is the preferred and most convenient means of filing Federal tax and information returns.

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: Businesses or other for-profit organizations.

Estimated Number of Respondents: 2,500,000.

Estimated Time Per Respondent: 7 hours, 1 minute.

Estimated Total Annual Burden Hours: 17,550,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 17, 2003.

Robert M. Coar,

IRS Reports Clearance Officer.

[FR Doc. 03–31616 Filed 12–22–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Allowance for Private Purchase of an Outer Burial Receptacle in Lieu of a Government-Furnished Graveliner for a Grave in a VA National Cemetery

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Public Law 104–275 was enacted on October 9, 1996. It allowed the Department of Veterans Affairs (VA) to provide a monetary allowance towards the private purchase of an outer burial receptacle for use in a VA national cemetery. Under VA regulation (38 CFR 1.629), the allowance is equal to the average cost of government-furnished graveliners minus any administrative costs to VA. The law continues to provide a veteran's survivors with the option of selecting a government-furnished graveliner for use in a VA national cemetery where such use is authorized.

The purpose of this notice is to notify interested parties of the average cost of government-furnished graveliners, administrative costs that relate to processing a claim, and the amount of the allowance payable for qualifying interments that occur during calendar year 2004.

FOR FURTHER INFORMATION CONTACT: Lisa Ciolek, Capital and Performance Budgeting (402A12), National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Telephone: 202–273–5161 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 501(a) and Pub. L. 104–275, section 213, VA may provide a monetary allowance for the private purchase of an outer burial receptacle for use in a VA national cemetery where its use is authorized. The allowance for qualified interments that occur during calendar year 2004 is the average cost of government-furnished graveliners in fiscal year 2003, less the administrative costs incurred by VA in processing and paying the allowance in lieu of the government-furnished graveliner.

The average cost of government-furnished graveliners is determined by taking VA's total cost during a fiscal year for single-depth graveliners that were procured for placement at the time of interment and dividing it by the total number of such graveliners procured by VA during that fiscal year. The calculation excludes both graveliners procured and pre-placed in gravesites as part of cemetery gravesite development projects and all double-depth graveliners. Using this method of computation, the average cost was determined to be $164.66 for fiscal year 2003.

The administrative costs incurred by VA consist of those costs that relate to processing and paying an allowance in lieu of the government-furnished graveliner. These costs have been determined to be $9.75 for calendar year 2004.

The net allowance payable for qualifying interments occurring during calendar year 2004, therefore, is $154.91.

Approved: December 12, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 03–31507 Filed 12–22–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

Notice is hereby given that the Department of Veterans Affairs (VA) intends to continue a recurring computer matching program matching Office of Personnel Management (OPM) records with VA pension and parents' dependency and indemnity compensation (DIC) records.

The goal of this match is to compare income status as reported to VA with records maintained by OPM.

VA plans to match records of veterans and surviving spouses and children who receive pension, and parents who receive DIC from VA with OPM benefit records maintained by OPM. The match with OPM will provide VA with data from OPM civil service benefit records.

VA will use this information to update the master records of VA beneficiaries receiving income dependent benefits and to adjust VA benefit payments as prescribed by law. Otherwise, information about a VA beneficiary's receipt of OPM benefits is obtained from reporting by the beneficiary. The proposed matching program will enable VA to ensure accurate reporting of income.

Records to be Matched: The VA records involved in the match are the VA system of records, VA Compensation, Pension and Education and Rehabilitation Records—VA (58 VA 21/22) first published at 41 FR 924 (March 3, 1976), and last amended at 66 FR 47727 (September 13, 2001), with other amendments as cited therein. The OPM records involved in the match are from the OPM Civil Service Retirement Pay File identified as OPM Central-1, Civil Service Retirement and Insurance Records, published as 64 FR 54930, October 8, 1999, as amended May 3, 2000 (65 FR 25775). In accordance with title 5 U.S.C. 552a(o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget.

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Public Law 100–503.

The match will start no sooner than 30 days after publication of this Notice in the **Federal Register**, or 40 days after copies of this Notice and the agreement of the parties are submitted to Congress and the Office of Management and Budget, whichever is later, and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIBs) may extend this match for 12 months provided the agencies certify to their DIBs, within three months of the ending date of the original match, that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to conduct the matching program to the Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420. All written comments received will be available for public inspection in the Office of Regulations Management, Room 1063B, 810 Vermont Avenue, NW., Washington, DC 20420, between 8 a.m. and 4:30 p.m., Monday through Fridays except holidays. Please call (202) 273–9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge (212B), (202) 273–7218.

SUPPLEMENTARY INFORMATION: This information is required by title 5 U.S.C. 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Approved: December 15, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 03–31506 Filed 12–22–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice of computer matching program.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA) intends to continue a recurring computer matching program matching Social Security Administration (SSA) records with VA pension and parents' dependency and indemnity compensation (DIC) records.

The purpose of the match is to compare income status as reported to VA with records maintained by SSA. VA plans to match records of beneficiaries who receive pension and DIC with the Master Beneficiary Record (MBR) and the Earnings Recording and Self-Employment Income System (MEF) maintained by SSA.

VA will use this information to update the master records of VA beneficiaries receiving income dependent benefits and to adjust VA benefit payments as prescribed by law. The matching program will enable VA to ensure accurate reporting of income.

Records to be Matched: The VA records involved in the match are the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22). The SSA records consist of the SSA Master beneficiary Record (MBR), SSA/OSR, 60–0090. In the absence of MBR data, SSA will attempt to verify the SSN in VA records using the SSA Earnings Recording and Self-Employment Income System (MEF), SSA/OSR, 60–0059.

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Public Law 100–503.

DATES: The match will start no sooner than 30 days after publication in the **Federal Register** and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their DIBs within three months of the ending date of the original match that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Mail or hand-deliver written comments to: Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1158, 810 Vermont Avenue, NW., Washington, DC 20420, between 8 a.m. and 4:30 p.m., Monday through Friday except holidays.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge (212B), (202) 273–7218.

SUPPLEMENTARY INFORMATION: This information is required by title 5 U.S.C. 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and OMB.

Approved: December 12, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 03–31508 Filed 12–22–03; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Tuesday,
December 23, 2003

Part II

Department of the Treasury

Fiscal Service

31 CFR Part 356

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds—Plain Language Uniform Offering Circular; Proposed Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 356

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds—Plain Language Uniform Offering Circular

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Proposed Rule.

SUMMARY: The Department of the Treasury (''Treasury,'' ''We,'' or ''Us'') proposes to amend 31 CFR Part 356 (Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds) by converting it to plain language. We are proposing this amendment to make our marketable securities auction rules easier to understand. This amendment would also make certain minor revisions to better make the auction rules conform to current practices.

DATES: Send your comments to reach us on or before February 23, 2004.

ADDRESSES: You may send comments to: Government Securities Regulations Staff, Bureau of the Public Debt, 999 E Street NW., Room 315, Washington, DC 20239–0001. You may also send us comments by e-mail at *govsecreg@bpd.treas.gov.* When sending comments by e-mail, please provide your full name and mailing address. You may download this proposed amendment, and review the comments we receive, from the Bureau of the Public Debt's Web site at *http://www.publicdebt.treas.gov.* The proposed amendment and comments will also be available for public inspection and copying at the Treasury Department Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. To visit the library, call (202) 622–0990 for an appointment.

FOR FURTHER INFORMATION CONTACT: Lori Santamorena (Executive Director) or Chuck Andreatta (Associate Director), Bureau of the Public Debt, Government Securities Regulations Staff, (202) 691–3632 or e-mail us at *govsecreg@bpd.treas.gov.*

SUPPLEMENTARY INFORMATION: Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. In addition to requiring us to write new regulations in plain language, a Presidential memorandum dated June 2, 1998, directs us to consider rewriting existing regulations in plain language. The Uniform Offering Circular (UOC), in conjunction with the announcement for each auction, provides the terms and conditions for the sale and issuance in an auction to the public of marketable Treasury bills, notes and bonds.[1] We have rewritten the UOC in plain language because the wide variety of bidders in our securities auctions—broker-dealers, depository institutions, non-financial firms, individuals, etc.—have widely different levels of experience in dealing with federal regulations in general and with securities-related concepts and regulations in particular. We also believe that better understanding of the auction rules may increase direct participation in our auctions and improve the auction process overall, resulting in lower borrowing costs.

In addition to rewriting the existing regulations in plain language, we are proposing to make certain minor revisions to better make the auction rules conform to current auction practices. For example, we have eliminated references to multiple-price auctions since we now use single-price auctions for all marketable Treasury securities. We also have renamed ''inflation-indexed'' securities as ''inflation-protected'' securities so that the resulting acronym, TIPS, conforms with the way these securities are commonly referred to by market participants and the press.

We also have made several organizational changes to streamline the regulations and to aid their readability. For example, in section 356.11, which addresses how bidders may submit bids, the current UOC is organized according to whether the bid is submitted on a paper tender form or by computer. In the plain-language version, the section is organized by whether we will be issuing awarded securities in the commercial book-entry system or in the TreasuryDirect book-entry system. This reorganization was done to make it easier for different types of bidders—firms and institutions versus individuals, for example—to find out their respective bidding requirements.

Appendix A, which describes different bidder categories, has also been reorganized in the way it describes the process for requesting separate-bidder status. The UOC currently describes this process separately for corporations and for partnerships. The plain-language version describes how to obtain separate-bidder recognition in a single location within Appendix A, thereby eliminating repetitive parallel language. Please note that Appendix A of the proposed rule adds a definition of ''Foreign and International Monetary Authorities,'' a category of bidder that was not previously described in the UOC.

Finally, we are proposing to eliminate the two exhibits at the end of the UOC. Exhibit A provides sample auction announcements. Exhibit B is a sample autocharge agreement. Both auction announcements and autocharge agreements are subject to more frequent revision than the UOC itself, and examples of both are readily available at the Bureau of the Public Debt's Web site at *http://www.publicdebt.treas.gov.*

We invite your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the proposed regulations contain technical language or jargon that interferes with their clarity? (3) Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? (4) Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A section appears in bold type and is preceded by the section symbol and a numbered heading, for example, **§ 356.20 How does the Treasury determine auction awards?**)

Procedural Requirements

It has been determined that this is not a significant regulatory action for purposes of Executive Order 12866. Although we are issuing this proposed rule in proposed form to benefit from public comment, the notice and public procedures requirements of the Administrative Procedure Act do not apply, under 5 U.S.C. 553(a)(2).

Since no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

The Office of Management and Budget previously approved the collections of information in this proposed amendment in accordance with the Paperwork Reduction Act under control number 1535–0112. We are only rewriting the UOC in plain language and are not proposing substantive changes to these requirements that would impose additional burdens on auction bidders.

List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government Securities, Securities.

[1] The Uniform Offering Circular was published as a final rule on January 5, 1993 (58 FR 412). The circular, as amended, is codified at 31 CFR Part 356.

For the reasons stated in the preamble, we propose to revise 31 CFR Part 356 to read as follows:

PART 356—SALE AND ISSUE OF MARKETABLE BOOK-ENTRY TREASURY BILLS, NOTES, AND BONDS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 1–93)

Subpart A—General Information

Sec.
356.0 What authority does the Treasury have to sell and issue securities?
356.1 To which securities does this circular apply?
356.2 What definitions do I need to know to understand this part?
356.3 What is the role of the Federal Reserve Banks in this process?
356.4 What are the book-entry systems in which auctioned Treasury securities may be issued?
356.5 What types of securities does the Treasury auction?

Subpart B—Bidding, Certifications, and Payment

356.10 What is the purpose of an auction announcement?
356.11 How are bids submitted in an auction?
356.12 What are the different types of bids and do they have specific requirements or restrictions?
356.13 When must I report my net long position and how do I calculate it?
356.14 What are the requirements for submitting bids for customers?
356.15 What rules apply to bids submitted by investment advisers?
356.16 Do I have to make any certifications?
356.17 How and when do I pay for securities awarded in an auction?

Subpart C—Determination of Auction Awards; Settlement

356.20 How does the Treasury determine auction awards?
356.21 How are awards at the high yield or discount rate calculated?
356.22 Does the Treasury have any limitations on auction awards?
356.23 How are the auction results announced?
356.24 Will I be notified directly of my awards and, if I am submitting bids for others, do I have to provide confirmations?
356.25 How does the settlement process work?

Subpart D—Miscellaneous Provisions

356.30 When does the Treasury pay principal and interest on securities?
356.31 How does the STRIPS program work?
356.32 What tax rules apply?
356.33 Does the Treasury have any discretion in the auction process?
356.34 What could happen if someone does not fully comply with the auction rules or fails to pay for securities?
356.35 Who approved the information collections?

Appendix A to Part 356—Bidder Categories

Appendix B to Part 356—Formulas and Tables

Appendix C to Part 356—Investment Considerations

Appendix D to Part 356—Description of the Consumer Price Index

Authority: 5 U.S.C. 301; 31 U.S.C. 3102, *et seq.*; 12 U.S.C. 391.

Subpart A—General Information

§ 356.0 What authority does the Treasury have to sell and issue securities?

Chapter 31 of Title 31 of the United States Code authorizes the Secretary of the Treasury to issue United States obligations, and to offer them for sale with the terms and conditions that the Secretary prescribes.

§ 356.1 To which securities does this circular apply?

The provisions in this part, including the appendices, and each individual auction announcement govern the sale and issuance of marketable Treasury securities issued on or after March 1, 1993. This part also governs all securities eligible for the Separate Trading of Registered Interest and Principal of Securities (STRIPS) Program (*See* §356.31). In addition, these provisions and the auction announcements govern any other types of securities we may issue under this part.

§ 356.2 What definitions do I need to know to understand this part?

Accrued interest means an amount that bidders must pay to us for interest income as part of the settlement amount. Accrued interest compensates us up front for interest that bidders will be paid but did not earn because it is attributable to a period of time prior to the issue date. (*See* Appendix B, section I, paragraph C for additional explanation and examples.)

Adjusted value means, for an interest component stripped from an inflation-protected security, an amount derived by:

(1) Multiplying the semiannual interest rate by the par amount, and then

(2) Multiplying this value by: 100 divided by the Reference CPI of the original issue date (or dated date, when the dated date is different from the original issue date). (*See* Appendix B, section IV for an example of how to calculate the adjusted value.)

Auction means a bidding process by which we sell marketable Treasury securities to the public.

Autocharge agreement means an agreement in a format acceptable to Treasury between a submitter or clearing corporation and a depository institution that authorizes us to:

(1) Deliver awarded securities to either:

(i) The book-entry securities account of a designated depository institution in the commercial book-entry system, or

(ii) A TreasuryDirect account, and

(2) Charge a funds account of a designated depository institution for the settlement amount of the securities.

Bid means an offer to purchase a stated par amount of securities, either competitively or noncompetitively, in an auction.

Bid-to-cover ratio means the total par amount of securities bid for in an auction divided by the total par amount of securities awarded. It excludes bids by, and awards to, the Federal Reserve for its own account.

Bidder, as further defined in Appendix A, means a person or an entity that offers to purchase Treasury securities in an auction either directly or through a depository institution or dealer. We may consider two or more persons or entities to be one bidder based on their relationship or their actions in participating in an auction.

Bidder Identification Number means a number we assign to each institutional submitter and to certain other competitive bidders. We assign such numbers either to identify certain bidders or to grant separate bidder status to different parts of the same corporate or partnership structure.

Book-entry security means a security that is issued and maintained as an accounting entry or electronic record in either the commercial book-entry system or in TreasuryDirect. (*See* § 356.3)

Business day means any day on which the Federal Reserve Banks are open for business.

Call means the redemption of a security prior to maturity under the terms specified in its auction announcement.

Clearing corporation means a clearing agency as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(23)). A clearing corporation must be registered with the Securities and Exchange Commission under section 17A of the Securities Exchange Act of 1934 and its rules.

Competitive bid means a bid to purchase a stated par amount of securities at a specified yield or discount rate.

Consumer Price Index (CPI) means the monthly non-seasonally adjusted U.S. City Average All Items Consumer Price Index for All Urban Consumers, published by the Bureau of Labor

Statistics of the Department of Labor. We use the CPI as the basis for adjusting the principal amounts of inflation-protected securities. (*See* Appendix D)

Corpus means the principal component of a security that has been stripped of its interest components.

CUSIP number means the unique identifying number assigned to each separate security issue and each separate STRIPS component. CUSIP numbers are provided by the CUSIP Service Bureau of Standard & Poor's Corporation. CUSIP is an acronym for Committee on Uniform Securities Identification Procedures.

Customer means a bidder that directs a depository institution or dealer to submit or forward a bid for a specific amount of securities in a specific auction on the bidder's behalf. Only depository institutions and dealers may submit bids for customers directly to us, or forward them to another depository institution or dealer.

Dated date means the date from which interest accrues for notes and bonds. The dated date and issue date are usually the same. In those cases where interest begins accruing prior to the issue date, however, the dated date will be prior to the issue date. An example is when the dated date is a Saturday and the issue date is the following Monday.

Dealer means an entity that is registered or has given notice of its status as a government securities broker or government securities dealer under Section 15C(a)(1) of the Securities Exchange Act of 1934.

Depository institution means:

(1) An entity described in Section 19(b)(1)(A), excluding subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)).

(2) Any agency or branch of a foreign bank as defined by the International Banking Act of 1978, as amended (12 U.S.C. 3101).

Discount means the difference between par and the price of the security, when the price is less than par. (*See* Appendix B for formulas and examples.)

Discount amount means the discount divided by 100 and multiplied by the par amount. (*See* Appendix B for formulas and examples.)

Discount rate means a rate of return, on an annual basis, on bills held until they mature. The discount rate is expressed in percentage terms and based on a 360-day year. It is also referred to as the ''bank discount rate.'' (*See* Appendix B for formulas and examples.)

Funds account means a cash account maintained by a depository institution at a Federal Reserve Bank.

Index means the Consumer Price Index.

Index ratio means, for an inflation-protected security, the Reference CPI of a particular date divided by the Reference CPI of the original issue date. (When the dated date is different from the original issue date, the denominator of the index ratio is the Reference CPI of the dated date rather than that of the original issue date.)

Inflation-adjusted principal means, for an inflation-protected security, the value of the security derived by multiplying the par amount by the applicable index ratio as described in Appendix B, section I, paragraph B.

Interest rate means the annual percentage rate of interest paid on the par amount (or the inflation-adjusted principal) of a specific issue of notes or bonds. (*See* Appendix B for methods and examples of interest calculations on notes and bonds.)

Intermediary means a depository institution or dealer that forwards bids for customers to another depository institution or dealer. An intermediary does not submit bids directly to us.

Issue date means the date specified in the auction announcement on which we issue a security as an obligation of the United States. Interest normally begins to accrue on a security's issue date.

Marketable security means a security that may be bought, sold and transferred in the secondary market.

Maturity date means the date on which a security becomes due and payable, and ceases to earn interest. The maturity date is specified in the auction announcement.

Minimum to bid means the smallest amount of a security that may be bid for in an auction as stated in the auction announcement.

Multiple to bid means the smallest additional amount of a security that may be bid for in an auction as stated in the auction announcement.

Noncompetitive bid means a bid to purchase a stated par amount of securities at the yield or discount rate awarded to competitive bidders.

Offering amount means the par amount of securities we are offering to the public for purchase in an auction, as specified in the auction announcement.

Par means a price of 100. (*See* Appendix B)

Par amount means the stated value of a security at original issuance.

Person means a natural person.

Premium means the difference between par and the price of the security, when the price is greater than par.

Premium amount means the premium divided by 100 and multiplied by the par amount.

Price means the price of a security as calculated using the formulas in Appendix B.

Real yield means, for an inflation-protected security, the yield based on the payment stream in constant dollars. In other words, the real yield is the yield in the absence of inflation.

Reference CPI (Ref CPI) means, for an inflation-protected security, the index number applicable to a given date. (*See* Appendix B, section I, paragraph B)

Reopening means the auction of an additional amount of an outstanding security.

Security means a Treasury bill, note, or bond, each as described in this part. Security also means any other obligation we issue that is subject to this part according to its auction announcement. Security includes an interest or principal component under the STRIPS program.

Settlement means final and complete payment for securities awarded in an auction and delivery of those securities.

Settlement amount means the total of the par amount of securities awarded, less any discount amount or plus any premium amount, and plus any accrued interest. For inflation-protected securities, the settlement amount also includes any inflation adjustment when such securities are reopened or when the dated date is different from the issue date.

STRIPS (Separate Trading of Registered Interest and Principal of Securities) means our program under which eligible securities are authorized to be separated into principal and interest components, and transferred separately. These components are maintained and transferred in the commercial book-entry system.

Submitter means a person or entity submitting bids directly to us for its own account, for customer accounts, or both. Only depository institutions and dealers are permitted to submit bids for customer accounts. We permit investment advisers to submit bids on behalf of controlled accounts.

TINT means an interest component from a stripped security.

TreasuryDirect® means the TreasuryDirect Book-Entry Securities System. (*See* 31 CFR 357, subpart C)

We (or ''us'') means the Secretary of the Treasury and his or her delegates, including the Department of the Treasury, Bureau of the Public Debt, and their representatives. The term also includes Federal Reserve Banks acting as fiscal agents of the United States.

Yield means the annualized rate of return to maturity on a fixed-principal security. Yield is expressed as a percentage. For an inflation-protected

security, yield means the real yield. Yield is also referred to as ''yield to maturity.'' (*See* Appendix B)

You means a prospective bidder in an auction.

§ 356.3 What is the role of the Federal Reserve Banks in this process?

The Treasury Department authorizes Federal Reserve Banks, as fiscal agents of the United States, to perform all activities necessary to carry out the provisions of this part, any auction announcements, and applicable regulations.

§ 356.4 What are the book-entry systems in which auctioned Treasury securities may be issued?

We issue Treasury marketable securities into either of two book-entry securities systems—the commercial book-entry system or TreasuryDirect. We maintain and transfer securities in these two book-entry systems at their par amount. For example, par amounts of inflation-protected securities do not include adjustments for inflation. Securities may be transferred from one system to the other. *See* Department of the Treasury Circular, Public Debt Series No. 2–86, as amended (31 CFR Part 357).

(a) *The commercial book-entry system.* When depository institutions or dealers submit bids for Treasury securities in an auction, securities awarded as a result of those bids are generally held in the commercial book-entry system. Specifically, we maintain book-entry accounts in the National Book-Entry System® (''NBES'') for Federal Reserve Banks, depository institutions, and other authorized entities, such as government and international agencies and foreign central banks. In their accounts, depository institutions maintain securities held for their own account and for the accounts of others. The accounts held for others include those of other depository institutions and dealers, which may, in turn, maintain accounts for others.

(b) *TreasuryDirect.* In this system, we maintain the book-entry securities of account holders directly on the records of the Bureau of the Public Debt, Department of the Treasury. Bids for securities to be held in TreasuryDirect are generally submitted directly to us, although such bids may also be forwarded to us by a depository institution or dealer.

§ 356.5 What types of securities does the Treasury auction?

We offer securities under this part exclusively in book-entry form and as direct obligations of the United States issued under Chapter 31 of Title 31 of the United States Code. The securities are subject to the terms and conditions in this part, the regulations governing book-entry Treasury bills, notes, and bonds (31 CFR Part 357), and the auction announcements. When we issue additional securities with the same CUSIP number as outstanding securities, we consider them to be the same securities as the outstanding securities.

(a) *Treasury bills.*—(1) Are issued at a discount;

(2) Are redeemed at their par amount at maturity; and

(3) Have maturities of not more than one year.

(b) *Treasury notes.*—(1) Treasury fixed-principal [1] notes.

(i) Are issued with a stated rate of interest to be applied to the par amount;

(ii) Have interest payable semiannually;

(iii) Are redeemed at their par amount at maturity;

(iv) Are sold at discount, par, or premium, depending upon the auction results; and

(v) Have maturities of at least one year, but of not more than ten years.

(2) *Treasury inflation-protected notes.*—(i) Are issued with a stated rate of interest to be applied to the inflation-adjusted principal on each interest payment date;

(ii) Have interest payable semiannually;

(iii) Are redeemed at maturity at their inflation-adjusted principal, or at their par amount, whichever is greater;

(iv) Are sold at discount, par, or premium, depending on the auction results (*See* Appendix B for price and interest payment calculations and Appendix C for Investment Considerations.); and

(v) Have maturities of at least one year, but not more than ten years.

(c) *Treasury bonds*—(1) Treasury fixed-principal bonds.

(i) Are issued with a stated rate of interest to be applied to the par amount;

(ii) Have interest payable semiannually;

(iii) Are redeemed at their par amount at maturity;

(iv) Are sold at discount, par, or premium, depending on the auction results; and

(v) Have maturities of more than ten years.

(2) *Treasury inflation-protected bonds.*—(i) Are issued with a stated rate of interest to be applied to the inflation-adjusted principal on each interest payment date;

(ii) Have interest payable semiannually;

(iii) Are redeemed at maturity at their inflation-adjusted principal, or at their par amount, whichever is greater;

(iv) Are sold at discount, par, or premium, depending on the auction results; and

(v) Have maturities of more than ten years. (*See* Appendix B for price and interest payment calculations and Appendix C for Investment Considerations.)

Subpart B—Bidding, Certifications, and Payment

§ 356.10 What is the purpose of an auction announcement?

By issuing an auction announcement, we provide public notice of the sale of bills, notes, and bonds. The auction announcement lists the specifics of each auction, *e.g.*, offering amount, term and type of security, CUSIP number, and issue and maturity dates. The auction announcement and this part, including the Appendices, specify the terms and conditions of sale. If anything in the auction announcement differs from this part, the auction announcement will control. If you intend to bid, you should read the applicable auction announcement along with this part.

§ 356.11 How are bids submitted in an auction?

(a) *General.* (1) Bids must be submitted using an approved method, which depends on whether you are requesting us to issue the awarded securities in the commercial book-entry system or in TreasuryDirect (See § 356.3). The approved submission methods for these respective systems are explained in this section. A bidder must provide its assigned bidder identification numbers if it has been assigned one. We have the option of accepting or rejecting incomplete bids.

(2) We must receive competitive and noncompetitive bids prior to their respective closing times, which are stated in the auction announcement. We will not include late bids in the auction. For bids other than those submitted on paper forms, our computer time stamp will establish the receipt time. You are bound by your bids after the closing time.

(3) We are not responsible for any delays, errors, or omissions. We are not responsible for any failures or disruptions of equipment or

[1] We use the term ''fixed-principal'' in this part to distinguish such securities from ''inflation-protected'' securities. We refer to fixed-principal notes and fixed-principal bonds as ''notes'' and ''bonds'' in official Treasury publications, such as auction announcements and auction results press releases, as well as in auction systems.

communications facilities used for participating in Treasury auctions.

(b) *Commercial book-entry system.* (1) If you are a submitter and the awarded securities are to be issued in the commercial book-entry system, you must submit bids using one of our approved electronic methods except for contingency situations.

(2) You must have an agreement on file with us under which you agree to our terms and conditions for access to our system for participating in our auctions.

(3) In contingency situations, such as a power outage, we may accept bids by telephone if you submit them prior to the relevant bidding deadline.

(c) *TreasuryDirect.* (1) If you are a submitter and the awarded securities are to be issued in TreasuryDirect, you may submit bids by using one of our approved methods, *e.g.*, computer, automated telephone service, or paper forms. You may also reinvest the proceeds of maturing securities into new securities by completing the appropriate transaction request on time.

(2) If you are submitting bids by paper form, you must use forms authorized by the Bureau of the Public Debt and provide the requested information. We have the option of accepting or rejecting bids on any other form. You are responsible for ensuring that we receive bids in paper form on time. A competitive bid is on time if we receive it prior to the deadline for the receipt of competitive bids. A noncompetitive bid is on time if:

(i) We receive it on or before the issue date, and

(ii) The envelope it arrived in bears evidence, such as a U.S. Postal Service cancellation, that it was mailed prior to the auction date.

(3) If you are submitting a bid by computer or telephone you must be an established TreasuryDirect account holder with a Taxpayer Identification Number. You may not submit a competitive bid by computer or telephone.

§ 356.12 What are the different types of bids and do they have specific requirements or restrictions?

(a) *General.* All bids must state the par amount of securities bid for and must equal or exceed the minimum to bid amount stated in the auction announcement. Bids in larger amounts must be in the multiple stated in the auction announcement.

(b) *Noncompetitive bids.*—(1) *Maximum bid.* You may not bid noncompetitively for more than $1 million in a bill auction or more than $5 million in a note or bond auction. The maximum bid limitation does not apply if you are bidding solely through a TreasuryDirect reinvestment request. A request for reinvestment of securities maturing in TreasuryDirect is a noncompetitive bid.

(2) *Additional restrictions.* You may not bid noncompetitively in an auction in which you are bidding competitively. You may not bid noncompetitively if, in the security being auctioned, you hold a position in when-issued trading or in futures or forward contracts at any time between the date of the auction announcement and the time we announce the auction results. During this same timeframe, a noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the securities it is acquiring in the auction. For this paragraph, futures contracts include those:

(i) That require delivery of the specific security being auctioned;

(ii) For which the security being auctioned is one of several securities that may be delivered; or

(iii) That are cash-settled.

(c) *Competitive bids.*

(1) *Bid format*—(i) *Treasury bills.* A competitive bid must show the discount rate bid, expressed with three decimals in .005 percent increments. The third decimal must be either a zero or a five, for example, 5.320 or 5.325.

(ii) *Treasury fixed-principal securities.* A competitive bid must show the yield bid, expressed with three decimals, for example, 4.170.

(iii) *Treasury inflation-protected securities.* A competitive bid must show the real yield bid, expressed with three decimals, for example, 3.070.

(2) *Maximum recognized bid.* There is no limit on the maximum dollar amount that you may bid for competitively, either at a single yield or discount rate, or at different yields or discount rates. However, a competitive bid at a single yield or discount rate that exceeds 35 percent of the offering amount will be reduced to that amount. For example, if the offering amount is $10 billion, the maximum bid amount we will recognize at any one yield or discount rate from any bidder is $3.5 billion. (*See* § 356.22 for award limitations.)

(3) *Additional restriction.* You may not bid competitively in an auction in which you are bidding noncompetitively.

§ 356.13 When must I report my net long position and how do I calculate it?

(a) Net long position reporting threshold.

(1) If you are bidding competitively in an auction, you must report your net long position when the total of your bids plus your net long position in the security being auctioned equals or exceeds the net long position reporting threshold (*See* table). We will specify this threshold in the auction announcement for each security (*See* § 356.10). The threshold is typically 35 percent of the offering amount, but we may state a different threshold in the auction announcement. To see whether you must report your net long position, follow this table:

If . . .	And If. . .	Then. . .
(i) the total of your bids and your net long position in the security being auctioned equals or exceeds the reporting threshold.	.....	you must report your net long position (which does not include your bids).
(ii) the total of your bids in the auction equals or exceeds the reporting threshold.	you have no position or a net short position in the security being auctioned.	you must report a zero.
(iii) the total of your bids and your net long position in the security being auctioned is less than the reporting threshold.	.....	you may either report nothing (leave the field blank) or report your net long position.

(2) Also, if you have more than one bid in an auction and you must report either your net long position or a zero, you must report that figure only once. Finally, if you are a customer and must report either your net long position or a zero, you must report that figure through only one depository institution or dealer. (*See* § 356.14(d))

(b) ''As of'' time for calculating net long position. You must calculate your net long position as of one half-hour prior to the closing time for receipt of competitive bids.

(c) Components of the net long position. Except as modified in (d) of this section, your net long position is the sum total of the par amounts of:

(1) Your holdings of outstanding securities with the same CUSIP number as the security being auctioned;

(2) Your holdings of STRIPS principal components of the security being auctioned, and;

(3) Your positions, in the security being auctioned, in:

(i) When-issued trading, including when-issued trading positions of the STRIPS principal components;

(ii) Futures contracts that require delivery of the specific security being auctioned (but not futures contracts for which the security being auctioned is one of several securities that may be delivered, and not futures contracts that are cash-settled); and

(iii) Forward contracts that require delivery of the specific security being auctioned or of the STRIPS principal component of that security.

(d) Calculating the net long position in a reopening. In a reopening (additional issue) of an outstanding security, you may subtract the exclusion amount stated in the auction announcement from:

(1) Your holdings of the outstanding securities (paragraph (c)(1) of this section) combined with

(2) Your holdings of STRIPS principal components of the security being auctioned (paragraph (c)(2) of this section). We will specify the amount of holdings that you may exclude from the net long position calculation in the auction announcement. You may not take the exclusion if your combined holdings are zero or less. The exclusion is optional, but if you take the exclusion, you must include any holdings that exceed the exclusion amount in calculating your net long position. If the exclusion amount is greater than your combined holdings (paragraphs (c)(1) and (2) of this section), you may calculate the combined holdings as zero, but they cannot be included in the calculation as a negative number.

§ 356.14 What are the requirements for submitting bids for customers?

(a) *Institutions that may submit bids for customers.* Only depository institutions or dealers may submit bids for customers, or for customers of intermediaries, under the requirements set out in this section. If a bid from a depository institution or a dealer fulfills a guarantee to a customer to sell a specified amount of securities at an agreed-upon price, or a price fixed in terms of an agreed-upon standard, then the bid is a bid of that depository institution or dealer. It is not a customer bid.

(b) *Payment.* Submitters must remit payment for bids they submit on behalf of customers, including customers of intermediaries, that result in awards of securities in the auction.

(c) *Identifying customers.* Submitters must provide the names of customers whenever they submit bids for them. Submitters must provide the names of their direct customers as well as customers of any intermediaries who are forwarding customer bids. For individuals, submitters must provide the customer's full name (first and last). For institutional customers, submitters must provide the name of the institution, and the bidder identification number if the customer provides it. For trusts or other fiduciary estates (*See* Appendix A), submitters must provide on the customer list:

(1) The full name or title of the trustee or fiduciary;

(2) A reference to the document creating the trust or fiduciary estate with date of execution; and

(3) The employer identification number (not social security number) of the trust or fiduciary estate. We do not consider trusts to be a separate bidder that have not been assigned, or that do not provide, an employer identification number.

(d) *Competitive customer bids.* For each customer competitive bid, the submitter must provide the customer's name, the amount bid, and the yield or discount rate. The submitter or intermediary must also report the net long position amount if the customer provides it. The submitter must inform a customer of the net long position reporting requirement (*See* § 356.13) if the customer is bidding for $100 million or more of securities. If the submitter's or intermediary's personnel know that the customer's position information is not correct, the submitter or intermediary may not submit the customer's bid.

(e) *Noncompetitive customer bids.* For each noncompetitive bid, the submitter must provide the customer's name and the amount bid. Submitters may either provide the customer's name with the bid or, if the list of customers is lengthy, the submitter may provide a summary bid amount covering all noncompetitive customers. If it provides a summary bid amount, the submitter must transmit the list of individual customers and their bid amounts by close of business on the auction day. However, the submitter must be able to provide the customer list details by the noncompetitive bidding deadline if requested.

§ 356.15 What rules apply to bids submitted by investment advisers?

(a) *General.* The auction rules that apply to investment advisers are determined by the relationship between ''investment advisers'' and ''controlled accounts.'' An investment adviser means any person or entity that has investment discretion for the bids or positions of a different person or entity (a controlled account). A person or entity has investment discretion if it determines what, when, and what quantity of securities will be purchased or sold on behalf of another person or entity. We consider a person that is employed or supervised by an investment adviser to be part of that investment adviser. We also consider the bids or positions of controlled accounts to be separate from the bids or positions of the person or entity with which they would otherwise be associated under the bidder categories in Appendix A of this part.

(b) *Bidding options.*—(1) An investment adviser has two options for whose name to use when bidding on behalf of controlled accounts.

An investment adviser may bid for a controlled account . . .	In such cases, we consider the bidder to be . . .
(i) in the investment adviser's own name	the investment adviser.
(ii) in the name of the controlled account	the controlled account.

(2) Using the first option (paragraph (b)(1)(i)), an investment advisor could bid noncompetitively up to the noncompetitive bidding limit only for itself, as a single bidder. Using the second option (paragraph (b)(1)(ii)), an investment adviser could bid noncompetitively for each separately named controlled account up to the noncompetitive bidding limit. The investment adviser could also bid noncompetitively in its own name in the same auction up to the noncompetitive bidding limit. An investment adviser may not bid for a controlled account both noncompetitively and competitively in the same auction. If an investment

adviser is bidding competitively in the name of a controlled account, the controlled account is subject to the award limitations of § 356.22(b).

(c) *Reporting net long positions.* If it is bidding competitively, an investment adviser must calculate the amount of its bids and positions for purposes of the net long position reporting requirement found in § 356.13(a). In addition to its own competitive bids and positions, the investment adviser must also include in the calculation all other competitive bids and positions that it controls. If the net long position is reportable, the investment adviser must report it as a total in connection with only one bid as stated in § 356.13(a). This requirement applies regardless of whether the investment adviser bids in its own name or in the name of its controlled accounts. The following table shows which positions an investment adviser must include to determine whether it meets the net long position reporting threshold in § 356.13(a). If an investment adviser does meet the reporting threshold, the table also shows which positions must be included in, and which may be excluded from, the net long position calculation.

If an investment adviser is bidding competitively, and . . .	Then . . .
(1) the investment adviser has a net long position for its own account ..	that position must be included in the investment adviser's net long position calculation.
(2) the investment adviser's competitive bid is for a controlled account	any net long position of that account must be included in the investment adviser's net long position calculation.
(3) the investment adviser is not bidding competitively for a controlled account and . . .	
(i) the controlled account has a net long position of $100 million or more.	that position must be included in the investment adviser's net long position calculation.
(ii) the controlled account has a net long position that is less than $100 million.	that position may be excluded from the investment adviser's net long position calculation.
(iii) any net long position is excluded under paragraph (b)(3)(ii) of this table.	all net short positions of controlled accounts under $100 million must also be excluded.

(d) *Certifications.* When an investment adviser bids for a controlled account, we deem the investment adviser to have certified that it is complying with this part and the auction announcement for the security. Further, we deem the investment adviser to have certified that the information it provided about bids for controlled accounts is accurate and complete.

(e) *Proration of awards.* Investment advisers that submit competitive bids in the names of controlled accounts are responsible for prorating any awards at the highest accepted yield or discount rate using the same percentage that we announce. *See* § 356.21 for examples of how to prorate.

§ 356.16 Do I have to make any certifications?

(a) *Submitters.* If you submit bids or other information in an auction, we deem you to have certified that:

(1) You are in compliance with this part and the auction announcement;

(2) The information provided with regard to any bids for your own account is accurate and complete; and

(3) The information provided with regard to any bids for customers accurately and completely reflects information provided by your customers or intermediaries.

(4) If you submit bids by computer, you must have on file a written certification that, each time you submit such bids, you are in compliance with this part and the applicable auction announcement. An authorized person must sign and date the certification on behalf of the submitter, and it must be filed with us and renewed at least annually.

(b) *Intermediaries.* If you forward bids in an auction, we deem you to have certified that:

(1) You are in compliance with this part and the applicable auction announcement; and

(2) That the information you provided to a submitter or other intermediary with regard to bids for customers accurately and completely reflects information provided by those customers or intermediaries.

(c) *Customers.* By bidding for a security as a customer we deem you to have certified that:

(1) You are in compliance with this part and the auction announcement and;

(2) The information you provided to the submitter or intermediary in connection with the bid is accurate and complete.

§ 356.17 How and when do I pay for securities awarded in an auction?

(a) *General.* By bidding in an auction, you agree to pay the settlement amount for any securities awarded to you. (*See* § 356.25) For notes and bonds, the settlement amount may include a premium amount, accrued interest, and, for inflation-protected securities, an inflation adjustment.

(b) *TreasuryDirect.* Unless you make other provisions, you must submit payment with your bids or pay by debit entry to a deposit account. To pay by debit entry, you must first authorize us to make debit entries to your deposit account under 31 CFR part 370. Payment by debit entry occurs on the settlement date for the actual settlement amount due. (*See* § 356.25) You may also pay for reinvestments with maturing securities, however, you must pay separately for any premium, accrued interest, or inflation adjustment as soon as you receive your Payment Due Notice.

(1) *Bidding by computer or by telephone.* If you are bidding by computer or by telephone, you must pay for any securities awarded to you by debit entry to a deposit account.

(2) *Bidding by paper form.* If you are mailing bids to us on a paper form, you may either enclose your payment with the form or pay for any securities awarded to you by debit entry to a deposit account.

(i) *Payment with paper form.* For bills, you may pay by depository institution (cashier's or teller's) check, certified check, or currently dated Treasury or fiscal agency check made payable to you. For notes or bonds, in addition to the payment options for bills, you may also pay by personal check. If you submit a personal check, make it payable to TreasuryDirect and mail it to the Federal Reserve Bank handling your account. In your payment amount you must include the par amount and any announced accrued interest and/or inflation adjustment.

(ii) *Payment by debit entry to a deposit account.* If a depository institution or dealer is submitting your bids for securities to be held in

TreasuryDirect, payment may be either by debit entry to a deposit account or by allowing us to charge the Federal Reserve Bank funds account of a depository institution.

(3) *Payment by maturing securities.* You may use maturing securities held in TreasuryDirect as payment for reinvestments into new securities that we are offering, as long as we receive the appropriate transaction request on time.

(c) *Commercial book-entry system.* For securities to be held in the commercial book-entry system, payment of the settlement amount must be by charge to the funds account of a depository institution at a Federal Reserve Bank.

(1) A submitter that does not have a funds account at a Federal Reserve Bank or that chooses not to pay by charge to its own funds account must have an approved autocharge agreement on file with us before submitting any bids. Any depository institution whose funds account will be charged under an autocharge agreement will receive advance notice from us of the total par amount of, and price to be charged for, securities awarded as a result of the submitter's bids.

(2) A submitter that is a member of a clearing corporation may instruct that delivery and payment be made through the clearing corporation for securities awarded to the submitter for its own account. To do this, the following requirements must be met prior to submitting any bids:

(i) We must have acknowledged and have on file an autocharge agreement between the clearing corporation and a depository institution. By entering into such an agreement, the clearing corporation authorizes us to provide aggregate par and price information to the depository institution whose funds account will be charged under the agreement. The clearing corporation is responsible for remitting payment for auction awards of the clearing corporation member.

(ii) We must have acknowledged and have on file a delivery and payment agreement between the submitter and the clearing corporation. By entering into such an agreement, the submitter authorizes us to provide award and payment information to the clearing corporation.

Subpart C—Determination of Auction Awards; Settlement

§ 356.20 How does the Treasury determine auction awards?

(a) *Determining the range and amount of accepted competitive bids.*

(1) *Accepting bids.* First we accept in full all noncompetitive bids that were submitted by the noncompetitive bidding deadline. After the closing time for receipt of competitive bids we start accepting those at the lowest yields or discount rates through successively higher yields or discount rates, up to the amount required to meet the offering amount. When necessary, we prorate bids at the highest accepted yield or discount rate as described below. If the amount of noncompetitive bids would absorb most or all of the offering amount, we will accept competitive bids in an amount sufficient to provide a fair determination of the yield or discount rate for the securities we are auctioning.

(2) *Accepting bids at the high yield or discount rate.* Generally, the total amount of bids at the highest accepted yield or discount rate exceeds the offering amount remaining after we accept the noncompetitive bids and the competitive bids at the lower yields or discount rates. In order to keep the total amount of awards as close as possible to the announced offering amount, we award a percentage of the bids at the highest accepted yield or discount rate. We derive the percentage by dividing the remaining par amount needed to fill the offering amount by the par amount of the bids at the high yield or discount rate and rounding up to the next hundredth of a whole percentage point, for example, 17.13%.

(b) *Determining the interest rate for new note and bond issues.* We set the interest rate at the 1/8 of one percent increment that produces the price closest to, but not above, par when evaluated at the yield of awards to successful competitive bidders.

(c) *Determining purchase prices for awarded securities.* For both noncompetitive bidders and competitive bidders, we convert the highest accepted discount rate or yield to a price expressed as a price per hundred. This price is rounded to three decimals, for example, 99.954. (*See* Appendix B) For inflation-protected securities, the price for awarded securities is the price equivalent to the highest accepted real yield.

§ 356.21 How are awards at the high yield or discount rate calculated?

(a) *Awards to submitters.* We generally prorate bids at the highest accepted yield or discount rate under § 356.20(a)(2) of this part. For example, if 80.15% is the announced percentage at the highest yield or discount rate, we award 80.15% of the amount of each bid at that yield or rate. A bid for $100 million at the highest accepted yield or discount rate would be awarded $80,150,000 in this example. We always make awards for at least the minimum to bid, and above that amount we make awards in the appropriate multiple to bid. For example, Treasury bills may be issued with a minimum to bid of $1,000 and multiples to bid of $1,000. Say we accept an $18,000 bid at the high discount rate, and the percent awarded at the high discount rate is 88.27%. We would award $16,000 to that bidder, which is an upward adjustment from $15,888.60 ($18,000 × .8827) to the nearest multiple of $1,000. If we were to award 4.65% of bids at the highest accepted rate, for example, the award for a $10,000 bid at that rate would be $1,000, rather than $465, in order to meet the minimum to bid for a bill issue.

(b) *Awards to customers.* The same prorating rules apply to customers as apply to submitters. Depository institutions and dealers, whether submitters or intermediaries, are responsible for prorating awards for their customers at the same percentage that we announce. For example, if 80.15% is the announced percentage at the highest yield or discount rate, then each customer bid at that yield or rate must be awarded 80.15%.

§ 356.22 Does the Treasury have any limitations on auction awards?

(a) *Awards to noncompetitive bidders.* The maximum award to any bidder is $1 million for bills and $5 million for notes and bonds. This limit does not apply to bidders bidding solely through TreasuryDirect reinvestment requests.

(b) *Awards to competitive bidders.* The maximum award is 35 percent of the offering amount less the bidder's net long position as reportable under § 356.13. For example, in a note auction with a $10 billion offering amount, and therefore a maximum award of $3.5 billion, a bidder with a reported net long position of $1 billion could receive a maximum auction award of $2.5 billion. When the bids and net long positions of more than one person or entity must be combined, as is the case with investment advisers and controlled accounts (*See* § 356.15(c)), we will use this combined amount for the purpose of this 35 percent award limit.

§ 356.23 How are the auction results announced?

(a) After the conclusion of the auction, we will announce the auction results through a press release that is available on our Web site at *http://www.publicdebt.treas.gov.*

(b) The press release will include such information as:

(1) The amounts of bids we accepted and the amount of securities we awarded;

(2) The range of accepted yields or discount rates;

(3) The proration percentage;

(4) The interest rate for a note or bond;

(5) A breakdown of the amounts of noncompetitive and competitive bids we accepted from, and awarded to, the public;

(6) The amounts of bids tendered and accepted from the Federal Reserve Banks for their own accounts;

(7) The bid-to-cover ratio; and

(8) Other information that we may decide to include.

§ 356.24 Will I be notified directly of my awards and, if I am submitting bids for others, do I have to provide confirmations?

(a) *Notice of awards*—(1) *Notice to submitters.* We will provide notice to all submitters letting them know whether their bids were successful or not.

(2) *Notice to clearing corporations.* If we are to deliver awarded securities under a delivery and payment agreement, we will provide notice of the awards to the clearing corporation that is a party to the agreement.

(b) *Notification of awards to customers.* If you are a submitter for customers, you are responsible for notifying them of their awards. You are also responsible for notifying any intermediaries that forwarded successful bids to you. Similarly, an intermediary is responsible for providing notification of any awards to its customers and any intermediaries from whom it received bids.

(c) *Notification of awards and settlement amounts to a depository institution having an autocharge agreement with a submitter or a clearing corporation.* We will notify each depository institution that has entered into an autocharge agreement with a submitter or a clearing corporation of the amount to be charged, on the issue date, to the institution's funds account at the Federal Reserve Bank servicing the institution. We will provide this notification no later than the day after the auction.

(d) *Customer confirmation.* Any customer awarded a par amount of $500 million or more in an auction must send us a confirmation containing the information in paragraphs (d)(1) and (2) of this section. The confirmation must be sent no later than 10:00 a.m. on the day following the auction. The confirmation must be signed by the customer or authorized representative. If signed by an authorized representative, the confirmation must include the capacity in which the representative is acting. A submitter or intermediary submitting or forwarding bids for a customer must notify the customer of this requirement if we award the customer $500 million or more as a result of those bids. The information the customer must provide in writing is:

(1) A confirmation of the awarded bid(s), including the name of the depository institution or dealer that submitted the bid(s) on the customer's behalf, and

(2) A statement indicating whether the customer had a reportable net long position as defined in § 356.13. If a position had to be reported, the statement must provide the amount of the position and the name of the depository institution or dealer that the customer requested to report the position.

§ 356.25 How does the settlement process work?

Securities bought in the auction must be paid for by the issue date. The payment amount for awarded securities will be the settlement amount as defined in § 356.2. (*See* formulas in Appendix B.) There are several ways to pay for securities:

(a) *Payment by debit entry to a deposit account.* If you are paying by debit entry to a deposit account as provided for in § 356.17 (b)(1) or (b)(2), we will charge the settlement amount to the specified account on the issue date.

(b) *Payment by authorized charge to a funds account.* Where the submitter's method of payment is an authorized charge to the funds account of a depository institution as provided for in § 356.17 (c)(1) and (c)(2), we will charge the settlement amount to the specified funds account on the issue date.

(c) *Payment with bids.* If you paid the par amount with your bids as provided for in § 356.17 (b)(2), you may have to pay an additional amount, or we may have to pay an amount to you, as follows:

(1) *When we owe an amount to you.* If the amount you paid is more than the settlement amount, we will refund the balance to you after the auction. This situation will generally be the case if you submit payment with your bids. A typical example would be an auction where the price is a discount from par and there is no accrued interest.

(2) *When you must remit an additional amount.* If the settlement amount is more than the amount you paid, we will notify you of the additional amount due, which you will be responsible for remitting immediately. You may owe us such an additional amount if the auction calculations result in a premium or if accrued interest or an inflation adjustment is due.

Subpart D—Miscellaneous Provisions

§ 356.30 When does the Treasury pay principal and interest on securities?

(a) *General.* We will pay principal on bills, notes, and bonds on the maturity date as specified in the auction announcement. Interest on bills consists of the difference between the discounted amount paid by the investor at original issue and the par value we pay to the investor at maturity. Interest on notes and bonds accrues from the dated date. Interest is payable on a semiannual basis on the interest payment dates specified in the auction announcement through the maturity date. If any principal or interest payment date is a Saturday, Sunday, or other day on which the Federal Reserve System is not open for business, we will make the payment (without additional interest) on the next business day. If a bond is callable, we will pay the principal prior to maturity if we call it under its terms, which include providing appropriate public notice.

(b) *Treasury inflation-protected securities.* (1) This table explains the amount that we will pay to holders of inflation-protected securities at maturity.

At *maturity,* if . . .	Then . . .
(i) the inflation-adjusted principal is equal to or more than the par amount of the security.	we will pay the inflation-adjusted principal.
(ii) the inflation-adjusted principal is less than the par amount of the security, and the security has not been stripped.	we will pay an additional amount so that the additional amount plus the inflation-adjusted principal equals the par amount.
(iii) the inflation-adjusted principal is less than the par amount of the security, and the security has been stripped.	to holders of principal components only we will pay an additional amount so that the additional amount plus the inflation-adjusted principal equals the par amount.

(2) Regardless of whether or not we pay an additional amount, we will base the final interest payment on the inflation-adjusted principal at maturity.

(c) *Discharge of payment obligations.*

(1) *The commercial book-entry system.* We discharge our payment obligations when we credit payment to the account maintained at a Federal Reserve Bank for a depository institution or other authorized entity, or when we make payment according to the instructions of the person or entity maintaining the account. Further, we do not have any obligations to any person or entity that does not have an account with a Federal Reserve Bank. We also will not recognize the claims of any person or entity:

(i) That does not have an account at a Federal Reserve Bank, or

(ii) With respect to any accounts not maintained at a Federal Reserve Bank.

(2) *TreasuryDirect.* We discharge our payment obligations when we make payment to a depository institution for credit to the account specified by the owner of the security, or when we make payment according to the instructions of the security's owner or the owner's legal representative.

§ 356.31 How does the STRIPS program work?

(a) *General.* Notes or bonds may be ''stripped''—divided into separate principal and interest components. These components must be maintained in the commercial book-entry system. Stripping is done at the option of the holder, and may occur at any time from issuance until maturity. We provide the CUSIP numbers and payment dates for the principal and interest components in auction announcements and on our Web site at *http://www.publicdebt.treas.gov.*

(b) *Treasury fixed-principal securities (notes and bonds other than Treasury inflation-protected securities*—(1) *Minimum par amounts required for STRIPS.* The minimum par amount of a fixed-principal security that may be stripped is $1,000. Any par amount to be stripped above $1,000 must be in a multiple of $1,000.

(2) *Principal components.* Principal components stripped from fixed-principal securities are maintained in accounts, and transferred, at their par amount. They have a CUSIP number that is different from the CUSIP number of the fully constituted (unstripped) security.

(3) *Interest components.* Interest components stripped from fixed-principal securities have the following features:

(i) They are maintained in accounts, and transferred, at their original payment value, which is derived by multiplying the semiannual interest rate and the par amount;

(ii) Their interest payment date becomes the maturity date for the component;

(iii) All interest components with the same maturity date have the same CUSIP number, regardless of the underlying security from which the interest payments were stripped, and therefore are fungible (interchangable).

(iv) The CUSIP numbers of interest components are different from the CUSIP numbers of principal components and fully constituted securities, even if they have the same maturity date, and therefore are not fungible.

(c) *Treasury inflation-protected securities*—(1) *Minimum par amounts required for STRIPS.* The minimum par amount of an inflation-protected security that may be stripped is $1,000. Any par amount to be stripped above $1,000 must be in a multiple of $1,000.

(2) *Principal components.* Principal components stripped from inflation-protected securities are maintained in accounts, and transferred, at their par amount. At maturity, the holder will receive the inflation-adjusted principal or the par amount, whichever is greater. (*See* § 356.30) A principal component has a CUSIP number that is different from the CUSIP number of the fully constituted (unstripped) security.

(3) *Interest components.*—(i) *Adjusted value.* Interest components stripped from inflation-protected securities are maintained in accounts, and transferred, at their adjusted value. This value is derived by multiplying the semiannual interest rate by the par amount and then multiplying this value by: 100 divided by the Reference CPI of the original issue date. (The dated date is used instead of the original issue date when the dates are different.) *See* Appendix B, Section IV of this part for an example of how to do this calculation.

(ii) *CUSIP numbers.* When an interest payment is stripped from an inflation-protected security, the interest payment date becomes the maturity date for the component. All interest components with the same maturity date have the same CUSIP number, regardless of the underlying security from which the interest payments were stripped. Such interest components are fungible (interchangeable). The CUSIP numbers of interest components are different from the CUSIP numbers of principal components and fully constituted securities, even if they have the same maturity date.

(iii) *Payment at maturity.* At maturity, the payment to the holder will be derived by multiplying the adjusted value of the interest component by the Reference CPI of the maturity date, divided by 100. *See* Appendix B, Section IV to this part for an example of how to do this calculation.

(iv) *Rebasing of the CPI.* If the CPI is rebased to a different time base reference period (*See* Appendix D), the adjusted values of all outstanding inflation-protected interest components will be converted to adjusted values based on the new base reference period. At that time, we will publish information that describes how this conversion will occur. After rebasing, any interest components created from a security that was issued during a prior base reference period will be issued with adjusted values calculated using reference CPIs under the most-recent base reference period.

(d) *Reconstituting a security.* Stripped interest and principal components may be reconstituted, that is, put back together into their fully constituted form. A principal component and all related unmatured interest components, in the appropriate minimum or multiple amounts or adjusted values, must be submitted together for reconstitution. Because inflation-protected interest components are different from fixed-principal interest components, they are not interchangeable for reconstitution purposes.

(e) *Applicable regulations.* Subparts A, B, and D of part 357 of this chapter govern notes and bonds stripped into their STRIPS components, unless we state differently in this part.

§ 356.32 What tax rules apply?

(a) *General.* Securities issued under this part are subject to all applicable taxes imposed under the Internal Revenue Code of 1986, or its successor. Under section 3124 of title 31, United States Code, the securities are exempt from taxation by a State or political subdivision of a State, except for State estate or inheritance taxes and other exceptions as provided in that section.

(b) *Treasury inflation-protected securities.* Special federal income tax rules for inflation-protected securities, including stripped inflation-protected principal and interest components, are set forth in Internal Revenue Service regulations.

§ 356.33 Does the Treasury have any discretion in the auction process?

(a) We have the discretion to:

(1) Accept, reject, or refuse to recognize any bids submitted in an auction;

(2) Award more or less than the amount of securities specified in the auction announcement;

(3) Waive any provision of this part for any bidder or submitter; and

(4) Change the terms and conditions of an auction.

(b) Our decisions under this part are final. We will provide a public notice if we change any auction provision, term, or condition.

(c) We reserve the right to modify the terms and conditions of new securities and to depart from the customary pattern of securities offerings at any time.

§ 356.34 What could happen if someone does not fully comply with the auction rules or fails to pay for securities?

(a) *General.* If a person or entity fails to comply with any of the auction rules in this part, we will consider the circumstances and take what we deem to be appropriate action. This could include barring the person or entity from participating in future auctions under this part. We also may refer the matter to an appropriate regulatory agency.

(b) *Liquidated damages.* If you fail to pay for awarded securities in a timely manner, we may require you to pay liquidated damages of up to one percent of the par amount of securities we awarded to you. Our use of this liquidated damages remedy does not preclude us from using any other appropriate remedy.

§ 356.35 Who approved the information collections?

The Office of Management and Budget approved the collections of information contained in §§ 356.11, 356.12, 356.13, 356.14, and 356.15 and in Appendix A of this part under control number 1535–0112.

Appendix A to Part 356—Bidder Categories

I. Categories of Eligible Bidders

We describe below various categories of bidders eligible to bid in Treasury auctions. You may use them to determine whether we consider you and other entities to be one bidder or more than one bidder for auction bidding and compliance purposes. For example, we use these definitions to apply the competitive and noncompetitive award limitations and for other requirements. Notwithstanding these definitions, we consider any persons or entities that intentionally act together with respect to bidding in a Treasury auction to collectively be one bidder. Even if an auction participant does not fall under any of the categories listed below, it is our intent that no auction participant receives a larger auction award by acquiring securities through others than it could have received had it been considered one of these types of bidders.

(a) *Corporation*—We consider a corporation to be one bidder. A corporation includes all of its affiliates, which may be persons, partnerships, or other entities. We use the term ''corporate structure'' to refer to the collection of affiliates that we consider collectively to be one bidder. An affiliate is any:

- entity that is more than 50% owned, directly or indirectly, by the corporation;
- entity that is more than 50% owned, directly or indirectly, by any other affiliate of the corporation;
- person or entity that owns, directly or indirectly, more than 50% of the corporation;
- person or entity that owns, directly or indirectly, more than 50% of any other affiliate of the corporation; or
- entity, a majority of whose board of directors or a majority of whose general partners are directors or officers of the corporation, or of any affiliate of the corporation.

We consider a business trust, such as a Massachusetts or Delaware business trust, to be a corporation.

(b) *Partnership*—We consider a partnership to be one bidder if it is a partnership for which the Internal Revenue Service has assigned a tax-identification number. A partnership includes all of its affiliates, which may be persons, corporations, general partners acting on behalf of the partnership, or other entities. We use the term ''partnership structure'' to refer to the collection of affiliates that we consider collectively to be one bidder. We may consider a partnership structure that contains one or more corporations as a ''partnership'' or a ''corporation,'' but not both.

An affiliate is any:

- entity that is more than 50% owned, directly or indirectly, by the partnership;
- entity that is more than 50% owned, directly or indirectly, by any other affiliate of the partnership;
- person or entity that owns, directly or indirectly, more than 50% of the partnership;
- person or entity that owns, directly or indirectly, more than 50% of any other affiliate of the partnership; or
- entity, a majority of whose general partners or a majority of whose board of directors are general partners or directors of the partnership or of any affiliate of the partnership.

(c) *Government-related entity*—We consider each of the following entities to be one bidder:

(1) a state government or the government of the District of Columbia.

(2) a unit of local government, including any county, city, municipality, or township, or other unit of general government as defined by the Bureau of the Census for statistical purposes.

(3) a commonwealth, territory, or possession of the United States.

(4) a governmental entity, body, or corporation established under Federal, State, or local law.

(5) a foreign central bank, the government of a foreign state, or an international organization in which the United States holds membership. This type of entity applies only when such entity is not using an account at the Federal Reserve Bank of New York (*See* paragraph (f)).

We generally consider an investment, reserve, or other fund of one of the above government-related entities as part of that entity and not a separate bidder. We will consider a government-related entity's fund to be a separate bidder if it meets the definition of the ''trust or other fiduciary estate'' category, or if applicable law requires that the investments of such fund be made separately.

(d) *Trust or other fiduciary estate*—We consider a legal entity created under a valid trust instrument, court order, or other legal authority that designates a trustee or fiduciary to act for the benefit of a named beneficiary to be one bidder. The following conditions must also be met for us to consider a trust entity to be one bidder:

- The legal entity must be able to be identified by:

1. the name or title of the trustee or fiduciary;

2. specific reference to the trust instrument, court order, or legal authority under which the trustee or fiduciary is acting; and

3. the unique IRS-assigned employer identification number (not social security number) for the entity.

- The trustee or fiduciary must make the decisions on participating in auctions on behalf of the trust or fiduciary estate.

(e) *Individual*—We consider a person to be one bidder, regardless of whether he or she is acting as an individual, a sole proprietor, or for any entity not otherwise defined as a bidder. If a person meets the definition of an affiliate within a corporate or partnership structure, we will consider him or her to be a bidder in this ''individual'' category if the corporation or partnership is not bidding in the same auction. We do not consider a person acting in an official capacity as an employee or other representative of a bidder defined in any other category to be an ''individual'' bidder. We consider a person, his or her spouse, and any children under the age of 21 having a common household to be one ''individual'' bidder.

(f) *Foreign and International Monetary Authority (''FIMA'')*—We consider one or more parties making up a foreign or international monetary organization that is not private in nature to be a bidder called a FIMA entity if at least one of the parties is a foreign or international entity that is (i) financial in nature, or (ii) not financial in nature but is authorized to open an account at the Federal Reserve Bank of New York. We consider each of the following entities to be a single FIMA entity:

(1) A foreign central bank or regional central bank.

(2) A foreign governmental monetary or finance entity.

(3) A non-governmental international financial organization that is not private in nature (for example, the International Monetary Fund, the World Bank, the Inter-American Development Bank, and the Asian Development Bank).

(4) A non-financial international organization that the United States participates in (for example, the United Nations).

(5) A multi-party arrangement of a governmental ministry and/or a foreign central bank or monetary authority with a United States Government Department and/or the Federal Reserve Bank of New York.

(6) A foreign or international monetary entity or an entity authorized by statute or by us to open accounts at the Federal Reserve Bank of New York.

(g) *Other Bidder*—We do not consider a bidder defined by any of the above categories to be a bidder in this category. For purposes of this definition, ''other bidder'' means an institution or organization with a unique IRS-assigned employer identification number. This definition includes such entities as an association, church, university, union, or club. This category does not include any person or entity acting in a fiduciary or investment management capacity, a sole proprietorship, an investment account, an investment fund, a form of registration, or investment ownership designation.

II. How To Obtain Separate Bidder Recognition

Under certain circumstances, we may recognize a major organizational component (*e.g.*, the parent or a subsidiary) in a corporate or partnership structure as a bidder separate from the larger corporate or partnership structure. We also may recognize two or more major organizational components collectively as one bidder. All of the following criteria must be met for such component(s) to qualify for recognition as a separate bidder:

(a) Such component(s) must be prohibited by law or regulation from exchanging, or must have established written internal procedures designed to prevent the exchange of, information related to bidding in Treasury auctions with any other component in the corporate or partnership structure;

(b) Such component(s) must not be created for the purpose of circumventing our bidding and award limitations;

(c) Decisions related to purchasing Treasury securities at auction and participation in specific auctions must be made by employees of such component(s). Employees of such component(s) that make decisions to purchase or dispose of Treasury securities must not perform the same function for other components within the corporate or partnership structure; and

(d) The records of such component(s) related to the bidding for, acquisition of, and disposition of Treasury securities must be maintained by such component(s). Those records must be identifiable—separate and apart from similar records for other components within the corporate or partnership structure. To obtain recognition as a separate bidder, each component or group of components must request such recognition from us, provide a description of the component or group and its position within the corporate or partnership structure, and provide the following certification:

[Name of the bidder] hereby certifies that to the best of its knowledge and belief it meets the criteria for a separate bidder as described in Appendix A to 31 CFR Part 356. The above-named bidder also certifies that it has established written policies or procedures, including ongoing compliance monitoring processes, that are designed to prevent the component or group of components from:

(1) Exchanging any of the following information with any other part of the corporate [partnership] structure: (a) Yields or rates at which it plans to bid; (b) amounts of securities for which it plans to bid; (c) positions that it holds or plans to acquire in a security being auctioned; and (d) investment strategies that it plans to follow regarding the security being auctioned, or

(2) In any way intentionally acting together with any other part of the corporate [partnership] structure with respect to formulating or entering bids in a Treasury auction.

The above-named bidder agrees that it will promptly notify the Department in writing when any of the information provided to obtain separate bidder status changes or when this certification is no longer valid.

Appendix B to Part 356—Formulas and Tables

I. Computation of Interest on Treasury Bonds and Notes.

II. Formulas for Conversion of Fixed-Principal Security Yields to Equivalent Prices.

III. Formulas for Conversion of Inflation-Protected Security Yields to Equivalent Prices.

IV. Computation of Adjusted Values and Payment Amounts for Stripped Inflation-Protected Interest Components.

V. Computation of Purchase Price, Discount Rate, and Investment Rate (Coupon-Equivalent Yield) for Treasury Bills.

The examples in this appendix are given for illustrative purposes only and are in no way a prediction of interest rates on any bills, notes, or bonds issued under this part.

In some of the following examples, we use intermediate rounding for ease in following the calculations. In actual practice, we generally do not round prior to determining the final result.

I. Computation of Interest on Treasury Bonds and Notes

A. Treasury Fixed-Principal Securities

1. *Regular Half-Year Payment Period.* We pay interest on marketable Treasury fixed-principal securities on a semiannual basis. The regular interest payment period is a full half-year of six calendar months. Examples of half-year periods are: (1) February 15 to August 15, (2) May 31 to November 30, and (3) February 29 to August 31 (in a leap year). Calculation of an interest payment for a fixed-principal note with a par amount of $1,000 and an interest rate of 8% is made in this manner: ($1,000 x .08) / 2 = $40. Specifically, a semiannual interest payment represents one half of one year's interest, and is computed on this basis regardless of the actual number of days in the half-year.

2. *Daily Interest Decimal.* We compute a daily interest decimal in cases where an interest payment period for a fixed-principal security is shorter or longer than six months or where accrued interest is payable by an investor. We base the daily interest decimal on the actual number of calendar days in the half-year or half-years involved. The number of days in any half-year period is shown in Table 1.

TABLE 1

Interest period	Beginning and ending days are 1st or 15th of the months listed under interest period (number of days)		Beginning and ending days are the last days of the months listed under interest period (number of days)	
	Regular year	Leap year	Regular year	Leap year
January to July	181	182	181	182
February to August	181	182	184	184
March to September	184	184	183	183
April to October	183	183	184	184
May to November	184	184	183	183
June to December	183	183	184	184
July to January	184	184	184	184
August to February	184	184	181	182
September to March	181	182	182	183
October to April	182	183	181	182
November to May	181	182	182	183
December to June	182	183	181	182

Table 2 below shows the daily interest decimals covering interest from 1/8% to 20% on $1,000 for one day in increments of 1/8 of one percent. These decimals represent 1/181, 1/182, 1/183, or 1/184 of a full semiannual interest payment, depending on which half-year is applicable.

TABLE 2.—DECIMAL FOR ONE DAY'S INTEREST ON $1,000 AT VARIOUS RATES OF INTEREST, PAYABLE SEMINANNUALLY OR ON A SEMIANNUAL BASIS, IN REGULAR YEARS OF 365 DAYS AND IN YEARS OF 366 DAYS (TO DETERMINE APPLICABLE NUMBER OF DAYS, SEE TABLE 1)

Rate per annum (percent)	Half-year of 184 days	Half-year of 183 days	Half-year of 182 days	Half-year of 181 days
1/8	0.003396739	0.003415301	0.003434066	0.003453039
1/4	0.006793478	0.006830601	0.006868132	0.006906077
3/8	0.010190217	0.010245902	0.010302198	0.010359116
1/2	0.013586957	0.013661202	0.013736264	0.013812155
5/8	0.016983696	0.017076503	0.017170330	0.017265193
3/4	0.020380435	0.020491803	0.020604396	0.020718232
7/8	0.023777174	0.023907104	0.024038462	0.024171271
1	0.027173913	0.027322404	0.027472527	0.027624309
1 1/8	0.030570652	0.030737705	0.030906593	0.031077348
1 1/4	0.033967391	0.034153005	0.034340659	0.034530387
1 3/8	0.037364130	0.037568306	0.037774725	0.037983425
1 1/2	0.040760870	0.040983607	0.041208791	0.041436464
1 5/8	0.044157609	0.044398907	0.044642857	0.044889503
1 3/4	0.047554348	0.047814208	0.048076923	0.048342541
1 7/8	0.050951087	0.051229508	0.051510989	0.051795580
2	0.054347826	0.054644809	0.054945055	0.055248619
2 1/8	0.057744565	0.058060109	0.058379121	0.058701657
2 1/4	0.061141304	0.061475410	0.061813187	0.062154696
2 3/8	0.064538043	0.064890710	0.065247253	0.065607735
2 1/2	0.067934783	0.068306011	0.068681319	0.069060773
2 5/8	0.071331522	0.071721311	0.072115385	0.072513812
2 3/4	0.074728261	0.075136612	0.075549451	0.075966851
2 7/8	0.078125000	0.078551913	0.078983516	0.079419890
3	0.081521739	0.081967213	0.082417582	0.082872928
3 1/8	0.084918478	0.085382514	0.085851648	0.086325967
3 1/4	0.088315217	0.088797814	0.089285714	0.089779006
3 3/8	0.091711957	0.092213115	0.092719780	0.093232044
3 1/2	0.095108696	0.095628415	0.096153846	0.096685083
3 5/8	0.098505435	0.099043716	0.099587912	0.100138122
3 3/4	0.101902174	0.102459016	0.103021978	0.103591160
3 7/8	0.105298913	0.105874317	0.106456044	0.107044199
4	0.108695652	0.109289617	0.109890110	0.110497238
4 1/8	0.112092391	0.112704918	0.113324176	0.113950276
4 1/4	0.115489130	0.116120219	0.116758242	0.117403315
4 3/8	0.118885870	0.119535519	0.120192308	0.120856354
4 1/2	0.122282609	0.122950820	0.123626374	0.124309392
4 5/8	0.125679348	0.126366120	0.127060440	0.127762431
4 3/4	0.129076087	0.129781421	0.130494505	0.131215470
4 7/8	0.132472826	0.133196721	0.133928571	0.134668508
5	0.135869565	0.136612022	0.137362637	0.138121547
5 1/8	0.139266304	0.140027322	0.140796703	0.141574586
5 1/4	0.142663043	0.143442623	0.144230769	0.145027624
5 3/8	0.146059783	0.146857923	0.147664835	0.148480663
5 1/2	0.149456522	0.150273224	0.151098901	0.151933702
5 5/8	0.152853261	0.153688525	0.154532967	0.155386740
5 3/4	0.156250000	0.157103825	0.157967033	0.158839779
5 7/8	0.159646739	0.160519126	0.161401099	0.162292818
6	0.163043478	0.163934426	0.164835165	0.165745856
6 1/8	0.166440217	0.167349727	0.168269231	0.169198895
6 1/4	0.169836957	0.170765027	0.171703297	0.172651934
6 3/8	0.173233696	0.174180328	0.175137363	0.176104972
6 1/2	0.176630435	0.177595628	0.178571429	0.179558011
6 5/8	0.180027174	0.181010929	0.182005495	0.183011050
6 3/4	0.183423913	0.184426230	0.185439560	0.186464088
6 7/8	0.186820652	0.187841530	0.188873626	0.189917127
7	0.190217391	0.191256831	0.192307692	0.193370166
7 1/8	0.193614130	0.194672131	0.195741758	0.196823204
7 1/4	0.197010870	0.198087432	0.199175824	0.200276243
7 3/8	0.200407609	0.201502732	0.202609890	0.203729282
7 1/2	0.203804348	0.204918033	0.206043956	0.207182320
7 5/8	0.207201087	0.208333333	0.209478022	0.210635359
7 3/4	0.210597826	0.211748634	0.212912088	0.214088398
7 7/8	0.213994565	0.215163934	0.216346154	0.217541436
8	0.217391304	0.218579235	0.219780220	0.220994475
8 1/8	0.220788043	0.221994536	0.223214286	0.224447514

TABLE 2.—DECIMAL FOR ONE DAY'S INTEREST ON $1,000 AT VARIOUS RATES OF INTEREST, PAYABLE SEMINANNUALLY OR ON A SEMIANNUAL BASIS, IN REGULAR YEARS OF 365 DAYS AND IN YEARS OF 366 DAYS (TO DETERMINE APPLICABLE NUMBER OF DAYS, SEE TABLE 1)—Continued

Rate per annum (percent)	Half-year of 184 days	Half-year of 183 days	Half-year of 182 days	Half-year of 181 days
8¼	0.224184783	0.225409836	0.226648352	0.227900552
8⅜	0.227581522	0.228825137	0.230082418	0.231353591
8½	0.230978261	0.232240437	0.233516484	0.234806630
8⅝	0.234375000	0.235655738	0.236950549	0.238259669
8¾	0.237771739	0.239071038	0.240384615	0.241712707
8⅞	0.241168478	0.242486339	0.243818681	0.245165746
9	0.244565217	0.245901639	0.247252747	0.248618785
9⅛	0.247961957	0.249316940	0.250686813	0.252071823
9¼	0.251358696	0.252732240	0.254120879	0.255524862
9⅜	0.254755435	0.256147541	0.257554945	0.258977901
9½	0.258152174	0.259562842	0.260989011	0.262430939
9⅝	0.261548913	0.262978142	0.264423077	0.265883978
9¾	0.264945652	0.266393443	0.267857143	0.269337017
9⅞	0.268342391	0.269808743	0.271291209	0.272790055
10	0.271739130	0.273224044	0.274725275	0.276243094
10⅛	0.275135870	0.276639344	0.278159341	0.279696133
10¼	0.278532609	0.280054645	0.281593407	0.283149171
10⅜	0.281929348	0.283469945	0.285027473	0.286602210
10½	0.285326087	0.286885246	0.288461538	0.290055249
10⅝	0.288722826	0.290300546	0.291895604	0.293508287
10¾	0.292119565	0.293715847	0.295329670	0.296961326
10⅞	0.295516304	0.297131148	0.298763736	0.300414365
11	0.298913043	0.300546448	0.302197802	0.303867403
11⅛	0.302309783	0.303961749	0.305631868	0.307320442
11¼	0.305706522	0.307377049	0.309065934	0.310773481
11⅜	0.309103261	0.310792350	0.312500000	0.314226519
11½	0.312500000	0.314207650	0.315934066	0.317679558
11⅝	0.315896739	0.317622951	0.319368132	0.321132597
11¾	0.319293478	0.321038251	0.322802198	0.324585635
11⅞	0.322690217	0.324453552	0.326236264	0.328038674
12	0.326086957	0.327868852	0.329670330	0.331491713
12⅛	0.329483696	0.331284153	0.333104396	0.334944751
12¼	0.332880435	0.334699454	0.336538462	0.338397790
12⅜	0.336277174	0.338114754	0.339972527	0.341850829
12½	0.339673913	0.341530055	0.343406593	0.345303867
12⅝	0.343070652	0.344945355	0.346840659	0.348756906
12¾	0.346467391	0.348360656	0.350274725	0.352209945
12⅞	0.349864130	0.351775956	0.353708791	0.355662983
13	0.353260870	0.355191257	0.357142857	0.359116022
13⅛	0.356657609	0.358606557	0.360576923	0.362569061
13¼	0.360054348	0.362021858	0.364010989	0.366022099
13⅜	0.363451087	0.365437158	0.367445055	0.369475138
13½	0.366847826	0.368852459	0.370879121	0.372928177
13⅝	0.370244565	0.372267760	0.374313187	0.376381215
13¾	0.373641304	0.375683060	0.377747253	0.379834254
13⅞	0.377038043	0.379098361	0.381181319	0.383287293
14	0.380434783	0.382513661	0.384615385	0.386740331
14⅛	0.383831522	0.385928962	0.388049451	0.390193370
14¼	0.387228261	0.389344262	0.391483516	0.393646409
14⅜	0.390625000	0.392759563	0.394917582	0.397099448
14½	0.394021739	0.396174863	0.398351648	0.400552486
14⅝	0.397418478	0.399590164	0.401785714	0.404005525
14¾	0.400815217	0.403005464	0.405219780	0.407458564
14⅞	0.404211957	0.406420765	0.408653846	0.410911602
15	0.407608696	0.409836066	0.412087912	0.414364641
15⅛	0.411005435	0.413251366	0.415521978	0.417817680
15¼	0.414402174	0.416666667	0.418956044	0.421270718
15⅜	0.417798913	0.420081967	0.422390110	0.424723757
15½	0.421195652	0.423497268	0.425824176	0.428176796
15⅝	0.424592391	0.426912568	0.429258242	0.431629834
15¾	0.427989130	0.430327869	0.432692308	0.435082873
15⅞	0.431385870	0.433743169	0.436126374	0.438535912
16	0.434782609	0.437158470	0.439560440	0.441988950
16⅛	0.438179348	0.440573770	0.442994505	0.445441989
16¼	0.441576087	0.443989071	0.446428571	0.448895028
16⅜	0.444972826	0.447404372	0.449862637	0.452348066
16½	0.448369565	0.450819672	0.453296703	0.455801105
16⅝	0.451766304	0.454234973	0.456730769	0.459254144
16¾	0.455163043	0.457650273	0.460164835	0.462707182

TABLE 2.—DECIMAL FOR ONE DAY'S INTEREST ON $1,000 AT VARIOUS RATES OF INTEREST, PAYABLE SEMINANNUALLY OR ON A SEMIANNUAL BASIS, IN REGULAR YEARS OF 365 DAYS AND IN YEARS OF 366 DAYS (TO DETERMINE APPLICABLE NUMBER OF DAYS, SEE TABLE 1)—Continued

Rate per annum (percent)	Half-year of 184 days	Half-year of 183 days	Half-year of 182 days	Half-year of 181 days
16⅞	0.458559783	0.461065574	0.463598901	0.466160221
17	0.461956522	0.464480874	0.467032967	0.469613260
17⅛	0.465353261	0.467896175	0.470467033	0.473066298
17¼	0.468750000	0.471311475	0.473901099	0.476519337
17⅜	0.472146739	0.474726776	0.477335165	0.479972376
17½	0.475543478	0.478142077	0.480769231	0.483425414
17⅝	0.478940217	0.481557377	0.484203297	0.486878453
17¾	0.482336957	0.484972678	0.487637363	0.490331492
17⅞	0.485733696	0.488387978	0.491071429	0.493784530
18	0.489130435	0.491803279	0.494505495	0.497237569
18⅛	0.492527174	0.495218579	0.497939560	0.500690608
18¼	0.495923913	0.498633880	0.501373626	0.504143646
18⅜	0.499320652	0.502049180	0.504807692	0.507596685
18½	0.502717391	0.505464481	0.508241758	0.511049724
18⅝	0.506114130	0.508879781	0.511675824	0.514502762
18¾	0.509510870	0.512295082	0.515109890	0.517955801
18⅞	0.512907609	0.515710383	0.518543956	0.521408840
19	0.516304348	0.519125683	0.521978022	0.524861878
19⅛	0.519701087	0.522540984	0.525412088	0.528314917
19¼	0.523097826	0.525956284	0.528846154	0.531767956
19⅜	0.526494565	0.529371585	0.532280220	0.535220994
19½	0.529891304	0.532786885	0.535714286	0.538674033
19⅝	0.533288043	0.536202186	0.539148352	0.542127072
19¾	0.536684783	0.539617486	0.542582418	0.545580110
19⅞	0.540081522	0.543032787	0.546016484	0.549033149
20	0.543478261	0.546448087	0.549450549	0.552486188

3. *Short First Payment Period.* In cases where the first interest payment period for a Treasury fixed-principal security covers less than a full half-year period (a ''short coupon''), we multiply the daily interest decimal by the number of days from, but not including, the issue date to, and including, the first interest payment date. This calculation results in the amount of the interest payable per $1,000 par amount. In cases where the par amount of securities is a multiple of $1,000, we multiply the appropriate multiple by the unrounded interest payment amount per $1,000 par amount.

Example

A 2-year note paying 8⅜% interest was issued on July 2, 1990, with the first interest payment on December 31, 1990. The number of days in the full half-year period of June 30 to December 31, 1990, was 184 (*See* Table 1). The number of days for which interest actually accrued was 182 (not including July 2, but including December 31). The daily interest decimal, $0.227581522 (*See* Table 2, line for 8⅜%, under the column for half-year of 184 days), was multiplied by 182, resulting in a payment of $41.419837004 per $1,000. For $20,000 of these notes, $41.419837004 would be multiplied by 20, resulting in a payment of $828.39674008 ($828.40).

4. *Long First Payment Period.* In cases where the first interest payment period for a bond or note covers more than a full half-year period (a ''long coupon''), we multiply the daily interest decimal by the number of days from, but not including, the issue date to, and including, the last day of the fractional period that ends one full half-year before the interest payment date. We add that amount to the regular interest amount for the full half-year ending on the first interest payment date, resulting in the amount of interest payable for $1,000 par amount. In cases where the par amount of securities is a multiple of $1,000, the appropriate multiple should be applied to the unrounded interest payment amount per $1,000 par amount.

Example

A 5-year 2-month note paying 7⅞% interest was issued on December 3, 1990, with the first interest payment due on August 15, 1991. Interest for the regular half-year portion of the payment was computed to be $39.375 per $1,000 par amount. The fractional portion of the payment, from December 3 to February 15, fell in a 184-day half-year (August 15, 1990, to February 15, 1991). Accordingly, the daily interest decimal for 7⅞% was $0.213994565. This decimal, multiplied by 74 (the number of days from but not including December 3, 1990, to and including February 15), resulted in interest for the fractional portion of $15.835597810. When added to $39.375 (the normal interest payment portion ending on August 15, 1991), this produced a first interest payment of $55.210597810, or $55.21 per $1,000 par amount. For $7,000 par amount of these notes, $55.210597810 would be multiplied by 7, resulting in an interest payment of $386.474184670 ($386.47).

B. Treasury Inflation-Protected Securities

1. *Indexing Process.* We pay interest on marketable Treasury inflation-protected securities on a semiannual basis. We issue inflation-protected securities with a stated rate of interest that remains constant until maturity. Interest payments are based on the security's inflation-adjusted principal at the time we pay interest. We make this adjustment by multiplying the par amount of the security by the applicable Index Ratio.

2. *Index Ratio.* The numerator of the Index Ratio, the Ref CPI_{Date}, is the index number applicable for a specific day. The denominator of the Index Ratio is the Ref CPI applicable for the original issue date. However, when the dated date is different from the original issue date, the denominator is the Ref CPI applicable for the dated date. The formula for calculating the Index Ratio is:

$$\text{Index Ratio}_{\text{Date}} = \frac{\text{Ref CPI}_{\text{Date}}}{\text{Ref CPI}_{\text{Issue Date}}}$$

Where Date = valuation date

3. *Reference CPI.* The Ref CPI for the first day of any calendar month is the CPI for the third preceding calendar month. For example, the Ref CPI applicable to April 1 in any year is the CPI for January, which is reported in February. We determine the Ref CPI for any other day of a month by a linear interpolation between the Ref CPI applicable to the first day of the month in which the day falls (in the example, January) and the Ref CPI applicable to the first day of the next month (in the example, February). For interpolation purposes, we truncate calculations with regard to the Ref CPI and the Index Ratio for a specific date to six decimal places, and round to five decimal places. Therefore the Ref CPI and the Index Ratio for a particular date will be expressed to five decimal places.

(i) The formula for the Ref CPI for a specific date is:

$$\text{Ref CPI}_{\text{Date}} = \text{Ref CPI}_{M} + \frac{t-1}{D}\left[\text{Ref CPI}_{M+1} - \text{Ref CPI}_{M}\right]$$

Where Date = valuation date

D = the number of days in the month in which Date falls

t = the calendar day corresponding to Date

CPI_M = CPI reported for the calendar month M by the Bureau of Labor Statistics

Ref CPI_M = Ref CPI for the first day of the calendar month in which Date falls, *e.g.,* Ref $CPI_{April\ 1}$ is the $CPI_{January}$

Ref CPI_{M+1} = Ref CPI for the first day of the calendar month immediately following Date

(ii) For example, the Ref CPI for April 15, 1996 is calculated as follows:

$$\text{Ref CPI}_{\text{April 15, 1996}} = \text{Ref CPI}_{\text{April 1, 1996}} + \frac{14}{30}\left[\text{Ref CPI}_{\text{May 1, 1996}} - \text{Ref CPI}_{\text{April 1, 1996}}\right]$$

Where D = 30, t = 15

Ref $CPI_{April\ 1,\ 1996}$ = 154.40, the non-seasonally adjusted CPI–U for January 1996.

Ref $CPI_{May\ 1,\ 1996}$ = 154.90, the non-seasonally adjusted CPI–U for February 1996.

(iii) Putting these values in the equation in paragraph (ii) above:

$$\text{Ref CPI}_{\text{April 15, 1996}} = 154.40 + \frac{14}{30}\left[154.90 - 154.40\right]$$

$$\text{Ref CPI}_{\text{April 15, 1996}} = 154.633333333$$

This value truncated to six decimals is 154.633333; rounded to five decimals it is 154.63333.

(iv) To calculate the Index Ratio for April 16, 1996, for an inflation-protected security issued on April 15, 1996, the Ref $CPI_{April\ 16,\ 1996}$ must first be calculated. Using the same values in the equation above except that t=16, the Ref $CPI_{April\ 16,\ 1996}$ is 154.65000.

The Index Ratio for April 16, 1996 is:

$$\text{Index Ratio}_{\text{April 16, 1996}} = 154.65000/154.63333 = 1.000107803.$$

This value truncated to six decimals is 1.000107; rounded to five decimals it is 1.00011.

4. *Index Contingencies.*

(i) If a previously reported CPI is revised, we will continue to use the previously reported (unrevised) CPI in calculating the principal value and interest payments.

If the CPI is rebased to a different year, we will continue to use the CPI based on the base reference period in effect when the security was first issued, as long as that CPI continues to be published.

(ii) We will replace the CPI with an appropriate alternative index if, while an inflation-protected security is outstanding, the applicable CPI is:

- Discontinued,
- In the judgment of the Secretary, fundamentally altered in a manner materially adverse to the interests of an investor in the security, or
- In the judgment of the Secretary, altered by legislation or Executive Order in a manner materially adverse to the interests of an investor in the security.

(iii) If we decide to substitute an alternative index we will consult with the Bureau of Labor Statistics or any successor agency. We will then notify the public of the substitute index and how we will apply it. Determinations of the Secretary in this regard will be final.

(iv) If the CPI for a particular month is not reported by the last day of the following month, we will announce an index number based on the last available twelve-month change in the CPI. We will base our calculations of our payment obligations that rely on that month's CPI on the index number we announce.

(a) For example, if the CPI for month M is not reported timely, the formula for calculating the index number to be used is:

$$CPI_M = CPI_{M-1} \times \left[\frac{CPI_{M-1}}{CPI_{M-13}}\right]^{1/12}$$

(b) Generalizing for the last reported CPI issued N months prior to month M:

$$CPI_M = CPI_{M-N} \times \left[\frac{CPI_{M-N}}{CPI_{M-N-12}}\right]^{N/12}$$

(c) If it is necessary to use these formulas to calculate an index number, we will use that number for all subsequent calculations that rely on the month's index number. We will not replace it with the actual CPI when it is reported, except for use in the above formulas. If it becomes necessary to use the above formulas to derive an index number, we will use the last CPI that has been reported to calculate CPI numbers for months for which the CPI has not been reported timely.

5. *Computation of Interest for a Regular Half-Year Payment Period.* Interest on marketable Treasury inflation-protected securities is payable on a semiannual basis. The regular interest payment period is a full half-year or six calendar months. Examples of half-year periods are January 15 to July 15, and April 15 to October 15. An interest payment will be a fixed percentage of the value of the inflation-adjusted principal, in current dollars, for the date on which it is paid. We will calculate interest payments by multiplying one-half of the specified annual interest rate for the inflation-protected securities by the inflation-adjusted principal for the interest payment date. Specifically, we compute a semiannual interest payment on the basis of one-half of one year's interest regardless of the actual number of days in the half-year.

Example

A 10-year inflation-protected note paying 3⅞% interest was issued on January 15, 1999, with the first interest payment on July 15, 1999. The Ref CPI on January 15, 1999 (Ref $CPI_{IssueDate}$) was 164, and the Ref CPI on July 15, 1999 (Ref CPI_{Date}) was 166.2. For a par amount of $100,000, the inflation-adjusted principal on July 15, 1999, was (166.2/164) × $100,000, or $101,341. This amount was multiplied by .03875/2, or .019375, resulting in a payment of $1,963.48.

C. Accrued Interest

1. You will have to pay accrued interest on a Treasury bond or note when interest accrues prior to the issue date of the security. Because you receive a full interest payment despite having held the security for only a portion of the interest payment period, you must compensate us through the payment of accrued interest at settlement.

2. For a Treasury fixed-principal security, if accrued interest covers a fractional portion of a full half-year period, the number of days in the full half-year period and the stated interest rate will determine the daily interest decimal to use in computing the accrued interest. We multiply the decimal by the number of days for which interest has accrued.

3. If a reopened bond or note has a long first interest payment period (a ''long coupon''), and the dated date for the reopened issue is less than six full months before the first interest payment, the accrued interest will fall into two separate half-year periods. A separate daily interest decimal must be multiplied by the respective number of days in each half-year period during which interest has accrued.

4. We round all accrued interest computations to five decimal places for a $1,000 par amount, using normal rounding procedures. We calculate accrued interest for a par amount of securities greater than $1,000 by applying the appropriate multiple to accrued interest payable for $1,000 par amount, rounded to five decimal places.

5. For an inflation-protected security, we calculate accrued interest as shown in section III, paragraphs A and B of this appendix.

Examples. (1) *Treasury Fixed-Principal Securities—(i) Involving One Half-Year:* A note paying interest at a rate of 6¾%, originally issued on May 15, 2000, as a 5-year note with a first interest payment date of November 15, 2000, was reopened as a 4-year 9-month note on August 15, 2000. Interest had accrued for 92 days, from May 15 to August 15. The regular interest period from May 15 to November 15, 2000, covered 184 days. Accordingly, the daily interest decimal, $0.183423913, multiplied by 92, resulted in accrued interest payable of $16.874999996, or $16.87500, for each $1,000 note purchased. If the notes have a par amount of $150,000, then 150 is multiplied by $16.87500, resulting in an amount payable of $2,531.25.

(2) *Involving Two Half-Years:*

A 10¾% bond, originally issued on July 2, 1985, as a 20-year 1-month bond, with a first interest payment date of February 15, 1986, was reopened as a 19-year 10-month bond on November 4, 1985. Interest had accrued for 44 days, from July 2 to August 15, 1985, during a 181-day half-year (February 15 to August 15); and for 81 days, from August 15 to November 4, during a 184-day half-year (August 15, 1985, to February 15, 1986). Accordingly, $0.296961326 was multiplied by 44, and $0.292119565 was multiplied by 81, resulting in products of $13.066298344 and $23.661684765 which, added together, resulted in accrued interest payable of $36.727983109, or $36.72798, for each $1,000 bond purchased. If the bonds have a par amount of $11,000, then 11 is multiplied by $36.72798, resulting in an amount payable of $404.00778 ($404.01).

II. Formulas for Conversion of Fixed-Principal Security Yields to Equivalent Prices

Definitions

P = price per 100 (dollars), rounded to three places, using normal rounding procedures

C = the regular annual interest per $100, payable semiannually, *e.g.*, 6.125 (the decimal equivalent of a 6⅛% interest rate)

i = nominal annual rate of return or yield to maturity, based on semiannual interest payments and expressed in decimals, *e.g.*, .0719

n = number of full semiannual periods from the issue date to maturity, except that, if the issue date is a coupon frequency date, n will be one less than the number of full semiannual periods remaining to maturity. Coupon frequency dates are the two semiannual dates based on the maturity date of each note or bond issue. For example, a security maturing on November 15, 2015, would have coupon frequency dates of May 15 and November 15.

r = (1) number of days from the issue date to the first interest payment (regular or short first payment period), or (2) number of days in fractional portion (or ''initial short period'') of long first payment period

s = (1) number of days in the full semiannual period ending on the first interest payment date (regular or short first payment period), or (2) number of days in the full semiannual period in which the fractional portion of a long first payment period falls, ending at the onset of the regular portion of the first interest payment

$v^n = 1/[1 + (i/2)]^n$ = present value of 1 due at the end of n periods

$a_{n\rceil} = (1—v^n)/(i/2) = v + v^2 + v^3 + . . . + v^n$ = present value of 1 per period for n periods

A = accrued interest

A. *For fixed-principal securities with a regular first interest payment period:*

Formula:

$$P[1 + (r/s)(i/2)] = (C/2)(r/s) + (C/2)\, a_{n\rceil} + 100\, v^n$$

Example:

For an 8¾% 30-year bond issued May 15, 1990, due May 15, 2020, with interest payments on November 15 and May 15, solve for the price per 100 (P) at a yield of 8.84%.

Definitions:

C = 8.75
i = .0884
r = 184 (May 15 to November 15, 1990)
s = 184 (May 15 to November 15, 1990)
n = 59 (There are 60 full semiannual periods, but n is reduced by 1 because the issue date is a coupon frequency date.)
$v^n = 1/[(1 + .0884/2)]^{59}$, or .077940
$a_{n\rceil} = (1—.077940)/.0442$, or 20.861086

Resolution:

$P[1 + (r/s)(i/2)] = (C/2)(r/s) + (C/2)\, a_{n\rceil} + 100\, v^n$ or
$P[1 + (184/184)(.0884/2)] = (8.75/2)(184/184) + (8.75/2)(20.861086) + 100(.077940)$
(1) $P[1 + .0442] = 4.375 + 91.267251 + 7.7940$
(2) $P[1.0442] = 103.436251$
(3) $P = 103.436251 / 1.0442$
(4) $P = 99.057892$
(5) $P = 99.058$

B. *For fixed-principal securities with a short first interest payment period:*

Formula:

$$P[1 + (r/s)(i/2)] = (C/2)(r/s) + (C/2)\, a_{n\rceil} + 100\, v^n$$

Example:

For an 8½% 2-year note issued April 2, 1990, due March 31, 1992, with interest payments on September 30 and March 31, solve for the price per 100 (P) at a yield of 8.59%.

Definitions:

C = 8.50
i = .0859
n = 3
r = 181 (April 2 to September 30, 1990)
s = 183 (March 31 to September 30, 1990)
$v^n = 1/[(1 + .0859/2)]^3$, or .881474
$a_{n\rceil} = (1—.881474)/.04295$, or 2.759627

Resolution:

$$P[1 + (r/s)(i/2)] = (C/2)(r/s) + (C/2)\,a_{n\rceil} + 100\,v^n \quad \text{or}$$
$$P[1 + (181/183)(.0859/2)] = (8.50/2)(181/183) + (8.50/2)(2.759627) + 100(.881474)$$

(1) $P[1 + .042481] = 4.203552 + 11.728415 + 88.1474$
(2) $P[1.042481] = 104.079367$
(3) $P = 104.079367 / 1.042481$
(4) $P = 99.838143$
(5) $P = 99.838$

C. *For fixed-principal securities with a long first interest payment period:*

Formula:

$$P[1 + (r/s)(i/2)] = [(C/2)(r/s)]v + (C/2)\,a_{n\rceil} + 100\,v^n$$

Example:

For an 8½% 5-year 2-month note issued March 1, 1990, due May 15, 1995, with interest payments on November 15 and May 15 (first payment on November 15, 1990), solve for the price per 100 (P) at a yield of 8.53%.

Definitions:

C = 8.50
i = .0853
n = 10
r = 75 (March 1 to May 15, 1990, which is the fractional portion of the first interest payment)
s = 181 (November 15, 1989, to May 15, 1990)
v = 1/(1+.0853/2), or .959095
$v^n = 1/(1+.0853/2)^{10}$, or .658589
$a_{n\rceil} = (1 - .658589)/.04265$, or 8.004947

Resolution:

$$P[1 + (r/s)(i/2)] = [(C/2)(r/s)]v + (C/2)\,a_{n\rceil} + 100\,v^n \quad \text{or}$$
$$P[1 + (75/181)(.0853/2)] = [(8.50/2)(75/181)].959095 + (8.50/2)(8.004947) + 100(.658589)$$

(1) $P[1 + .017673] = 1.689014 + 34.021025 + 65.8589$
(2) $P[1.017673] = 101.568939$
(3) $P = 101.568939 / 1.017673$
(4) $P = 99.805084$
(5) $P = 99.805$

D. *(1) For fixed-principal securities reopened during a regular interest period where the purchase price includes predetermined accrued interest.*

(2) *For new fixed-principal securities accruing interest from the coupon frequency date immediately preceding the issue date, with the interest rate established in the auction being used to determine the accrued interest payable on the issue date.*

Formula:

$$(P + A)[1 + (r/s)(i/2)] = C/2 + (C/2)\,a_{n\rceil} + 100\,v^n$$

Where: $A = [(s - r)/s](C/2)$

Example:

For a 9½% 10-year note with interest accruing from November 15, 1985, issued November 29, 1985, due November 15, 1995, and interest payments on May 15 and November 15, solve for the price per 100 (P) at a yield of 9.54%. Accrued interest is from November 15 to November 29 (14 days).

Definitions:

C = 9.50
i = .0954
n = 19
r = 167 (November 29, 1985, to May 15, 1986)
s = 181 (November 15, 1985, to May 15, 1986)
$v^n = 1/[(1 + .0954/2)]^{19}$, or .412570400
$a_{n\rceil} = (1 - .412570)/.0477$, or 12.315094
$A = [(181 - 167)/181](9.50/2)$, or .367403

Resolution:

$$(P+A)[1 + (r/s)(i/2)] = [(C/2) + (C/2)\ a_{n\rceil} + 100\ v^n \text{ or}$$

$$(P + .367403)[1 + (167/181)(.0954/2)] = (9.50/2)+(9.50/2)\ (12.315094)+100(.412570)$$

$$(1)\ (P + .367403)[1 + .044011] = 4.75 + 58.496697 + 41.2570$$

$$(2)\ (P + .367403)[1.044011] = 104.503697$$

$$(3)\ (P + .367403) = 104.503697 / 1.044011$$

$$(4)\ (P + .367403) = 100.098272$$

$$(5)\ P = 100.098272 - .367403$$

$$(6)\ P = 99.730869$$

$$(7)\ P = 99.731$$

E. *For fixed-principal securities reopened during the regular portion of a long first payment period:*

Formula:

$$(P + A)[1 + (r/s)(i/2)] = (r'/s'')(C/2) + C/2 + (C/2)\ a_{n\rceil} + 100\ v^n$$

Where:

A = AI′ + AI
AI′ = (r′/s″)(C/2)
AI = [(s − r)/s](C/2) and
r = number of days from the reopening date to the first interest payment date
s = number of days in the semiannual period for the regular portion of the first interest payment period
r′ = number of days in the fractional portion (or ''initial short period'') of the first interest payment period
s″ = number of days in the semiannual period ending with the commencement date of the regular portion of the first interest payment period

Example:

A 10¾% 19-year 9-month bond due August 15, 2005, is issued on July 2, 1985, and reopened on November 4, 1985, with interest payments on February 15 and August 15 (first payment on February 15, 1986), solve for the price per 100 (P) at a yield of 10.47%. Accrued interest is calculated from July 2 to November 4.

Definitions:

C = 10.75
i = .1047
n = 39
r = 103 (November 4, 1985, to February 15, 1986)
s = 184 (August 15, 1985, to February 15, 1986)
r′ = 44 (July 2 to August 15, 1985)
s″ = 181 (February 15 to August 15, 1985)
$v^n = 1/[(1 + .1047/2)]^{39}$, or .136695
$a^n\rceil = (1 - .136695)/.05235$, or 16.491022
AI′ = (44/181)(10.75 / 2), or 1.306630
AI = [(184 − 103)/184](10.75/2), or 2.366168
A = AI′ + AI, or 3.672798

Resolution:

$$(P + A)[1 + (r/s)(i/2)] = (r'/s'')(C/2) + C/2 + (C/2)\ a_{n\rceil} + 100\ v^n \quad \text{or}$$

$$(P + 3.672798)[1 + (103/184)(.1047/2)] = (44/181)(10.75/2) + 10.75/2 + (10.75/2)(16.491022) + 100(.136695)$$

$$(1)\ (P + 3.672798)[1 + .029305] = 1.306630 + 5.375 + 88.639243 + 13.6695$$
$$(2)\ (P + 3.672798)[1.029305] = 108.990373$$
$$(3)\ (P + 3.672798) = 108.990373 / 1.029305$$
$$(4)\ (P + 3.672798) = 105.887344$$
$$(5)\ P = 105.887344 - 3.672798$$
$$(6)\ P = 102.214546$$
$$(7)\ P = 102.215$$

F. *For fixed-principal securities reopened during a short first payment period:*

Formula:

$$(P + A)[1 + (r/s)(i/2)] = (r'/s)(C/2) + (C/2)\, a_{n\rceil} + 100\, v^n$$

Where:

A = [(r′ − r)/s](C/2) and

r′ = number of days from the original issue date to the first interest payment date

Example:

For a 10½% 8-year note due May 15, 1991, originally issued on May 16, 1983, and reopened on August 15, 1983, with interest payments on November 15 and May 15 (first payment on November 15, 1983), solve for the price per 100 (P) at a yield of 10.53%. Accrued interest is calculated from May 16 to August 15.

Definitions:

C = 10.50

i = .1053

n = 15

r = 92 (August 15, 1983, to November 15, 1983)

s = 184 (May 15, 1983, to November 15, 1983)

r′ = 183 (May 16, 1983, to November 15, 1983)

$v^n = 1/[(1 + .1053/2)]^{15}$, or .463170

$a_{n\rceil} = (1 — .463170)/.05265$, or 10.196201

A = [(183 − 92) / 184](10.50 / 2), or 2.596467

Resolution:

$$(P + A)[1 + (r/s)(i/2)] = (r'/s)(C/2) + (C/2)\, a_{n\rceil} + 100\, v^n \text{ or}$$

$$(P + 2.596467)[1+(92/184)(.1053/2)] = (183/184)(10.50/2) + (10.50/2)(10.196201) + 100(.463170)$$

$$(1)\ (P + 2.596467)[1 + .026325] = 5.221467 + 53.530055 + 46.3170$$

$$(2)\ (P + 2.596467)[1.026325] = 105.068522$$

$$(3)\ (P + 2.596467) = 105.068522 / 1.026325$$

$$(4)\ (P + 2.596467) = 102.373539$$

$$(5)\ P = 102.373539 - 2.596467$$

$$(6)\ P = 99.777072$$

$$(7)\ P = 99.777$$

G. *For fixed-principal securities reopened during the fractional portion (initial short period) of a long first payment period:*

Formula:

$$(P + A)[1 + (r/s)(i/2)] = [(r'/s)(C/2)]v + (C/2)\, a_{n\rceil} + 100\, v^n$$

Where:

A = [(r′ − r)/s](C/2) and

r = number of days from the reopening date to the end of the short period

r′ = number of days in the short period

s = number of days in the semiannual period ending with the end of the short period

Example:

For a 9¾% 6-year 2-month note due December 15, 1994, originally issued on October 15, 1988, and reopened on November 15, 1988, with interest payments on June 15 and December 15 (first payment on June 15, 1989), solve for the price per 100 (P) at a yield of 9.79%. Accrued interest is calculated from October 15 to November 15.

Definitions:

C = 9.75

i = .0979

n = 12

r = 30 (November 15, 1988, to December 15, 1988)

s = 183 (June 15, 1988, to December 15, 1988)

r′ = 61 (October 15, 1988, to December 15, 1988)

v = 1 / (1 + .0979/2), or .953334

$v^n = [1 / (1 + .0979/2)]^{12}$, or .563563

$a_{n\rceil} = (1 − .563563)/.04895$, or 8.915975

A = [(61—30)/183](9.75/2), or .825820

Resolution:

$$(P + A)[1 + (r/s)(i/2)] = [(r'/s)(C/2)]v + (C/2)\,a_{n\rceil} + 100\,v^n \quad \text{or}$$

$$(P + .825820)[1 + (30/183)(.0979/2)] = [(61/183)(9.75/2)](.953334) + (9.75/2)(8.915975) + 100(.563563)$$

$$(1)\ (P + .825820)[1 + .008025] = 1.549168 + 43.465378 + 56.3563$$

$$(2)\ (P + .825820)[1.008025] = 101.370846$$

$$(3)\ (P + .825820) = 101.370846 / 1.008025$$

$$(4)\ (P + .825820) = 100.563821$$

$$(5)\ P = 100.563821 - .825820$$

$$(6)\ P = 99.738001$$

$$(7)\ P = 99.738$$

III. Formulas for Conversion of Inflation-Protected Security Yields to Equivalent Prices

Definitions:

P = unadjusted or real price per 100 (dollars)

P_{adj} = inflation adjusted price; P × Index $Ratio_{Date}$

A = unadjusted accrued interest per $100 original principal

A_{adj} = inflation adjusted accrued interest; A × Index $Ratio_{Date}$

SA = settlement amount including accrued interest in current dollars per $100 original principal; $P_{adj} + A_{adj}$

r = days from settlement date to next coupon date

s = days in current semiannual period

i = real yield, expressed in decimals (*e.g.,* 0.0325)

C = real annual coupon, payable semiannually, in terms of real dollars paid on $100 initial, or real, principal of the security

n = number of full semiannual periods from issue date to maturity date, except that, if the issue date is a coupon frequency date, n will be one less than the number of full semiannual periods remaining until maturity. Coupon frequency dates are the two semiannual dates based on the maturity date of each note or bond issue. For example, a security maturing on July 15, 2026 would have coupon frequency dates of January 15 and July 15.

$v^n = 1/(1 + i/2)n$ = present value of 1 due at the end of n periods

$a_{n\rceil} = (1 - v^n)/(i/2) = v + v^2 + v^3 + * * * + v^n$ = present value of 1 per period for n periods

Date = valuation date

D = the number of days in the month in which Date falls

t = calendar day corresponding to Date

CPI = Consumer Price Index number

CPI_M = CPI reported for the calendar month M by the Bureau of Labor Statistics

Ref CPI_M = reference CPI for the first day of the calendar month in which Date falls, *e.g.,* Ref CPI_{April1} is the $CPI_{January}$

Ref CPI_{M+1} = reference CPI for the first day of the calendar month immediately following Date

Ref CPI_{Date} = Ref CPI_M + [(t − 1)/D][Ref CPI_{M+1} − Ref CPI_M]

Index $Ratio_{Date}$ = Ref CPI_{Date}/Ref $CPI_{IssueDate}$

A. *For inflation-protected securities with a regular first interest payment period:*

Formulas:

$$P = \frac{(C/2) + (C/2)a_{n\rceil} + 100v^n}{1 + (r/s)(i/2)} - [(s-r)/s](C/2)$$

$P_{adj} = P \times \text{Index } Ratio_{Date}$

$A = [(s - r)/s] \times (C/2)$

$A_{adj} = A \times \text{Index } Ratio_{Date}$

$SA = P_{adj} + A_{adj}$

Index $Ratio_{Date}$ = Ref CPI_{Date}/Ref $CPI_{IssueDate}$

Example:

We issued a 10-year inflation-protected note on January 15, 1999. The note was issued at a discount to yield 3.898% (real). The note bears a 3⅞% real coupon, payable on July 15 and January 15 of each year. The base CPI index applicable to this note is 164. (We normally derive this number using the interpolative process described in Appendix B, section I, paragraph B.)

Definitions:

C = 3.875

i = 0.03898

n = 19 (There are 20 full semiannual periods but n is reduced by 1 because the issue date is a coupon frequency date.)

r = 181 (January 15, 1999 to July 15, 1999)

s = 181 (January 15, 1999 to July 15, 1999)

Ref CPI_{Date} = 164

Ref $CPI_{IssueDate}$ = 164

Resolution:

$$\text{Index Ratio}_{Date} = \text{Ref CPI}_{Date}/\text{Ref CPI}_{IssueDate} = 164/164 = 1$$

$$A = [(181 - 181)/181] \times 3.875/2 = 0$$

$$A_{adj} = 0 \times 1 = 0$$

$$v^n = 1/(1 + i/2)^n = 1/(1 + .03898/2)^{19} = 0.69298457$$

$$a_{n\rceil} = (1-v^n)/(i/2) = (1-0.69298457)/(.03898/2) = 15.75245921$$

Formula:

$$P = \frac{(C/2) + (C/2)a_{n\rceil} + 100v^n}{1 + (r/s)(i/2)} - [(s-r)/s](C/2)$$

$$P = \frac{(3.875/2) + (3.875/2)(15.75245921) + 100(0.69298457)}{1 + (181/181)(0.03898/2)} - [(181-181)/181](3.875/2)$$

$$P = \frac{1.9375 + 30.52038972 + 69.298457}{1.01949000} - 0$$

$$P = \frac{101.75634672}{1.01949000}$$

P = 99.811030
P = 99.811
$P_{adj} = P \times \text{Index Ratio}_{Date}$
$P_{adj} = 99.811 \times 1 = 99.811$
$SA = P_{adj} + A_{adj}$
SA = 99.811 + 0 = 99.811

Note: For the real price (P), we have rounded to three places. These amounts are based on 100 par value.

B. (1) *For inflation-protected securities reopened during a regular interest period where the purchase price includes predetermined accrued interest.*

(2) *For new inflation-protected securities accruing interest from the coupon frequency date immediately preceding the issue date, with the interest rate established in the auction being used to determine the accrued interest payable on the issue date.*

Bidding: The dollar amount of each bid is in terms of the par amount. For example, if the Ref CPI applicable to the issue date of the note is 120, and the reference CPI applicable to the reopening issue date is 132, a bid of $10,000 will in effect be a bid of $10,000 × (132/120), or $11,000.

Formulas:

$$P = \frac{(C/2) + (C/2)a_{n\rceil} + 100v^n}{1 + (r/s)(i/2)} - [(s-r)/s](C/2)$$

$P_{adj} = P \times \text{Index Ratio}_{Date}$
$A = [(s-r)/s] \times (C/2)$
$A_{adj} = A \times \text{Index Ratio}_{Date}$
$SA = P_{adj} + A_{adj}$
$\text{Index Ratio}_{Date} = \text{Ref CPI}_{Date}/\text{Ref CPI}_{IssueDate}$

Example:

We issued a 3⅝% 10-year inflation-protected note on January 15, 1998, with interest payments on July 15 and January 15. For a reopening on October 15, 1998, with inflation compensation accruing from January 15, 1998 to October 15, 1998, and accrued interest accruing from July 15, 1998 to October 15, 1998 (92 days), solve for the price per 100 (P) at a real yield, as determined in the reopening auction, of 3.65%. The base index applicable to the issue date of this note is 161.55484 and the reference CPI applicable to October 15, 1998, is 163.29032.

Definitions:

C = 3.625
i = 0.0365
n = 18
r = 92 (October 15, 1998 to January 15, 1999)
s = 184 (July 15, 1998 to January 15, 1999)
Ref CPI_{Date} = 163.29032

Ref $CPI_{IssueDate}$ = 161.55484

Resolution:

$$\text{Index Ratio}_{Date} = \text{Ref CPI}_{Date}/\text{Ref CPI}_{IssueDate} = 163.29032/161.55484 = 1.01074$$

$$v^n = 1/(1 + i/2)^n = 1/(1 + .0365/2)^{18} = 0.72213844$$

$$a_{n\rceil} = (1-v^n)/(i/2) = (1-0.72213844)/(.0365/2) = 15.22529106$$

Formula:

$$P = \frac{(C/2) + (C/2)a_{n\rceil} + 100v^n}{1 + (r/s)(i/2)} - [(s-r)/s](C/2)$$

$$P = \frac{(3.625/2) + (3.625/2)(15.22529106) + 100(0.72213844)}{1 + (92/184)(0.0365/2)} - [(184-92)/184](3.625/2)$$

$$P = \frac{1.8125 + 27.59584005 + 72.213844}{1.009125} - (92/184)(1.8125)$$

$$P = \frac{101.62218405}{1.009125} - 0.906250$$

P = 100.703267 − 0.906250
P = 99.797017
P = 99.797
$P_{adj} = P \times \text{Index Ratio}_{Date}$
P_{adj} = 99.797 × 1.01074 = 100.8688
P_{adj} = 100.869
A = [(184 − 92)/184] × 3.625/2 = 0.906250
$A_{adj} = A \times \text{Index Ratio}_{Date}$
A_{adj} = 0.906250 x 1.01074 = 0.915983
$SA = P_{adj} + A_{adj}$ = 100.869 + 0.915983
SA = 101.784983

Note: For the real price (P), and the inflation-adjusted price (P_{adj}), we have rounded to three places. For accrued interest (A) and the adjusted accrued interest (A_{adj}), we have rounded to six places. These amounts are based on 100 par value.

IV. Computation of Adjusted Values and Payment Amounts for Stripped Inflation-Protected Interest Components

Note: Valuing an interest component stripped from an inflation-protected security at its adjusted value enables this interest component to be interchangeable (fungible) with other interest components that have the same maturity date, regardless of the underlying inflation-protected security from which the interest components were stripped. The adjusted value provides for fungibility of these various interest components when buying, selling, or transferring them or when reconstituting an inflation-protected security.

Definitions:

c = C/100 = the regular annual interest rate, payable semiannually, *e.g.*, .03625 (the decimal equivalent of a 3⅜% interest rate)
Par = par amount of the security to be stripped
Ref $CPI_{IssueDate}$ = reference CPI for the original issue date (or dated date, when the dated date is different from the original issue date) of the underlying (unstripped) security
Ref CPI_{Date} = reference CPI for the maturity date of the interest component
AV = adjusted value of the interest component
PA = payment amount at maturity by Treasury

Formulas:

$$AV = Par(C/2)(100/\text{Ref CPI}_{IssueDate}) \text{ (rounded to 2 decimals with no intermediate rounding)}$$

$$PA = AV(\text{Ref CPI}_{Date}/100) \text{ (rounded to 2 decimals with no intermediate rounding)}$$

Example:

A 10-year inflation-protected note paying 3⅞% interest was issued on January 15, 1999, with the second interest payment on January 15, 2000. The Ref CPI of January 15, 1999 (Ref $CPI_{IssueDate}$) was 164.00000, and the Ref CPI on January 15, 2000 (Ref CPI_{Date}) was 168.24516. Calculate the adjusted value and the payment amount at maturity of the interest component.

Definitions:

c = .03875
Par = $1,000,000
Ref $CPI_{IssueDate}$ = 164.00000
Ref CPI_{Date} = 168.24516

Resolution:

For a par amount of $1 million, the adjusted value of each stripped interest component

was $1,000,000(.03875/2)(100/164.00000), or $11,814.02 (no intermediate rounding). For an interest component that matured on January 15, 2000, the payment amount was $11,814.02 (168.24516/100), or $19,876.52 (no intermediate rounding).

V. Computation of Purchase Price, Discount Rate, and Investment Rate (Coupon-Equivalent Yield) for Treasury Bills

A. Conversion of the discount rate to a purchase price for Treasury bills of all maturities:

Formula:

$$P = 100 (1 - dr / 360)$$

Where:
d = discount rate, in decimals
r = number of days remaining to maturity
P = price per 100 (dollars)

Example:

For a bill issued November 24, 1989, due February 22, 1990, at a discount rate of 7.61%, solve for price per 100 (P).

Definitions:

d = .0761
r = 90 (November 24, 1989 to February 22, 1990)

Resolution:

$$P = 100 (1 - dr / 360)$$

$$(1)\ P = 100 [1 - (.0761)(90) / 360]$$

$$(2)\ P = 100 (1 - .019025)$$

$$(3)\ P = 100 (.980975)$$

$$(4)\ P = 98.0975$$

$$(5)\ P = 98.098$$

Note: Purchase prices per $100 are rounded to three decimal places, using normal rounding procedures.

B. *Computation of purchase prices and discount amounts based on price per $100, for Treasury bills of all maturities:*

1. To determine the purchase price of any bill, divide the par amount by 100 and multiply the resulting quotient by the price per $100.

Example:

To compute the purchase price of a $10,000 13-week bill sold at a price of $98.098 per $100, divide the par amount ($10,000) by 100 to obtain the multiple (100). That multiple times 98.098 results in a purchase price of $9,809.80.

2. To determine the discount amount for any bill, subtract the purchase price from the par amount of the bill.

Example:

For a $10,000 bill with a purchase price of $9,809.80, the discount amount would be $190.20, or $10,000—$9,809.80.

C. *Conversion of prices to discount rates for Treasury bills of all maturities:*

Formula:

$$d = \left[\frac{100-P}{100} \times \frac{360}{r} \right]$$

Where:
P = price per 100 (dollars)
d = discount rate
r = number of days remaining to maturity

Example:

For a 26-week bill issued December 30, 1982, due June 30, 1983, with a price of $95.930, solve for the discount rate (d).

Definitions:

P = 95.930
r = 182 (December 30, 1982, to June 30, 1983)

Resolution:

$$d = \left[\frac{100-P}{100} \times \frac{360}{r} \right]$$

$$(1)\ d = \left[\frac{100-95.930}{100} \times \frac{360}{182} \right]$$

$$(2)\ d = [.0407 \times 1.978022]$$

$$(3)\ d = .080506$$

$$(4)\ d = 8.051\%$$

Note: Prior to April 18, 1983, we sold all bills in price-basis auctions, in which discount rates calculated from prices were rounded to three places, using normal rounding procedures. Since that time, we have sold bills only on a discount rate basis. For regular Treasury bills—13-, 26-, and 52-week bills—discount rates bid were submitted with two decimals in increments of .01 percent, *e.g.*, 5.32, until 1997, when we instituted a change to three-decimal bidding in increments of .005 percent, *e.g.*, 5.320 or 5.325.

D. *Calculation of investment rate (coupon-equivalent yield) for Treasury bills:*

1. *For bills of not more than one half-year to maturity:*

Formula:

$$i = \left[\frac{100-P}{P} \times \frac{y}{r} \right]$$

Where:

i = investment rate, in decimals
P = price per 100 (dollars)
r = number of days remaining to maturity
y = number of days in year following the issue date; normally 365 but, if the year following the issue date includes February 29, then y is 366.

Example:

For a cash management bill issued June 1, 1990, due June 21, 1990, with a price of $99.559 (computed from a discount rate of 7.93%), solve for the investment rate (i).

Definitions:

P = 99.559
r = 20 (June 1, 1990, to June 21, 1990)
y = 365

Resolution:

$$i = \left[\frac{100-P}{P} \times \frac{y}{r} \right]$$

$$(1)\ i = \left[\frac{100-99.559}{99.559} \times \frac{365}{20} \right]$$

$$(2)\ i = [.004430 \times 18.25]$$

$$(3)\ i = .080848$$

$$(4)\ i = 8.08\%$$

2. For bills of more than one half-year to maturity:

Formula:

$$P\,[1 + (r - y/2)(i/y)]\,(1 + i/2) = 100$$

This formula must be solved by using the quadratic equation, which is:

$$ax^2 + bx + c = 0$$

Therefore, rewriting the bill formula in the quadratic equation form gives:

$$\left[\frac{r}{2y} - .25\right] i^2 + \left(\frac{r}{y}\right) i + \left(\frac{P-100}{P}\right) = 0$$

and solving for "i" produces:

$$i = \frac{-b + \sqrt{b^2 - 4ac}}{2a}$$

Where:
i = investment rate in decimals
b = r/y
a = (r/2y) − .25
c = (P − 100)/P
P = price per 100 (dollars)
r = number of days remaining to maturity
y = number of days in year following the issue date; normally 365, but if the year following the issue date includes February 29, then y is 366.

Example:
For a 52-week bill issued June 7, 1990, due June 6, 1991, with a price of $92.265 (computed from a discount rate of 7.65%), solve for the investment rate (i).

Definitions:
r = 364 (June 7, 1990, to June 6, 1991)
y = 365
P = 92.265
b = 364 / 365, or .997260
a = (364 / 730) − .25, or .24863
c = (92.265 − 100) / 92.265, or −.083835

Resolution:

$$i = \frac{-b + \sqrt{b^2 - 4ac}}{2a}$$

$$(1)\ i = \frac{-.997260 + \sqrt{(.997260)^2 - 4[(.24863)(-.083835)]}}{2(.248630)}$$

$$(2)\ i = \frac{-.997260 + \sqrt{.994528 + .083376}}{.497260}$$

$$(3)\ i = (-.997260 + 1.038222)/.497260$$

$$(4)\ i = .040962/.497260$$

$$(5)\ i = .082375 \text{ or}$$

$$(6)\ i = 8.24\%$$

Appendix C to Part 356—Investment Considerations

I. Inflation-Protected Securities

A. Principal and Interest Variability

An investment in securities with principal or interest determined by reference to an inflation index involves factors not associated with an investment in a fixed-principal security. Such factors include the possibility that:

- the inflation index may be subject to significant changes,
- changes in the index may or may not correlate to changes in interest rates generally or with changes in other indices,
- the resulting interest may be greater or less than that payable on other securities of similar maturities, and
- in the event of sustained deflation, the amount of the semiannual interest payments, the inflation-adjusted principal of the security, and the value of stripped components will decrease. However, if at maturity the inflation-adjusted principal is less than a security's par amount, we will pay an additional amount so that the additional amount plus the inflation-adjusted principal equals the par amount. Regardless of whether or not we pay such an additional amount, we

will always base interest payments on the inflation-adjusted principal as of the interest payment date. If a security has been stripped, we will pay any such additional amount at maturity to holders of principal components only. (*See* § 356.30)

B. Trading in the Secondary Market

The Treasury securities market is the largest and most liquid securities market in the world. The market for Treasury inflation-protected securities, however, may not be as active or liquid as the market for Treasury fixed-principal securities. In addition, Treasury inflation-protected securities may not be as widely traded or as well understood as Treasury fixed-principal securities. Lesser liquidity and fewer market participants may result in larger spreads between bid and asked prices for inflation-protected securities than the bid-asked spreads for fixed-principal securities with the same time to maturity. Larger bid-asked spreads normally result in higher transaction costs and/or lower overall returns. The liquidity of an inflation-protected security may be enhanced over time as we issue additional amounts or more entities participate in the market.

C. Tax Considerations

Treasury inflation-protected securities and the stripped interest and principal components of these securities are subject to specific tax rules provided by Treasury regulations issued under sections 1275(d) and 1286 of the Internal Revenue Code of 1986, as amended.

D. Indexing Issues

While the Consumer Price Index (''CPI'') measures changes in prices for goods and services, movements in the CPI that have occurred in the past do not necessarily indicate changes that may occur in the future.

The calculation of the index ratio incorporates an approximate three-month lag, which may have an impact on the trading price of the securities, particularly during periods of significant, rapid changes in the index.

The CPI is reported by the Bureau of Labor Statistics, a bureau within the Department of Labor. The Bureau of Labor Statistics operates independently of Treasury and, therefore, we have no control over the determination, calculation, or publication of the index. For a discussion of how we will apply the CPI in various situations, *see* Appendix B, Section I, Paragraph B. In addition, for a discussion of actions that we would take in the event the CPI is: discontinued; in the judgment of the Secretary, fundamentally altered in a manner materially adverse to the interests of an investor in the security; or, in the judgment of the Secretary, altered by legislation or Executive Order in a manner materially adverse to the interests of an investor in the security, *see* Appendix B, Section I, Paragraph B.4.

Appendix D to Part 356—Description of the Consumer Price Index

The Consumer Price Index (''CPI'') for purposes of inflation-protected securities is the non-seasonally adjusted *U.S. City Average All Items Consumer Price Index for All Urban Consumers.* It is published monthly by the Bureau of Labor Statistics (BLS), a bureau within the Department of Labor. The CPI is a measure of the average change in consumer prices over time in a fixed market basket of goods and services. This market basket includes food, clothing, shelter, fuels, transportation, charges for doctors' and dentists' services, and drugs.

In calculating the index, price changes for the various items are averaged together with weights that represent their importance in the spending of urban households in the United States. The BLS periodically updates the contents of the market basket of goods and services, and the weights assigned to the various items, to take into account changes in consumer expenditure patterns.

The CPI is expressed in relative terms in relation to a time base reference period for which the level is set at 100. For example, if the CPI for the 1982–84 reference period is 100.0, an increase of 16.5 percent from that period would be shown as 116.5. The CPI for a particular month is released and published during the following month. From time to time, the CPI is rebased to a more recent base reference period. We provide the base reference period for a particular inflation-protected security on the auction announcement for that security.

Further details about the CPI may be obtained by contacting the BLS.

Dated: December 9, 2003.

Donald V. Hammond,

Fiscal Assistant Secretary.

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Federal Register

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December 23, 2003

Part III

Federal Communications Commission

47 CFR Parts 2, 25, and 87
World Radiocommunication Conferences Concerning Frequency Bands Above 28 MHz; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 25, and 87

[ET Docket No. 02–305; FCC 03–269]

World Radiocommunication Conferences Concerning Frequency Bands Above 28 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends our rules to implement domestically various allocation decisions from several World Radiocommunication Conferences (''WRCs'') concerning the frequency bands between 28 MHz and 36 GHz, and to otherwise update our rules in this frequency range. The following actions are the most significant to non-Federal government operations: Implementation of generic mobile-satellite service (''MSS'') allocations in the bands 1525–1559 MHz and 1626.5–1660.5 MHz (''L-band''); allocation of the band 1164–1215 MHz to the radionavigation-satellite service (''RNSS''); deletion of unused and limited fixed-satellite service (''FSS'') and broadcasting-satellite service (''BSS'') allocations from the band 2500–2690 MHz; and upgrade of the Earth exploration-satellite service (''EESS'') allocation in the band 25.5–27 GHz from secondary to primary. In addition, at the request of the National Telecommunications and Information Administration (''NTIA''), we implement various allocation changes for the space science services and the inter-satellite service (''ISS''), most of which involve spectrum primarily used by the Federal government. These actions conform our rules to previous WRC decisions and are expected to provide significant benefits to the American public.

DATES: Effective January 22, 2004.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418–2452, TTY (202) 418–2989, e-mail *Rodney.Small@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* ET Docket No. 02–305, FCC 03–269, adopted October 31, 2003, and released November 4, 2003. The full text of this document is available on the Commission's Internet site at *www.fcc.gov.* It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Qualex International, Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 863–2893; fax (202) 863–2898; e-mail *qualexint@aol.com.*

Summary of the Report and Order

1. In the *R&O,* we provided for generic MSS allocations across all of the frequencies in the bands 1525–1559 MHz and 1626.5–1660.5 MHz. Specifically, we expanded the primary allocation in the bands 1545–1549.5 MHz, 1558.5–1559 MHz, 1646.5–1651 MHz, and 1660–1660.5 MHz from the aeronautical mobile-satellite (route) service (''AMS(R)S'') to all services within the MSS while preserving the status of AMS(R)S. The effect of this action is that the bands 1545–1559 MHz and 1646.5–1660.5 MHz will be made available to all types of MSS communications on a primary basis, rather than segmented for specialized use. This action permits more efficient use of this radio spectrum and facilitates the expansion of MSS use globally. In addition, we deleted the existing primary maritime mobile-satellite service (''MMSS'') and MSS allocations in the bands 1530–1544 MHz and 1626.5–1645.5 MHz, as they would now be superfluous. We also deleted the secondary allocation for aeronautical telemetry from the band 1525–1535 MHz to remove potentially conflicting allocations.

2. We allocate the band 1164–1215 MHz to the RNSS for space-to-Earth (''downlink'') and space-to-space transmissions in order to accommodate a new civil global positioning system (''GPS'') signal. This action permits the addition of GPS signal ''L5,'' which supports the safety-of-life requirements demanded by civil aviation. We also allocated the bands 1215–1240 MHz and 1559–1610 MHz, which are currently limited to RNSS downlinks, for RNSS space-to-space transmissions as well. This action allows use of spaceborne RNSS receivers for scientific and commercial applications.

3. We deleted the flight test and radiolocation allocations in the band 2320–2345 MHz because of the potential for conflict between these services and the Satellite Digital Audio Radio Service (''Satellite DARS''), which has been brought into operation in this band. We also deleted the unused FSS and BSS allocations from the band 2500–2690 MHz in order to remove allocations that are not compatible with two-way fixed and mobile operations that are operating and anticipated in the band.

4. We further implement domestically various allocation decisions from several WRCs concerning the space science services and the ISS. In this regard, we take the following actions:

- Revise secondary allocations for the Federal government EESS and the Federal government space research service (''SRS'') from secondary to primary status in 950 megahertz of spectrum in eight frequency bands and specify that these allocations are to be used for active sensor operations (''EESS (active)'' and ''SRS (active)''): 5250–5255 MHz, 5255–5350 MHz, 8550–8650 MHz, 9500–9800 MHz, 13.4–13.75 GHz, and 17.2–17.3 GHz.
- Modify the non-Federal government/Federal government shared allocations at 13.25–13.4 GHz and 35.6–36 GHz to provide flexibility for the Federal government to use 550 megahertz of additional spectrum for EESS (active) and SRS (active) on a primary basis, and change the primary footnote allocation for active spaceborne sensors in the band 35.5–35.6 GHz to a direct Table listing.
- Modify the non-Federal government/Federal government shared allocation at 5350–5460 MHz to provide flexibility for the Federal government to use 110 megahertz of additional spectrum for the EESS (active) on a primary basis.
- Modify the non-Federal government/Federal government shared allocation at 401–403 MHz to provide flexibility for the Federal government to use EESS uplinks and meteorological-satellite service (''METSAT'') uplinks on a primary basis.
- Modify the non-Federal government/Federal government shared allocation at 410–420 MHz to provide flexibility for the Federal government to use the SRS on a primary basis for space-to-space transmissions.
- Modify the non-Federal government/Federal government shared allocation at 7750–7850 MHz to provide flexibility for the Federal government to use METSAT downlinks on a primary basis, limited to non-geostationary satellite systems.
- Modify the non-Federal government/Federal government shared allocation at 8400–8450 MHz to provide flexibility for the non-Federal government to use SRS downlinks from deep space on a secondary basis.
- Modify the non-Federal government/Federal government shared allocation at 25.25–27.5 GHz to provide flexibility for the Federal government to use the ISS on a primary basis.
- Revise the EESS allocation from secondary to primary status in the band 25.5–27 GHz and change the directional

indicator from space-to-space to space-to-Earth.

5. In addition, we: (1) Delete the primary ISS shared allocation from the band 32–32.3 GHz; (2) delete the secondary AMS(R)S allocation from the band 136–137 MHz; (3) more than double the size of the geographic area in New Mexico and Texas where amateur stations in the band 420–450 MHz will be limited in power and where spread spectrum radiolocation systems in the sub-band 420–435 MHz should not expect to be accommodated; (4) modify our rules to reflect NTIA's recent action, which specified that Federal government wind profiler radars (''WPRs'') will operate in the sub-band 448–450 MHz; (5) permit U.S. flagged ships to use more spectrum-efficient equipment for on-board mobile radiotelephony communications in areas outside the territorial waters of the United States; (6) delete unused allocations for the International Fixed Public Radiocommunication Services (''IFPRS'') from the bands 2.1–2.2 GHz and 10.7–11.7 GHz; and (7) allocate the band 14–14.5 GHz to the MSS (Earth-to-space), which includes aeronautical mobile-satellite service (''AMSS''), on a secondary basis. We also make numerous ministerial amendments to part 2 of our rules.

Discussion

6. In response to various petitions for rulemaking, the Commission has addressed in a number of proceedings many allocation changes that resulted from the 1992 World Administrative Radio Conference (''WARC–92'') and the 1995 and 1997 World Radiocommunication Conferences (''WRC–95'' and ''WRC–97''). In the *Notice of Proposed Rule Making* (''NPRM''), 67 FR 75968, December 10, 2002, in this proceeding, the Commission turned to additional allocation changes from these conferences that have not previously been considered, including several changes sought mainly at the request of NTIA. The *NPRM* also addressed the RNSS allocation changes from the 2000 World Radiocommunication Conference (''WRC–2000''), a Petition for Rule Making filed by the Lockheed Martin Corporation (''Lockheed Martin'') requesting that the WRC–2000 RNSS allocations in the bands 1164–1215 MHz and 1559–1610 MHz be implemented domestically and that these frequency bands be added to part 25 of the Commission's Rules, and some non-WRC allocation issues that concern the frequency bands between 28 MHz and 36 GHz. These issues included downgrading the primary flight test and radiolocation allocations in the band 2320–2345 MHz to secondary status, deleting the limited BSS and FSS allocations from the band 2500–2690 MHz, deleting unused IFPRS allocations from the bands 2.1–2.2 GHz and 10.7–11.7 GHz, and making various ministerial amendments to clean up and update the rules.

A. Generic MSS at L-Band

7. *Proposals.* Domestically, the Commission has previously implemented generic MSS proposals in portions of the L-band. However, routine, non-safety related MSS public correspondence is currently precluded in the uppermost one megahertz of upper L-band spectrum (1558.5–1559 MHz and 1660–1660.5 MHz) and may be provided in nine megahertz of additional upper L-band spectrum only on a secondary basis (1545–1549.5 MHz and 1646.5–1651 MHz). Accordingly, the Commission proposed in the *NPRM* to expand the permitted primary services from AMS(R)S to all MSS in the bands 1545–1549.5 MHz, 1558.5–1559 MHz, 1646.5–1651 MHz, and 1660–1660.5 MHz.

8. In addition, the Commission proposed to take the following non-substantive, ''clean-up'' actions: (1) Delete the superfluous MMSS allocations from bands 1530–1544 MHz and 1626.5–1645.5 MHz, (2) delete the superfluous secondary MSS allocations from the bands 1545–1549.5 MHz and 1646.5–1651 MHz, and (3) delete the superfluous AMS(R)S allocations from the bands 1549.5–1558.5 MHz and 1651–1660 MHz. The effect of these proposals is that the band 1525–1559 MHz would be allocated for MSS downlinks on a primary basis and the band 1626.5–1660.5 MHz would be allocated for MSS uplinks on a primary basis.

9. The Commission proposed to maintain footnotes US308 and US315 concerning the priority to be afforded distress and safety communications, stating that it believed that these generic MSS allocations would provide MSV and others with maximum flexibility, without hindering the use of this spectrum for distress and safety communications. The Commission requested comment on whether footnote US308 should be modified or replaced by international footnotes 5.357A and 5.362A. The Commission also proposed to update part 25 of the rules by stating that the bands 1525–1559 MHz and 1626.5–1660.5 MHz are available for use by L-band MSS systems and that use of the bands 1544–1545 MHz and 1645.5–1646.5 MHz is limited to distress and safety communications.

10. The Commission also requested comment on whether the secondary mobile allocation, which is limited to aeronautical telemetry in the band 1525–1535 MHz, should be deleted in the United States Table of Frequency Allocations (''U.S. Table'') and on whether co-frequency transmissions from aircraft can cause harmful interference to the MSS. Consistent with this proposal, the Commission also proposed to revise footnote US78 to remove the frequency 1525.5 MHz, which can be used for both aircraft and spacecraft telemetry. The Commission further requested comment on whether the aeronautical telemetry operations in the band 1525–1535 MHz can be relocated to either the band 1435–1525 MHz or to the band 2310–2385 MHz.

11. *Decision.* We adopted the generic MSS allocation proposal for the bands 1525–1559 MHz/1626.5–1660.5 MHz set forth in the *NPRM,* deleting the secondary aeronautical telemetry allocation from the band 1525–1535 MHz and revising footnote US78 to remove the frequency 1525.5 MHz, and retaining footnotes US308 and US315. Commenters expressed strong support for a generic MSS allocation and deletion of the secondary aeronautical telemetry allocation, and we find that these changes will enhance flexibility and efficiency in the bands 1525–1559 MHz and 1626.5–1660.5 MHz. While there is a difference of opinion regarding the desirability of retaining footnotes US308 and US315, we concur with MSV that the advantages of retaining them outweigh the disadvantages. As noted by MSV, footnotes US308 and US315 are long-standing and replacement of them by international footnotes 5.357A and 5.362A, which have different language, would introduce confusion as to whether policy changes were being made. Further, § 25.136(d) and (e) of the Commission's rules set forth specific requirements for MSS mobile and land earth stations that satisfy the priority and preemption requirements of footnote US315. Regarding footnote US309, we concur with MSV that this footnote allows terrestrial stations in the AMS(R)S to operate in more of the band than international footnotes 5.357A and 5.362A, in order to supplement satellite-to-aircraft links in that service. The broader spectrum range allowed by US309 is more consistent with the Commission's decision to expand AMS(R)S use within a generic MSS allocation. Thus, we decline to modify US309, which we did not propose to change in the *NPRM.* Accordingly, we

are retaining footnotes US308, US315, and US309.

B. RNSS Allocations

12. *Proposals.* As requested by NTIA, the Commission proposed in the *NPRM* to adopt new footnote US385, which would allocate the band 1164–1189 MHz for RNSS downlink and space-to-space transmissions on a primary basis. It also proposed to add definitions of Differential Radionavigation Satellite Service (''Differential RNSS'') Station and Differential Global Positioning System (''DGPS'') Station to part 2 of the Commission's Rules, as follows:

Differential Radionavigation Satellite Service (Differential RNSS) Station. A station used for the transmission of differential correction data and related information (such as ionospheric data and RNSS satellite integrity information) as an augmentation to an RNSS system for the purpose of improved navigation accuracy.

Differential Global Positioning System (DGPS) Station. A differential RNSS station for specific augmentation of GPS.

13. Additionally, the Commission requested comment on whether the band 1164–1189 MHz should be added to a new footnote US343 that was proposed in WT Docket No. 01–289. This footnote would provide that DGPS stations may be authorized on a primary basis in the bands 108–117.975 MHz and 1559–1610 MHz for the specific purpose of transmitting DGPS information intended for aircraft navigation. The Commission further sought comment on whether it should allocate domestically the international RNSS allocation at 1189–1215 MHz, and in particular on whether this allocation is needed to support U.S. requirements. In the *NPRM*, the Commission observed that studies continue in the international process to determine the aggregate impact of multiple RNSS systems on incumbent aeronautical radionavigation service (''ARNS'') systems and that, given the safety-of-life aspects of these ARNS systems, the Commission did not anticipate adopting this additional allocation unless a need is demonstrated and studies are done that support such a move.

14. The *NPRM* also proposed to add a space-to-space directional indicator to the primary RNSS allocation in the bands 1215–1240 MHz and 1559–1610 MHz, which are currently limited to downlink transmissions, to recognize current and future use of spaceborne RNSS receivers for scientific and commercial applications. Finally, the *NPRM* declined to propose adding the RNSS L1 and L5 frequencies to § 25.202(a) of the Commission's Rules, as requested by the Lockheed Martin petition for rule making.

15. *Decision.* Since adoption of the NPRM in this docket, WRC–03 has taken certain decisions regarding RNSS that are relevant to issues raised in this proceeding. In particular, as noted by NTIA, WRC–03 has modified footnote 5.328A of the international Table of Allocations to clarify that all stations in the RNSS operating in the band 1164–1215 MHz shall operate in accordance with specified aggregate interference protection criteria for ARNS (-121.5 dB(W/m^2) in any 1 MHz band) and not claim protection from stations in the ARNS operating in the 960–1215 MHz band. Administrations operating RNSS stations in these bands are to cooperate to ensure that the protection criteria are satisfied. In the *NPRM* in this proceeding, we proposed to add a primary RNSS allocation in the band 1164–1189 MHz, and sought comment on whether we should extend the allocation to the band 1189–1215 MHz, noting in regard to the latter band that studies were underway in the international process to determine the aggregate impacts of multiple RNSS systems on incumbent ARNS systems. We stated that we would not anticipate adopting this additional allocation unless a need was demonstrated and studies completed. Although we did not propose pfd limits on RNSS systems, we did propose to adopt a new United States footnote that would require RNSS stations to not cause interference to, nor claim protection from, stations in the ARNS. Given the WRC–03 results and support on the record in this proceeding, we conclude that the RNSS allocation should extend from 1164–1215 MHz. This increased allocation will provide flexibility for potential future GPS implementation plans and facilitate cooperative efforts among administrations operating RNSS systems in these bands to protect ARNS systems. However, we concur with NTIA that a footnote—rather than a table—allocation for the new 1164–1215 MHz RNSS band is appropriate, and that this footnote should include language specifying that RNSS shall not cause harmful interference to ARNS. While Inmarsat Ventures plc (''Inmarsat'') contends that this language could be construed as an additional requirement or superfluous to the WRC–03 aggregate interference protection criteria, we find it appropriate as an interim measure. We intend to address how best to reference the WRC–03 protection criteria for ARNS, whether by adopting international footnote 5.328A or modifying our part 25 satellite service rules, when we initiate a proceeding to address WRC–03 implementation.

16. With regard to Lockheed Martin's recommendations that we expand the current GPS L2 spectrum at 1215–1240 MHz to 1215–1300 MHz and permit non-Federal government RNSS use of the band 1215–1300 MHz, we observe that the *NPRM* did not propose either of those changes and thus we have declined to consider these changes at this time. With regard to Lockheed Martin's recommendation that we add the international RNSS allocations at 1164–1215 MHz and 1559–1610 MHz to the part 25 list of frequency bands available for satellite services, we see no advantage to be gained by taking that action now. As the Commission stated in the *NPRM,* such action would be more appropriate in connection with development of service and licensing rules for the RNSS frequency bands, and following development of international technical criteria for operations in these bands. We will explore all of these issues when we consider the WRC–03 protection criteria for ARNS in the WRC–03 implementation proceeding.

17. With regard to Inmarsat's recommendation that we not adopt the proposed definitions of Differential RNSS and DGPS stations, we disagree with Inmarsat that these definitions create ambiguity or confusion between them and any current definition in either our rules or in the ITU rules. The definitions are simply informational. As we observed in the *NPRM,* differential RNSS correction data and related information is transmitted in a data link and sometimes is not within the RNSS. These definitions clarify that this information augments the RNSS system and improves navigation accuracy. Accordingly, we are adding the proposed definitions of Differential RNSS and DGPS stations to part 2 of the rules.

18. Finally, with regard to Inmarsat's comments on whether the band 1164–1189 MHz should be added to proposed footnote US343, we note that this footnote was proposed in the *Notice of Proposed Rule Making* in WT Docket No. 01–289, which is still pending. We do not wish to prejudge whether proposed US343 will be adopted in that proceeding; hence, we will defer consideration of the possible addition of the band 1164–1189 MHz to proposed US343 to *the Report and Order* in WT Docket No. 01–289.

C. Satellite DARS and Adjacent Bands

19. *Proposals.* In the *NPRM,* the Commission proposed to revise footnote US328 to permit flight testing

operations to continue on a secondary basis in the band 2320–2345 MHz. The Commission also proposed to delete the radiolocation service from footnote US328 because there are no non-Federal government radiolocation operations in the Satellite DARS band and because the Federal government already has a secondary direct Table allocation for this service. It further proposed to delete the requirement that Satellite DARS licensees take cognizance of the launch vehicle frequency 2332.5 MHz because satellite DARS systems have been implemented. In addition, the Commission requested comment on whether all secondary operations should be deleted from this band in order to protect Satellite DARS operations. It proposed to amend § 87.303(d)(1) to state that frequencies in the band 2310–2360 MHz may be assigned on a secondary basis for telemetry and telecommand operations associated with the flight testing of manned or unmanned aircraft and missiles, or their major component, and proposed to delete the launch vehicle frequency 2332.5 MHz from § 87.303(d)(1). The Commission also proposed to add cross-references in the U.S. Table to part 25, Satellite Communications, in the band 2320–2345 MHz, and to part 87, Aviation Services, in the band 2310–2390 MHz. Finally, the *NPRM* proposed to delete footnote 5.396 from the band 2310–2360 MHz from the Federal Government Table because that footnote pertains to the broadcasting-satellite service, which is not regulated by NTIA; and to delete footnote US338 from the band 2310–2320 MHz because that footnote does not pertain to that band. These combined actions were designed to clarify use of the band 2310–2390 MHz and to permit the new satellite DARS service to operate in an interference-free environment in the band 2320–2345 MHz.

20. *Decision.* We are adopting the proposals pertaining to the band 2310–2390 MHz set forth in the *NPRM,* except that we are deleting the mobile service allocation from band 2320–2345 MHz in the U.S. Table and are deleting footnotes US276 and US328, which limit uses under the mobile allocation, from that band. The comments of the Aerospace and Flight Test Radio Coordinating Council and the Boeing Company (''Boeing'') convince us that there is no need to maintain a secondary aeronautical telemetry allocation in the band 2320–2345 MHz because such an allocation would be unusable due to potential interference from new Satellite DARS operations. Because footnote US276 currently limits the use of the mobile service in the band 2320–2385 MHz to aeronautical telemetry, this United States footnote is retained but henceforth will apply only to the band 2360–2385 MHz. In contrast, footnote US328, which applies only to the band 2320–2345 MHz, is deleted in its entirety. In all other respects, we adopt the proposals for the band 2310–2390 MHz set forth in the *NPRM.* This action will eliminate possible interference to Satellite DARS operations, as well as remove confusion regarding use of the band 2310–2390 MHz.

D. ITFS/MDS Band

21. *Proposals.* In the *NPRM,* the Commission stated its belief that FSS and BSS operations in the band 2500–2690 MHz could affect the reliability of point-to-multipoint channels and low-power consumer response channels in that band and noted that service rules for advanced mobile operations may also be implemented in that band in the future. Therefore, the Commission proposed to delete the unused and limited FSS and BSS allocations from the band 2500–2690 MHz in order to remove regulatory uncertainty. Consistent with its proposal to delete these allocations, the Commission also proposed to delete footnotes NG101 and NG102, which limit the use of the allocations. In addition, it proposed to delete footnote NG47 so as to make the band 2655–2690 MHz available for ITFS/MDS use in Alaska.

22. *Decision.* We are adopting the proposals pertaining to the band 2500–2690 MHz set forth in the *NPRM.* No party objects to the proposal to delete the FSS allocation in that band, and only AirTV Limited (''AirTV'') objects to the proposal to delete the BSS allocation in that band. We make no finding on the potential benefits of AirTV's proposed based Direct-to-Aircraft entertainment and e-mail system in the band 2535–2670 MHz. However, we find that such a system would increase costs for terrestrial services due to the need to mitigate interference caused by AirTV's system. We concur with Boeing that the World Trade Organization agreement does not apply to AirTV's system and thus the U.S. may limit new satellite authorizations when faced with potential interference issues with incumbent operations. We concur with the Wireless Communications Association International, Inc. that AirTV has not met the burden of demonstrating that its system will not cause interference to terrestrial services that use the band 2520–2670 MHz. Accordingly, as proposed in the *NPRM,* we are deleting the FSS and BSS allocations from the band 2500–2690 MHz and are deleting footnotes NG47, NG101, and NG102.

E. Space Science Services

23. *Proposals.* With respect to active spaceborne sensors, in the *NPRM* the Commission proposed, in response to a request from NTIA, to allocate the bands 1215–1300 MHz, 3100–3300 MHz, 5255–5350 MHz, 8550–8650 MHz, 9500–9800 MHz, 13.25–13.4 GHz, 17.2–17.3 GHz, and 35.5–36 GHz to the EESS (active) and SRS (active); the bands 5250–5255 MHz and 13.4–13.75 GHz to the EESS (active) and SRS; and the band 5350–5460 MHz to the EESS (active). These allocation changes would implement WRC–97 allocation changes for the space science services. For the Federal Government Table, the Commission proposed that all of these active spaceborne sensor allocations have primary status, except in the band 3100–3300 MHz, where the sensors would continue to have secondary status. For the non-Federal Government Table, the Commission proposed that all of these allocations have secondary status. At the request of NTIA, the Commission also proposed to add five international footnotes to the U.S. Table to ensure that active spaceborne sensors not cause harmful interference to, nor constrain the use and development of, incumbent primary services in the bands 1215–1300 MHz, 5350–5460 MHz, and 13.25–13.75 GHz. Finally, and also at the request of NTIA, the Commission proposed to add two international footnotes to the U.S. Table to ensure that primary SRS allocations in the bands 5250–5255 MHz and 13.4–13.75 GHz are limited to active spaceborne sensors and that other space research users are on a secondary basis. Consistent with these proposals, the Commission proposed to delete from the U.S. Table international footnotes 5.333 and 5.551, which provide the current secondary active spaceborne sensor allocations, and also proposed to delete the secondary allocation for the SRS (Earth-to-space) in the band 13.25–13.4 GHz.

24. With respect to other space science services, in the band 401–403 MHz the Commission proposed in the *NPRM,* in response to a request from NTIA, to upgrade the secondary EESS and METSAT allocations to primary status for Federal government use and to limit non-Federal government use of these allocations to earth stations transmitting to Federal government space stations. The Commission requested comment on whether non-Federal government use of these allocations should be limited to earth

stations transmitting to Federal government space stations. The Commission proposed to allocate the band 410–420 MHz to the SRS (space-to-space) on a primary basis for Federal government use and to limit its use, through the application of footnote 5.268, to permit communications among astronauts and their base spacecraft while those astronauts are performing activities outside the base spacecraft. In the band 7750–7850 MHz, the Commission proposed an allocation for Federal government METSAT downlink use, limited to NGSO satellites, as requested by NTIA. In the band 8400–8450 MHz, the Commission proposed an allocation for Deep Space downlinks on a secondary basis, to permit non-Federal government entities, such as educational institutions, to perform scientific research in cooperation with the National Aeronautics and Space Administration (''NASA''). In the 32 GHz band range, the Commission proposed to delete the unused ISS allocation from the band 32–32.3 GHz in order to protect deep space reception at Goldstone, California, and proposed to move the text of an international footnote into a U.S. footnote to reflect the anticipated prohibition on use of the band 32–32.3 GHz by the ISS. Finally, in the 34 GHz frequency range, the Commission proposed to move the SRS (deep space) (Earth-to-space) allocation at 34.2–34.7 GHz from a U.S. footnote into the U.S. Table as a direct Table allocation, with Federal government use on a primary basis and with non-Federal government use on a secondary basis; and proposed to move the Goldstone site restriction in that same band from footnote US252 to US262.

25. *Decision.* We are adopting the proposals to provide a primary Federal government allocation and a secondary non-Federal government allocation for EESS (active) and SRS (active) in the band 1215–1260 MHz. With regard to Lockheed Martin's concerns that a primary allocation for EESS (active) and SRS (active) would pose a threat of harmful interference to domestic and global RNSS, we disagree. First, we are adding international footnote 5.332, which states that, for the band 1215–1260 MHz, active spaceborne sensors in the EESS and SRS shall not cause harmful interference to, claim protection from, or otherwise impose constraints on operation or development of the radiolocation service, the RNSS and other services allocated on a primary basis. Second, we observe that the international frequency table already contains primary allocations for RNSS, EESS (active) and SRS (active) in the band 1215–1300 MHz. Thus, if the U.S., in the future, decides to add a primary RNSS allocation to the 1260–1300 MHz band, such a decision would be consistent with the existing international allocation. Any appropriate sharing criteria can be worked out at that time. With regard to Medtronic Inc.''s recommendation that non-Federal government use of the EESS and METSAT allocations in the band 401–403 MHz be limited to earth stations transmitting to Federal government space stations, no party supports permitting earth stations to transmit to non-Federal government space stations in this band and we did not propose such use. Accordingly, we decline to permit that use.

F. The Band 25.25–27.5 GHz

26. *Proposals.* In the *NPRM,* the Commission noted that there are currently no FCC licensees using the secondary EESS allocation in the band 25.25–27.5 GHz and proposed to: (1) generally reflect changes previously made to the Federal government Table in the *NTIA Manual,* including adopting a primary ISS allocation in that band and changing the directional indicator for the secondary EESS allocation in the sub-band 25.5–27 GHz from space-to-space to space-to-Earth; (2) correspondingly change the directional indicator for the secondary non-Federal government EESS allocation in that sub-band; (3) upgrade the Federal government EESS allocation in that sub-band to primary status; and (4) delete the remainder of the secondary EESS allocation (25.25–25.5 GHz and 27–27.5 GHz).

27. *Decision.* We are adopting the proposals pertaining to the band 25.25–27.5 GHz set forth in the *NPRM,* except that we are maintaining, rather than deleting, the secondary non-Federal government allocation for the EESS (space-to-space) in that band. We take the latter action to allow flexibility for both space-to-space and space-to-Earth operations by Federal and non-Federal government users in that band. With respect to DigitalGlobe Inc.''s and Space Imaging, LLC's concerns about non-Federal government EESS systems, we find that these two companies have presented evidence that the non-Federal government, as well as the Federal government, EESS allocation in the sub-band 25.5–27 GHz band should be upgraded to primary status, but we conclude that we have insufficient basis to upgrade that allocation at this time. The *NPRM* did not propose to upgrade the non-Federal government allocation, and ''based on the limited record in this proceeding ''we are unable to conclusively determine whether Federal government fixed, mobile, ISS, and EESS users of the sub-band 25.5–27 GHz would be adversely affected by this upgrade. Accordingly, we decline to take that action at this time. However, we plan to explore in the WRC–03 implementation proceeding referenced in paragraph 24, of the R&O, whether that change could be made without adversely impacting Federal government users of that sub-band. In the interim, because non-Federal government EESS providers will use that sub-band on a secondary basis to Federal government users, it is incumbent that EESS applicants coordinate their proposed operations with NTIA in order to protect those users. Accordingly, we are adopting the changes for the band 25.25–27.5 GHz proposed in the *NPRM,* except for maintaining the secondary non-Federal government allocation for the EESS (space-to-space) in that band.

G. Other Allocation Issues

(1) Secondary AMS(R)S Allocation in the Band 136–137 MHz

28. *Proposals.* The *NPRM* proposed a footnote change in the U.S. Table in order to delete the unused AMS(R)S allocation from the band 136–137 MHz. In addition, the *NPRM* proposed a footnote change to remove the expired transition plan for METSAT use of the band 136–137 MHz.

29. *Decision.* No party commented on the proposals pertaining to the band 136–137 MHz set forth in the *NPRM.* We are adopting these proposals. This action will bring the U.S. Table in the band 136–137 MHz into conformance with the band's use by the AM(R)S, remove the potentially conflicting AMS(R)S secondary allocation, and remove the expired transition plan for METSAT use of the band.

(2) The Band 420–450 MHz

30. *Proposals.* In the *NPRM,* the Commission, in response to a request from NTIA on behalf of the U.S. Army, proposed to modify footnotes to the U.S. Table to more than double the combined size of the geographical area in Texas and New Mexico where the maximum transmitter power that amateur radio stations may use in the band 420–450 MHz would generally be limited to 50 watts PEP, rather than the usual limit of 1.5 kW PEP. In its request to the Commission, NTIA states that this geographical area must be extended to prevent interference from amateur radio operations to a New Mexico missile test range. NTIA cites Army concerns that amateur operations in this area present an interference threat to missiles

launched at Fort Wingate, NM, aimed at the airspace over White Sands Missile Range, NM, because there is now a Department of Defense test and evaluation center that uses areas west and south of Albuquerque, NM. Also in response to a request from NTIA, the Commission stated that it intended to place an informational footnote in its Rules pertaining to Federal government wind profiler radar (''WPR'') radiolocation use of the sub-band 448–450 MHz. Finally, the *NPRM* requested comment on whether non-Federal government WPRs should also be allowed in that sub-band on either a primary or secondary basis and on the impact of WPRs on non-Federal government operations permitted in that sub-band.

31. *Decision.* We are adopting the proposals pertaining to the band 420–450 MHz set forth in the *NPRM.* With regard to the recommendation of ARRL, the National Association for Amateur Radio (''ARRL''), that the Commission establish an expedited method of processing amateur radio license requests in cases where amateurs are able to reach agreements with military area frequency coordinators, we note that our license processing procedures are not subject to rulemaking; however, we always seek to process applications as expeditiously as possible. With regard to the concern of Douglas Hanz—an amateur radio licensee—that amateur radio stations be permitted to use 110 watts PEP in that band with a restriction of 6dBi antenna gain, inclusive of transmission line loss, we observe that there already is a procedure by which amateur licensees can use powers greater than 50 watts; *i.e.*, by reaching agreement with a military area frequency coordinator. As indicated in NTIA's correspondence to us of August 2002, the Army finds that the area in Texas and New Mexico where amateur transmitter power in the band must be limited should be expanded to protect missile testing and evaluation at a test range in New Mexico. Accordingly, we are adopting our proposal to modify footnotes to the U.S. Table to expand the area in Texas and New Mexico where the maximum transmitter power that amateur radio stations may use in the band 420–450 MHz would generally be limited to 50 watts PEP. With regard to permitting non-Federal government WPR use of the sub-band 448–450 MHz, only ARRL commented, and it is strongly opposed. Because no one expresses an interest in such non-Federal use, we will not permit non-Federal government WPR use in the 448–450 MHz sub-band.

(3) On-Board Mobile Radiotelephony Communications

32. *Proposals.* In the *NPRM,* the Commission proposed to replace international footnote 669 with footnote 5.287 in the U.S. Table for the band 456–470 MHz. The effect of this proposal would be to permit U.S. licensees to use maritime mobile equipment that is more spectrum-efficient and that has access to ten instead of six channels for on-board communications in areas outside U.S. territorial waters.

33. *Decision.* No party commented on our proposal to replace international footnote 669 with footnote 5.287 in the U.S. Table for the band 456–470 MHz, thereby revising the frequency use provision for on-board mobile radiotelephony maritime communications. Accordingly we are adopting this proposal. This action will permit more efficient maritime mobile equipment to be employed outside U.S. territorial waters.

(4) IFPRS Use in the Bands 2.1–2.2 GHz and 10.7–11.7 GHz

34. *Proposals.* In the *NPRM,* the Commission, in order to remove regulations that are no longer needed, proposed to delete footnote NG23, which pertains to the band 2100–2200 MHz, and to revise footnote NG41 to remove the band 10.7–11.7 GHz because there are no longer any IFPRS licensees operating in either of these bands. The Commission also proposed to delete all cross-references to part 23, except for C-band, from column 6 of the Table of Frequency Allocations.

35. *Decision.* We are adopting the proposals pertaining to the IRPRS set forth in the *NPRM,* but are rejecting the recommendation of the PanAmSat Corporation (''PanAmSat'') to prohibit new C-band IFPRS facilities. There is no opposition to the proposals relating to the IFPRS; however, PanAmSat recommends that we take additional action. While we concur with PanAmSat that new IFPRS facilities are unlikely to be required in C-band, we do not want to foreclose the opportunity for additional use of this service in remote island areas if it is required. Further, we have not given interested parties sufficient notice in this proceeding to prohibit such facilities. Additionally, there would be no significant administrative advantage of such a prohibition, as C-band IFPRS rules must be retained for existing facilities. Accordingly, we deny PanAmSat's request.

(5) Secondary MSS Use of the Band 14–14.5 GHz

36. *Proposals.* In the *NPRM,* the Commission observed that LMSS operates on the band 14–14.5 GHz in the United States on a secondary basis without causing harmful interference to ubiquitously deployed VSATs and that other nations have implemented MMSS uplinks in the band 14–14.5 GHz on a secondary basis. The Commission also observed that it agreed with the *U.S. WRC–97 Proposals* that using the same or similar terminals to offer MMSS services in the band 14–14.5 GHz should be compatible with other services in this band, especially since the LMSS allocation has been successfully used in the United States for some time. Accordingly, the Commission proposed in the *NPRM* to allocate the band 14–14.5 GHz to the MSS (Earth-to-space) except AMSS on a secondary basis for non-Federal government use.

37. *Decision.* We are allocating the band 14–14.5 GHz to the MSS, including AMSS (Earth-to-space), for non-Federal government use on a secondary basis. There is no opposition to this allocation. Consistent with the comments of Boeing regarding AMSS, we believe that such use of the band appears to be technically feasible and would be helpful in meeting the growing demand for two-way broadband data and communications capabilities for commercial aircraft passengers and crew. Further, WRC–03 added a worldwide secondary AMSS allocation in this band. We find that conforming the U.S. Table to this recent international allocation is desirable because it will facilitate an important new use of the 14–14.5 GHz band on a non-interference basis to other uses of the band. We further find that no party need be adversely impacted by this action. However, we note that the SRS has a secondary allocation in a portion of this band and NASA uses that allocation as a downlink for its Tracking and Data Relay Satellite System (''TDRSS''). Further, the National Science Foundation (''NSF'') operates radio astronomy services (''RAS'') in the band 14.47–14.50 GHz in accordance with footnote US203 and Radio Astronomy is allocated on a secondary basis internationally. Therefore, users of AMSS will need to deal with protection of radio astronomy. We also note that a number of administrations have specified specific protection requirements for radio astronomy. In December 2001, we issued Boeing a license to operate mobile earth stations aboard aircraft in the 14–14.5 GHz band

and imposed several conditions on that license, including the conditions that Boeing not constrain deployment of additional government stations operated by NASA in the SRS and that Boeing design and operate its system in accordance with its Technical Operational Coordination Agreement with NSF to facilitate the protection of RAS. Boeing must continue to operate in accordance with the conditions that we imposed on its license and thus must continue to protect the TDRSS and RAS operations in the 14–14.5 GHz band. Further, in accordance with a Memorandum of Understanding (''MOU'') that we reached with NTIA in July 2002, we will protect those operations from interference by any future AMSS operations that we authorize in that band. Until we adopt final rules relating to allocation changes in the 14–14.5 GHz band or licensing of AMSS terminals in that band, we will place the following conditions on any additional system authorizations that we may issue in that band for a service similar to Boeing's:

(1) The system shall be designed and operated so as not to cause harmful interference to TDRSS or RAS operations in the United States; and

(2) The system shall not constrain future deployment of additional Federal Earth Stations in the SRS and RAS authorized pursuant to existing allocations.

Because RAS operations in the band 14.47–14.5 GHz operate on an unprotected basis domestically, we will maintain the protection of RAS as articulated in the conditions specified above. However, we note that the Commission may explore in a future rulemaking the protection levels or mechanism necessary to protect these services. The NTIA/FCC MOU states that ''[t]he FCC will endeavor to reflect in its decisions conditions and constraints that explicitly protect NASA, NSF and other government operations (*i.e.*, ITU–R Recommendation RA. 769 for Radio Astronomy and ITU–R Recommendations S.A. 5.10, S.A. 1017, S.A. 1155, S.A. 1414, M. AMSS for TDRSS earth stations, and Boeing's Technical Operational Coordination Agreement with NSF, dated 13 December 2001, and the letter of guidance provided to Boeing by NASA, dated December 18, 2001.''

38. Lastly, as noted in paragraph 55, of the R&O, government fixed and mobile services are allocated on a secondary basis in the band 14.4–14.5 GHz. Protection criteria for these government terrestrial operations may need to be developed in conjunction with AMSS service rules in the 14–14.5 GHz band.

39. Accordingly, we are allocating the 14–14.5 GHz band to all MSS uses on a secondary basis to the primary FSS in that band, as well as on a secondary basis to the primary radionavigation service in the 14–14.2 GHz sub-band. Finally, with regard to PanAmSat's concern about MMSS, we observe that such use of the band 14–14.5 GHz—like other MSS use of this band—will be on a secondary basis to FSS, and we find no need to further restrict how MMSS should operate in the band.

H. Ministerial Amendments

40. *Proposals.* In the *NPRM,* the Commission proposed to make a number of ministerial amendments to part 2 of the Commission's rules. First, to eliminate both confusion and outdated provisions, the Commission proposed to:

(1) Replace international footnotes 599A, 608A, 608B, and 647B in the ''Little LEO'' bands of the U.S. Table with footnotes 5.208, 5.219, 5.220, and 5.264, respectively, which are non-substantive changes;

(2) Merge footnote US322 into US320, that is, add the bands 149.9–150.05 MHz and 399.9–400.05 MHz to footnote US320, and delete superfluous footnotes US322 and 599B from the U.S. Table;

(3) Delete expired footnote US318 from the band 137–138 MHz and the part 25 cross reference from the band 136–137 MHz; and

(4) Delete expired text from section 25.202(a)(3), which concerns the allocation status of certain of the Little LEO bands.

41. Second, the Commission observed that, in WT Docket No. 01–289, it proposed to delete the Civil Air Patrol (''CAP'') from part 87 of the rules because the Commission has no formal relationship with the CAP, which is authorized by the U.S. Air Force and NTIA. To be consistent with that proposal, in the *NPRM* the Commission proposed to delete footnote US10, which states that several frequencies in the band 138–144 MHz are available for use by the CAP.

42. Third, the Commission proposed to delete international footnote 510 from the band 144–146 MHz in the non-Federal Government Table. This footnote, through its reference of Resolution 640, invited administrations to provide for the needs of international disaster communications and for the needs of emergency communications using certain amateur bands.

43. Fourth, the Commission proposed to revise footnote US48 to remove provisions regarding the band 5350–5460 MHz that are already provided elsewhere in the Table. That is, there is already a primary direct Table allocation for Federal government radiolocation and a secondary direct Table allocation for non-Federal government radiolocation in the band 5350–5460 MHz for this purpose.

44. Fifth, the Commission proposed to revise footnote US110 to remove provisions regarding certain bands that are already shown in the Table. That is, there are primary direct Table allocations for Federal government radiolocation and secondary direct Table allocations for non-Federal government radiolocation in all of the bands listed in footnote US110, except for the band 9200–9300 MHz, which is allocated to both the Federal and non-Federal government radiolocation service on a secondary basis.

45. Sixth, the Commission proposed to revise footnote US310 to specify the pfd limits for all angles of arrival. Currently US310 specifies only the maximum and minimum pfd limits and references CCIR Recommendation 510–1, which has been renumbered as Recommendation ITU–R SA.510–2, for the specific requirements.

46. Seventh, the Commission proposed to add a reference to footnote NG167 in the band 17.3–17.7 GHz to explicitly tie the allocation for the broadcasting-satellite service in the band 17.3–17.7 GHz to its feeder link allocation in the band 24.75–25.25 GHz.

47. Eighth, the Commission proposed to make the following changes to the rule part cross-references in column 6 of the Table of Frequency Allocations:

(1) Delete part 87, the Aviation Services, from the band 29.8–30 MHz and add part 87 to the bands 72–73 MHz, 74.6–74.8 MHz, and 156.2475–157.0375 MHz;

(2) Add part 90, the Private Land Mobile Radio Services, to the band 410–420 MHz;

(3) Add part 80, the Maritime Services, to the band 1525–1535 MHz; and

(4) Add part 25, Satellite Communications, to the band 1660–1660.5 MHz.

48. Ninth, the Commission proposed to make the following changes to eliminate outdated requirements or correct typographical errors:

(1) Clarify in footnote US217 that spread spectrum radiolocation systems may be authorized for Federal and non-Federal government use in the sub-band 420–435 MHz within Alaska and the contiguous 48 states and correct several typographical errors;

(2) Correct a typographical error in footnote US316 by changing the

NEXRAD expansion band from 2900–3100 MHz to 2900–3000 MHz;

(3) Delete the references to footnote NG30 in the band 806–894 MHz and to footnote NG43 in the band 806–849 MHz from the non-Federal Government Table because these footnotes have previously been deleted, but were not fully removed from the non-Federal Government Table;

(4) Delete footnote NG63 because the Commission's licensing files show that there are no television broadcast translator stations still authorized to operate in the band 806–890 MHz (old TV channels 70–83); and

(5) Delete footnote US54 because Federal government radiolocation systems that could cause harmful interference to ARNS have had at least since 1961 to move to other frequency bands.

49. Tenth, the Commission proposed to replace the reference to international footnote 5.149 with footnote US342 in the U.S. Table for several frequency bands and proposed to add two additional bands to the text of that footnote. In addition, it proposed to delete footnote 5.149 from the band 1660.5–1668.4 MHz, and proposed to revise US342 by deleting the indication showing which frequency bands are used for spectral line observations. The Commission also requested comment on whether US342 could be revised to state that licensees are ''urged,'' (similar to footnote 5.149) instead of ''required'' to take all practicable steps to protect the radio astronomy service (''RAS'') from harmful interference.

50. Finally, the Commission observed that the band 73–74.6 MHz is allocated exclusively to the RAS, which is a passive service, and that passive bands are listed in footnote US246. Accordingly, it proposed to add the band 73–74.6 MHz to US246.

51. *Decision.* No party commented on any of the proposals pertaining to ministerial amendments to part 2 of the Commission's rules set forth in the *NPRM.* We are adopting these proposals, to enhance the accuracy of the U.S. Table. In addition, on our own motion, we are making nine additional ministerial changes. We are merging the bands 698–746 MHz and 746–764 MHz as the band 698–764 MHz because the allocations in these bands are exactly the same and thus, this action simplifies our Table. We are deleting the band 34.2–34.7 GHz from footnote US252 because the SRS allocation for this band has been made a direct Table allocation. We are deleting the obsolete list of coordinated observatories from footnote US277 and are instead cross referencing the list of observatories in footnote US355. We are correcting footnote US355 in order to use the proper symbols for degree, minute, and second. We remove the ''S'' reference in footnote US303 to make the cross-reference to ITU Radio Regulation No. 21.16 consistent with current practice. We are updating footnote NG114 to refer to the Public Mobile Service, not the Domestic Public Service, which no longer exists. At the request of NTIA, we are adding footnote 5.391, which prohibits high-density mobile systems, to the band 2200–2290 MHz, which is Federal government exclusive band. We are adding cross reference to the Aviation Services (part 87) in the bands 2310–2320 MHz and 2345–2385 MHz. We also remove those footnotes to the Table of Frequency Allocations that are no longer in effect because they have been suppressed in the *ITU Radio Regulations.* These additional ministerial actions will update and otherwise remove errors from the U.S. Table.

Final Regulatory Flexibility Certification

52. The Regulatory Flexibility Act of 1980, as amended (''RFA'') requires that a final regulatory analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that the ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA'').

53. The Report and Order amends parts 2, 25, and 87 of our rules in order to implement domestically various allocation decisions from several World Radiocommunication Conferences concerning the frequency bands between 28 MHz and 36 GHz and to otherwise update our rules in this frequency range. These allocations mainly affect Federal agencies. Those allocations that are most significant to non-Federal government operations are: (1) Implementing generic L-band MSS allocations; (2) allocating the band 1164–1189 MHz to the RNSS; and (3) deleting unused and limited FSS and BSS allocations from the band 2500–2690 MHz. Concerning L-band MSS, currently there is only one U.S. licensee. Concerning the RNSS allocation, only one or at most a few large companies are expected to be able to launch and maintain RNSS systems, which are expensive. The last action merely deletes unused allocations, with no direct effect on licensees or regulatees.

54. We have determined that the rules adopted in this R&O will not have a significant economic impact on a substantial number of small entities. Accordingly, we hereby certify that this R&O will not have a significant economic impact on a substantial number of small entities. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this R&O, including this certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clauses

55. Pursuant to sections 1, 4, 301, 302(a), 303, 307, 309, 316, 332, 334, and 336 of the Communications Act of 1934, as amended, 47 U.S.C. sections 151, 154, 301, 302(a), 303, 307, 309, 316, 332, 334, and 336, the Report and Order and final rules are adopted.

56. The late-filed comments of DigitalGlobe, Inc. to the *Notice of Proposed Rule Making* in this proceeding are accepted.

57. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

58. This proceeding is terminated.

List of Subjects

47 CFR Part 2

Communications equipment, Radio.

47 CFR Part 25

Commmunications equipment, Satellites.

47 CFR Part 87

Air transportation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 2, 25, and 87 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. Section 2.1 is amended by adding the following definitions in alphabetic order:

§ 2.1 Terms and definitions.

* * * * *

Differential Global Positioning System (DGPS) Station. A differential RNSS station for specific augmentation of GPS.

Differential Radionavigation Satellite Service (Differential RNSS) Station. A station used for the transmission of differential correction data and related information (such as ionospheric data and RNSS satellite integrity information) as an augmentation to an RNSS system for the purpose of improved navigation accuracy.

* * * * *

■ 3. Section 2.106 is amended as follows:

■ a. Revise pages 22 through 75 of the Table.

■ b. In the list of International Footnotes under heading I, remove footnotes 5.120, 5.148, 5.333, and 5.551; add footnotes 5.457A, 5.457B, 5.504A, 5.504B, 5.504C, 5.506A, 5.506B, 5.508A, and 5.509A; and revise footnotes 5.505 and 5.508.

■ c. In the list of International Footnotes under heading II, remove footnotes 591, 599A, 599B, 608A, 608B, 647B, 669, and 792A.

■ d. In the list of United States (US) Footnotes, revise US7, US48, US78, US110, US217, US244, US246, US252, US258, US262, US276, US277, US278, US303, US310, US316, US320, US342, and US355; remove US10, US54, US228, US269, US318, US322, and US328; and add footnotes US384, US385, and US386.

■ e. In the list of Non-Federal Government (NG) Footnotes, remove NG23, NG47, NG63, NG101, and NG102; and revise NG41 and NG114.

■ f. In the list of Federal Government (G) Footnotes, revise footnote G2 and add footnote G129.

The revisions and additions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

BILLING CODE 6712–01–P

28-33 MHz (HF/VHF)

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
28-29.7 AMATEUR AMATEUR-SATELLITE			28-29.89	28-29.7 AMATEUR AMATEUR-SATELLITE US340	Amateur (97)
29.7-30.005 FIXED MOBILE				29.7-29.8 LAND MOBILE US340	Private Land Mobile (90)
			US340	29.8-29.89 FIXED US340	
			29.89-29.91 FIXED MOBILE US340	29.89-29.91 US340	
			29.91-30 US340	29.91-30 FIXED US340	
30.005-30.01 SPACE OPERATION (satellite identification) FIXED MOBILE SPACE RESEARCH			30-30.56 FIXED MOBILE	30-30.56	
30.01-37.5 FIXED MOBILE			30.56-32	30.56-32 FIXED LAND MOBILE NG124	Private Land Mobile (90)
			32-33 FIXED MOBILE	32-33	
			See next page for 33-37.5 MHz		See next page for 33-37.5 MHz

33-50 MHz (VHF)					Page 23
International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 30.01-37.5 MHz			33-34	33-34 FIXED LAND MOBILE NG124	Private Land Mobile (90)
			34-35 FIXED MOBILE	34-35	
			35-36	35-36 FIXED LAND MOBILE	Public Mobile (22) Private Land Mobile (90)
			36-37 FIXED MOBILE US220	36-37 US220	
			37-37.5	37-37.5 LAND MOBILE NG124	Private Land Mobile (90)
37.5-38.25 FIXED MOBILE Radio astronomy			37.5-38 Radio astronomy US342	37.5-38 LAND MOBILE Radio astronomy US342 NG59 NG124	
5.149			38-38.25 FIXED MOBILE RADIO ASTRONOMY US81 US342	38-38.25 RADIO ASTRONOMY US81 US342	
38.25-39.986 FIXED MOBILE			38.25-39 FIXED MOBILE	38.25-39	
			39-40	39-40 LAND MOBILE NG124	Private Land Mobile (90)
39.986-40.02 FIXED MOBILE Space research			40-42 FIXED MOBILE	40-40.98	ISM Equipment (18) Private Land Mobile (90)

40.02-40.98 FIXED MOBILE 5.150				5.150 US210	
40.98-41.015 FIXED MOBILE Space research 5.160 5.161				40.98-42	
41.015-44 FIXED MOBILE			5.150 US210 US220	US220	
			42-46.6	42-43.69 FIXED LAND MOBILE NG124 NG141	Public Mobile (22) Private Land Mobile (90)
5.160 5.161				43.69-46.6 LAND MOBILE NG124 NG141	Private Land Mobile (90)
44-47 FIXED MOBILE 5.162 5.162A			46.6-47 FIXED MOBILE	46.6-47	
47-68 BROADCASTING	47-50 FIXED MOBILE	47-50 FIXED MOBILE BROADCASTING 5.162A	47-49.6	47-49.6 LAND MOBILE NG124	Private Land Mobile (90)
			49.6-50 FIXED MOBILE	49.6-50	
5.162A 5.163 5.164 5.165 5.169 5.171	See next page for 50-68 MHz		See next page for 50-73 MHz	See next page for 50-72 MHz	See next page for 50-72 MHz

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 47-68 MHz	50-54 AMATEUR 5.162A 5.166 5.167 5.168 5.170		50-73	50-54 AMATEUR	Amateur (97)
	54-68 BROADCASTING Fixed Mobile 5.172	54-68 FIXED MOBILE BROADCASTING 5.162A		54-72 BROADCASTING NG115 NG128 NG149	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
68-74.8 FIXED MOBILE except aeronautical mobile	68-72 BROADCASTING Fixed Mobile 5.173	68-74.8 FIXED MOBILE			
	72-73 FIXED MOBILE			72-73 FIXED MOBILE NG3 NG49 NG56	Public Mobile (22) Aviation (87) Private Land Mobile (90) Personal Radio (95)
	73-74.6 RADIO ASTRONOMY 5.178		73-74.6 RADIO ASTRONOMY US74 US246		
5.149 5.174 5.175 5.177 5.179	74.6-74.8 FIXED MOBILE	5.149 5.176 5.179	74.6-74.8 FIXED MOBILE US273		Aviation (87) Private Land Mobile (90)
74.8-75.2 AERONAUTICAL RADIONAVIGATION 5.180 5.181			74.8-75.2 AERONAUTICAL RADIONAVIGATION 5.180		Aviation (87)
75.2-87.5 FIXED MOBILE except aeronautical mobile	75.2-75.4 FIXED MOBILE 5.179		75.2-75.4 FIXED MOBILE US273		Private Land Mobile (90)

	75.4-76 FIXED MOBILE	75.4-87 FIXED MOBILE	75.4-88	75.4-76 FIXED MOBILE NG3 NG49 NG56	Public Mobile (22) Private Land Mobile (90) Personal Radio (95)
	76-88 BROADCASTING Fixed Mobile	5.182 5.183 5.188 87-100 FIXED MOBILE BROADCASTING		76-88 BROADCASTING NG128 NG129 NG149	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
5.175 5.179 5.184 5.187	5.185				
87.5-100 BROADCASTING	88-100 BROADCASTING		88-108	88-108 BROADCASTING	Broadcast Radio (FM) (73) Auxiliary Broadcasting (74)
5.190					
100-108 BROADCASTING					
5.192 5.194			US93	US93 NG2 NG128 NG129	
108-117.975 AERONAUTICAL RADIONAVIGATION			108-117.975 AERONAUTICAL RADIONAVIGATION		Aviation (87)
5.197 5.197A			US93 US343		
117.975-137 AERONAUTICAL MOBILE (R)			117.975-121.9375 AERONAUTICAL MOBILE (R)		
			5.111 5.198 5.199 5.200 US26 US28		
			121.9375-123.0875	121.9375-123.0875 AERONAUTICAL MOBILE	
			5.198 US30 US31 US33 US80 US102 US213	5.198 US30 US31 US33 US80 US102 US213	
			123.0875-123.5875 AERONAUTICAL MOBILE		
			5.198 5.200 US32 US33 US112		
5.111 5.198 5.199 5.200 5.201 5.202 5.203 5.203A 5.203B			See next page for 123.5875-137 MHz		See next page for 123.5875-137 MHz

123.5875-148 MHz (VHF) Page 27

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 117.975-137 MHz			123.5875-128.8125 AERONAUTICAL MOBILE (R) 5.198 US26		Aviation (87)
			128.8125-132.0125 5.198	128.8125-132.0125 AERONAUTICAL MOBILE (R) 5.198	
			132.0125-136 AERONAUTICAL MOBILE (R) 5.198 US26		
			136-137 US244	136-137 AERONAUTICAL MOBILE (R) US244	
137-137.025 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.209 SPACE RESEARCH (space-to-Earth) Fixed Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			137-137.025 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US319 US320 SPACE RESEARCH (space-to-Earth) 5.208		Satellite Communications (25)
137.025-137.175 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Fixed Mobile-satellite (space-to-Earth) 5.208A 5.209 Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			137.025-137.175 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Mobile-satellite (space-to-Earth) US319 US320 5.208		
137.175-137.825 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.209 SPACE RESEARCH (space-to-Earth) Fixed			137.175-137.825 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US319 US320 SPACE RESEARCH (space-to-Earth)		

Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			5.208		
137.825-138 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Fixed Mobile-satellite (space-to-Earth) 5.208A 5.209 Mobile except aeronautical mobile (R) 5.204 5.205 5.206 5.207 5.208			137.825-138 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) Mobile-satellite (space-to-Earth) US319 US320 5.208		
138-143.6 AERONAUTICAL MOBILE (OR) 5.210 5.211 5.212 5.214	138-143.6 FIXED MOBILE RADIOLOCATION Space research (space-to-Earth)	138-143.6 FIXED MOBILE Space research (space-to-Earth) 5.207 5.213	138-144 FIXED MOBILE	138-144	
143.6-143.65 AERONAUTICAL MOBILE (OR) SPACE RESEARCH (space-to-Earth) 5.211 5.212 5.214	143.6-143.65 FIXED MOBILE RADIOLOCATION SPACE RESEARCH (space-to-Earth)	143.6-143.65 FIXED MOBILE SPACE RESEARCH (space-to-Earth) 5.207 5.213			
143.65-144 AERONAUTICAL MOBILE (OR) 5.210 5.211 5.212 5.214	143.65-144 FIXED MOBILE RADIOLOCATION Space research (space-to-Earth)	143.65-144 FIXED MOBILE Space research (space-to-Earth) 5.207 5.213	G30		
144-146 AMATEUR AMATEUR-SATELLITE 5.216			144-148	144-146 AMATEUR AMATEUR-SATELLITE	Amateur (97)
146-148 FIXED MOBILE except aeronautical mobile (R)	146-148 AMATEUR 5.217	146-148 AMATEUR FIXED MOBILE 5.217		146-148 AMATEUR	

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
148-149.9 FIXED MOBILE except aeronautical mobile (R) MOBILE-SATELLITE (Earth-to-space) 5.209 5.218 5.219 5.221	148-149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.209 5.218 5.219 5.221		148-149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) US319 US320 US323 US325 5.218 5.219 G30	148-149.9 MOBILE-SATELLITE (Earth-to-space) US319 US320 US323 US325 5.218 5.219	Satellite Communications (25)
149.9-150.05 MOBILE-SATELLITE (Earth-to-space) 5.209 5.224A RADIONAVIGATION-SATELLITE 5.224B 5.220 5.222 5.223			149.9-150.05 MOBILE-SATELLITE (Earth-to-space) US319 US320 RADIONAVIGATION-SATELLITE 5.223		
150.05-153 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149	150.05-156.7625 FIXED MOBILE		150.05-150.8 FIXED MOBILE US216 G30	150.05-150.8 US216	
			150.8-152.855 US216	150.8-152.855 FIXED LAND MOBILE NG112 US216 NG4 NG51 NG124	Public Mobile (22) Private Land Mobile (90) Personal Radio (95)
153-154 FIXED MOBILE except aeronautical mobile (R) Meteorological aids			152.855-154	152.855-154 LAND MOBILE NG4 NG124	Auxiliary Broadcasting (74) Private Land Mobile (90)
154-156.7625 FIXED MOBILE except aeronautical mobile (R) 5.226 5.227			154-156.2475 5.226	154-156.2475 FIXED LAND MOBILE NG112 5.226 NG117 NG124 NG148	Maritime (80) Private Land Mobile (90) Personal Radio (95)
	5.225 5.226 5.227		156.2475-157.0375	156.2475-157.0375 MARITIME MOBILE	Aviation (87)

156.7625-156.8375 MARITIME MOBILE (distress and calling) 5.111 5.226		5.226 5.227 US77 US106 US107 US266	5.226 5.227 US77 US106 US107 US266 NG117	
156.8375-174 FIXED MOBILE except aeronautical mobile	156.8375-174 FIXED MOBILE	157.0375-157.1875 MARITIME MOBILE 5.226 US214 US266 G109	157.0375-157.1875 5.226 US214 US266	Private Land Mobile (90)
		157.1875-157.45 5.226 US223 US266	157.1875-157.45 LAND MOBILE MARITIME MOBILE 5.226 US223 US266 NG111	Maritime (80) Private Land Mobile (90)
		157.45-161.575 5.226 US266	157.45-161.575 FIXED LAND MOBILE 5.226 US266 NG6 NG28 NG70 NG111 NG112 NG124 NG148 NG155	Public Mobile (22) Maritime (80) Private Land Mobile (90)
		161.575-161.625 5.226 US77	161.575-161.625 MARITIME MOBILE 5.226 US77 NG6 NG17	Public Mobile (22) Maritime (80)
		161.625-161.775 5.226	161.625-161.775 LAND MOBILE 5.226 NG6	Public Mobile (22) Auxiliary Broadcasting (74)
		161.775-162.0125 5.226 US266	161.775-162.0125 LAND MOBILE MARITIME MOBILE 5.226 US266 NG6	Public Mobile (22) Maritime (80) Private Land Mobile (90)
5.226 5.229	5.226 5.230 5.231 5.232	See next page for 162.0125-174 MHz		See next page for 162.0125-174 MHz

162.0125-322 MHz (VHF/UHF)					Page 31
International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 156.8375-174 MHz			162.0125-173.2 FIXED US13 MOBILE 5.226 US8 US11 US216 US223 US300 US312 G5	162.0125-173.2 5.226 US8 US11 US13 US216 US223 US300 US312	Auxiliary Broadcasting (74) Private Land Mobile (90)
			173.2-173.4	173.2-173.4 FIXED Land mobile	Private Land Mobile (90)
			173.4-174 FIXED MOBILE G5	173.4-174	
174-223 BROADCASTING	174-216 BROADCASTING Fixed Mobile 5.234	174-223 FIXED MOBILE BROADCASTING	174-216	174-216 BROADCASTING NG115 NG128 NG149	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
	216-220 FIXED MARITIME MOBILE Radiolocation 5.241 5.242		216-220 Fixed Mobile Radiolocation 5.241 G2 US210 US229	216-220 FIXED MOBILE except aeronautical mobile US210 US229 NG152 NG173	Maritime (80) Private Land Mobile (90) Personal Radio (95) Amateur (97)
	220-225 AMATEUR FIXED MOBILE Radiolocation 5.241		220-222 FIXED LAND MOBILE Radiolocation 5.241 G2 US335	220-222 FIXED LAND MOBILE US335	Private Land Mobile (90)
5.235 5.237 5.243		5.233 5.238 5.240 5.245	222-225 Radiolocation 5.241 G2	222-225 AMATEUR	Amateur (97)

223-230 BROADCASTING Fixed Mobile 5.243 5.246 5.247	225-235 FIXED MOBILE	223-230 FIXED MOBILE BROADCASTING AERONAUTICAL RADIONAVIGATION Radiolocation 5.250	225-235 FIXED MOBILE	225-235	
230-235 FIXED MOBILE 5.247 5.251 5.252		230-235 FIXED MOBILE AERONAUTICAL RADIONAVIGATION 5.250	G27		
235-267 FIXED MOBILE 5.111 5.199 5.252 5.254 5.256			235-267 FIXED MOBILE 5.111 5.199 5.256 G27 G100	235-267 5.111 5.199 5.256	
267-272 FIXED MOBILE Space operation (space-to-Earth) 5.254 5.257			267-322 FIXED MOBILE	267-322	
272-273 SPACE OPERATION (space-to-Earth) FIXED MOBILE 5.254					
273-312 FIXED MOBILE 5.254					
312-315 FIXED MOBILE Mobile-satellite (Earth-to-space) 5.254 5.255					
315-322 FIXED MOBILE 5.254			G27 G100		

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
322-328.6 FIXED MOBILE RADIO ASTRONOMY 5.149			322-328.6 FIXED MOBILE US342 G27	322-328.6 US342	
328.6-335.4 AERONAUTICAL RADIONAVIGATION 5.258 5.259			328.6-335.4 AERONAUTICAL RADIONAVIGATION 5.258		
335.4-387 FIXED MOBILE 5.254			335.4-399.9 FIXED MOBILE	335.4-399.9	
387-390 FIXED MOBILE Mobile-satellite (space-to-Earth) 5.208A 5.254 5.255					
390-399.9 FIXED MOBILE 5.254			G27 G100		
399.9-400.05 MOBILE-SATELLITE (Earth-to-space) 5.209 5.224A RADIONAVIGATION-SATELLITE 5.222 5.224B 5.260 5.220			399.9-400.05 MOBILE-SATELLITE (Earth-to-space) US319 US320 RADIONAVIGATION-SATELLITE 5.260		
400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE (400.1 MHz) 5.261 5.262			400.05-400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE (400.1 MHz) 5.261		
400.15-401 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.208A 5.209 SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth)			400.15-401 METEOROLOGICAL AIDS (radiosonde) US70 METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) US319 US320 US324	400.15-401 METEOROLOGICAL AIDS (radiosonde) US70 MOBILE-SATELLITE (space-to-Earth) US319 US320 US324 SPACE RESEARCH (space-to-Earth) 5.263	Satellite Communications (25)

	SPACE RESEARCH (space-to-Earth) 5.263 Space operation (space-to-Earth)	Space operation (space-to-Earth)	
5.262 5.264	5.264	5.264	
401-402 METEOROLOGICAL AIDS SPACE OPERATION (space-to-Earth) EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile	401-402 METEOROLOGICAL AIDS (radiosonde) US70 SPACE OPERATION (space-to-Earth) EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space)	401-402 METEOROLOGICAL AIDS (radiosonde) US70 SPACE OPERATION (space-to-Earth) Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space)	
	US384	US384	
402-403 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Fixed Mobile except aeronautical mobile	402-403 METEOROLOGICAL AIDS (radiosonde) US70 EARTH EXPLORATION-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space)	402-403 METEOROLOGICAL AIDS (radiosonde) US70 Earth exploration-satellite (Earth-to-space) Meteorological-satellite (Earth-to-space)	Personal Radio (95)
	US345 US384	US345 US384	
403-406 METEOROLOGICAL AIDS Fixed Mobile except aeronautical mobile	403-406 METEOROLOGICAL AIDS (radiosonde) US70	403-406 METEOROLOGICAL AIDS (radiosonde) US70	
	US345 G6	US345	
406-406.1 MOBILE-SATELLITE (Earth-to-space)	406-406.1 MOBILE-SATELLITE (Earth-to-space)		
5.266 5.267	5.266 5.267		
406.1-410 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY	406.1-410 FIXED US13 MOBILE RADIO ASTRONOMY US74	406.1-410 RADIO ASTRONOMY US74	
5.149	US117 G5 G6	US13 US117	

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
410-420 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (space-to-space) 5.268			410-420 FIXED US13 MOBILE SPACE RESEARCH (space-to-space) 5.268 G5	410-420 US13	Private Land Mobile (90)
420-430 FIXED MOBILE except aeronautical mobile Radiolocation 5.269 5.270 5.271			420-450 RADIOLOCATION US217 G2 G129	420-450 Amateur US7 NG135	Private Land Mobile (90) Amateur (97)
430-440 AMATEUR RADIOLOCATION 5.138 5.271 5.272 5.273 5.274 5.275 5.276 5.277 5.280 5.281 5.282 5.283	430-440 RADIOLOCATION Amateur 5.271 5.276 5.277 5.278 5.279 5.281 5.282				
440-450 FIXED MOBILE except aeronautical mobile Radiolocation 5.269 5.270 5.271 5.284 5.285 5.286			5.286 US7 US87 US230 G8	5.282 5.286 US87 US217 US230	
450-455 FIXED MOBILE 5.209 5.271 5.286 5.286A 5.286B 5.286C 5.286D 5.286E			450-454 5.286 US87	450-454 LAND MOBILE 5.286 US87 NG112 NG124	Auxiliary Broadcasting (74) Private Land Mobile (90)
			454-456	454-455 FIXED LAND MOBILE NG12 NG112 NG148	Public Mobile (22) Maritime (80)
455-456 FIXED MOBILE 5.209 5.271 5.286A 5.286B 5.286C 5.286E	455-456 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.286A 5.286B 5.286C 5.209	455-456 FIXED MOBILE 5.209 5.271 5.286A 5.286B 5.286C 5.286E		455-456 LAND MOBILE	Auxiliary Broadcasting (74)

456-459 FIXED MOBILE 5.271 5.287 5.288			456-460	456-460 FIXED LAND MOBILE	Public Mobile (22) Maritime (80) Private Land Mobile (90)
459-460 FIXED MOBILE 5.209 5.271 5.286A 5.286B 5.286C 5.286E	459-460 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.286A 5.286B 5.286C 5.209	459-460 FIXED MOBILE 5.209 5.271 5.286A 5.286B 5.286C 5.286E	5.287 5.288	5.287 5.288 NG112 NG124 NG148	
460-470 FIXED MOBILE Meteorological-satellite (space-to-Earth) 5.287 5.288 5.289 5.290			460-470 Meteorological-satellite (space-to-Earth) 5.287 5.288 5.289 US201 US209 US216	460-462.5375 FIXED LAND MOBILE 5.289 US201 US209 NG124	Private Land Mobile (90)
				462.5375-462.7375 LAND MOBILE 5.289 US201	Personal Radio (95)
				462.7375-467.5375 FIXED LAND MOBILE 5.287 5.289 US201 US209 US216 NG124	Private Land Mobile (90)
				467.5375-467.7375 LAND MOBILE 5.287 5.289 US201	Personal Radio (95)
				467.7375-470 FIXED LAND MOBILE 5.288 5.289 US201 US216 NG124	Private Land Mobile (90)

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
470-790 BROADCASTING	470-512 BROADCASTING Fixed Mobile 5.292 5.293	470-585 FIXED MOBILE BROADCASTING 5.291 5.298	470-608	470-512 FIXED NG127 LAND MOBILE NG66 BROADCASTING NG149 NG114 NG115 NG128	Public Mobile (22) Broadcast Radio (TV) (73) Auxiliary Broadcasting (74) Private Land Mobile (90)
	512-608 BROADCASTING 5.297	585-610 FIXED MOBILE BROADCASTING RADIONAVIGATION 5.149 5.305 5.306 5.307		512-608 BROADCASTING NG149 NG115 NG128	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
	608-614 RADIO ASTRONOMY Mobile-satellite except aeronautical mobile-satellite (Earth-to-space)	610-890 FIXED MOBILE 5.317A BROADCASTING	608-614 RADIO ASTRONOMY US74 LAND MOBILE US350 US246		Personal (95)
	614-806 BROADCASTING Fixed Mobile		614-890	614-698 BROADCASTING NG149 NG115 NG128	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
				698-764 FIXED MOBILE BROADCASTING NG159 NG115 NG128	Wireless Communications (27) Broadcast Radio (TV) (73) Auxiliary Broadcasting (74) Private Land Mobile (90)
				764-776 FIXED MOBILE NG115 NG128 NG158 NG159	Auxiliary Broadcasting (74) Private Land Mobile (90)

5.149 5.291A 5.294 5.296 5.300 5.302 5.304 5.306 5.311 5.312				776-794 FIXED MOBILE BROADCASTING NG115 NG128 NG159	Wireless Communications (27) Broadcast Radio (TV) (73) Auxiliary Broadcast. (74) Private Land Mobile (90)
790-862 FIXED BROADCASTING	5.293 5.309 5.311			794-806 FIXED MOBILE NG115 NG128 NG158 NG159	Auxiliary Broadcasting (74) Private Land Mobile (90)
	806-890 FIXED MOBILE BROADCASTING			806-821 FIXED LAND MOBILE NG31	Public Mobile (22) Private Land Mobile (90)
				821-824 LAND MOBILE	Private Land Mobile (90)
				824-849 FIXED LAND MOBILE NG151	Public Mobile (22)
5.312 5.314 5.315 5.316 5.319 5.321					
See next page for 862-890 MHz	5.317 5.318	5.149 5.305 5.306 5.307 5.311 5.320		See next page for 849-894 MHz	See next page for 866-896 MHz

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous pages for 470-862 MHz	See previous pages for 614-890 MHz	See previous pages for 585-890 MHz	See previous pages for 614-890 MHz	See previous pages for 614-849 MHz	See previous pages for 614-849 MHz
				849-851 AERONAUTICAL MOBILE	Public Mobile (22)
				851-866 FIXED LAND MOBILE NG31	Public Mobile (22) Private Land Mobile (90)
862-890 FIXED MOBILE except aeronautical mobile BROADCASTING 5.322 5.319 5.323				866-869 LAND MOBILE	Private Land Mobile (90)
				869-894 FIXED LAND MOBILE US116 US268 NG151	Public Mobile (22)
890-942 FIXED MOBILE except aeronautical mobile 5.317A BROADCASTING 5.322 Radiolocation	890-902 FIXED MOBILE except aeronautical mobile 5.317A Radiolocation	890-942 FIXED MOBILE 5.317A BROADCASTING Radiolocation	890-902	894-896 AERONAUTICAL MOBILE US116 US268	
				896-901 FIXED LAND MOBILE US116 US268	Private Land Mobile (90)
				901-902 FIXED MOBILE US116 US268	Personal Communications (24)
	5.318 5.325		US116 US268 G2		

	902-928 FIXED Amateur Mobile except aeronautical mobile 5.325A Radiolocation 5.150 5.325 5.326		902-928 RADIOLOCATION G59 5.150 US215 US218 US267 US275 G11	902-928 5.150 US215 US218 US267 US275	ISM Equipment (18) Private Land Mobile (90) Amateur (97)
	928-942 FIXED MOBILE except aeronautical mobile 5.317A Radiolocation		928-932	928-929 FIXED US116 US215 US268 NG120	Public Mobile (22) Private Land Mobile (90) Fixed Microwave (101)
				929-930 FIXED LAND MOBILE US116 US215 US268	Private Land Mobile (90)
				930-931 FIXED MOBILE US116 US215 US268	Personal Communications (24)
				931-932 FIXED LAND MOBILE US116 US215 US268	Public Mobile (22)
			932-935 FIXED US215 US268 G2	932-935 FIXED US215 US268 NG120	Public Mobile (22) Fixed Microwave (101)
			935-940 US116 US215 US268 G2	935-940 FIXED LAND MOBILE US116 US215 US268	Private Land Mobile (90)
			940-941 US116 US268 G2	940-941 FIXED MOBILE US116 US268	Personal Communications (24)
5.323	5.325	5.327	See next page for 941-944 MHz		See next page for 941-944 MHz

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
See previous page for 890-942 MHz	See previous page for 928-942 MHz	See previous page for 890-942 MHz	941-944 FIXED	941-944 FIXED	Public Mobile (22) Fixed Microwave (101)
942-960 FIXED MOBILE except aeronautical mobile 5.317A BROADCASTING 5.322	942-960 FIXED MOBILE 5.317A	942-960 FIXED MOBILE 5.317A BROADCASTING	US268 US301 US302 G2	US268 US301 US302 NG120	
5.323		5.320	944-960	944-960 FIXED NG120	Public Mobile (22) Auxiliary Broadcast. (74) Fixed Microwave (101)
960-1215 AERONAUTICAL RADIONAVIGATION 5.328 5.328A			960-1215 AERONAUTICAL RADIONAVIGATION 5.328 US224 US385		Aviation (87)
1215-1240 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.329 5.329A SPACE RESEARCH (active) 5.330 5.331 5.332			1215-1240 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G56 RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) SPACE RESEARCH (active) 5.332	1215-1240 Earth exploration-satellite (active) Space research (active)	
1240-1260 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.329 5.329A SPACE RESEARCH (active) Amateur 5.330 5.331 5.332 5.334 5.335			1240-1300 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G56 SPACE RESEARCH (active)	1240-1300 Earth exploration-satellite (active) Space research (active) Amateur	Amateur (97)
1260-1300 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.329 5.329A SPACE RESEARCH (active) Amateur 5.282 5.330 5.331 5.334 5.335 5.335A			5.332 5.334 5.335	5.282 5.334	

1300-1350 AERONAUTICAL RADIONAVIGATION 5.337 RADIOLOCATION RADIONAVIGATION-SATELLITE (Earth-to-space) 5.149 5.337A		1300-1350 AERONAUTICAL RADIO-NAVIGATION 5.337 Radiolocation G2 US342	1300-1350 AERONAUTICAL RADIO-NAVIGATION 5.337 US342	Aviation (87)
1350-1400 FIXED MOBILE RADIOLOCATION	1350-1400 RADIOLOCATION	1350-1390 FIXED MOBILE RADIOLOCATION G2 5.334 5.339 US311 US342 G27 G114	1350-1390 5.334 5.339 US311 US342	
		1390-1395	1390-1392 FIXED MOBILE except aeronautical mobile FIXED-SATELLITE (Earth-to-space) US368 5.339 US311 US342 US351	Wireless Communications (27)
			1392-1395 FIXED MOBILE except aeronautical Mobile 5.339 US311 US342 US351	
5.149 5.338 5.339	5.149 5.334 5.339	1395-1400 LAND MOBILE US350 5.339 US311 US342 US351		Personal (95)
1400-1427 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.341		1400-1427 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.341 US246		

1427-1610 MHz (UHF)					Page 43
International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
1427-1429 SPACE OPERATION (Earth-to-space) FIXED MOBILE except aeronautical mobile 5.341			1427-1429.5 LAND MOBILE US350 5.341 US352	1427-1429.5 LAND MOBILE Fixed (telemetry) 5.341 US350 US352	Private Land Mobile (90) Personal (95)
1429-1452 FIXED MOBILE except aeronautical Mobile 5.341 5.342	1429-1452 FIXED MOBILE 5.343 5.341		1429.5-1432 5.341 US350 US352	1429.5-1430 FIXED (telemetry) LAND MOBILE (telemetry) 5.341 US350 US352	
				1430-1432 FIXED (telemetry) LAND MOBILE (telemetry) FIXED-SATELLITE (space-to-Earth) US368 5.341 US350 US352	
			1432-1435 5.341 US361	1432-1435 FIXED MOBILE except aeronautical mobile 5.341 US361	Wireless Communications (27)
1452-1492 FIXED MOBILE except aeronautical mobile BROADCASTING 5.345 5.347 BROADCASTING-SATELLITE 5.345 5.347 5.341 5.342	1452-1492 FIXED MOBILE 5.343 BROADCASTING 5.345 5.347 BROADCASTING-SATELLITE 5.345 5.347 5.341 5.344		1435-1525 MOBILE (aeronautical telemetry)		Aviation (87)
1492-1525 FIXED MOBILE except aeronautical mobile 5.341 5.342	1492-1525 FIXED MOBILE 5.343 MOBILE-SATELLITE (space-to-Earth) 5.348A 5.341 5.344 5.348	1492-1525 FIXED MOBILE 5.341 5.348A	5.341 US78		

1525-1530 SPACE OPERATION (space-to-Earth) FIXED MOBILE-SATELLITE (space-to-Earth) 5.351A Earth exploration-satellite Mobile except aeronautical mobile 5.349 5.341 5.342 5.350 5.351 5.352A 5.354	1525-1530 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.351A Earth exploration-satellite Fixed Mobile 5.343 5.341 5.351 5.354	1525-1530 SPACE OPERATION (space-to-Earth) FIXED MOBILE-SATELLITE (space-to-Earth) 5.351A Earth exploration-satellite Mobile 5.349 5.341 5.351 5.352A 5.354	1525-1535 MOBILE-SATELLITE (space-to-Earth) US315 US380 5.341 5.351	Satellite Communications (25) Maritime (80)
1530-1535 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.351A 5.353A Earth exploration-satellite Fixed Mobile except aeronautical mobile 5.341 5.342 5.351 5.354	1530-1535 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.351A 5.353A Earth exploration-satellite Fixed Mobile 5.343 5.341 5.351 5.354			
1535-1559 MOBILE-SATELLITE (space-to-Earth) 5.351A 5.341 5.351 5.353A 5.354 5.355 5.356 5.357 5.357A 5.359 5.362A			1535-1559 MOBILE-SATELLITE (space-to-Earth) US308 US309 US315 US380 5.341 5.351 5.356	Satellite Communications (25) Maritime (80) Aviation (87)
1559-1610 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.328B 5.329A 5.341 5.362B 5.362C 5.363			1559-1610 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth) (space-to-space) 5.341 US208 US260 US343	Aviation (87)

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
1610-1610.6 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION 5.341 5.355 5.359 5.363 5.364 5.366 5.367 5.368 5.369 5.371 5.372	1610-1610.6 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION RADIODETERMINATION- SATELLITE (Earth-to- space) 5.341 5.364 5.366 5.367 5.368 5.370 5.372	1610-1610.6 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Radiodetermination-Satellite (Earth-to-space) 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.372	1610-1610.6 MOBILE-SATELLITE (Earth-to-space) US319 US380 AERONAUTICAL RADIONAVIGATION US260 RADIODETERMINATION-SATELLITE(Earth-to-space) 5.341 5.364 5.366 5.367 5.368 5.372 US208		Satellite Communications (25) Aviation (87)
1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION 5.149 5.341 5.355 5.359 5.363 5.364 5.366 5.367 5.368 5.369 5.371 5.372	1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION RADIODETERMINATION- SATELLITE (Earth-to- space) 5.149 5.341 5.364 5.366 5.367 5.368 5.370 5.372	1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION Radiodetermination-satellite (Earth-to-space) 5.149 5.341 5.355 5.359 5.364 5.366 5.367 5.368 5.369 5.372	1610.6-1613.8 MOBILE-SATELLITE (Earth-to-space) US319 US380 RADIO ASTRONOMY AERONAUTICAL RADIONAVIGATION US260 RADIODETERMINATION-SATELLITE (Earth-to-space) 5.341 5.364 5.366 5.367 5.368 5.372 US208 US342		
1613.8-1626.5 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Mobile-satellite (space-to-Earth) 5.341 5.355 5.359 5.363 5.364 5.365 5.366 5.367 5.368 5.369 5.371 5.372	1613.8-1626.5 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION RADIODETERMINATION- SATELLITE (Earth-to-space) Mobile-satellite (space-to- Earth) 5.341 5.364 5.365 5.366 5.367 5.368 5.370 5.372	1613.8-1626.5 MOBILE-SATELLITE (Earth-to-space) 5.351A AERONAUTICAL RADIONAVIGATION Mobile-satellite (space-to- Earth) Radiodetermination- satellite (Earth-to-space) 5.341 5.355 5.359 5.364 5.365 5.366 5.367 5.368 5.369 5.372	1613.8-1626.5 MOBILE-SATELLITE (Earth-to-space) US319 US380 AERONAUTICAL RADIONAVIGATION US260 RADIODETERMINATION-SATELLITE (Earth-to-space) Mobile-satellite (space-to-Earth) 5.341 5.364 5.365 5.366 5.367 5.368 5.372 US208		

1626.5-1660 MOBILE-SATELLITE (Earth-to-space) 5.351A 5.341 5.351 5.353A 5.354 5.355 5.357A 5.359 5.362A 5.374 5.375 5.376	1626.5-1660 MOBILE-SATELLITE (Earth-to-space) US308 US309 US315 US380 5.341 5.351 5.375	Satellite Communications (25) Maritime (80) Aviation (87)
1660-1660.5 MOBILE-SATELLITE (Earth-to-space) 5.351A RADIO ASTRONOMY 5.149 5.341 5.351 5.354 5.362A 5.376A	1660-1660.5 MOBILE-SATELLITE (Earth-to-space) US308 US309 US380 RADIO ASTRONOMY 5.341 5.351 US342	Satellite Communications (25) Aviation (87)
1660.5-1668.4 RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile 5.149 5.341 5.379 5.379A	1660.5-1668.4 RADIO ASTRONOMY US74 SPACE RESEARCH (passive) 5.341 US246	
1668.4-1670 METEOROLOGICAL AIDS FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY 5.149 5.341	1668.4-1670 METEOROLOGICAL AIDS (radiosonde) RADIO ASTRONOMY US74 5.341 US99 US342	

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1670-1675 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE 5.380 5.341			1670-1675 5.341 US211 US362	1670-1675 FIXED MOBILE except aeronautical mobile 5.341 US211 US362	Wireless Communications (27)
1675-1690 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.341	1675-1690 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile MOBILE-SATELLITE (Earth-to-space) 5.341 5.377	1675-1690 METEOROLOGICAL AIDS FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.341	1675-1700 METEOROLOGICAL AIDS (radiosonde) METEOROLOGICAL-SATELLITE (space-to-Earth)		
1690-1700 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) Fixed Mobile except aeronautical mobile 5.289 5.341 5.382	1690-1700 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE-SATELLITE (Earth-to-space) 5.289 5.341 5.377 5.381	1690-1700 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth) 5.289 5.341 5.381	5.289 5.341 US211		
1700-1710 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.289 5.341	1700-1710 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile MOBILE-SATELLITE (Earth-to-space) 5.289 5.341 5.377	1700-1710 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.289 5.341 5.384	1700-1710 FIXED G118 METEOROLOGICAL-SATELLITE (space-to-Earth) 5.289 5.341	1700-1710 METEOROLOGICAL-SATELLITE (space-to-Earth) Fixed 5.289 5.341	
1710-1930 FIXED MOBILE 5.380 5.384A 5.388A			1710-1755 5.341 US311 US378	1710-1755 FIXED MOBILE 5.341 US311 US378 NG176	

			1755-1850 FIXED MOBILE G42	1755-1850	
5.149 5.341 5.385 5.386 5.387 5.388			1850-2025	1850-2000 FIXED MOBILE NG177	RF Devices (15) Personal Communications (24) Fixed Microwave (101)
1930-1970 FIXED MOBILE 5.388A 5.388	1930-1970 FIXED MOBILE 5.388A Mobile-satellite (Earth-to-space) 5.388	1930-1970 FIXED MOBILE 5.388A 5.388			
1970-1980 FIXED MOBILE 5.388A 5.388					
1980-2010 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.351A 5.388 5.389A 5.389B 5.389F				2000-2020 MOBILE-SATELLITE (Earth-to-space) US380 NG156	Satellite Communications (25)
2010-2025 FIXED MOBILE 5.388A 5.388	2010-2025 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 5.388 5.389C 5.389D 5.389E 5.390	2010-2025 FIXED MOBILE 5.388A 5.388		2020-2025 FIXED MOBILE NG177	
2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) FIXED MOBILE 5.391 SPACE RESEARCH (Earth-to-space) (space-to-space) 5.392			2025-2110 SPACE OPERATION (Earth-to-space) (space-to-space) EARTH EXPLORATION-SATELLITE (Earth-to-space) (space-to-space) SPACE RESEARCH (Earth-to-space) (space-to-space) 5.391 5.392 US90 US222 US346 US347	2025-2110 FIXED NG118 MOBILE 5.391 5.392 US90 US222 US346 US347	TV Auxiliary Broadcasting (74F) Cable TV Relay (78) Local TV Transmission (101J)

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FIXED
MOBILE 5.388A
SPACE RESEARCH (deep space) (Earth-to-space)

5.388</td><td>2110-2120

US252</td><td>2110-2155
FIXED
MOBILE

US252</td><td>Domestic Public Fixed (21)
Public Mobile (22)
Fixed Microwave (101)</td></tr>
<tr><td>2120-2160
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MOBILE 5.388A

5.388</td><td>2120-2160
FIXED
MOBILE 5.388A
Mobile-satellite (space-to-Earth)

5.388</td><td rowspan="2">2120-2170
FIXED
MOBILE 5.388A

5.388</td><td rowspan="4">2120-2200</td><td>2155-2160
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<tr><td>2160-2170
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MOBILE 5.388A

5.388 5.392A</td><td>2160-2170
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MOBILE 5.388A
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5.388 5.389C 5.389D
5.389E 5.390</td><td>2160-2180
FIXED NG153
MOBILE

NG178</td><td>Domestic Public Fixed (21)
Public Mobile (22)
Fixed Microwave (101)</td></tr>
<tr><td colspan="3">2170-2200
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MOBILE
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5.388 5.389A 5.389F 5.392A</td><td>2180-2200
MOBILE-SATELLITE (space-to-Earth) US380

NG168</td><td>Satellite Communications (25)</td></tr>
<tr><td colspan="3">2200-2290
SPACE OPERATION (space-to-Earth) (space-to-space)
EARTH EXPLORATION-SATELLITE (space-to-Earth) (space-to-space)
FIXED
MOBILE 5.391
SPACE RESEARCH (space-to-Earth) (space-to-space)</td><td>2200-2290
SPACE OPERATION (space-to-Earth) (space-to-space)
EARTH EXPLORATION-SATELLITE (space-to-Earth) (space-to-space)
FIXED (line-of-sight only)</td><td>2200-2290</td><td></td></tr>
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5.392		MOBILE (line-of-sight only including aeronautical telemetry, but excluding flight testing of manned aircraft) 5.391 SPACE RESEARCH (space-to-Earth) (space-to-space) 5.392 US303	US303	
2290-2300 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (deep space) (space-to-Earth)		2290-2300 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (deep space) (space-to-Earth)	2290-2300 SPACE RESEARCH (deep space) (space-to-Earth)	
2300-2450 FIXED MOBILE Amateur Radiolocation	2300-2450 FIXED MOBILE RADIOLOCATION Amateur	2300-2305 G123	2300-2305 Amateur	Amateur (97)
		2305-2310 US338 G123	2305-2310 FIXED MOBILE except aeronautical mobile RADIOLOCATION Amateur US338	Wireless Communications (27) Amateur (97)
		2310-2320 Fixed Mobile US339 Radiolocation G2 G120 US327	2310-2320 FIXED MOBILE US339 RADIOLOCATION BROADCASTING-SATELLITE 5.396 US327	Wireless Communications (27) Aviation (87)
		2320-2345 Fixed Radiolocation G2 G120 US327	2320-2345 BROADCASTING-SATELLITE 5.396 US327	Satellite Communications (25)
5.150 5.282 5.395	5.150 5.282 5.393 5.394 5.396	See next page for 2345-2360 MHz	See next page for 2345-2360 MHz	See next page for 2345-2360 MHz

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See previous page for 2300-2450 MHz			2345-2360 Fixed Mobile US339 Radiolocation G2 G120 US327	2345-2360 FIXED MOBILE US339 RADIOLOCATION BROADCASTING- SATELLITE 5.396 US327	Wireless Communications (27) Aviation (87)
			2360-2385 MOBILE US276 RADIOLOCATION G2 G120 Fixed	2360-2385 MOBILE US276	Aviation (87)
			2385-2390 US363	2385-2390 FIXED MOBILE NG174 US363	Wireless Communications (27)
			2390-2400 G122	2390-2400 AMATEUR	Amateur (97)
			2400-2402 5.150 G123	2400-2417 AMATEUR	ISM Equipment (18) Amateur (97)
			2402-2417 5.150 G122	5.150 5.282	
			2417-2450 Radiolocation G2 5.150 G124	2417-2450 Amateur 5.150 5.282	
2450-2483.5 FIXED MOBILE Radiolocation 5.150 5.397	2450-2483.5 FIXED MOBILE RADIOLOCATION 5.150 5.394		2450-2483.5 5.150 US41	2450-2483.5 FIXED MOBILE Radiolocation 5.150 US41	ISM Equipment (18) Private Land Mobile (90) Fixed Microwave (101)

2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A Radiolocation 5.150 5.371 5.397 5.398 5.399 5.400 5.402	2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A RADIOLOCATION RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398 5.150 5.402	2483.5-2500 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) 5.351A RADIOLOCATION Radiodetermination-satellite (space-to-Earth) 5.398 5.150 5.400 5.402	2483.5-2500 MOBILE-SATELLITE (space-to-Earth) US319 US380 RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398 5.150 5.402 US41	2483.5-2500 MOBILE-SATELLITE (space-to-Earth) US319 US380 RADIODETERMINATION-SATELLITE (space-to-Earth) 5.398 5.150 5.402 US41 NG147	ISM Equipment (18) Satellite Communications (25) Private Land Mobile (90) Fixed Microwave (101)
2500-2520 FIXED 5.409 5.410 5.411 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (space-to-Earth) 5.403 5.351A 5.405 5.407 5.412 5.414	2500-2520 FIXED 5.409 5.411 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (space-to-Earth) 5.403 5.351A 5.404 5.407 5.414 5.415A		2500-2655	2500-2655 FIXED US205 MOBILE except aeronautical mobile	Domestic Public Fixed (21) Instructional TV Fixed (74)
2520-2655 FIXED 5.409 5.410 5.411 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 5.339 5.403 5.405 5.412 5.418 5.418B 5.418C	2520-2655 FIXED 5.409 5.411 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 5.339 5.403 5.418B 5.418C	2520-2535 FIXED 5.409 5.411 FIXED-SATELLITE (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 5.403 5.415A 2535-2655 FIXED 5.409 5.411 MOBILE except aeronautical mobile 5.384A BROADCASTING-SATELLITE 5.413 5.416 5.339 5.418 5.418A 5.418B 5.418C	5.339 US205	5.339	

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
2655-2670 FIXED 5.409 5.410 5.411 MOBILE except aeronautical mobile 5.384A BROADCASTING SATELLITE 5.413 5.416 Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.412 5.420	2655-2670 FIXED 5.409 5.411 FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING- SATELLITE 5.413 5.416 Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.420	2655-2670 FIXED 5.409 5.411 FIXED-SATELLITE (Earth-to-space) 5.415 MOBILE except aeronautical mobile 5.384A BROADCASTING- SATELLITE 5.413 5.416 Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.420	2655-2690 Earth exploration-satellite (passive) Radio astronomy Space research (passive)	2655-2690 FIXED US205 MOBILE except aeronautical mobile Earth exploration-satellite (passive) Radio astronomy Space research (passive)	Domestic Public Fixed (21) Instructional TV Fixed (74)
2670-2690 FIXED 5.409 5.410 5.411 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (Earth-to-space) Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.419 5.420	2670-2690 FIXED 5.409 5.411 FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.415 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (Earth-to-space) Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.419 5.420	2670-2690 FIXED 5.409 5.411 FIXED-SATELLITE (Earth-to-space) 5.415 MOBILE except aeronautical mobile 5.384A MOBILE-SATELLITE (Earth-to-space) Earth exploration-satellite (passive) Radio astronomy Space research (passive) 5.149 5.419 5.420 5.420A	US205		
2690-2700 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.421 5.422			2690-2700 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
2700-2900 AERONAUTICAL RADIONAVIGATION 5.337 Radiolocation 5.423 5.424			2700-2900 AERONAUTICAL RADIO- NAVIGATION 5.337 METEOROLOGICAL AIDS Radiolocation G2 5.423 US18 G15	2700-2900 5.423 US18	

2900-3100 RADIONAVIGATION 5.426 Radiolocation 5.425 5.427			2900-3100 MARITIME RADIONAVIGATION Radiolocation G56 5.427 US44 US316	2900-3100 MARITIME RADIONAVIGATION Radiolocation US44 5.427 US316	Maritime (80) Private Land Mobile (90)
3100-3300 RADIOLOCATION Earth exploration-satellite (active) Space research (active) 5.149 5.428			3100-3300 RADIOLOCATION G59 Earth exploration-satellite (active) Space research (active) US342	3100-3300 Radiolocation Earth exploration-satellite (active) Space research (active) US342	Private Land Mobile (90)
3300-3400 RADIOLOCATION 5.149 5.429 5.430	3300-3400 RADIOLOCATION Amateur Fixed Mobile 5.149 5.430	3300-3400 RADIOLOCATION Amateur 5.149 5.429	3300-3500 RADIOLOCATION US108 G31	3300-3500 Amateur Radiolocation US108	Private Land Mobile (90) Amateur (97)
3400-3600 FIXED FIXED-SATELLITE (space-to-Earth) Mobile Radiolocation 5.431	3400-3500 FIXED FIXED-SATELLITE (space-to-Earth) Amateur Mobile Radiolocation 5.433 5.282 5.432		US342	US342 5.282	
3600-4200 FIXED FIXED-SATELLITE (space-to-Earth) Mobile	3500-3700 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile Radiolocation 5.433 5.435		3500-3650 RADIOLOCATION G59 AERONAUTICAL RADIONAVIGATION (ground-based) G110 US245 3650-3700 US245 US348 US349	3500-3600 Radiolocation 3600-3650 FIXED-SATELLITE (space-to-Earth) US245 Radiolocation 3650-3700 FIXED FIXED-SATELLITE (space-to-Earth) NG169 MOBILE except aeronautical mobile NG170 US245 US348 US349	Private Land Mobile (90)
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See previous page for 3600-4200 MHz	3700-4200 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile		3700-4200	3700-4200 FIXED NG41 FIXED-SATELLITE (space-to-Earth)	International Fixed (23) Satellite Communications (25) Fixed Microwave (101)
4200-4400 AERONAUTICAL RADIONAVIGATION 5.438 5.439 5.440			4200-4400 AERONAUTICAL RADIONAVIGATION 5.440 US261		Aviation (87)
4400-4500 FIXED MOBILE			4400-4500 FIXED MOBILE	4400-4500	
4500-4800 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 MOBILE			4500-4800 FIXED MOBILE US245	4500-4800 FIXED-SATELLITE (space-to-Earth) 5.441 US245	
4800-4990 FIXED MOBILE 5.442 Radio astronomy			4800-4940 FIXED MOBILE US203 US342	4800-4940 US203 US342	
			4940-4990	4940-4990 FIXED MOBILE except aeronautical mobile	Private Land Mobile (90) Fixed Microwave (101)
5.149 5.339 5.443			5.339 US311 US342 G122	5.339 US311 US342	
4990-5000 FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY Space research (passive) 5.149			4990-5000 RADIO ASTRONOMY US74 Space research (passive) US246		
5000-5150 AERONAUTICAL RADIONAVIGATION 5.367 5.443A 5.443B 5.444 5.444A			5000-5250 AERONAUTICAL RADIO-NAVIGATION US260	5000-5150 AERONAUTICAL RADIO-NAVIGATION US260 5.367 5.444A US211 US344 US370	Satellite Communications (25) Aviation (87)

5150-5250 AERONAUTICAL RADIONAVIGATION FIXED-SATELLITE (Earth-to-space) 5.447A 5.446 5.447 5.447B 5.447C	5.367 US211 US307 US344 US370	5150-5250 AERONAUTICAL RADIO-NAVIGATION US260 FIXED-SATELLITE (Earth-to-space) 5.447A US344 5.447C US211 US307	Satellite Communications (25) Aviation (87)
5250-5255 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH 5.447D 5.448 5.448A	5250-5255 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH (active) 5.447D	5250-5255 Earth exploration-satellite (active) Radiolocation Space research	Private Land Mobile (90)
5255-5350 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) 5.448 5.448A	5255-5350 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH (active)	5255-5350 Earth exploration-satellite (active) Radiolocation Space research (active)	
5350-5460 EARTH EXPLORATION-SATELLITE (active) 5.448B AERONAUTICAL RADIONAVIGATION 5.449 Radiolocation	5350-5460 EARTH EXPLORATION-SATELLITE (active) 5.448B AERONAUTICAL RADIO-NAVIGATION 5.449 RADIOLOCATION G56	5350-5460 AERONAUTICAL RADIO-NAVIGATION 5.449 Earth exploration-satellite (active) Radiolocation	Aviation (87) Private Land Mobile (90)
5460-5470 RADIONAVIGATION 5.449 Radiolocation	5460-5470 RADIONAVIGATION 5.449 Radiolocation G56 US49 US65	5460-5470 RADIONAVIGATION 5.449 Radiolocation US49 US65	Private Land Mobile (90)
5470-5650 MARITIME RADIONAVIGATION Radiolocation	5470-5600 MARITIME RADIONAVIGATION Radiolocation G56 US50 US65	5470-5600 MARITIME RADIONAVIGATION Radiolocation US50 US65	Maritime (80) Private land Mobile (90)
	5600-5650 MARITIME RADIONAVIGATION METEOROLOGICAL AIDS Radiolocation US51 G56	5600-5650 MARITIME RADIONAVIGATION METEOROLOGICAL AIDS Radiolocation US51	
5.450 5.451 5.452	5.452 US65	5.452 US65	

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5650-5725 RADIOLOCATION Amateur Space research (deep space) 5.282 5.451 5.453 5.454 5.455			5650-5925 RADIOLOCATION G2	5650-5830 Amateur	ISM Equipment (18) Amateur (97)
5725-5830 FIXED-SATELLITE (Earth-to-space) RADIOLOCATION Amateur 5.150 5.451 5.453 5.455 5.456	5725-5830 RADIOLOCATION Amateur 5.150 5.453 5.455			5.150 5.282	
5830-5850 FIXED-SATELLITE (Earth-to-space) RADIOLOCATION Amateur Amateur-satellite (space-to-Earth) 5.150 5.451 5.453 5.455 5.456	5830-5850 RADIOLOCATION Amateur Amateur-satellite (space-to-Earth) 5.150 5.453 5.455			5830-5850 Amateur Amateur-satellite (space-to-Earth) 5.150	
5850-5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE 5.150	5850-5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Amateur Radiolocation 5.150	5850-5925 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE Radiolocation 5.150	5.150 US245	5850-5925 FIXED-SATELLITE (Earth-to-space) US245 MOBILE NG160 Amateur 5.150	ISM Equipment (18) Private Land Mobile (90) Amateur (97)
5925-6700 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE			5925-6425	5925-6425 FIXED NG41 FIXED-SATELLITE (Earth-to-space)	International Fixed (23) Satellite Communications (25) Fixed Microwave (101)
			6425-6525 5.440 5.458	6425-6525 FIXED-SATELLITE (Earth-to-space) MOBILE 5.440 5.458	Auxiliary Broadcasting (74) Cable TV Relay (78) Fixed Microwave (101)

5.149 5.440 5.458	6525-6700 5.458 US342	6525-6700 FIXED FIXED-SATELLITE (Earth-to-space) 5.458 US342	Satellite Communications (25) Fixed Microwave (101)
6700-7075 FIXED FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.441 MOBILE	6700-7125	6700-6875 FIXED FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.441 5.458 5.458A 5.458B	
		6875-7025 FIXED NG118 FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 5.441 MOBILE NG171 5.458 5.458A 5.458B	Satellite Communications (25) Auxiliary Broadcasting (74) Cable TV Relay (78)
5.458 5.458A 5.458B 5.458C		7025-7075 FIXED NG118 FIXED-SATELLITE (Earth-to-space) NG172 MOBILE NG171 5.458 5.458A 5.458B	
7075-7250 FIXED MOBILE	5.458	7075-7125 FIXED NG118 MOBILE NG171 5.458	Auxiliary Broadcasting (74) Cable TV Relay (78)
	7125-7190 FIXED 5.458 US252 G116	7125-7190 5.458 US252	
	7190-7235 FIXED SPACE RESEARCH (Earth-to-space) 5.458	7190-7250	
	7235-7250 FIXED 5.458		
5.458 5.459 5.460		5.458	

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7250-7300 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE 5.461			7250-7300 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Fixed G117	7250-8025	
7300-7450 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.461			7300-7450 FIXED FIXED-SATELLITE (space-to-Earth) Mobile-satellite (space-to-Earth) G117		
7450-7550 FIXED FIXED-SATELLITE (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.461A			7450-7550 FIXED FIXED-SATELLITE (space-to-Earth) METEOROLOGICAL- SATELLITE (space-to-Earth) Mobile-satellite (space-to-Earth) G104 G117		
7550-7750 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile			7550-7750 FIXED FIXED-SATELLITE (space-to-Earth) Mobile-satellite (space-to-Earth) G117		
7750-7850 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) 5.461B MOBILE except aeronautical mobile			7750-7850 FIXED METEOROLOGICAL- SATELLITE (space-to-Earth) 5.461B		
7850-7900 FIXED MOBILE except aeronautical mobile			7850-7900 FIXED		

7900-8025 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE 5.461	7900-8025 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Fixed G117		
8025-8175 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) MOBILE 5.463 5.462A	8025-8175 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) Mobile-satellite (Earth-to-space) (no airborne transmissions) US258 G117	8025-8215	
8175-8215 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) MOBILE 5.463 5.462A	8175-8215 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) METEOROLOGICAL-SATELLITE (Earth-to-space) Mobile-satellite (Earth-to-space) (no airborne transmissions) US258 G104 G117	US258	

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8215-8400 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) MOBILE 5.463 5.462A			8215-8400 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED FIXED-SATELLITE (Earth-to-space) Mobile-satellite (Earth-to-space) (no airborne transmissions) US258 G117	8215-8400 US258	
8400-8500 FIXED MOBILE except aeronautical mobile SPACE RESEARCH (space-to-Earth) 5.465 5.466 5.467			8400-8450 FIXED SPACE RESEARCH (space-to-Earth) (deep space only) 8450-8500 FIXED SPACE RESEARCH (space-to-Earth)	8400-8450 Space research (space-to-Earth) (deep space only) 8450-8500 SPACE RESEARCH (space-to-Earth)	
8500-8550 RADIOLOCATION 5.468 5.469			8500-8550 RADIOLOCATION G59	8500-8550 Radiolocation	
8550-8650 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) 5.468 5.469 5.469A			8550-8650 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH (active)	8550-8650 Earth exploration-satellite (active) Radiolocation Space research (active)	
8650-8750 RADIOLOCATION 5.468 5.469			8650-9000 RADIOLOCATION G59	8650-9000 Radiolocation	
8750-8850 RADIOLOCATION AERONAUTICAL RADIONAVIGATION 5.470 5.471					

8850-9000 RADIOLOCATION MARITIME RADIONAVIGATION 5.472 5.473	US53	US53	
9000-9200 AERONAUTICAL RADIONAVIGATION 5.337 Radiolocation 5.471	9000-9200 AERONAUTICAL RADIO-NAVIGATION 5.337 Radiolocation G2 US48 G19	9000-9200 AERONAUTICAL RADIO-NAVIGATION 5.337 Radiolocation US48	Aviation (87)
9200-9300 RADIOLOCATION MARITIME RADIONAVIGATION 5.472 5.473 5.474	9200-9300 MARITIME RADIO-NAVIGATION 5.472 Radiolocation US110 G59 5.474	9200-9300 MARITIME RADIO-NAVIGATION 5.472 Radiolocation US110 5.474	
9300-9500 RADIONAVIGATION 5.476 Radiolocation 5.427 5.474 5.475	9300-9500 RADIONAVIGATION 5.476 US66 Radiolocation US51 G56 Meteorological aids 5.427 5.474 US67 US71	9300-9500 RADIONAVIGATION 5.476 US66 Radiolocation US51 Meteorological aids 5.427 5.474 US67 US71	
9500-9800 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION RADIONAVIGATION SPACE RESEARCH (active) 5.476A	9500-9800 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active)	9500-9800 Earth exploration-satellite (active) Radiolocation Space research (active)	
9800-10000 RADIOLOCATION Fixed 5.477 5.478 5.479	9800-10000 RADIOLOCATION 5.479	9800-10000 Radiolocation 5.479	

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10.45-10.5 RADIOLOCATION Amateur Amateur-satellite 5.481			10.45-10.5 RADIOLOCATION US58 US108 G32	10.45-10.5 Radiolocation Amateur Amateur-satellite US58 US108 NG42 NG134	
10.5-10.55 FIXED MOBILE Radiolocation	10.5-10.55 FIXED MOBILE RADIOLOCATION		10.5-10.55 RADIOLOCATION US59		Private Land Mobile (90)
10.55-10.6 FIXED MOBILE except aeronautical mobile Radiolocation			10.55-10.6	10.55-10.6 FIXED	Fixed Microwave (101)
10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY SPACE RESEARCH (passive) Radiolocation 5.149 5.482			10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) US265 US277	10.6-10.68 EARTH EXPLORATION-SATELLITE (passive) FIXED US265 SPACE RESEARCH (passive) US277	
10.68-10.7 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.483			10.68-10.7 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246 US355		

10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 5.484A (Earth-to-space) 5.484 MOBILE except aeronautical mobile	10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 5.484A MOBILE except aeronautical mobile		10.7-11.7 US211	10.7-11.7 FIXED FIXED-SATELLITE (space-to-Earth) 5.441 US211 NG104 US355	Satellite Communications (25) Fixed Microwave (101)
11.7-12.5 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	11.7-12.1 FIXED 5.486 FIXED-SATELLITE (space-to-Earth) 5.484A Mobile except aeronautical mobile 5.485 5.488	11.7-12.2 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	11.7-12.1 5.486	11.7-12.2 FIXED-SATELLITE (space-to-Earth) NG143 NG145 Mobile except aeronautical mobile	
	12.1-12.2 FIXED-SATELLITE (space-to-Earth) 5.484A 5.485 5.488 5.489		12.1-12.2		
5.487 5.487A 5.492	12.2-12.7 FIXED MOBILE except aeronautical mobile BROADCASTING BROADCASTING-SATELLITE	12.2-12.5 FIXED MOBILE except aeronautical mobile BROADCASTING 5.484A 5.487 5.491	12.2-12.7	12.2-12.7 FIXED BROADCASTING-SATELLITE	
12.5-12.75 FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.494 5.495 5.496	5.487A 5.488 5.490 5.492 See next page for 12.7-12.75 GHz	12.5-12.75 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A MOBILE except aeronautical mobile BROADCASTING-SATELLITE 5.493	5.490 See next page for 12.7-12.75 GHz	5.487A 5.488 5.490	See next page for 12.7-12.75 GHz

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12.75-13.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.441 MOBILE Space research (deep space) (space-to-Earth)			12.75-13.25 US251	12.75-13.25 FIXED NG118 FIXED-SATELLITE (Earth-to-space) 5.441 NG104 MOBILE US251 NG53	
13.25-13.4 EARTH EXPLORATION-SATELLITE (active) AERONAUTICAL RADIONAVIGATION 5.497 SPACE RESEARCH (active) 5.498A 5.499			13.25-13.4 EARTH EXPLORATION-SATELLITE (active) AERONAUTICAL RADIO-NAVIGATION 5.497 SPACE RESEARCH (active) 5.498A	13.25-13.4 AERONAUTICAL RADIO-NAVIGATION 5.497 Earth exploration-satellite (active) Space research (active)	Aviation (87)
13.4-13.75 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH 5.501A Standard frequency and time signal-satellite (Earth-to-space) 5.499 5.500 5.501 5.501B			13.4-13.75 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH (active) 5.501A Standard frequency and time signal-satellite (Earth-to-space) 5.501B	13.4-13.75 Earth exploration-satellite (active) Radiolocation Space research Standard frequency and time signal-satellite (Earth-to-space)	Private Land Mobile (90)
13.75-14 FIXED-SATELLITE (Earth-to-space) 5.484A RADIOLOCATION Standard frequency and time signal-satellite (Earth-to-space) Space research 5.499 5.500 5.501 5.502 5.503 5.503A			13.75-14 RADIOLOCATION G59 Standard frequency and time signal-satellite (Earth-to-space) Space research US337 5.503A US356 US357	13.75-14 FIXED-SATELLITE (Earth-to-space) US337 Radiolocation Standard frequency and time signal-satellite (Earth-to-space) Space research 5.503A US356 US357	Satellite Communications (25) Private Land Mobile (90)

14-14.25 FIXED-SATELLITE (Earth-to-space) 5.484A 5.506 5.457A 5.506B 5.457B RADIONAVIGATION 5.504 Mobile-satellite (Earth-to-space) 5.504C 5.506A Space research 5.504A 5.505			14-14.2 RADIONAVIGATION US292 Space research	14-14.2 FIXED-SATELLITE (Earth-to-space) RADIONAVIGATION US292 Mobile-satellite (Earth-to-space) Space research	Satellite Communications (25) Maritime (80) Aviation (87)
14.25-14.3 FIXED-SATELLITE (Earth-to-space) 5.484A 5.506 5.457A 5.457B 5.506B RADIONAVIGATION 5.504 Mobile-satellite (Earth-to-space) 5.506A 5.508A Space research 5.504A 5.505 5.508 5.509			14.2-14.4	14.2-14.4 FIXED-SATELLITE (Earth-to-space) Mobile-satellite (Earth-to-space) Mobile except aeronautical mobile	Satellite Communications (25) Fixed Microwave (101)
14.3-14.4 FIXED FIXED-SATELLITE (Earth-to-space) 5.484A 5.506 5.506B 5.457A 5.457B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.506A 5.509A Radionavigation-satellite 5.504A	14.3-14.4 FIXED-SATELLITE (Earth-to-space) 5.484A 5.506 5.457A 5.506B Mobile-satellite (Earth-to-space) 5.506A Radionavigation-satellite 5.504A	14.3-14.4 FIXED FIXED-SATELLITE (Earth-to-space) 5.484A 5.506 5.457A 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.506A 5.509A Radionavigation-satellite 5.504A			
14.4-14.47 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.506A 5.509A Space research (space-to-Earth) 5.504A			14.4-14.47 Fixed Mobile	14.4-14.47 FIXED-SATELLITE (Earth-to-space) Mobile-satellite (Earth-to-space)	Satellite Communications (25)
14.47-14.5 FIXED FIXED-SATELLITE (Earth-to-space) 5.457A 5.457B 5.484A 5.506 5.506B MOBILE except aeronautical mobile Mobile-satellite (Earth-to-space) 5.504B 5.506A 5.509A Radio astronomy 5.149 5.504A			14.47-14.5 Fixed Mobile US203 US342	14.47-14.5 FIXED-SATELLITE (Earth-to-space) Mobile-satellite (Earth-to-space) US203 US342	

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14.8-15.35 FIXED MOBILE Space research			14.7145-15.1365 MOBILE Fixed Space research US310	14.7145-15.1365 US310	
5.339			15.1365-15.35 FIXED Mobile Space research 5.339 US211	15.1365-15.35 5.339 US211	
15.35-15.4 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340 5.511			15.35-15.4 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
15.4-15.43 AERONAUTICAL RADIONAVIGATION 5.511D			15.4-15.43 AERONAUTICAL RADIONAVIGATION US260 US211		Aviation (87)
15.43-15.63 FIXED SATELLITE (Earth-to-space) 5.511A AERONAUTICAL RADIONAVIGATION 5.511C			15.43-15.63 AERONAUTICAL RADIO-NAVIGATION US260 5.511C US211 US359	15.43-15.63 FIXED SATELLITE (Earth-to-space) AERONAUTICAL RADIO-NAVIGATION US260 5.511C US211 US359	Satellite Communications (25) Aviation (87)
15.63-15.7 AERONAUTICAL RADIONAVIGATION 5.511D			15.63-15.7 AERONAUTICAL RADIONAVIGATION US260 US211		Aviation (87)
15.7-16.6 RADIOLOCATION 5.512 5.513			15.7-16.6 RADIOLOCATION G59	15.7-17.2 Radiolocation	Private Land Mobile (90)

16.6-17.1 RADIOLOCATION Space research (deep space) (Earth-to-space) 5.512 5.513			16.6-17.1 RADIOLOCATION G59 Space research (deep space) (Earth-to-space)		
17.1-17.2 RADIOLOCATION 5.512 5.513			17.1-17.2 RADIOLOCATION G59		
17.2-17.3 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) 5.512 5.513 5.513A			17.2-17.3 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION G59 SPACE RESEARCH (active)	17.2-17.3 Radiolocation Earth exploration-satellite (active) Space research (active)	
17.3-17.7 FIXED-SATELLITE (Earth-to-space) 5.516 Radiolocation 5.514	17.3-17.7 FIXED-SATELLITE (Earth-to-space) 5.516 BROADCASTING-SATELLITE Radiolocation 5.514 5.515 5.517	17.3-17.7 FIXED-SATELLITE (Earth-to-space) 5.516 Radiolocation 5.514	17.3-17.7 Radiolocation US259 G59	17.3-17.7 FIXED-SATELLITE (Earth-to-space) US271 BROADCASTING-SATELLITE NG163 NG167 US259	Satellite Communications (25)
17.7-18.1 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.516 MOBILE	17.7-17.8 FIXED FIXED-SATELLITE (space-to-Earth) (Earth-to-space) 5.516 BROADCASTING-SATELLITE Mobile 5.518 5.515 5.517	17.7-18.1 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.516 MOBILE	17.7-17.8	17.7-17.8 FIXED FIXED-SATELLITE (Earth-to-space) US271 NG144	Satellite Communications (25) Auxiliary Broadcasting (74) Cable TV Relay (78) Fixed Microwave (101)
	17.8-18.1 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.516 MOBILE		17.8-18.3 FIXED-SATELLITE (space-to-Earth) G117 5.519 US334	17.8-18.3 FIXED 5.519 US334 NG144	Auxiliary Broadcasting (74) Cable TV Relay (78) Fixed Microwave (101)
18.1-18.4 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A (Earth-to-space) 5.520 MOBILE 5.519 5.521			See next page for 18.3-18.6 GHz	See next page for 18.3-18.58 GHz	See next page for 18.3-18.58 GHz

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18.4-18.6 FIXED FIXED-SATELLITE (space-to-Earth) 5.484A MOBILE					
18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.522B MOBILE except aeronautical mobile Space research (passive) 5.522A 5.522C	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.522B MOBILE except aeronautical mobile SPACE RESEARCH (passive) 5.522A	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED FIXED-SATELLITE (space-to-Earth) 5.522B MOBILE except aeronautical mobile Space research (passive) 5.522A 5.522C	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED-SATELLITE (space-to-Earth) US255 G117 SPACE RESEARCH (passive) US254 US334	18.6-18.8 EARTH EXPLORATION-SATELLITE (passive) FIXED-SATELLITE (space-to-Earth) US255 NG164 SPACE RESEARCH (passive) US254 US334 NG144	
18.8-19.3 FIXED FIXED-SATELLITE (space-to-Earth) 5.523A MOBILE			18.8-20.2 FIXED-SATELLITE (space-to-Earth) G117	18.8-19.3 FIXED-SATELLITE (space-to-Earth) NG165 US334 NG144	
19.3-19.7 FIXED FIXED-SATELLITE (space-to-Earth) (Earth-space) 5.523B 5.523C 5.523D 5.523E MOBILE				19.3-19.7 FIXED FIXED-SATELLITE (space-to-Earth) NG166 US334 NG144	Satellite Communications (25) Auxiliary Broadcast. (74) Cable TV Relay (78) Fixed Microwave (101)
19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A Mobile-satellite (space-to-Earth) 5.524	19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A MOBILE-SATELLITE (space-to-Earth) 5.524 5.525 5.526 5.527 5.528 5.529	19.7-20.1 FIXED-SATELLITE (space-to-Earth) 5.484A Mobile-satellite (space-to-Earth) 5.524		19.7-20.1 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.525 5.526 5.527 5.528 5.529 US334	Satellite Communications (25)

20.1-20.2 FIXED-SATELLITE (space-to-Earth) 5.484A MOBILE-SATELLITE (space-to-Earth) 5.524 5.525 5.526 5.527 5.528			US334	20.1-20.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 5.525 5.526 5.527 5.528 US334	
20.2-21.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Standard frequency and time signal-satellite (space-to-Earth) 5.524			20.2-21.2 FIXED-SATELLITE (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) Standard frequency and time signal-satellite (space-to-Earth) G117	20.2-21.2 Standard frequency and time signal-satellite (space-to-Earth)	
21.2-21.4 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive)			21.2-21.4 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE SPACE RESEARCH (passive) US263		Fixed Microwave (101)
21.4-22 FIXED MOBILE BROADCASTING-SATELLITE 5.530	21.4-22 FIXED MOBILE	21.4-22 FIXED MOBILE BROADCASTING-SATELLITE 5.530 5.531	21.4-22 FIXED MOBILE		
22-22.21 FIXED MOBILE except aeronautical mobile 5.149			22-22.21 FIXED MOBILE except aeronautical mobile US342		
22.21-22.5 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY SPACE RESEARCH (passive) 5.149 5.532			22.21-22.5 EARTH EXPLORATION-SATELLITE (passive) FIXED MOBILE except aeronautical mobile RADIO ASTRONOMY SPACE RESEARCH (passive) US342 US263		

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International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
22.5-22.55 FIXED MOBILE			22.5-22.55 FIXED MOBILE US211		Fixed Microwave (101)
22.55-23.55 FIXED INTER-SATELLITE MOBILE 5.149			22.55-23.55 FIXED INTER-SATELLITE US278 MOBILE US342		Satellite Communications (25) Fixed Microwave (101)
23.55-23.6 FIXED MOBILE			23.55-23.6 FIXED MOBILE		Fixed Microwave (101)
23.6-24 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340			23.6-24 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive) US246		
24-24.05 AMATEUR AMATEUR-SATELLITE 5.150			24-24.05 5.150 US211	24-24.05 AMATEUR AMATEUR-SATELLITE 5.150 US211	ISM Equipment (18) Amateur (97)
24.05-24.25 RADIOLOCATION Amateur Earth exploration-satellite (active) 5.150			24.05-24.25 RADIOLOCATION G59 Earth exploration-satellite (active) 5.150	24.05-24.25 Amateur Earth exploration-satellite (active) Radiolocation 5.150	ISM Equipment (18) Private Land Mobile (90) Amateur (97)
24.25-24.45 FIXED	24.25-24.45 RADIONAVIGATION	24.25-24.45 RADIONAVIGATION FIXED MOBILE	24.25-24.45	24.25-24.45 FIXED	Fixed Microwave (101)

24.45-24.75 FIXED INTER-SATELLITE	24.45-24.65 INTER-SATELLITE RADIONAVIGATION 5.533	24.45-24.65 FIXED INTER-SATELLITE MOBILE RADIONAVIGATION 5.533	24.45-24.65 INTER-SATELLITE RADIONAVIGATION 5.533		Satellite Communications (25)
	24.65-24.75 INTER-SATELLITE RADIOLOCATION- SATELLITE (Earth-to-space)	24.65-24.75 FIXED INTER-SATELLITE MOBILE 5.533 5.534	24.65-24.75 INTER-SATELLITE RADIOLOCATION-SATELLITE (Earth-to-space)		
24.75-25.25 FIXED	24.75-25.25 FIXED-SATELLITE (Earth-to-space) 5.535	24.75-25.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.535 MOBILE 5.534	24.75-25.05 RADIONAVIGATION	24.75-25.05 FIXED-SATELLITE (Earth-to-space) NG167 RADIONAVIGATION	Satellite Communications (25) Aviation (87)
			25.05-25.25	25.05-25.25 FIXED-SATELLITE (Earth-to-space) NG167 FIXED	Satellite Communications (25) Fixed Microwave (101)
25.25-25.5 FIXED INTER-SATELLITE 5.536 MOBILE Standard frequency and time signal-satellite (Earth-to-space)			25.25-25.5 FIXED INTER-SATELLITE 5.536 MOBILE Standard frequency and time signal-satellite (Earth-to-space)	25.25-25.5 Earth exploration-satellite (space-to-space) Standard frequency and time signal-satellite (Earth-to-space)	
25.5-27 EARTH EXPLORATION-SATELLITE (space-to-Earth) 5.536A 5.536B FIXED INTER-SATELLITE 5.536 MOBILE Standard frequency and time signal-satellite (Earth-to-space)			25.5-27 EARTH EXPLORATION- SATELLITE (space-to- Earth) 5.536A FIXED INTER-SATELLITE 5.536 MOBILE Standard frequency and time signal-satellite (Earth-to-space)	25.5-27 Earth exploration-satellite (space-to-Earth) 5.536A (space-to-space) Standard frequency and time signal-satellite (Earth-to-space)	
27-27.5 FIXED INTER-SATELLITE 5.536 MOBILE	27-27.5 FIXED FIXED-SATELLITE (Earth-to-space) INTER-SATELLITE 5.536 5.537 MOBILE		27-27.5 FIXED INTER-SATELLITE 5.536 MOBILE	27-27.5 Earth exploration-satellite (space-to-space)	

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
27.5-28.5 FIXED 5.537A FIXED-SATELLITE (Earth-to-space) 5.484A 5.539 MOBILE 5.538 5.540			27.5-30	27.5-29.5 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE	Satellite Communications (25) Fixed Microwave (101)
28.5-29.1 FIXED FIXED-SATELLITE (Earth-to-space) 5.484A 5.523A 5.539 MOBILE Earth exploration-satellite (Earth-to-space) 5.541 5.540					
29.1-29.5 FIXED FIXED-SATELLITE (Earth-to-space) 5.523C 5.523E 5.535A 5.539 5.541A MOBILE Earth exploration-satellite (Earth-to-space) 5.541 5.540					
29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.539 Earth exploration-satellite (Earth-to-space) 5.541 Mobile-satellite (Earth-to-space) 5.540 5.542	29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.539 MOBILE-SATELLITE (Earth-to-space) Earth exploration-satellite (Earth-to-space) 5.541 5.525 5.526 5.527 5.529 5.540 5.542	29.5-29.9 FIXED-SATELLITE (Earth-to-space) 5.484A 5.539 Earth exploration-satellite (Earth-to-space) 5.541 Mobile-satellite (Earth-to-space) 5.540 5.542		29.5-29.9 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) 5.525 5.526 5.527 5.529	Satellite Communications (25)
29.9-30 FIXED-SATELLITE (Earth-to-space) 5.484A 5.539 MOBILE-SATELLITE (Earth-to-space) Earth exploration-satellite (Earth-to-space) 5.541 5.543 5.525 5.526 5.527 5.538 5.540 5.542				29.9-30 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) 5.525 5.526 5.527 5.543	

30-31 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to-Earth) 5.542			30-31 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) Standard frequency and time signal-satellite (space-to-Earth) G117	30-31 Standard frequency and time signal-satellite (space-to-Earth)	
31-31.3 FIXED 5.543A MOBILE Standard frequency and time signal-satellite (space-to-Earth) Space research 5.544 5.545 5.149			31-31.3 Standard frequency and time signal-satellite (space-to-Earth) US211 US342	31-31.3 FIXED MOBILE Standard frequency and time signal-satellite (space-to-Earth) US211 US342	Fixed Microwave (101)
31.3-31.5 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340			31.3-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY US74 SPACE RESEARCH (passive)		
31.5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile 5.149 5.546	31.5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) 5.340	31.5-31.8 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive) Fixed Mobile except aeronautical mobile 5.149	US246		
31.8-32 FIXED 5.547A RADIONAVIGATION SPACE RESEARCH (deep space) (space-to-Earth) 5.547 5.547B 5.548			31.8-32 RADIONAVIGATION US69 SPACE RESEARCH (deep space) (space-to-Earth) US262 5.548 US211	31.8-32 SPACE RESEARCH (deep space) (space-to-Earth) US262 5.548 US211	

International Table			United States Table		FCC Rule Part(s)
Region 1	Region 2	Region 3	Federal Government	Non-Federal Government	
32-32.3 FIXED 5.547A RADIONAVIGATION SPACE RESEARCH (deep space) (space-to-Earth) 5.547 5.547C 5.548			32-32.3 RADIONAVIGATION US69 SPACE RESEARCH (deep space) (space-to-Earth) US262 5.548	32-32.3 SPACE RESEARCH (deep space) (space-to-Earth) US262 5.548	
32.3-33 FIXED 5.547A INTER-SATELLITE RADIONAVIGATION 5.547 5.547D 5.548			32.3-33 INTER-SATELLITE US278 RADIONAVIGATION US69 5.548		Aviation (87)
33-33.4 FIXED 5.547A RADIONAVIGATION 5.547 5.547E			33-33.4 RADIONAVIGATION US69 US360 G117		
33.4-34.2 RADIOLOCATION 5.549			33.4-34.2 RADIOLOCATION US360 G117	33.4-34.2 Radiolocation US360	Private Land Mobile (90)
34.2-34.7 RADIOLOCATION SPACE RESEARCH (deep space) (Earth-to-space) 5.549			34.2-34.7 RADIOLOCATION SPACE RESEARCH (deep space) (Earth-to-space) US262 US360 G34 G117	34.2-34.7 Radiolocation Space research (deep space) (Earth-to-space) US262 US360	
34.7-35.2 RADIOLOCATION Space research 5.550 5.549			34.7-35.5 RADIOLOCATION	34.7-35.5 Radiolocation	
35.2-35.5 METEOROLOGICAL AIDS RADIOLOCATION 5.549			US360 G117	US360	
35.5-36 METEOROLOGICAL AIDS EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) 5.549 5.551A			35.5-36 EARTH EXPLORATION-SATELLITE (active) RADIOLOCATION SPACE RESEARCH (active) US360 G117	35.5-36 Earth exploration-satellite (active) Radiolocation Space research (active) US360	

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International Footnotes

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5.457A In the bands 5925–6425 MHz and 14–14.5 GHz, earth stations on board vessels may communicate with space stations of the fixed-satellite service. Such use shall be in accordance with Resolution 902 (WRC–03).

5.457B In the bands 5925–6425 MHz and 14–14.5 GHz, earth stations located on board vessels may operate with the characteristics and under the conditions contained in Resolution 902 (WRC–03) in Algeria, Saudi Arabia, Bahrain, Comoros, Djibouti, Egypt, United Arab Emirates, Jordan, Kuwait, Libyan Arab Jamahiriya, Morocco, Mauritania, Oman, Qatar, Syrian Arab Republic, Sudan, Tunisia and Yemen, in the maritime mobile-satellite service on a secondary basis. Such use shall be in accordance with Resolution 902 (WRC–03).

* * * * *

5.504A In the band 14–14.5 GHz, aircraft earth stations in the secondary aeronautical mobile-satellite service may also communicate with space stations in the fixed-satellite service. The provisions of Nos. 5.29, 5.30 and 5.31 apply.

5.504B Aircraft earth stations operating in the aeronautical mobile-satellite service in the band 14–14.5 GHz shall comply with the provisions of Annex 1, Part C of Recommendation ITU–R M.1643, with respect to any radio astronomy station performing observations in the 14.47–14.5 GHz band located on the territory of Spain, France, India, Italy, the United Kingdom and South Africa.

5.504C In the band 14–14.25 GHz, the power flux-density produced on the territory of the countries of Saudi Arabia, Botswana, Côte d'Ivoire, Egypt, Guinea, India, Iran, Kuwait, Lesotho, Nigeria, Oman, Syrian Arab Republic and Tunisia by any aircraft earth station in the aeronautical mobile-satellite service shall not exceed the limits given in Annex 1, Part B of Recommendation ITU–R M.1643, unless otherwise specifically agreed by the affected administration(s). The provisions of this footnote in no way derogate the obligations of the aeronautical mobile-satellite service to operate as a secondary service in accordance with No. 5.29.

5.505 *Additional allocation:* in Algeria, Angola, Saudi Arabia, Bahrain, Bangladesh, Botswana, Brunei Darussalam, Cameroon, China, Congo, Korea (Rep. of), Egypt, the United Arab Emirates, Gabon, Guatemala, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lesotho, Lebanon, Malaysia, Mali, Morocco, Mauritania, Oman, Pakistan, the Philippines, Qatar, Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, Swaziland, Tanzania, Chad and Yemen, the band 14–14.3 GHz is also allocated to the fixed service on a primary basis.

* * * * *

5.506A In the band 14–14.5 GHz, ship earth stations with an e.i.r.p. greater than 21 dBW shall operate under the same conditions as earth stations located on board vessels, as provided in Resolution 902 (WRC–03). This footnote shall not apply to ship earth stations for which the complete Appendix 4 information has been received by the Radiocommunication Bureau prior to 5 July 2003.

5.506B Earth stations on board vessels communicating with space stations in the fixed-satellite service may operate in the frequency band 14–14.5 GHz without the need for prior agreement from Cyprus, Greece, and Malta within the minimum distance given in Resolution 902 (WRC–03) from these countries.

5.508 *Additional allocation:* in Germany, Bosnia and Herzegovina, France, Italy, The Former Yugoslav Republic of Macedonia, Libyan Arab Jamahiriya, the United Kingdom, Slovenia and Serbia and Montenegro, the band 14.25–14.3 GHz is also allocated to the fixed service on a primary basis.

5.508A In the band 14.25–14.3 GHz, the power flux-density produced on the territory of the countries of Saudi Arabia, Botswana, China, Côte d'Ivoire, Egypt, France, Guinea, India, Iran, Italy, Kuwait, Lesotho, Nigeria, Oman, Syrian Arab Republic, the United Kingdom and Tunisia by any aircraft earth station in the aeronautical mobile-satellite service shall not exceed the limits given in Annex 1, Part B of Recommendation ITU–R M.1643, unless otherwise specifically agreed by the affected administration(s). The provisions of this footnote in no way derogate the obligations of the aeronautical mobile-satellite service to operate as a secondary service in accordance with No. 5.29.

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5.509A In the band 14.3–14.5 GHz, the power flux-density produced on the territory of the countries of Saudi Arabia, Botswana, Cameroon, China, Côte d'Ivoire, Egypt, France, Gabon, Guinea, India, Iran, Italy, Kuwait, Lesotho, Morocco, Nigeria, Oman, Syrian Arab Republic, the United Kingdom, Sri Lanka, Tunisia and Viet Nam by any aircraft earth station in the aeronautical mobile-satellite service shall not exceed the limits given in Annex 1, Part B of Recommendation ITU–R M.1643, unless otherwise specifically agreed by the affected administration(s). The provisions of this footnote in no way derogate the obligations of the aeronautical mobile-satellite service to operate as a secondary service in accordance with No. 5.29.

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United States (US) Footnotes

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US7 In the band 420–450 MHz and within the following areas, the peak envelope power output of a transmitter employed in the amateur service shall not exceed 50 watts, unless expressly authorized by the Commission after mutual agreement, on a case-by-case basis, between the Federal Communications Commission Engineer in Charge at the applicable district office and the military area frequency coordinator at the applicable military base. For areas (e) through (j), the appropriate military coordinator is located at Peterson AFB, CO.

(a) The entire State of New Mexico and Texas west of longitude 104° 00′ West;

(b) The entire State of Florida including the Key West area and the areas enclosed within a 322-kilometer (200-mile) radius of Patrick Air Force Base, Florida (latitude 28° 21′ North, longitude 80° 43′ West), and within a 322-kilometer (200-mile) radius of Eglin Air Force Base, Florida (latitude 30° 30′ North, longitude 86° 30′ West);

(c) The entire State of Arizona;

(d) Those portions of California and Nevada south of latitude 37° 10′ North, and the areas enclosed within a 322-kilometer (200-mile) radius of the Pacific Missile Test Center, Point Mugu, California (latitude 34° 09′ North, longitude 119° 11′ West).

(e) In the State of Massachusetts within a 160-kilometer (100-mile) radius around locations at Otis Air Force Base, Massachusetts (latitude 41° 45′ North, longitude 70° 32′ West).

(f) In the State of California within a 240-kilometer (150-mile) radius around locations at Beale Air Force Base, California (latitude 39° 08′ North, longitude 121° 26′ West).

(g) In the State of Alaska within a 160-kilometer (100-mile) radius of Clear, Alaska (latitude 64° 17′ North, longitude 149° 10′ West).

(h) In the State of North Dakota within a 160-kilometer (100-mile) radius of Concrete, North Dakota (latitude 48° 43′ North, longitude 97° 54′ West).

(i) In the States of Alabama, Georgia and South Carolina within a 200-kilometer (124-mile) radius of Warner Robins Air Force Base, Georgia (latitude 32° 38′ North, longitude 83° 35′ West).

(j) In the State of Texas within a 200-kilometer (124-mile) radius of Goodfellow Air Force Base, Texas (latitude 31° 25′ North, longitude 100° 24′ West).

* * * * *

US48 In the band 9000–9200 MHz, the use of the radiolocation service by non-Federal Government licensees may be authorized on the condition that harmful interference is not caused to the aeronautical radionavigation service or to the Federal Government radiolocation service.

* * * * *

US78 In the mobile service, the frequencies between 1435 and 1525 MHz will be assigned for aeronautical telemetry and associated telecommand operations for flight testing of manned or unmanned aircraft and missiles, or their major components. Permissible usage includes telemetry associated with launching and reentry into the Earth's atmosphere as well as any incidental orbiting prior to reentry of manned objects undergoing flight tests. The following frequencies are shared with flight telemetry mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, and 1524.5 MHz.

* * * * *

US110 In the band 9200–9300 MHz, the use of the radiolocation service by non-Federal Government licensees may be authorized on the condition that harmful interference is not caused to the maritime radionavigation service or to the Federal Government radiolocation service.

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US217 In the band 420–450 MHz, pulse-ranging radiolocation systems may be

authorized for Federal and non-Federal Government use along the shorelines of the contiguous 48 States and Alaska. In the Sub-band 420–435 MHz, spread spectrum radiolocation systems may be authorized for Federal and non-Federal Government use within the contiguous 48 States and Alaska. All stations operating in accordance with this provision shall be secondary to stations operating in accordance with the Table of Frequency Allocations. Authorizations shall be granted on a case-by-case basis; however, operations proposed to be located within the following geographic areas should not expect to be accommodated:

(a) The entire State of New Mexico and Texas west of longitude 104° 00′ West;

(b) The entire State of Florida including the Key West area and the areas enclosed within a 322-kilometer (200-mile) radius of Patrick Air Force Base, Florida (latitude 28° 21′ North, longitude 80° 43′ West), and within a 322-kilometer (200-mile) radius of Eglin Air Force Base, Florida (latitude 30° 30′ North, longitude 86° 30′ West);

(c) The entire State of Arizona;

(d) Those portions of California and Nevada south of latitude 37° 10′ North, and the areas enclosed within a 322-kilometer (200-mile) radius of the Pacific Missile Test Center, Point Mugu, California (latitude 34° 09′ North, longitude 119° 11′ West).

(e) In the State of Massachusetts within a 160-kilometer (100-mile) radius around locations at Otis Air Force Base, Massachusetts (latitude 41° 45′ North, longitude 70° 32′ West).

(f) In the State of California within a 240-kilometer (150-mile) radius around locations at Beale Air Force Base, California (latitude 39° 08′ North, longitude 121° 26′ West).

(g) In the State of Alaska within a 160-kilometer (100-mile) radius of Clear, Alaska (latitude 64° 17′ North, longitude 149° 10′ West).

(h) In the State of North Dakota within a 160-kilometer (100-mile) radius of Concrete, North Dakota (latitude 48° 43′ North, longitude 97° 54′ West).

(i) In the States of Alabama, Georgia and South Carolina within a 200-kilometer (124-mile) radius of Warner Robins Air Force Base, Georgia (latitude 32° 38′ North, longitude 83° 35′ West).

(j) In the State of Texas within a 200-kilometer (124-mile) radius of Goodfellow Air Force Base, Texas (latitude 31° 25′ North, longitude 100° 24′ West).

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US244 The band 136–137 MHz is allocated to the non-Federal Government aeronautical mobile (R) service on a primary basis, and is subject to pertinent international treaties and agreements. The frequencies 136, 136.025, 136.05, 136.075, 136.1, 136.125, 136.15, 136.175, 136.2, 136.225, 136.25, 136.275, 136.3, 136.325, 136.35, 136.375, 136.4, 136.425, 136.45, and 136.475 MHz are available on a shared basis to the Federal Aviation Administration for air traffic control purposes, such as automatic weather observation stations (AWOS), automatic terminal information services (ATIS), flight information services-broadcast (FIS–B), and airport control tower communications.

* * * * *

US246 No station shall be authorized to transmit in the following bands:

73–74.6 MHz,
608–614 MHz, except for medical telemetry equipment,[1]
1400–1427 MHz,
1660.5–1668.4 MHz,
2690–2700 MHz,
4990–5000 MHz,
10.68–10.7 GHz,
15.35–15.4 GHz,
23.6–24 GHz,
31.3–31.8 GHz,
50.2–50.4 GHz,
52.6–54.25 GHz,
86–92 GHz,
100–102 GHz,
105–116 GHz,
164–168 GHz,
182–185 GHz,
217–231 GHz.

* * * * *

US252 The bands 2110–2120 MHz and 7145–7190 MHz are also allocated for Earth-to-space transmissions in the space research service, limited to deep space communications at Goldstone, California.

* * * * *

US258 In the band 8025–8400 MHz, the Earth exploration-satellite service (space-to-Earth) is allocated on a primary basis for non-Federal Government use. Authorizations are subject to a case-by-case electromagnetic compatibility analysis.

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US262 The use of the band 31.8–32.3 GHz by the space research service (deep space) (space-to-Earth) and of the band 34.2–34.7 GHz by the space research service (deep space) (Earth-to-space) are limited to Goldstone, California.

* * * * *

US276 Except as otherwise provided for herein, use of the band 2360–2385 MHz by the mobile service is limited to aeronautical telemetering and associated telecommand operations for flight testing of manned or unmanned aircraft, missiles or major components thereof. The following three frequencies are shared on a co-equal basis by Federal Government and non-Federal Government stations for telemetering and associated telecommand operations of expendable and reusable launch vehicles whether or not such operations involve flight testing: 2364.5 MHz, 2370.5 MHz, and 2382.5 MHz. All other mobile telemetering uses shall be secondary to the above uses.

US277 The band 10.6–10.68 GHz is also allocated on a primary basis to the radio astronomy service. However, the radio astronomy service shall not receive protection from stations in the fixed service which are licensed to operate in the one hundred most populous urbanized areas as defined by the 1990 U.S. Census. For the list of observatories operating in this band *see* 47 CFR 2.106, footnote US355.

US278 In the bands 22.55–23.55 GHz and 32.3–33 GHz, non-geostationary inter-satellite links may operate on a secondary basis to geostationary inter-satellite links.

* * * * *

US303 In the band 2285–2290 MHz, non-Federal government space stations in the space research, space operations and Earth exploration-satellite services may be authorized to transmit to the Tracking and Data Relay Satellite System subject to such conditions as may be applied on a case-by-case basis. Such transmissions shall not cause harmful interference to authorized Federal Government stations. The power flux density at the Earth's surface from such non-Federal Government stations shall not exceed –144 to –154 dBW/m^2/4 kHz, depending on angle of arrival, in accordance with ITU Radio Regulation 21.16.

* * * * *

US310 In the band 14.896–15.121 GHz, non-Federal Government space stations in the space research service may be authorized on a secondary basis to transmit to Tracking and Data Relay Satellites subject to such conditions as may be applied on a case-by-case basis. Such transmissions shall not cause harmful interference to authorized Federal Government stations. The power flux-density produced by such non-Federal Government stations at the Earth's surface in any 4 kHz band for all conditions and methods of modulation shall not exceed:

-148 dB(W/m^2) for $0° < \theta \leq 5°$
$-148 + (\theta \leq 5)/2$dB(W/m^2) for $5° < \theta \leq 25°$
-138 dB(W/m^2) for $25° < \theta \leq 90°$

where θ is the angle of arrival of the radio-frequency wave (degrees above the horizontal). These limits relate to the power flux-density and angles of arrival which would be obtained under free-space propagation conditions.

* * * * *

US316 The band 2900–3000 MHz is also allocated on a primary basis to the meteorological aids service. Operations in this service are limited to Federal Government Next Generation Weather Radar (NEXRAD) systems where accommodation in the 2700–2900 MHz band is not technically practical and are subject to coordination with existing authorized stations.

* * * * *

US320 The use of the bands 137–138 MHz, 148–150.05 MHz, and 400.15–401 MHz by the mobile-satellite service is limited to non-voice, non-geostationary satellite systems and may include satellite links between land earth stations at fixed locations.

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US342 In making assignments to stations of other services to which the bands:

[1] Medical telemetry equipment shall not cause harmful interference to radio astronomy operations in the band 608–614 MHz and shall be coordinated under the requirements found in 47 CFR 95.1119.

13360–13410 kHz,
25550–25670 kHz,
37.5–38.25 MHz,
322–328.6 MHz,
1330–1400 MHz,
1610.6–1613.8 MHz,
1660–1660.5 MHz,
1668.4–1670 MHz,
3260–3267 MHz,
3332–3339 MHz,
3345.8–3352.5 MHz,
4825–4835 MHz,
4950–4990 MHz,
6650–6675.2 MHz,
14.47–14.5 GHz,
22.01–22.21 GHz,
22.21–22.5 GHz,
22.81–22.86 GHz,
23.07–23.12 GHz,
31.2–31.3 GHz,
36.43–36.5 GHz,
42.5–43.5 GHz,
48.94–49.04 GHz,
93.07–93.27 GHz,
97.88–98.08 GHz,
140.69–140.98 GHz,
144.68–144.98 GHz,
145.45–145.75 GHz,
146.82–147.12 GHz,
150–151 GHz,
174.42–175.02 GHz,
177–177.4 GHz,
178.2–178.6 GHz,
181–181.46 GHz,
186.2–186.6 GHz,
250–251 GHz,
257.5–258 GHz,
261–265 GHz,
262.24–262.76 GHz,
265–275 GHz

are allocated, all practicable steps shall be taken to protect the radio astronomy service from harmful interference. Emissions from spaceborne or airborne stations can be particularly serious sources of interference to the radio astronomy service (*see* Nos. 4.5 and 4.6 and Article 29 of the ITU Radio Regulations).

* * * * *

US355 In the band 10.7–11.7 GHz, non-geostationary satellite orbit licensees in the fixed-satellite service (space-to-Earth), prior to commencing operations, shall coordinate with the following radio astronomy observatories to achieve a mutually acceptable agreement regarding the protection of the radio telescope facilities operating in the band 10.6–10.7 GHz:

Observatory	West longitude	North latitude	Elevation (in meters)
Arecibo Observatory	66°45′11″	18°20′46″	496
Green Bank Telescope (GBT)	79°50′24″	38°25′59″	825
Very Large Array (VLA)	107°37′04″	34°04′44″	2126
Very Long Baseline Array (VLBA) Stations:			
Brewster, WA	119°40′55″	48°07′53″	255
Fort Davis, TX	103°56′39′	30°38′06″	1615
Hancock, NH	71°59′12″	42°56′01″	309
Kitt Peak, AZ	111°36′42″	31°57′22″	1916
Los Alamos, NM	106°14′42″	35°46′30″	1967
Mauna Kea, HI	155°27′29″	19°48′16″	3720
North Liberty, IA	91°34′26″	41°46′17″	241
Owens Valley, CA	118°16′34″	37°13′54″	1207
Pie Town, NM	108°07′07″	34°18′04″	2371
St. Croix, VI	64°35′03″	17°45′31″	16

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US384 In the band 401–403 MHz, the non-Federal Government Earth exploration-satellite (Earth-to-space) and meteorological-satellite (Earth-to-space) services are limited to earth stations transmitting to Federal Government space stations.

US385 The band 1164–1215 MHz is also allocated to the radionavigation-satellite service (space-to-Earth, space-to-space) on a primary basis. In this band, stations in the radionavigation-satellite service shall not cause harmful interference to, nor claim protection from, stations of the aeronautical radionavigation service.

US386 In designing systems for the inter-satellite service in the band 32.3–33 GHz, for the radionavigation service in the band 32–33 GHz, and for the space research service (deep space) (space-to-Earth) in the band 31.8–32.3 GHz, all necessary measures shall be taken to prevent harmful interference between these services, bearing in mind the safety aspects of the radionavigation service.

* * * * *

Non-Federal Government (NG) Footnotes

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NG41 Frequencies in the bands 3700–4200 MHz and 5925–6425 MHz, may also be assigned to stations in the international fixed public and international control services located in Puerto Rico, the U.S. Virgin Islands, and Navassa Island.

* * * * *

NG114 In the Gulf of Mexico offshore from the Louisiana-Texas coast, the band 476–494 MHz (TV channels 15, 16 and 17) is allocated to the Public Mobile and Private Land Mobile Radio Services in accordance with the regulations set forth in 47 C.F.R. parts 22 and 90, respectively.

* * * * *

Federal Government (G) Footnotes

* * * * *

G2 In the bands 216–225, 420–450 (except as provided by US217 and G129), 890–902, 928–942, 1300–1400, 2310–2385, 2417–2450, 2700–2900, 5650–5925 and 9000–9200 MHz, the Federal Government radiolocation service is limited to the military services.

* * * * *

G129 Federal Government wind profilers are authorized to operate on a primary basis in the radiolocation service in the frequency band 448–450 MHz with an authorized bandwidth of no more than 2 MHz centered on 449 MHz, subject to the following conditions: (1) wind profiler locations must be pre-coordinated with the military services to protect fixed military radars; and (2) wind profiler operations shall not cause harmful interference to, nor claim protection from, military mobile radiolocation stations that are engaged in critical national defense operations.

PART 25—SATELLITE COMMUNICATIONS

■ 4. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 701–744. Interprets or applies Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

■ 5. Section 25.202(a)(3) is revised and paragraph 25.202(a)(4)(iii) is added to read as follows:

§ 25.202 Frequencies, frequency tolerance and emission limitations.

(a) * * *

(3) The following frequencies are available for use by the non-voice, non-geostationary mobile-satellite service:

137–138 MHz: Space-to-Earth
148–150.05 MHz: Earth-to-space
399.9–400.05 MHz: Earth-to-space
400.15–401 MHz: Space-to-Earth

(4) * * *

(iii)(A) The following frequencies are available for use by the L-band Mobile-Satellite Service:

1525–1559 MHz: Space-to-Earth
1626.5–1660.5 MHz: Earth-to-space

(B) The use of the frequencies 1544–1545 MHz and 1645.5–1646.5 MHz is limited to distress and safety communications.

* * * * *

PART 87—AVIATION SERVICES

■ 6. The authority citation for part 87 continues to read as follows:

Authority: 47 U.S.C. 154, 303 and 307(e), unless otherwise noted.

■ 7. Section 87.303 is amended by revising paragraph (d)(1) to read as follows:

§ 87.303 Frequencies.

* * * * *

(d)(1) Frequencies in the bands 1435–1525 MHz and 2360–2385 MHz are assigned primarily for telemetry and telecommand operations associated with the flight testing of manned or unmanned aircraft and missiles, or their major components. The bands 2310–2320 MHz and 2345–2360 MHz are also available for these purposes on a secondary basis. Until January 1, 2007, flight test operations in the band 2385–2390 MHz may continue on a primary basis within 160 km of the nine sites listed in 47 CFR 2.106, footnote US363. Permissible uses of these bands include telemetry and telecommand transmissions associated with the launching and reentry into the Earth's atmosphere, as well as any incidental orbiting prior to reentry, of manned or unmanned objects undergoing flight tests. In the band 1435–1530 MHz, the following frequencies are shared with flight telemetry mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, 1524.5, and 1525.5 MHz. In the band 2360–2390 MHz, the following frequencies may be assigned on a co-equal basis for telemetry and associated telecommand operations in fully operational or expendable and re-usable launch vehicles, whether or not such operations involve flight testing: 2364.5, 2370.5 and 2382.5 MHz. In the band 2360–2390 MHz, all other mobile telemetry uses are secondary to the above stated launch vehicle uses.

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December 23, 2003

Part IV

Securities and Exchange Commission

17 CFR Part 240
Processing Requirements for Cancelled Security Certificates; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–48931; File No. S7–18–00]

RIN 3235–AH94

Processing Requirements for Cancelled Security Certificates

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Final rule.

SUMMARY: The Commission is revising its rules governing cancelled securities certificates to improve the processing of securities certificates by transfer agents. The Commission is adopting a new rule under the Securities Exchange Act of 1934 that will require every transfer agent to establish and implement written procedures for the cancellation, storage, transportation, destruction, or other disposition of securities certificates. This rule will require transfer agents to: Mark each cancelled securities certificate with the word ''cancelled''; maintain a secure storage area for cancelled certificates; maintain a retrievable database of all of its cancelled, destroyed, or otherwise disposed of certificates; and have specific procedures for the destruction of cancelled certificates. Additionally, the Commission is amending its lost and stolen securities rule and its transfer agent safekeeping rule to make it clear that these rules apply to unissued and cancelled certificates.

EFFECTIVE DATE: The amendments will become effective on January 22, 2004.

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director, or Thomas C. Etter, Jr., Special Counsel, at (202) 942–0178, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: The Commission is today adopting new Rule 17Ad–19 and adopting amendments to existing Rules 17f–1, 17Ad–7, and 17Ad–12.

I. Introduction

A. The Proposal

On October 2, 2000, the Commission published for comment a release (''Proposing Release'') that proposed Rule 17Ad–19 under the Securities Exchange Act of 1934 (''Exchange Act'')[1] and proposed amendments to Exchange Act Rules 17f–1 and 17Ad–12.[2] The proposed rule and rule amendments principally were designed to address problems associated with cancelled securities certificates. Rule 17Ad–19 as proposed would have required every transfer agent that handles, processes, or stores securities certificates to establish and implement written procedures for the cancellation, storage, transportation, and destruction of retired securities certificates. The rule would require transfer agents to: Mark each cancelled securities certificate with the word ''cancelled;'' maintain a secure storage area for cancelled certificates; maintain a retrievable database of all of its cancelled and destroyed certificates; and have specific procedures for the destruction of cancelled certificates. Additionally, proposed amendments to Rule 17f–1 (the lost and stolen securities rule) would have: Required the tracking of securities certificates, cancelled or otherwise, in transit between reporting institutions; established time frames for making required ''inquiries'' about lost, stolen, missing, or counterfeit securities under Rule17f–1; and defined certain terms for purposes of the rules. Finally, proposed amendments to Rule 17f–1 and Rule 17Ad–12 (the transfer agent safekeeping rule) would have made clear that unissued and cancelled securities certificates must be safeguarded under Rule 17Ad–12 and that they fall within the Commission's Lost and Stolen Securities Program under Rule 17f–1.

We are adopting the proposed new rule and rule amendments, with minor modifications as discussed below, substantially as they were proposed. Further, as discussed below, we have modified Rule 17Ad–19 from the proposal in response to comments to address situations where cancelled securities are ''otherwise disposed of.''

B. The Commission's Goals

The new rule and rule amendments promote several fundamental Commission goals: Improving the safety and efficiency in processing and transferring securities; reducing or eliminating the physical movement of securities certificates; and reducing the potential for fraudulent use of cancelled securities certificates.[3] The rules primarily relate to problems and costs associated with cancelled securities certificates.

In particular, we address the problem that, until properly destroyed or disposed of, cancelled securities certificates can resurface in the marketplace and can be and have been used to defraud members of the public or financial institutions. Requiring better procedures for processing and destroying cancelled certificates will reduce this potential for harm.

C. Comment Letters

The Commission received 13 comment letters on the proposed rule and proposed rule amendments.[4] Ten commenters generally expressed support for proposed Rule 17Ad–19 and the proposed amendments to Rules 17f–1 and 17Ad–12 and for the Commission's efforts to address cancelled certificate fraud, and offered suggestions for modification or requests for clarification with respect to specific provisions of the proposal. As discussed below, we have adopted some of the suggestions. The remaining three commenters addressed only the issue of certificate destruction, arguing that because securities certificates are culturally important due to their historical, aesthetic, and collectors' values, they should be preserved and not destroyed. We discuss these comments below.

[1] 15 U.S.C. 78a *et seq.*

[2] 17 CFR 240.17f–1 and 240.17Ad–12; Securities Exchange Act Release No. 43401 (October 2, 2000), 65 FR 59766 (October 6, 2000).

[3] *See, generally,* Exchange Act Section 17A(a), 15 U.S.C. 78q–1(a); Section 17(f)(1), 15 U.S.C. 78q(f)(1); *Securities Act Amendments of 1975,* Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. 94 to accompany S.249, 58–59 (1975); *Securities Industry Study,* H.R. Report of the Subcom. on Commerce & Finance, House Rep. No. 92–1519, pp. 68–70, 75–76 (1972).

[4] The Commission received comment letters from five transfer agents, one broker-dealer, one bank, one business corporation, one trade group representing transfer agents, one trade group representing investment companies, the president of an organization representing collectors of securities certificates, a finance professor, and a group of business students at Florida State University. Letters from James J. Angel, Ph.D., George Washington University (October 19, 2000); Loren Hanson, Manager, Shareholder Relations, Otter Tail Power Co. (October 24, 2000); Frank Hammelbacher, Norrico, Inc. (October 30, 2000); John E. Nolan, Senior Vice President, Raymond James & Associates, Inc. (November 2, 2000); Charles V. Rossi, Division President, EquiServe (December 4, 2000); Steven Turowski, Senior Regulatory Counsel, PFPC Inc. (December 4, 2000); Kathleen C. Joaquin, Director, Transfer Agency & International Operations, Investment Company Institute (''ICI'') (December 5, 2000); Daniel M. Hill, Assistant Vice President, U.S. Bank Trust National Association (December 6, 2000); John F. Kuntz, Vice President and Assistant General Counsel, Chase-Mellon Shareholder Services (December 14, 2000); Keith G. Berkheimer, President, CTA (December 14, 2000); Robert A. Kerstein, President, Scripophily.com (March 5, 2001); and Robert Serrano *et al,* business students at Florida State University (dated November 29, 2000, received at the Commission February 19, 2002). These comment letters are available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

II. Background

A. History

When a security certificate is retired, such as when a bond is redeemed or ownership of stock is transferred, the certificate is cancelled by the transfer agent. Cancellation normally involves both an accounting entry on the books of the transfer agent and an alteration of the certificate itself, though either by itself is an act of cancellation. After cancellation of a registered certificate,[5] the Exchange Act's record retention rules for transfer agents require that the certificate or appropriate record of the certificate be retained for not less than six years.[6] In recent years, many corporate bond issues have been called for redemption and cancelled decades before their maturities.[7] These bond redemptions and an active stock market have generated vast amounts of cancelled securities certificates that must be processed, stored, and safeguarded. Certificate processing of retired certificates can involve significant costs and risks. The following examples illustrate some of these risks.

In a 1992 case, cancelled bond certificates with a face amount of approximately $111 billion disappeared after being delivered from a transfer agent's warehouse to a certificate destruction vendor. The certificates, issued by many well-known public companies, later began to resurface worldwide. A number of banks and brokers as well as individuals were defrauded through sales of the cancelled certificates for cash or through use of the cancelled certificates as loan collateral. The bulk of these cancelled certificates still remain unaccounted for and continue to resurface in the marketplace.[8]

In a similar case in 1994, cancelled bonds with a face amount of approximately $6 billion disappeared after being delivered from a transfer agent's record center to two certificate destruction vendors. The cancelled certificates, issued by well-known companies, later began to resurface worldwide. Again, the bulk of these cancelled certificates remain unaccounted for and continue to resurface in the marketplace.[9]

In another instance, a transfer agent's shipping bags filled with cancelled certificates were stolen while in commercial air transit. The transfer agent regularly shipped cancelled certificates from the West Coast to a New York bank for processing. The transfer agent, however, did not record the contents of its shipments and, in effect, relied on its New York bank processing agent to do its bookkeeping. When the shipping bags were stolen, neither the transfer agent nor its bank processing agent realized that the certificates were missing. A number of the certificates later resurfaced in off-market transactions.[10]

Other instances have involved bulk thefts of cancelled certificates from warehouses. In some cases, the records of the certificate numbers of the stored certificates also were stolen because they were stored with the certificates. Even in cases where certificate records for stolen securities were available, they generally were of limited value in identifying the stolen securities because the records were organized chronologically by cancellation dates rather than by certificate numbers. As a result, the necessary information was not easily retrievable from the records.

A common transfer agent practice contributed to this widespread problem. In physically cancelling certificates, many transfer agents marked the certificates only with pinhole-sized perforations. These tiny perforations were intended to indicate cancelled status without defacing the certificates and impairing their usefulness as records. The pinholes, which usually show the cancellation date and the initials of the transfer agent within a space about the size of a quarter, often have been barely noticeable. In some cases, they have been mistaken for notary or authentication markings. Even more problematic has been the practice by some transfer agents of not marking certificates at all to indicate that the certificates have been cancelled.

In many cases, the stolen certificates have reentered the marketplace either through sales or as collateral for loans, resulting in substantial fraud on public investors, public companies, creditors, broker-dealers, and transfer agents. Not only do situations such as these present potential liability for the transfer agents responsible, but they consume the resources of regulatory and criminal law enforcement agencies.

As discussed below, the Commission hopes that these unfortunate practices have been or are being eliminated by the transfer agents themselves through improved trade practices. But without standards and verification, there is no way to be certain. The new rule and rule amendments address these practices and will permit the Commission's examiners to verify compliance as a routine part of their examination schedules.

B. The Commission's Authority

Sections 17(f) and 17A of the Exchange Act provide the Commission with authority and responsibility to protect investors and securities industry participants from the dangers associated with the fraudulent use of cancelled

[5] The term ''registered'' as used in 17 CFR 240.17Ad–6(c) with reference to cancelled certificates means certificates registered in the name of an owner, as distinct from bearer certificates that were in wide circulation when this rule was promulgated in 1977.

[6] 17 CFR 240.17Ad–6(c) and 240.17Ad–7(d). *See also* 17 CFR 240.17Ad–7(f). It has been suggested that transfer agents should have the option to destroy cancelled certificates shortly after cancellation. *See* comment letter from Steven Turowski, Chief Regulatory Counsel, PFPC, Inc, (December 4, 2000). While current practices are changing and some transfer agents may want to select alternative means, such as electronic imaging, to satisfy the recordkeeping requirements for cancelled certificates, many transfer agents may prefer to satisfy these recordkeeping requirements by maintaining the physical certificates themselves. Nevertheless, in the Proposing Release, we invited commenters to address this issue, and their comments are summarized below.

We note that we have also proposed amendments to Securities Exchange Act Rule 17Ad–7, 17 CFR240.17Ad–7, which if adopted would make clear that transfer agents may use certain alternative means to store cancelled securities certificates provided that the certificates are electronically stored in conformity with the terms of Rule 17Ad–7. Because these electronic records satisfy the recordkeeping obligations, the paper certificates would not be required to be kept by Rule 17Ad–7. Securities Exchange Act Release No. 48036 (June 16, 2003), 68 FR 36951.

[7] Among the reasons for these bond redemptions has been the decline in long-term interest rates since the early 1980s.

[8] The Commission brought an action against this transfer agent for its failure to report stolen certificates pursuant to Rule 17f–1, 17 CFR 240.17f–1, and for its failure to safeguard securities in its possession pursuant to Rule 17Ad–12, 17 CFR 240.17Ad–12. The transfer agent agreed to pay a civil penalty of $750,000 and to cease and desist from future violations of Sections 17(f)(1) and 17A of the Exchange Act and Rules 17f–1 and 17Ad–12 thereunder. *SEC* v. *Citibank, N.A.,* Civil Action No. 92–2833 (USDC, DC, 1992). *See also* Securities Exchange Act Release No. 31612 (December 17, 1992).

[9] The Commission and the Comptroller of the Currency brought a joint action against this transfer agent for its failure to report as stolen the cancelled certificates pursuant to Rule 17f–1 and its failure to safeguard securities in its possession pursuant to Rule 17Ad–12. The transfer agent agreed to pay a civil penalty of $100,000 and to cease and desist from future violations of Sections 17(f)(1) and 17A of the Exchange Act and Rules 17f–1 and 17Ad–12 thereunder. As remedial measures, the transfer agent also agreed to mark cancelled certificates with the word ''cancelled'' and to adopt other safeguards. *The Chase Manhattan Bank*, Securities Exchange Act Release No. 34784 (October 4, 1994).

[10] The Commission and the Office of the Comptroller of the Currency brought a joint action against this transfer agent for violation of Section 17(f)(1) of the Exchange Act and Rule 17f–1 thereunder for failure to report the missing securities to the Commission's Lost and Stolen Securities Program. The transfer agent agreed to pay a $75,000 civil penalty and to cease and desist from any further violations of Section 17(f)(1) and Rule 17f–1 thereunder. *Seattle-First National Bank*, Securities Exchange Act Release No. 34293 (July 1, 1994).

certificates.[11] Section 17(f)(1), in fact, is designed to curtail the profitability of and the unlawful trafficking in lost and stolen securities certificates.[12] Section 17(a)(3) of the Act expressly provides the Commission with rulemaking authority over transfer agent recordkeeping matters.[13] In Section 17A(a), Congress directs the Commission to carry out certain objectives including the safeguarding of securities and funds that are related to securities transfers and the elimination of inefficient securities processing that imposes unnecessary costs on investors.[14] The Commission has broad discretion in carrying out these mandates.[15] We believe that most situations where cancelled securities certificates resurfaced in the marketplace have resulted from a lack of good internal control systems for the processing, storage, transportation, or destruction of the certificates. The rules that we adopt today are intended to provide for more efficient and secure certificate processing, particularly of cancelled certificates.

III. Final Rules

A. Rule 17Ad–19: Processing of Cancelled Certificates

Currently, the processing of cancelled certificates is largely governed by industry practices. For example, in 1994, the Securities Transfer Association (''STA''), the largest transfer agent trade association,[16] adopted guidelines for its members which, among other things, called for marking cancelled certificates with the word ''cancelled'' and for greater security measures in certificate storage and destruction.[17] However, these guidelines are not mandatory, and not all transfer agents follow them. Therefore, because cancellation is the critical first step in the processing of retired securities certificates, we believe that rulemaking is necessary to strengthen and standardize this process.

1. Discussion of Text

Rule 17Ad–19 requires each transfer agent to have and implement written procedures for the cancellation, storage, transportation, destruction, or other disposition of securities certificates. At a minimum, the written procedures must provide: (1) For controlled access to any cancelled certificate facility; (2) that the transfer agent clearly apply to the face of each cancelled certificate the word ''cancelled'' unless the transfer agent's procedures will cause the certificate to be destroyed in accordance with other Commission rules within three business days of its cancellation; (3) that the transfer agent keep a readily retrievable record of each cancelled certificate with identifying data consisting of CUSIP number, certificate number including prefix or suffix, denomination, registration, issue date, and cancellation date; (4) that the transportation of cancelled certificates be made in a secure manner with a record of the certificates in transit kept separately; (5) that the transfer agent keep a readily retrievable record of each destroyed certificate or certificate otherwise disposed of;[18] and (6) that authorized personnel of the transfer agent, supervise, witness and document the destruction of certificates.

We are modifying proposed Rule 17Ad–19 to require that transfer agents maintain records not only of the certificates that they or their agents destroy but also of those certificates that they dispose of by any other means and which may, for example, become the property of collectors or dealers in collectibles. In this regard, we note that cancelled certificates, after a period in transfer agent storage, are generally destroyed by the transfer agent or destroyed by some other party acting at the direction of the transfer agent or the issuer. However, a small amount of cancelled certificates may find their way from transfer agents to collectors or perhaps to other places currently unknown to us. Accordingly, to make the rule as complete as possible, we are inserting in paragraph (b) the words ''or other disposition'' into the phrase ''destruction of securities certificates.'' The term ''otherwise disposed of'' requires that a record be maintained of how (as by sale or gift) and to whom (with name and address) the certificates were disposed of and the date of disposition. In the text of Rule 17Ad–19, minor changes have been made to paragraphs (a)(2) and (a)(4) for clarification and specificity. Rule 17Ad–19 also includes procedures for the Commission to provide conditional or unconditional exemptions from any of these provisions of the rule in appropriate cases upon written request or upon its own motion. A related amendment to Rule 17Ad–7(i) requires transfer agents to maintain records to demonstrate compliance with the requirements of Rule 17Ad–19 for not less than three years, the first year in an easily accessible place.[19]

2. Comment Letters

Many comments received in reply to the Proposing Release addressed particular aspects of proposed Rule 17Ad–19.

Three commenters,[20] objected to the proposed requirement that certificates must be ''cancelled'' unless existing procedures would cause their destruction ''within 72 hours of their cancellation.'' They each recommended that ''72 hours'' be changed to ''three business days'' to avoid problems with weekends and holidays. We agreed that this change would achieve our goal, while avoiding problems with weekends and holidays and, therefore, we made this modification.

ChaseMellon asked for clarification whether the provision in the rule concerning certificates in transit would apply to shipments between a transfer agent's own offices and affiliates or only to shipments between unaffiliated reporting institutions, vendors, and others. The transportation provision of the rule is intended to apply only to shipments between a reporting institution and unaffiliated parties. We have modified the rule to reflect this point.[21]

ChaseMellon asked whether having written procedures that are consistent with STA's recommended guidelines would constitute compliance with Rule 17Ad–19. Because some requirements of Rule 17Ad–19 may differ from those of the STA's guidelines, transfer agents must be sure they are in compliance with the requirements of Rule 17Ad–19. ChaseMellon also requested clarification whether the records required by Rule

[11] 15 U.S.C. 78q(f) and 78q–1.

[12] Section 17(f)(1), 15 U.S.C. 78q(f)(1).

[13] 15 U.S.C. 78q(a)(3).

[14] 15 U.S.C. 78q–1(a). *See* Securities Acts Amendments of 1975, Comm. on Banking, Housing and Urban Affairs, Sen. Rep. No. 75 to Accompany S.249, 56–58 (1975).

[15] ''The Commission is empowered with broad rulemaking authority over all aspects of a transfer agent's activities as a transfer agent.'' *Id.* at 57.

[16] STA has over 400 members, the majority of whom are registered transfer agents. For STA's Web site, see *www.stai.org*.

[17] Rules of the STA, Section 1.26 (Recommended Procedures for Cancelled Securities).

[18] Required certificate detail is: CUSIP number, certificate number including prefix or suffix, denomination, registration, issue date, and cancellation date. *See* 17 CFR 240.17Ad–9(a) and 240.17f–1(c)(6). The term ''certificate otherwise disposed of'' is intended to include the small minority of certificates that are not destroyed by transfer agents or other agents and may, for example, become the property of collectors or of dealers in collectibles.

[19] 17 CFR 240.17Ad–7(i).

[20] EquiServe, ICI, and PFPC, Inc. PFPC, Inc. is a member of the PFPC Financial Services Group, Inc.

[21] This provision is intended to address shipments between unaffiliated financial institutions. We believe that less risk of this type of loss exists in intrafirm shipments where the same firm controls both the sending and receiving offices. We note, however, that a transfer agent's general obligation to safeguard funds and securities applies to intrafirm shipments. *See* Exchange Act Rule 17Ad–12, 15 CFR 240.17Ad–12.

17Ad–19 for cancelled certificates require retrievable information both for certificates that are (1) cancelled but not destroyed and (2) cancelled and destroyed. The rule requires that the applicable information be kept for both types of cancelled certificates.

ChaseMellon asked whether maintaining cancelled certificate data based solely on cancellation dates would be adequate under Rule 17Ad–19. Cancellation date recordkeeping has led to identification problems in the past when cancelled certificates were lost or stolen. Data organized by cancellation date, rather than by CUSIP and certificate number, has proved to be of little value when there is a need for prompt identification of lost, missing, or stolen certificates. It is important that CUSIP numbers and certificate numbers are readily available for the prompt reporting of lost, missing, or stolen certificates to the Lost and Stolen Securities Program and for the prompt alerting of law enforcement authorities and other financial institutions. Accordingly, this requirement is contained in Rule 17Ad–19.

ICI asked whether the new recordkeeping provisions applicable to cancelled certificates would apply retroactively (*i.e.*, apply to certificates previously cancelled), in which case ICI suggested the provisions would be burdensome on transfer agents. The new recordkeeping provisions will apply only prospectively, becoming effective sixty days after the date of adoption of the rule.

B. Rule 17f–1: Lost and Stolen Securities Program

1. Background of Lost and Stolen Securities Program

Section 17(f)(1) of the Exchange Act requires the Commission to operate a Lost and Stolen Securities Program (''LSSP'' or ''Program'').[22] Congress directed the establishment of the Program in 1975 to curtail trafficking in lost, stolen, missing, and counterfeit securities certificates.[23] Rule 17f–1 under the Exchange Act governs LSSP operations. The Program consists mainly of a database for securities that have been reported lost, stolen, missing, or counterfeit. Operationally, the Program has two essential parts: ''reports'' and ''inquiries.'' Most financial institutions (including exchanges, banks, brokers, clearing agencies, and transfer agents), which Rule 17f–1 designates ''reporting institutions,''[24] are required to report any certificates that they discover to be lost, stolen, missing, or counterfeit.[25] These institutions also must inquire of the Program about any securities certificate valued at more than $10,000 that comes into their ''possession or keeping.''[26] These financial institutions also may voluntarily report or inquire about other certificates.[27]

The Program is operated by the Securities Information Center (''SIC'') as the Commission's designee pursuant to a contract. SIC receives all reports and inquiries, responds to inquiries, and maintains the Program's database. As of December 31, 2002, the Program's database reflected securities with a value of approximately $672 billion. There were 26,011 reporting institutions.[28] During the year 2002, reports were made on 926,475 certificates (an average of 3,676 certificates per business day); inquiries were made on 5,231,310 certificates (an average of 20,759 certificates per business day); and matches or ''hits'' resulting from inquiries occurred on 224,338 certificates, which had a value of approximately $36.5 billion.[29] The hits essentially warned the inquirers that the certificates had been reported as lost, stolen, missing, or counterfeit and were not eligible for transfer.

2. Rule 17f–1 ''Requirements for Reporting and Inquiry With Respect to Missing, Lost, Counterfeit or Stolen Securities''

a. ''Securities Certificate''. We have amended Rule 17f–1 by adding subparagraph (a)(6), which defines ''securities certificate'' to clarify that the scope of Rule 17f–1 covers the life span of a certificate from the time it is printed until the time it is destroyed. Accordingly, the rule covers: (1) Certificates that have been printed but not issued; (2) certificates that have been issued and remain outstanding; (3) certificates that have been issued and reacquired by the issuer; and (4) certificates that have been cancelled.[30] It likewise includes certificates that are counterfeit or reasonably believed to be counterfeit. As discussed below, we also have incorporated this definition of ''securities certificate'' into Rules 17Ad–12(b) and 17Ad–19(a)(8).[31]

We received several comments on this proposal. ICI and Otter Tail requested clarification of the term ''printed but not issued.'' Specifically, they asked what identifying information must be included on certificates to qualify such certificates for reporting to LSSP. Under Rule 17f–1, as amended, a securities certificate is ''printed but not issued'' when it sets forth: The name of the issuer, the CUSIP number, the certificate number, and the authenticating signatures of the issuer. Therefore, a securities certificate to be considered ''printed but not issued'' does not have to set forth: the name of the registrant, the number of units, or the countersignature of the transfer agent.

U.S. Bank asked whether the proposed definition of ''securities certificate'' would include both registered and bearer certificates, noting that including bearers and their coupons would be burdensome on transfer agents. U.S. Bank suggested that if coupons are to be included, they should be subject to cancellation practices at the transfer agent's discretion which could include such methods as ''hole punching'' of coupons as an acceptable means of cancellation. In the rule as amended, the definition of ''securities certificate'' in subparagraph (a)(6) of Rule 17f–1 includes both registered and bearer certificates. Although processing bearer certificates may in some ways be more onerous to transfer agents than processing registered certificates, we do

[22] 17 U.S.C. 78q(f)(1).

[23] *See* Lost and Stolen Securities Program, Hearings before the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations, 93d Cong., 1st Sess. (1973), 2d Sess. (1974). S.249, which became the Securities Acts Amendments of 1975, was amended on the floor of the Senate to add legislation concerning lost, stolen, missing, and counterfeit securities. 121 Cong. Rec. 6186 (April 17, 1975). *See also* Conference Report to Accompany S.249, 94th Cong., 1st Sess. 103–104 (1975).

[24] The term ''reporting institution'' is defined in 17 CFR 240.17f–1(a)(1).

[25] 17 CFR 240.17f–1(c) and (d).

[26] 17 CFR 240.17f–1(d)(iv). The rule's inquiry requirement applies to any securities certificate received as part of a transaction whose aggregate value (face value in the case of debt or market value in the case of stocks) exceeds $10,000. Required inquiries under existing Rule 17f–1(d) would not be changed by the amendment.

[27] *E.g.*, inquiries on securities certificates valued at less than $10,000. 17 CFR 17f–1(e).

[28] Reporting instructions were comprised of 13,948 banks, 11,116 securities organizations, and 947 non-bank transfer agents. ''Securities organizations'' are: (1) National securities exchanges, (2) national securities exchange members, (3) national securities exchange member firms, (4) registered securities associations, (5) registered securities association members, (6) securities brokers, (7) securities dealers, and (8) municipal securities dealers.

[29] Securities Information Center, ''Annual Statistics for the Period January 1, 2002, through December 31, 2002.''

[30] For purposes of market value under the inquiry requirements of Rule 17f–1(d), the cancelled certificates would be given the market value of ''live'' securities of the same issue.

[31] 17 CFR 240.17Ad–12(b) and 240.17Ad–19(a)(8).

not believe that bearer certificates can reasonably be excluded from a definition of securities certificates. We note, too, that any burden caused by bearer certificates is diminishing year-by-year due to the Tax Equity and Fiscal Responsibility Act of 1982, which essentially eliminated the issuance of bearer certificates.[32]

Moreover, the definition of ''securities certificate'' of Rule 17f–1(a)(6) does not contemplate bond coupons, which are expressly exempted from the reporting and inquiry provisions of Rule 17f–1 by its subparagraph (f)(2). We note, however, that while, due to the exemption, coupons are not securities certificates or reportable within the meaning of Rule 17f–1, they are not exempted from Rule 17Ad–12 and, accordingly, they do come within the ''funds and securities'' safeguarding provisions of Rule 17Ad–12(a). In any case, Rule 17Ad–19 does not establish specific cancellation practices for coupons. We believe that it is appropriate for coupon cancellation to be governed by accepted, reasonable industry practices at this time.

b. ''*Missing'' Securities Certificates.* The term ''missing'' is used in Section 17(f)(1) of the Exchange Act and in Rule 17f–1 thereunder, but until now it was not defined.[33] The term generally has been used to describe certificates that cannot be located, such as certificates that are not found during a count or audit, but that are thought to be misfiled rather than lost or stolen.

There are other circumstances, however, where a transfer agent does not have possession of a certificate though it believes, but cannot be certain, that it knows what happened to the certificate, *i.e.*, that it was destroyed. Some would claim that such a certificate is not ''missing'' but is more accurately described as ''destroyed,'' and that accordingly a reporting institution is not required to report the certificate under Rule 17f–1 as being missing, lost, or stolen. For example, if cancelled certificates are stored by a transfer agent in a warehouse that is destroyed by a fire, the transfer agent may reasonably believe but cannot be certain (*i.e.*, to the point of providing a guarantee) that all the stored certificates were destroyed.[34] In such a situation, especially where arson is found, there is a risk that some of the certificates may not have been destroyed and may resurface in the marketplace.

We are amending Rule 17f–1(a)(7), as proposed, to define the term ''missing'' for purposes of Rule 17f–1 as any certificate that: (1) Cannot be located but which is not believed to be lost or stolen or (2) the transfer agent believes was destroyed but was not destroyed according to the certificate destruction procedures required by Rule 17Ad–19. We received no comments on this proposal.

As a result, it will be clear that reporting institutions are required to report the above-described types of missing certificates to LSSP. Then, if such certificates later resurface, there will be a high degree of likelihood that they will be promptly identified and interdicted through LSSP.

3. LSSP Reports of Cancelled Certificates

The Commission has brought enforcement actions for violations of Rule 17f–1 where cancelled securities certificates that were lost or stolen were not reported to LSSP.[35] Nevertheless, there appears to be some uncertainty about whether this rule applies to cancelled certificates.[36] We believe clarification would be useful.

We believe that cancelled certificates are within the meaning and purpose of Rule 17f–1. Like counterfeit certificates, cancelled certificates have no investment value, but they can be used to defraud.[37] The inclusion of the definition of ''securities certificate'' in Rule 17f–1(a)(6) as discussed above clarifies that cancelled certificates are reportable to LSSP.

4. LSSP Inquiries

In Rule 17f–1, paragraph (c) governs reports and paragraph (d) governs inquiries about lost, stolen, missing, and counterfeit securities. While the rule specifies time frames for making reports, it specifies no time frames for making the inquiries.[38]

When Rule 17f–1 was adopted in 1976, requirements for making inquiries were intended to accommodate business practices and to avoid commercial disruptions.[39] The time frames for making inquiries were left to the business judgment of inquiring companies.[40] Since then, business conditions have changed substantially, in large part due to improvements in automation and communications. Inquiries to LSSP by financial institutions have become quite routine and automated. In addition, the lack of any time limit for making required inquiries has made compliance with the rule difficult to monitor, and it has produced judicial comment.[41] No public comment was received in response to our Proposing Release concerning the time frames for inquiries.

Accordingly, we are adding subparagraph (d)(3), as proposed, to Rule 17f–1 which provides that inquiries must be made by the end of the fifth business day after a certificate comes into the ''possession or keeping'' of a reporting institution.[42] The amendment also provides that inquiries shall be made before the certificate is sold, used as collateral, or sent to another reporting institution if

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[32] Pub.L. 97–248 (September 9, 1982), 26 U.S.C. 309 *et seq.* While not prohibiting bearer securities, TEFRA imposes financial disadvantages on both their issuers and their holders. *See, e.g.,* 26 U.S.C. 6049.

[33] While parallel terms (lost, stolen, and counterfeit) also are not defined by the statute or the rule, we believe that their meanings are clear from the context.

[34] On March 9, 1997, a major warehouse fire, believed to have been caused by arson, apparently destroyed a large number of cancelled securities certificates held in storage by a transfer agent. *See* ''A Burning Question: How Safe Are Your Records,'' *Business Week*, June 23, 1997, at page 130E4.

[35] *Supra* notes 8, 9 and 10.

[36] For example, one court has found that because ''cancelled securities'' were not expressly included in Rule 17f–1, they were not subject to the reporting requirements of that rule. *A.G. Edwards & Sons, Inc.* v. *Centocor, Inc.,* Civil Action No. 91–6133 (E.D. PA, 1992).

[37] In *United States* v. *Jackson,* 576 F.2d. 749, 757 (8th Cir. 1978), the court recognized that stolen blank stock certificates have no intrinsic value as investments but that they have a ''thieves' market value'' as demonstrated by an FBI undercover operation, which was part of the case, where the certificates were purchased at 40% of their apparent market value.

[38] *See* Section III.B.1 above for description of inquiries.

[39] When enacting the underlying statute, Congress stated that the Commission should carefully weigh the benefits of mandating inquiries against the costs and effects on efficient business practices. Conference Report on S. 249, Securities Acts Amendments of 1975, 94th Cong., 1st Sess. 104 (1975). In 1976, the Commission observed that the system for inquiries should avoid undue disruptions to commercial transactions and chose not to set time limits for inquiries. Securities Exchange Act Release No. 12030 (January 20, 1976), 41 FR 04834.

[40] In 1979, when the Commission asked for comments from the industry, reporting institutions said they favored a policy of leaving to their own business judgment the time frames for valuing and inquiring of LSSP about securities that came into their possession. The Commission accepted that position. *See* ''Inquiry Time Frames,'' Securities Exchange Act Release No. 15683 (March 29, 1979), 44 FR 20614.

[41] The Seventh Circuit Court of Appeals observed that the addition of a precise time frame for making required inquiries would improve the operation of the rule. *First National Bank of Cicero* v. *Lewco Securities Corp.,* 860 F.2d 1407, 1416, n.14 (7th Cir. 1988). The court also said that whether an institution meets the test of ''good faith'' required for bona fide purchaser status with respect to securities certificates may depend on whether it has met the inquiry requirements of Rule 17f–1. *Id.* at 1413–1415. *See also* Yadley and Ilkson, ''Bona Fide Purchasers of Lost and Stolen Securities: Meeting the 'Good Faith' and 'Notice' Requirements,'' 5 George Mason U.L. Rev. 101, 127–133 (1982).

[42] The term ''reporting institution'' is defined in 17 CFR 240.17f–1(a)(1).

occurring sooner than the end of the fifth business day.

5. Securities Shipments

We proposed to add to Rule 17f–1(c)(2)(ii) a requirement that transfer agents track shipments of securities certificates, including cancelled certificates, between reporting institutions. When such a shipment becomes unaccounted for (for example, when the delivering institution fails to receive notice of receipt of the shipment), the delivering institution would be required to investigate to determine the facts. If the certificates cannot be located, under the proposed amendment, the delivering institution would be required to report to LSSP that the certificates are missing, stolen, or lost within a reasonable time not exceeding ten business days after the shipment was sent.

We received five comments on this proposal.[43] The commenters said that the proposed time frame of ten business days was too short a period for transfer agents to verify the non-delivery, to investigate the cause, and to report such matters to LSSP. Alternative suggestions were 15, 20, and 30 business days. In response to these suggestions, and upon consideration of the time we believe is reasonably needed to verify and investigate such non-deliveries, we have increased the time frame to 20 business days.

EquiServe also commented that inasmuch as the overall purpose of the rule package is to address problems with retired or cancelled certificates, the securities shipment proposal in question should not apply to ''live'' certificates.[44] EquiServe noted that, as proposed, the rule would appear to apply to all shipments of securities certificates, both live certificates and retired certificates, but it noted that live certificates tend to be shipped (1) in small amounts and perhaps only as single certificates and (2) in protected ways, such as by certified mail, that reflect their asset value. It also commented that it would be expensive for transfer agents to monitor the receipt of each such small mailing. EquiServe stated that retired certificates, however, tend to be shipped in bulk, and since they have no investment value there is less economic incentive to record and track such certificates. Thus, EquiServe suggests, the coverage of the rule proposal could be limited to retired certificates.

We agree with EquiServe's reasoning on this matter. The proposed rule appears unnecessary for live certificates, which generally are carefully safeguarded by the securities industry and where the rule would impose higher expenses due to the small shipments usually involved.[45] But we believe the proposal is necessary with respect to retired certificates where there is less financial incentive for the industry to safeguard the certificates and where shipments tend to be fewer and in bulk amounts so that the tracking expenses per certificate would be less. Accordingly, the proposed rule has been modified to apply only to shipments containing retired certificates.

C. Rule 17Ad–12: Safeguarding of Funds and Securities

Rule 17Ad–12 governs the safekeeping of funds and securities by transfer agents.

It requires that securities be handled in a manner that is reasonably free from the risk of destruction, theft, or other loss. We proposed an amendment to Rule 17Ad–12 to make clear that cancelled certificates come within the meaning and purpose of Rule 17Ad–12.[46] As we observed earlier, a cancelled certificate has no intrinsic value but, like a counterfeit certificate, it can be used to defraud. Accordingly, we have amended Rule 17Ad–12 as proposed to provide that the term ''securities'' used in that rule will have the same meaning as the term ''securities certificate'' defined in Rule 17f–1. As such, cancelled certificates will be expressly included in the coverage of Rule 17Ad–12, and transfer agents will be responsible for safeguarding cancelled certificates under their control.[47]

D. Other Comments

Discussed below are other comments we received in response to the Proposing Release.

1. Exceptions for Certain Transfer Agents

Paragraph (b) of proposed Rule 17Ad–19 would have applied only to those transfer agents involved in the ''keeping, handling, or processing of securities certificates.'' We requested comment on whether the proposal should apply to all registered transfer agents (approximately 900) or only to the approximately 800 registered transfer agents that maintain securityholder records for one or more securities issues and are directly involved with the keeping, handling, or processing of securities certificates. Excluded from the larger group would be ''named transfer agents'' (transfer agents that contract their transfer agent functions to transfer agent ''service Companies'') and transfer agents that conduct a specialty business not involving securities certificates.[48] We received two comments.

CTA recommended that proposed Rule 17Ad–19 apply only to the transfer agents that maintain securityholder records, with an exception for issuers registered as transfer agents that act only for their own issues (''issuer-only transfer agents'') with average monthly volumes of 100 transfer items or less. Secondly, Otter Tail, an issuer-only transfer agent, said it averages only 30 certificates per month and that maintaining retrievable records and witnessing the destruction of certificates would require more staff and equipment and would be unduly expensive.

As Rule 17Ad–19 is written, it is applicable only to transfer agents that are involved in the handling, processing, or storage of securities certificates.[49] Therefore, a number of transfer agents, such as named transfer agents, are not subject to the provisions of Rule 17Ad–19, which includes the requirement to prepare written procedures. Nevertheless, a transfer agent that outsources its transfer agent work, which consists of handling, processing, or storage of securities certificates, to another transfer agent (*i.e.*, a service company transfer agent) is legally responsible for ensuring that the provisions of Rule 17Ad–19 are followed with respect to the securities for which it is the named transfer agent. Therefore, both named transfer agents and service company transfer agents have responsibilities for complying with Rule 17Ad–19. Regarding the provisions of Rule 17Ad–19 dealing with the recordkeeping of the destruction of retired securities certificates, we do not believe that these requirements become burdensome simply because the number

[43] The five commenters were: CTA, EquiServe, ICI, PFPC, Inc., and U.S. Bank.

[44] We are using the term ''retired certificate'' in a slightly broader sense that the term ''cancelled certificate.'' A certificate is ''retired'' at the time it is taken out of circulation, often by transfer or redemption, regardless of whether it has yet been cancelled.

[45] *See* Rule 17Ad–12, 17 CFR 240.17Ad–12.

[46] We have brought enforcement actions for violations of Rule 17Ad–12 that involved cancelled securities certificates. *See, e.g., SEC* v. *Citibank, N.A., supra* at note 8.

[47] The only comment received concerning Rule 17Ad–12 concerned the new definition of ''securities certificate'' of Rule 17f1–(a)(6), which is being incorporated by reference into Rule 17Ad–12. *See* Section III.B.2.a above.

[48] For the definitions of ''named transfer agent'' and ''service company'' refer to 17 CFR 240.17Ad–9(j) and (k).

[49] The new language of ''handling, processing, or storage of securities certificates'' more appropriately describes the procedure in question than the previously proposed language of ''keeping, handling, and processing of securities certificates.''

of certificates being destroyed is small. Even a small transfer agent, for example, can designate a person to destroy certificates under specific procedures. We also believe that these limited burdens are justified by the rule's value as an antifraud measure. We do not think it is prudent, with recordkeeping rules that are linked to antifraud rules, to establish different standards based on the number of certificates processed, the number of transfers made, or the number of issuers serviced. We believe that the requirements of Rule 17Ad–19 are appropriate for all transfer agents that process certificates, regardless of their size or volume.

2. Cancelled-in-Error Notations

We requested comments in the Proposing Release on whether we should prohibit the use of ''cancelled-in-error'' notations,[50] as some members of the securities industry previously had suggested. PFPC Inc. commented that such notations should be permitted provided they are used with a medallion signature guarantee.[51] PFPC Inc. observed that cancelled-in-error notations can be useful when a certificate is mistakenly cancelled, especially when quick processing is essential or where resubmission is impossible because the endorsing party has died or is otherwise unable to act. U.S. Bank, however, recommended that transfer agents be prohibited from using cancelled-in-error stamps for registered certificates but be permitted to use them for bearer certificates, especially bearer bonds with coupons attached, because such certificates are not usually available in transfer agents' inventories. Inasmuch as these comment letters have specified uses for the practice that were not previously identified, the Commission has decided not to adopt any rule amendments with respect to prohibiting the use of ''cancelled-in-error'' notations until there is further study of the matter.

3. Data Retention

CTA and PFPC Inc. commented that transfer agents should be given leeway concerning the data that they choose to maintain for the purpose of identifying securities certificates. CTA noted that instead of CUSIP numbers some transfer agents may prefer to use, for example, issuer identification numbers. We believe, however, that the use of CUSIP numbers, which is currently the most widely-used securities issue identification system, provides for uniformity and that it substantially aids the Commission, LSSP, and law enforcement programs. We also note that since 1979, Rule 17f–1(c)(6) has expressly required the inclusion of CUSIP numbers for purposes of securities certificate identification when making a report to LSSP.

4. Consideration of Additional Reporting Obligations

Raymond James & Associates recommended that Rule 17f–1 be amended to include the additional reporting category of escheated securities (in addition to lost, stolen, missing, and counterfeit securities). The commenter also recommended that the reporting time frames under paragraph (c) of Rule 17f–1 be shortened.

We note that Section 17(f)(1) expressly addresses only lost, stolen, missing, and counterfeit securities. From time to time, we have received recommendations to add to the reporting categories of Rule 17f–1, including among others: Securities certificates that have escheated, have been called for redemption, are restricted, are the subject of litigation, or whose issuers are in bankruptcy. The subject of adding reporting categories to Rule 17f–1 has been studied periodically by securities industry groups, but no clear consensus has developed concerning either the scope of or the support for such a rule proposal. Therefore, at this time we are not expanding the number of reporting categories. However, there is nothing to prevent voluntary reporting of more categories if individual reporting companies choose to do so.[52] Regarding the recommendation to shorten the reporting time frames in paragraph (c) of Rule 17f–1, the Commission believes that this issue requires further study.

5. Perforations and the Word ''Cancelled''

Regarding Rule 17Ad–19(b)(2), which requires that cancelled certificates be marked ''cancelled'' by stamp or perforation, PFPC Inc. recommended that the Commission specifically set forth the dimensions for the word ''cancelled'' and where it should be placed on a certificate. EquiServe questioned the Commission's criticism in the Proposing Release of the use of pin-hole sized perforation markings, which were previously used to indicate cancelled status, and asked ''the what type of perforation'' would be deemed sufficient.[53] At least for the present, we are leaving to securities industry practices,[54] rather than to Commission action, the details of size of the word ''cancelled'' and how it should be marked on securities certificates (*e.g.*, by stamp or by perforation). For the present, we believe it is sufficient to state that the term ''cancelled'' should be ''clear and conspicuous.'' But if it should appear at a later time that further rulemaking or interpretations are necessary or appropriate to clarify these matters, we will provide them.

6. Maintaining Certificates as Collectors' Items

The Proposing Release requested comments on whether the Commission should mandate the destruction of cancelled certificates within thirty days of their cancellation. Three commenters, a finance professor, a non-public corporation, and the president of a securities certificate collectors' organization, [55] argued against destroying old securities certificates because of their importance to financial history, their aesthetic merits, and their value to collectors in a field known as scripophily.

We are sensitive to these interests. We believe that the adoption of sound

[50] This refers to an industry practice of using hand stamps that state ''cancelled in error'' or similar language to avoid the time and expense of replacing certificates that are marked ''cancelled'' by mistake.

[51] The use of a medallion signature guarantee would mean that the ''cancelled-in-error'' notation is guaranteed by a guarantor financial institution under a signature guarantee program pursuant to Exchange Act Rule 17Ad–15, 17 CFR 240.17Ad–15. Accordingly, the financial risk of the cancelled-in-error procedure would not be imposed on the transfer agent but on the guarantor or the surety for the guarantor.

[52] *See* paragraph (e) of 17 CFR 240.17f–1, which permits ''permissive reports and inquiries.''

[53] The cancellation pinholes, as used by some major transfer agents, usually spelled out a certificate's cancellation date and the transfer agent's initials in a small circle. Such markings were intended to indicate that the certificates no longer had value as a security while preserving the certificates' form as a record. Except for the small circle of pinholes, the certificates usually appeared entirely presentable. The pinholes, however, often were not noticed by subsequent recipients of the certificates and, if noticed, their meaning was not necessarily clear.

[54] Some transfer agents have advised that they currently are stamping or perforating certificates with an abbreviation of the word ''cancelled.'' This is because they use older equipment that lacks the necessary space for nine letters. Typically, in these cases, one or two apostrophes or similar characters are used in place of up to four letters. To avoid the need for immediate purchase of new equipment, the Commission will interpret the use of such abbreviations as consistent with the requirement in Rule 17Ad–12(c) that written procedures shall ''[r]equire that each cancelled certificate be marked with the work 'cancelled' * * *.'' However, this interpretation shall apply only until a transfer agent using such older equipment acquires new equipment by purchase or other means that replaces the older equipment in question. Thereafter, the transfer agent must use all nine letters of the word ''cancelled'' in cancelling securities certificates.

[55] James J. Angel, Ph.D., Georgetown Univ.; Frank Hammelbacher, Norrico Inc.; and Robert A. Kerstein, President, Scripology, Inc.

recordkeeping, safeguarding, and destruction procedures will greatly reduce the risk of improper use of cancelled certificates. Therefore, we do not believe it is necessary at this time to mandate destruction.

In this regard, we note that cancelled securities certificates, after a period in transfer agent storage, are generally destroyed by the transfer agent or destroyed by some other party at the direction of the transfer agent or the issuer. However, a small amount of cancelled securities certificates find their way from transfer agents into collectors' markets. Accordingly, to make the rule as complete as possible, we are modifying proposed Rule 17Ad–19 to require that transfer agents maintain records not only of the certificates that they or their agents destroy but also of those certificates that they dispose of by any other means, such as by sale to collectors or to dealers for collectors. For certificates disposed of by such other means, transfer agents are required to maintain records of how the certificates were disposed and to whom, with such party's name and address, and the date of disposition.

7. Destruction of Certificates by Transfer Agents

One transfer agent, PFPC Inc., recommended that questions of certificate retention or destruction be discretionary matters for individual transfer agents, and that transfer agents be given the option to destroy certificates within 72 hours of their cancellation, which it said would reduce fraud and storage expenses. Another transfer agent, Otter Tail, took a different position and said that the Commission should mandate certificate destruction at the end of the required six-year retention period. ICI and Mellon recommended that the Commission explore new overall requirements for cancelled securities certificates including (1) the use of electronic media and microfiche for recordkeeping purposes, and (2) the destruction of cancelled certificates, perhaps after they are scanned, imaged, and electronically stored.[56] As noted above in footnote 6, the Commission is proposing amendments to Exchange Act Rule 17Ad–7, 17 CFR 240.17Ad–7, which if adopted would make clear that transfer agents could use certain alternative means to store cancelled securities certificates provided that the cancelled certificates first were electronically preserved in conformity with the terms of that rule.

IV. Paperwork Reduction Act

Certain provisions of the proposed rule and proposed amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[57] The Commission published a notice soliciting comments on the collection of information requirements in the proposing release and submitted them to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for the collection of information is: ''Record Retention Requirements for Registered Transfer Agents.'' OMB approved the collection and assigned it OMB Control No. 3235–0136. The collection requirements are necessary to ensure the integrity of transfer agents' records and the safeguarding of securities certificates.

Rule 17Ad–19 contains collection of information requirements that are intended to ensure the integrity and completeness of transfer agents' records regarding physical securities certificates, in particular, cancelled securities certificates. Rule 17Ad–19 requires each registered transfer agent to: (1) Have a written statement setting forth its procedures for the cancellation, storage, transportation, destruction, or other disposition of securities certificates; (2) mark each cancelled certificate with the word ''cancelled'' on the face of the certificate; (3) supervise, witness and document the destruction of certificates; and (4) keep an easily retrievable record of each cancelled, destroyed, or otherwise disposed of certificate with identifying certificate data. The amendments to Rules 17f–1 and 17Ad–12 involve no additional paperwork requirements.

Rule 17Ad–19 incorporates the three-year record retention requirement of Rule 17Ad–7(i), but the amendments to Rules 17f–1 and 17Ad–12 do not add any retention periods for recordkeeping requirements. The maintenance of written procedures by transfer agents under Rule 17Ad–19 would be mandatory. The written procedures are confidential and will not be available to the public, although they will be subject to examination by the Commission or other appropriate regulatory agencies. We note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

When the Commission proposed the rule and rule amendment, approximately 1,100 transfer agents were registered with the Commission. The Commission staff estimated that the average amount of time per transfer agent needed to comply with the collection of information requirements of proposed Rule 17Ad–19 would be 40 hours per transfer agent for developing the written procedures. The Commission staff further estimated that the average amount of time per transfer agent per year to comply with the collection of information associated with recording and tracking cancelled securities certificates would be 50 hours per transfer agent per year, a figure that would vary greatly depending on the size of an entity and the volume of its business. Thus, assuming 1,100 registered transfer agents, it was estimated that the start-up collection of information requirements would require about 44,000 hours ($40 \times 1{,}100$), and the annual collection of information requirements would be about 55,000 hours ($50 \times 1{,}100$). Thus, in October of 2000, the Commission staff estimated that the combined total during the first year would be about 99,000 hours.

At this time, in contrast with the 1,100 transfer agents at the proposing stage, approximately 900 transfer agents are registered with the Commission, of which about 800 are actively involved in transfer agent activities.[58] After further review and staff conversations with representative transfer agents, as discussed below in Section V, the Commission staff has lowered its estimate of the amount of time per transfer agent needed to comply with the collection of information requirements of Rule 17Ad–19. The lower staff estimates, as compared with the higher estimates in the Proposing Release, result from (1) lower than anticipated cost estimates in a survey of small transfer agents and (2) reports from both small transfer agents and large transfer agents (the latter group as represented by the Securities Transfer Association) that most of the proposed rule changes have already been put into effect over the past few years at most transfer agents. The Commission staff now estimates the time needed will range from about two hours for the smallest transfer agents to about 40 hours for the largest transfer agents. The staff believes that the average time per transfer agent to develop written

[56] For a recent Commission rule that authorized the use of optical storage, refer to 15 CFR 240.17Ad–7(f). *See* Securities Exchange Act Release No. 44227 (April 27, 2001), 66 FR 21648 (May 1, 2001).

[57] 44 U.S.C. 3501 *et seq.*

[58] The Commission notes that there is relative ease of entrance into and exit out of the transfer agent business, and the numbers of transfer agents at a given time are affected by the circumstances of the securities industry and the general economy.

procedures will be about 20 hours. The Commission staff further estimates that the average amount of time per transfer agent per year to comply with the collection of information associated with recording and tracking cancelled securities certificates will be 20 hours per transfer agent per year, a combined 40 hours for the first year, all of which are figures that would vary greatly depending on the size of an entity and the volume of its business. Thus, assuming 800 registered transfer agents actively involved in transfer agent activities, the start-up collection of information requirements will require about 16,000 hours (20×800), and the annual collection of information requirements will be about 16,000 hours (20×800). Thus, the estimated combined total during the first year will be about 32,000 hours.

Additionally, as discussed above in Sections III.A and III.D.7, the Commission is modifying proposed Rule 17Ad–19 to include securities certificates that are disposed of in some way other than by destruction as, for example, by sale to collectors. The purpose of this modification is to make the rule complete with respect to all dispositions of cancelled securities certificates, but we believe that the number of certificates disposed of by transfer agents by means other than by destruction will be *de minimis* and will not affect the PRA numbers.

V. Costs and Benefits of Proposed Amendments

The Commission has considered the costs and benefits of Rule 17Ad–19 and the amendments to Rules 17f–1 and 17Ad–12. The Commission identified certain costs and benefits relating to the proposals, which are discussed below. We requested public comment in our Proposing Release. In particular, we requested comment on the potential costs for any necessary modifications to information gathering, management, and record-keeping systems or procedures, as well as any potential benefits resulting from the proposals for issuers, transfer agents, banks, brokers, regulators, or others.

In general, the comment letters did not address costs or benefits in financial terms, and none provided cost or benefit data. One transfer agent, Otter Tail, commented that because of its small size it would be burdensome to witness the destruction of its cancelled certificates and to keep automated records of its cancelled certificates. This comment letter was discussed above in Section III.D.2, [59] where we stated that it would be imprudent to exempt certain transfer agents from recordkeeping rules linked to antifraud rules simply because their volume of business is small. Additionally, Otter Tail has provided us with no financial or other information to support its claim that the new requirements would be unduly burdensome on itself or on other small transfer agents.

To supplement our information on small transfer agents for cost and benefit purposes, Commission staff conducted a survey of six small transfer agents. Staff provided them with a written summary of the rule proposals and later contacted them by telephone to discuss in detail the costs and benefits of the proposals. The small transfer agents reported that, in general, they already were in compliance with the proposed rules. That is, they generally were already marking retired securities certificates with the word ''cancelled;'' they were already maintaining the certificates in a secure environment; and they were destroying the certificates on-premises and witnessing their destruction. All but one transfer agent reported that they already had their data on certificate cancellation and destruction available in electronically retrievable format, and the one remaining transfer agent said it had plans to modify its computer to provide such data. As discussed in the PRA analysis, the one item in the rule proposal that would generally involve an added expense is the requirement to draft ''written procedures'' for processing cancelled securities. The transfer agents estimated that drafting written procedures would involve a one-time outlay of between 15 minutes and four hours, costs they variously estimated (based on the number of hours times their relevant expenses per hour) at between $15 and $500. Two of the small transfer agents suggested that it is the larger transfer agents that would tend to have problems with these rules because the large transfer agents are more apt to engage outside vendors for the transportation, warehousing, and destruction of cancelled certificates whereas the small transfer agents tend to perform these services within their own premises. One small transfer agent questioned the need for certain of the recordkeeping requirements, but another described the rule proposals as ''nice and clean, with no problems.''

Commission staff also surveyed the Securities Transfer Association (''STA'') as a proxy for large transfer agents. The STA, at the staff's request, reviewed the rule proposals and later reported that its review had revealed ''no problems'' with the proposals and that it would not be submitting formal comments on the proposals. The STA advised that the large transfer agents are already in compliance with the rule proposals and that, in its opinion, the rule proposals in large part codify existing STA rules. As discussed in the PRA analysis, the STA further reported that the one new item in the rule proposals that would involve new costs is the requirement to have ''written procedures'' for cancellation procedures, which would take a large transfer agent about 40 work hours to draft the procedures or about $3,000. The STA emphasized its view that most of the proposed rule changes are already in effect at transfer agents.

A. Benefits

The new rule and rule amendments will provide specific benefits to U.S. investors, issuers, transfer agents, and other financial intermediaries. Some of these benefits are not readily quantifiable in terms of dollar value. However, the proposals are designed to reduce the fraudulent use of securities certificates, particularly cancelled certificates, by requiring improved safeguarding and recordkeeping by transfer agents. In recent years, the fraudulent resale and fraudulent collateralization of cancelled certificates (certificates with no investment value) cost private individuals and financial institutions many millions of dollars. We expect the costs of the described forms of certificate fraud on public investors and on market participants to be substantially reduced by the requirements related to adequate safeguarding, recordkeeping, and destruction procedures for these certificates by transfer agents.

B. Costs

The rule changes require transfer agents to have written procedures for the cancellation, storage, transportation, destruction, or other disposition of retired securities certificates; to mark cancelled securities certificates as ''cancelled;'' to supervise, witness, and document the destruction of certificates; and to keep an easily retrievable record of each cancelled, destroyed, or otherwise disposed of certificate. The preparation of these written procedures required by the new rules will be a cost to transfer agents, and we have discussed the paperwork costs above in Section IV, estimating the combined total paperwork burden during the first year will be about 32,000 hours.

Regarding the required use of the word ''cancelled'' on cancelled certificates, we reiterate that, with the encouragement of the STA's published

[59] *See, supra,* in text accompanying notes 48–50.

guidelines,[60] most transfer agents already are marking their cancelled certificates with the word ''cancelled'' to designate their cancelled status.[61] We believe the new requirement to use the word ''cancelled'' to a large extent codifies existing business practices with little additional cost to the industry.

As noted, the requirements to supervise, witness, and record the destruction of certificates and to keep easily retrievable records of the cancelled certificates will mean additional costs to some transfer agents. However, the additional costs are justified. As the Commission discussed above, its experience has been that securities certificates records that are not easily retrievable are not appropriate for investor protection, securities processing, or law enforcement purposes. In addition, the existing rules of the Exchange Act have since 1983 required registered transfer agents to maintain ''appropriate certificate detail''[62] for purposes of their master securityholder files concerning ''every security transferred, purchased, redeemed, or issued,''[63] which includes records of cancelled certificates.[64] These new requirements also will apply only on a going forward basis, *i.e.,* no transfer agent will have to provide easily retrievable records for certificates cancelled prior to the Rule's effective date. Moreover, the newly-adopted recordkeeping requirements are consistent with good business practices, such as the STA guidelines.

VI. Consideration of the Burden on Competition, and Promotion of Efficiency, Competition, and Capital Formation

Section 3(f) of the Exchange Act requires the Commission, when engaged in rulemaking and required to consider whether an action is necessary or appropriate in the public interest, to consider whether the action would promote efficiency, competition, and capital formation.[65] In adopting rules under the Exchange Act, Section 23(a)(2) requires the Commission to consider the impact any rule would have on competition.[66] Further, the law requires that the Commission not adopt any rule that would impose a burden on competition not necessary or appropriate in furtherance of the Exchange Act. We believe the new rule and amendments should improve market efficiency by reducing a source of fraud and its associated costs (*i.e.,* the fraudulent introduction of cancelled and worthless securities into the marketplace). In addition, the new rule and amendments should have no material anticompetitive effects because they would apply equally to all transfer agents and should have no material effect on capital formation.

VII. Summary of Final Regulatory Flexibility Analysis

A Final Regulatory Flexibility Analysis (''FRFA'') has been prepared in accordance with the Regulatory Flexibility Act (''RFA'').[67] This analysis relates to a rule and two rule amendments adopted under the Exchange Act that primarily address the processing of cancelled securities certificates by transfer agents. New Rule 17Ad–19 under the Exchange Act requires every transfer agent to establish and implement written procedures for the cancellation, storage, transportation, destruction, or other disposition of securities certificates. The rule requires transfer agents to mark each cancelled securities certificate with the word ''cancelled;'' maintain a secure storage area for cancelled certificates; maintain an easily retrievable database of all of its cancelled certificates, including cancelled, destroyed, or otherwise disposed of certificates; and have specific procedures for the destruction of cancelled certificates. Additionally, the Commission has amended Rules 17f–1 (the lost and stolen securities rule) and 17Ad–12 (the transfer agent safekeeping rule) to make it clear that these rules apply to unissued and cancelled certificates.

A. Need for Rule and Rule Amendments

The rule and rule amendments address problems involving cancelled securities certificates. In particular, they address the problem that, until properly destroyed, or properly disposed of, cancelled securities certificates can resurface in the marketplace where they can and have been used to defraud public investors and financial institutions. The rule and rule amendments provide better procedures for processing and destroying cancelled certificates that will reduce this potential for harm.

The case history of fraud involving cancelled certificates includes several major cases. In one case, approximately $111 billion of cancelled bond certificates were stolen after being delivered from a transfer agent's warehouse to a certificate destruction vendor. Many of these stolen certificates resurfaced worldwide where they were reintroduced into the marketplace or were used as loan collateral at financial institutions. In many cases, even security professionals were misled because the certificates appeared to be in pristine condition with little or no evidence of having been cancelled. While a number of trade practices have since been formulated by transfer agents to help address these problems, Commission rulemaking will require universal compliance among all transfer agents concerning the proper processing of cancelled certificates.

B. Significant Issues Raised by Public Comment

One commenter, CTA, a trade association, suggested that Rule 17Ad–19 should apply only to transfer agents that maintain securityholder records and suggested an exemption from the rule for transfer agents that act only for their own issuers (*i.e.,* issuer-only transfer agents) and have average monthly volumes of 100 transfer items or less. Another commenter, Otter Tail Power Co., a transfer agent, noted that it processes less than 30 certificates per month and that maintaining retrievable records and witnessing the destruction of certificates would be unduly expensive.

We note that Rule 17Ad–19 does, in fact, exempt certain registered transfer agents (about 100 out of a total transfer agent population of about 900) that do not maintain securityholder records. These are ''named transfer agents'' that outsource their transfer agent functions to other transfer agents known as ''service company'' transfer agents.[68] But we do not believe that the requirements of Rule 17Ad–19, which deal with recordkeeping and the cancellation, storage, transportation, destruction, or other disposition of retired certificates, are inappropriately burdensome simply because the number of certificates that a transfer agent is processing or destroying is small. Even a small transfer agent can designate a person to destroy certificates under specific procedures. Moreover, we also believe that these limited burdens are justified by the rule's value as an

[60] *Supra,* note 17.

[61] We believe that most transfer agents are properly marking their retired certificates with the word ''cancelled,'' as STA has recommended. However, because doing so is not a Commission requirement, it currently is not a part of the Commission's examination module for transfer agents. Thus, we have no systematic data on the subject.

[62] 17 CFR 240.17Ad–9(a). The existing requirements for ''certificate detail'' include the certificate number, number of units, owner's name and address, the issue date, the cancellation date, *etc.*

[63] 17 CFR 240.17Ad–10(a).

[64] *See* 17 CFR 240.17Ad–6(c) and 240.17Ad–9(a).

[65] 15 U.S.C. 78c(f).

[66] 15 U.S.C. 78w.

[67] 15 U.S.C. 601 *et seq.*

[68] 17 CFR 240.17Ad–9 (j)–(k).

antifraud measure. We do not believe it would be prudent, especially in an antifraud provision, to establish different standards for transfer agents based on the number of certificates they process or the number of transfers they make within a given period, particularly when, as noted below in Section VII.C, approximately one-half of the transfer agents may be viewed as small entities. Considering that the underlying concern here is the protection of public investors from certificate fraud, we believe that the requirements of Rule 17Ad–19 are appropriate for all transfer agents that are in the business of processing securities certificates.

C. Small Entities Subject to the Rule

A transfer agent is a small entity if it: (1) Received less than 500 items for transfer and less than 500 items for processing during the preceding six months (or in the time that it has been in business, if shorter); (2) transferred items only of issuers that would be deemed ''small business'' or ''small organizations'' as defined in Exchange Act Rule 0–10; (3) maintained master shareholder files that in the aggregate contained less than 1,000 shareholder accounts or was the named transfer agent for less than 1,000 shareholder accounts at all times during the preceding fiscal year (or the time that it has been in business, if shorter); and (4) is not affiliated with any person (other than a natural person) that is not a small business or small organization under Exchange Act Rule 0–10.[69] We note that approximately 470 registered transfer agents out of a population of about 900 apparently qualify as ''small entities'' for purposes of the RFA and will be subject to the requirements of Rule 17Ad–19.

In the Proposing Release, the Commission summarized, and requested comment on, the Initial Regulatory Flexibility Analysis (''IRFA''). We did not receive any comments specifically responding to the IRFA. However, we did receive comments related to small business, which are summarized above in Section VII.B.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

Rule 17Ad–19 requires all transfer agents to establish and implement written procedures for the cancellation, storage, transportation, destruction, or other disposition of securities certificates. Such written procedures and their implementation are subject to examination by each transfer agent's appropriate regulatory agency. Additionally, the amendments to Rules 17f–1 and 17Ad–12 clarify that these two rules apply broadly to securities certificates, including cancelled securities certificates.

E. Agency Action To Minimize Effect on Small Entities

As required by Section 603 of the RFA, the Commission has considered the following alternatives to minimize impact of the proposed rules and rule amendments on small entities: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[70] As part of our consideration of the proposed rules, the staff conducted a survey of a few small transfer agents. The consensus among small transfer agents is that Rule 17Ad–19 will essentially codify their existing practices (based to some extent on trade association guidelines in effect since the mid-1990s) and will have minimal effect on them as transfer agents. We also considered alternatives that would exempt small transfer agents from some portions of the rule, but given that the rule is designed in large measure to protect public investors from certificate fraud, we do not believe a size exemption for transfer agents would be appropriate.

The Commission has considered significant alternatives to the proposed rules that would adequately address the problem posed by cancelled securities certificates. The Commission believes that the establishment of different requirements for small entities is neither necessary nor practical because the proposal is designed to provide general standards that will protect the public and members of the financial community from certain types of securities fraud, and the proposal will include an exemption procedure that will be available to small entities on a case by case basis. Moreover, the FRFA concludes that the Commission believes that the proposal, if adopted, will not adversely affect small entities. Finally, the FRFA addresses each of the other requirements set forth under 5 U.S.C. 603. A copy of the FRFA may be obtained by contacting Jerry W. Carpenter or Thomas C. Etter, Jr., at (202) 942–0178, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

VIII. Statutory Basis and Text of Amendments

Statutory Basis

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 3(b), 17(a), 17(f)(1), 17A(d), and 23(a) thereof, 15 U.S.C. 78q–1(d) and 78w(a), the Commission is adopting § 240.17Ad–19 and amendments to Rules 17f–1, 17Ad–7, and 17Ad–12 of Title 17 of the Code of Federal Regulation in the manner set forth below.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements; Securities.

Text of Rules

■ In accordance with the foregoing, the Commission is amending part 240 of chapter II of title 17 of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 1. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78ll, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, 7202, 7241, 7262, and 7263; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 2. Section 240.17f–1 is amended by:
■ a. Adding paragraphs (a)(6), (a)(7) and (a)(8);
■ b. Revising the phrase ''lost in transit'' to read ''lost, missing, or stolen while in transit'' in paragraph (c)(2)(i);
■ c. Redesignating paragraphs (c)(2)(ii) and (c)(2)(iii) as paragraphs (c)(2)(iii) and (c)(2)(iv) respectively;
■ d. Adding new paragraph (c)(2)(ii); and
■ e. Adding paragraph (d)(3) to read as follows:

§ 240.17f–1 Requirements for reporting and inquiry with respect to missing, lost, counterfeit or stolen securities.

(a) * * *

(6) The term *securities certificate* means any physical instrument that represents or purports to represent ownership in a security that was printed by or on behalf of the issuer thereof and shall include any such instrument that is or was:

(i) Printed but not issued;

(ii) Issued and outstanding, including treasury securities;

[69] 17 CFR 240.0–10.

[70] 5 U.S.C. 603(c).

(iii) Cancelled, which for this purpose means either or both of the procedures set forth in § 240.17Ad–19(a)(1); or

(iv) Counterfeit or reasonably believed to be counterfeit.

(7) The term *issuer* shall include an issuer's:

(i) Transfer agent(s), paying agent(s), tender agent(s), and person(s) providing similar services; and

(ii) Corporate predecessor(s) and successor(s).

(8) The term *missing* shall include any securities certificate that:

(i) Cannot be located or accounted for, but is not believed to be lost or stolen; or

(ii) A transfer agent claims or believes was destroyed in any manner other than by the transfer agent's own certificate destruction procedures as provided in § 240.17Ad–19.

* * * * *

(c) * * *

(2) * * *

(ii) Where a shipment of retired securities certificates is in transit between any transfer agents, banks, brokers, dealers, or other reporting institutions, with no affiliation existing between such entities, and the delivering institution fails to receive notice of receipt or non-receipt of the certificates, the delivering institution shall act to determine the facts. In the event of non-delivery where the certificates are not recovered by the delivering institution, the delivering institution shall report the certificates as lost, stolen, or missing to the Commission or its designee within a reasonable time under the circumstances but in any event within twenty business days from the date of shipment.

* * * * *

(d) * * *

(3) A reporting institution shall make required inquiries by the end of the fifth business day after a securities certificate comes into its possession or keeping, provided that such inquiries shall be made before the certificate is sold, used as collateral, or sent to another reporting institution.

* * * * *

§ 240.17Ad–7 [Amended]

■ 3. Section 240.17Ad–7, paragraph (i), is amended by revising the phrase ''§ 240.17Ad–17(c)'' to read ''§§ 240.17Ad–17(c) and 240.17Ad–19(c)''.

■ 4. Amend § 240.17Ad-12, paragraph (a)(1), by revising the phrase ''risk of destruction, theft or other loss;'' to read ''risk of theft, loss or destruction (other than by a transfer agent's certificate destruction procedures pursuant to § 240.17Ad-19);'' and adding paragraph (b) to read as follows:

§ 240.17Ad–12 Safeguarding of funds and securities.

* * * * *

(b) For purposes of this section, the term *securities* shall have the same meaning as the term *securities certificate* as defined in § 240.17f–1(a)(6).

■ 5. Section 240.17Ad–19 is added to read as follows:

§ 240.17Ad–19 Requirements for cancellation, processing, storage, transportation, and destruction or other disposition of securities certificates.

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

(1) The terms *cancelled* or *cancellation* means the process in which a securities certificate:

(i) Is physically marked to clearly indicate that it no longer represents a claim against the issuer; and

(ii) Is voided on the records of the transfer agent.

(2) The term *cancelled certificate facility* means any location where securities certificates are cancelled and thereafter processed, stored, transported, destroyed or otherwise disposed of.

(3) The term *certificate number* means a unique identification or serial number that is assigned and affixed by an issuer or transfer agent to each securities certificate.

(4) The term *controlled access* means the practice of permitting the entry of only authorized personnel to areas where securities certificates are cancelled and thereafter processed, stored, transported, destroyed or otherwise disposed of.

(5) The term *CUSIP number* means the unique identification number that is assigned to each securities issue.

(6) The term *destruction* means the physical ruination of a securities certificate by a transfer agent as part of the certificate destruction procedures that make the reconstruction of the certificate impossible.

(7) The term *otherwise disposed of* means any disposition other than by destruction.

(8) The term *securities certificate* has the same meaning that it has in § 240.17f-1(a)(6).

(b) *Required procedures for the cancellation, storage, transportation, destruction, or other disposition of securities certificates.* Every transfer agent involved in the handling, processing, or storage of securities certificates shall establish and implement written procedures for the cancellation, storage, transportation, destruction, or other disposition of securities certificates. This requirement applies to any agent that the transfer agent uses to perform any of these activities.

(c) *Written procedures.* The written procedures required by paragraph (b) of this section at a minimum shall provide that:

(1) There is controlled access to any cancelled certificate facility;

(2) Each cancelled certificate be marked with the word ''CANCELLED'' by stamp or perforation on the face of the certificate unless the transfer agent has procedures adopted pursuant to this rule for the destruction of cancelled certificates within three business days of their cancellation;

(3) A record that is indexed and retrievable by CUSIP and certificate number that contains the CUSIP number, certificate number with any prefix or suffix, denomination, registration, issue date, and cancellation date of each cancelled certificate;

(4) A record that is indexed and retrievable by CUSIP and certificate number of each destroyed securities certificate or securities certificate otherwise disposed of, the records must contain for each destroyed or otherwise disposed of certificate the CUSIP number, certificate number with any prefix or suffix, denomination, registration, issue date, and cancellation date, and additionally for any certificate otherwise disposed of a record of how it was disposed of, the name and address of the party to whom it was disposed, and the date of disposition;

(5) The physical transportation of cancelled certificates be made in a secure manner and that the transfer agent maintain separately a record of the CUSIP number and certificate number of each certificate in transit;

(6) Authorized personnel of the transfer agent or its designee supervise and witness the intentional destruction of any cancelled certificate and retain copies of all records relating to certificates which were destroyed; and

(7) Reports to the Lost and Stolen Securities Program be effected in a timely and complete manner, as provided in § 240.17f–1 of any cancelled certificate that is lost, stolen, missing, or counterfeit.

(d) *Recordkeeping.* Every transfer agent subject to this section shall maintain records that demonstrate compliance with the requirements set forth in this section and that describe the transfer agent's methodology for complying with this section for three

years, the first year in an easily accessible place.

(e) *Exemptive authority.* Upon written application or upon its own motion, the Commission may grant an exemption from any of the provisions of this section, either unconditionally or on specific terms and conditions, to any transfer agent or any class of transfer agents and to any securities certificate or any class of securities certificates.

Dated: December 16, 2003.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–31450 Filed 12–22–03; 8:45 am]

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Federal Register

Tuesday,
December 23, 2003

Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 22, 52, and 53
Federal Acquisition Regulation; Labor Standards for Contracts Involving Construction; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 52, and 53

[FAR Case 2002–004]

RIN 9000–AJ79

Federal Acquisition Regulation; Labor Standards for Contracts Involving Construction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement the revised definitions of ''Construction'' and ''site of the work'' in the Department of Labor (DoL) regulations. In addition, the Councils are proposing to clarify several definitions relating to labor standards for contracts involving construction and make requirements for flow down of labor clauses more precise.

DATES: Interested parties should submit comments in writing on or before February 23, 2004, to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to—General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405. Submit electronic comments via the Internet to— *farcase.2002–004@gsa.gov.* Please submit comments only and cite FAR case 2002–004 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAR case 2002–004.

SUPPLEMENTARY INFORMATION:

A. Background

The Department of Labor (DoL) published a final rule at 65 FR 80268, December 20, 2000, revising the terms ''construction, prosecution, completion, or repair'' (29 CFR 5.2(j)) and ''site of the work'' (29 CFR 5.2(l)). The DoL rule became effective on January 19, 2001. The DOL changes were made to conform the regulations with Federal appellate court decisions and subsequent decisions of DoL's Administrative Review Board regarding the transportation of supplies and materials to or from the construction site. In addition, the DoL rule revised the definition of the ''site of the work'' to include secondary sites, other than the project's final resting place, which have been established specifically for the performance of the Davis-Bacon covered contract and at which a significant portion of the public building or work called for by the contract is constructed. The Councils propose revisions to the definitions of ''construction, alteration, or repair'' and ''site of the work'' in 22.401, to reflect the changes in the DoL regulations. A new provision at 52.222-XX, Davis-Bacon Act—Secondary Site of the Work, is proposed to regulate potential situations where an offeror intends to perform significant portions of the building or work at a secondary site outside the primary site of the work and for which the wage determination provided by the Government for work at the primary site is not applicable.

The proposed revision to the Davis-Bacon Act clause at FAR 52.222–6 mandates that any subsequent incorporation to the contract of a wage determination for a secondary site shall become retroactively effective from the first day work under the contract was performed at that site, without any adjustment in contract price or estimated cost. This is based on the premise that secondary sites are initiatives of the offeror that can be instituted before or after contract award. The proposed rule also specifies that whenever there is transportation of portions of the building or work between the secondary site and the primary site of the work, the applicable wage determination that would prevail shall be for the primary site of the work. This decision was made in accordance with the DoL's administrative determination as outlined in the **Federal Register** at 65 FR 80276.

The Councils also proposed to revise the Davis-Bacon Act clause to establish that any wage determination for a secondary site shall be posted both at the primary site of the work and at the secondary site of the work. The Councils are proposing to include DoL's revised definition of ''site of the work'' in the Davis-Bacon Act clause.

In addition, the Councils are proposing editorial changes to other definitions in this section. Specifically, the definitions of ''apprentice'' and ''trainee'' have been listed separately in the alphabetical list of definitions rather than as a subcategory of ''laborer and mechanic.'' Also the terms ''building or work'' and ''public building or public work'' have been combined into a single term of ''building or work'' and ''public building or public work'' for definitional purposes. No substantive change is intended with these editorial changes.

The Councils propose revisions to the clause at 52.222–11, Subcontracts (Labor Standards), to clarify that it flows down only to subcontracts for construction within the United States, and that the clause entitled ''Contract Work Hours and Safety Standards Act—Overtime Compensation'' does not flow down unless included in the contract. This change is necessary because the coverage threshold for the Contract Work Hours and Safety Standards Act is $100,000 and the threshold for the Davis-Bacon Act is $2,000. Thus for construction contracts of $100,000 or less, the Contract Work Hours and Safety Standards Act clause is not included in the contract and therefore would not flow down to any subcontract. If the construction contract is in excess of $100,000, then the clause flows down to subcontracts that may require or involve the employment of laborers and mechanics including watchmen and guards without regard to the value of the subcontract. The clause at 52.222–4 is being revised to reflect this principle.

The Councils have also proposed changes to the Standard Form 1413, Statement and Acknowledgment, to require that the contractor state whether its contract contains the clause entitled ''Contract Work Hours and Safety Standards Act—Overtime Compensation,'' so that the subcontractor certification will only cover this clause if the contractor has indicated that the clause is in its contract. In addition, the Councils have proposed corrections to two of the clause titles and added to the list the clause entitled ''Compliance with Davis-Bacon and Related Act Regulations,'' which is one of the clauses for which certification is required (29 CFR 5.6(a)).

A correction is proposed to FAR 22.406–9(c). That section was incorrectly changed by FAR Case 1999–003, published in the **Federal Register** at 65 FR 46064, July 26, 2000, by redirecting the transfer of withheld funds under the Davis-Bacon to the Secretary of the Treasury instead of the Comptroller General of the General Accounting Office (GAO). Section 3(a) of the Davis-Bacon Act specifically, provides that ''the Comptroller General of the United States is authorized and directed to pay directly to laborers and mechanics from any accrued payments

withheld under the terms of the contract any wages found to be due laborers and mechanics pursuant to this Act.'' The proposed revision would restore the appropriate FAR language to that which existed prior to the aforementioned FAR case.

The Councils endorsed the proposal to selectively insert in FAR parts 22.404–3 through 22.404–7, ''for the primary site of the work,'' to provide clarity when the requirements do not apply to the wage determination for the secondary site of the work.

Finally, the Councils have proposed plain language changes to the clause prescriptions at FAR 22.407, and the clause at 52.222–l1.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule only implements DoL regulation or clarifies the existing requirements. The Councils agree with the Department of Labor's (DoL) December 20, 2000, determination that its regulation would not have a significant economic impact on a substantial number of small entities (see **Federal Register** at 65 FR 80277). DoL stated that the rule primarily implements modifications resulting from court decisions interpreting statutory language, which would reduce the coverage of Davis-Bacon prevailing wage requirements as applied to construction contractors and subcontractors, both large and small, on Davis-Bacon and Related Act covered contracts. In addition, the rule makes a limited amendment to the site of the work definition to address an issue not contemplated under the current regulatory language—those instances where significant portions of buildings or works may be constructed at secondary sites which are not in the vicinity of the project's final resting place. DoL believes that such instances will be rare, and that any increased costs, which may arise on such projects, would be offset by the savings due to the other limitations on coverage provided by the rule. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR parts 22, 52, and 53 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2002–004), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) applies, but the Councils estimate that the current burden is unaffected by the revisions to the form. The form is being revised for clarification. The form (OMB Control Number 9000–0014) is currently approved by the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 22, 52, and 53

Government procurement.

Dated: December 15, 2003.

Laura Auletta,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 22, 52, and 53 as set forth below:

1. The authority citation for 48 CFR parts 22, 52, and 53 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

2. Amend section 22.401 by—

a. Adding, in alphabetical order, the definitions ''Apprentice'' and ''Trainee'';

b. Removing from the first sentence of the definition ''*Building* or *work* generally'' and removing from the third sentence ''*building* or *work*'' and adding ''building or work'' in both places;

c. Revising the definitions ''Construction, alteration, or repair'', ''Laborers or mechanics'' and ''Site of the work''; and

d. Amending the definition ''Public building or public work'' by removing ''*building* or *public work*'' and adding ''building or public work'' in its place.

The added and revised text reads as follows:

§ 22.401 Definitions.

* * * * *

Apprentice means a person—

(1) Employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS; or

(2) Who is in the first 90 days of probationary employment as an apprentice in an apprenticeship program, and is not individually registered in the program, but who has been certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

* * * * *

Construction, alteration, or repair means all types of work done by laborers and mechanics employed by the construction contractor or construction subcontractor on a particular building or work at the site thereof, including without limitations—

(l) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;

(2) Painting and decorating;

(3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;

(4) Transportation of materials and supplies between the site of the work within the meaning of paragraphs (l)(i) and (ii) of the ''site of the work'' definition and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (l)(iii) of the ''site of work'' definition; and

(5) Transportation of portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the ''site of the work'' definition in paragraph (l)(ii), and the physical place or places where the building or work will remain (paragraph (l)(i) in the ''site of the work'' definition).

Laborers or mechanics—(1) Means—

(i) Workers, utilized by a contractor or subcontractor at any tier, whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial;

(ii) Apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen and guards.

(iii) Working foremen who devote more than 20 percent of their time during a workweek performing duties of a laborer or mechanic, and who do not meet the criteria of 29 CFR part 541, for the time so spent; and

(iv) Every person performing the duties of a laborer or mechanic,

regardless of any contractual relationship alleged to exist between the contractor and those individuals.

(2) Does not include workers whose duties are primarily executive, supervisory (except as provided in paragraph (1)(iii) of this definition), administrative, or clerical, rather than manual. Persons employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR part 541 are not deemed to be laborers or mechanics.

* * * * *

Site of the work—(1) Means—

(i) The physical place or places where the construction called for in the contract will remain when work on it is completed (primary site of the work);

(ii) Any secondary site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the contract or project; and

(iii) Except as provided in paragraph (2) of this definition, fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., *provided* they are dedicated exclusively, or nearly so, to performance of the contract or project, and provided they are adjacent or virtually adjacent to the ''site of the work'' as defined in paragraphs (1)(i) or (ii) of this definition;

(2) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the project site, are not included in the ''site of the work.'' Such permanent, previously established facilities are not a part of the ''site of the work'', even if the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

Trainee means a person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Employment and Training Administration, as meeting its standards for on-the-job training programs and which has been so certified by that Administration.

* * * * *

3. Amend section 22.404–3 by revising paragraph (c) to read as follows:

22.404–3 Procedures for requesting wage determinations.

* * * * *

(c) *Time for submission of requests.* (1) The time required by the Department of Labor for processing requests for project wage determinations varies according to the facts and circumstances in each case. An agency should expect the processing to take at least 30 days. Accordingly, agencies should submit requests for project wage determinations for the primary site of the work to the Department of Labor at least 45 days (60 days if possible) before issuing the solicitation or exercising an option to extend the term of a contract.

(2) Agencies should promptly submit to the Department of Labor an offeror's request for a project wage determination for a secondary site of the work. The Contracting Officer shall not extend the due date for receipt of offers as a result of such a request.

* * * * *

22.404–4 [Amended]

4. Amend section 22.404–4 by revising the section heading as set forth below; and amending paragraphs (a), (b), and (c) by adding ''for the primary site of the work'' after determination'' each time it appears.

22.404–4 Solicitations issued without wage determinations for the primary site of the work.

* * * * *

5. Amend section 22.404–5 by—

a. Revising the first sentence of paragraphs (b)(1), (b)(2) introductory text, and (b)(2)(i);

b. Revising paragraph (b)(2)(ii);

c. Revising the first sentence of paragraphs (c)(2) and (c)(3); and

d. Revising paragraph (c)(4).

The revised text reads as follows:

22.404–5 Expiration of project wage determinations.

* * * * *

(b) * * *

(1) If a project wage determination for the primary site of the work expires before bid opening, or if it appears before bid opening that a project wage determination may expire before award, the contracting officer shall request a new determination early enough to ensure its receipt before bid opening. * * *

(2) If a project wage determination for the primary site of the work expires after bid opening but before award, the contracting officer shall request an extension of the project wage determination expiration date from the Administrator, Wage and Hour Division. * * *

(i) If the new determination for the primary site of the work changes any wage rates for classifications to be used in the contract, the contracting officer may cancel the solicitation only in accordance with 14.404–1. * * *

(ii) If the new determination for the primary site of the work does not change any wage rates, the contracting officer shall award the contract and modify it to include the number and date of the new determination. (See 43.103(b)(1).)

(c) * * *

(2) The contracting officer need not delay opening and reviewing proposals or discussing them with the offerors while a new determination for the primary site of the work is being obtained. * * *

(3) If the new determination for the primary site of the work changes any wage rates, the contracting officer shall amend the solicitation to incorporate the new determination, and furnish the wage rate information to all prospective offerors that were sent a solicitation if the closing date for receipt of proposals has not yet occurred, or to all offerors that submitted proposals if the closing date has passed. * * *

(4) If the new determination for the primary site of the work does not change any wage rates, the contracting officer shall amend the solicitation to include the number and date of the new determination and award the contract.

6. Amend section 22.404–6 by revising the second sentence of paragraph (a)(2), the first sentence of paragraph (a)(3), the first sentence of paragraph (b)(3), and paragraph (b)(4) to read as follows:

22.404–6 Modifications of wage determinations.

(a) * * *

(2) * * * The need to include a modification of a project wage determination for the primary site of the work in a solicitation is determined by the time of receipt of the modification by the contracting agency. * * *

(3) The need for inclusion of the modification of a general wage determination for the primary site of the work in a solicitation is determined by the publication date of the notice in the **Federal Register**, or by the time of receipt of the modification (annotated with the date and time immediately upon receipt) by the contracting agency, whichever occurs first. * * *

(b) * * *

(3) If an effective modification of the wage determination for the primary site of the work is received by the contracting officer before bid opening, the contracting officer shall postpone

the bid opening, if necessary, to allow a reasonable time to amend the solicitation to incorporate the modification and permit bidders to amend their bids. * * *

(4) If an effective modification of the wage determination for the primary site of the work is received by the contracting officer after bid opening, but before award, the contracting officer shall follow the procedures in 22.404–5(b)(2)(i) or (ii).

* * * * *

22.404–8 [Amended]

7. Amend section 22.404–8 in paragraphs (b)(1) introductory text, (b)(2), and (c) by adding ''of an improper wage determination for the primary site'' after ''notification''.

22.406–9 [Amended]

8. Amend section 22.406–9 by—

a. Removing from the first sentence of paragraph (c)(1) ''Secretary of the Treasury'' and adding ''Comptroller General'' in its place and removing from the last sentence of paragraph (c)(1) ''Secretary of the Treasury'' and adding ''Comptroller General (Claims Section)'' in its place; and

b. Removing from paragraph (c)(3) ''Secretary of the Treasury'' and adding ''Comptroller General'' in its place.

9. Amend section 22.407 by—

a. Revising the heading and removing from the introductory text of paragraph (a) ''The contracting officer shall insert'' and adding ''Insert'' in its place;

b. Removing from paragraphs (a)(1) through (a)(10) ''The clause at'';

c. Removing from paragraph (b) ''The contracting officer shall insert'' and adding ''Insert'' in its place;

d. Removing from paragraph (c) ''the contracting officer shall'';

e. Removing from paragraph (d) ''The contracting shall insert'' and adding ''Insert'' in its place; and

f. Adding paragraph (h) to read as follows:

22.407 Solicitation Provision and Contract clauses.

* * * * *

(h) Insert the provision at 52.222–XX, Davis Bacon Act—Secondary Site of the Work, in solicitations in excess of $2,000 for construction within the United States.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. Amend section 52.222–4 by revising the date of the clause and paragraph (e) to read as follows:

52.222–4 Contract Work Hours and Safety Standards Act— Overtime Compensation.

* * * * *

Contract Work Hours and Safety Standards Act—Overtime Compensation (Date)

* * * * *

(e) *Subcontracts.* The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts that may require or involve the employment of laborers and mechanics including watchmen and guards and require subcontractors to include these provisions in any such lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

(End of clause)

11. Amend section 52.222–6 by—

a. Revising the date of the clause;

b. Redesignating paragraphs (a) through (d) as paragraphs (b) through (e);

c. Adding a new paragraph (a);

d. Revising the newly designated paragraph (b); and

e. Removing from the newly designated paragraph (c)(4) ''(b)(2)'' and ''(b)(3)'' and adding ''(c)(2)'' and ''(c)(3)'' in their places, respectively.

The revised and added text reads as follows:

52.222–6 Davis-Bacon Act.

* * * * *

Davis-Bacon Act (Date)

(a) *Definition—Site of the work*—(1) Means—

(i) The physical place or places where the construction called for in the contract will remain when work on it is completed (primary site of the work);

(ii) Any secondary site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the contract or project; and

(iii) Except as provided in paragraph (2) of this definition, fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool years, etc., provided they are dedicated exclusively, or nearly so, to performance of the contract or project, and provided they are adjacent or virtually adjacent to the ''site of the work'' as defined in paragraph (1)(i) or (ii) of this definition;

(2) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal Contractor project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial material supplier which are established by a supplier of materials for the project before opening of bids and not on the site are not included in the ''site of the work.'' Such permanent, previously established facilities are not a part of the ''site of the work'' even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a contract.

(b)(1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as may be subsequently incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination subsequently incorporated for a secondary site of the work shall be effective from the first day on which work under the contract was performed at that site and shall be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.

(2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(3) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

(4) The wage determination applicable to the respective site of the work (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

* * * * *

12. Amend section 52.222–9 by revising the date of the clause and paragraph (a) to read as follows:

52.222–9 Apprentices and Trainees.

* * * * *

Apprentices and Trainees (Date)

(a) *Apprentices*—(1) An apprentice will be permitted to work at less than the predetermined rate for the work performed when employed—

(i) Pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS) or with a State Apprenticeship Agency recognized by the OATELS; or

(ii) In the first 90 days of probationary employment as an apprentice in such an apprenticeship program, even though not individually registered in the program, if certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program.

(3) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(1) of this clause, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

(5) Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(6) In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

* * * * *

13. Revise section 52.222–11 to read as follows:

52.222–11 Subcontracts (Labor Standards).

As prescribed in 22.407(a), insert the following clause:

Subcontracts (Labor Standards) (Date)

(a) *Definition. Construction, alteration or repair,* as used in this clause, means all types of work done by laborers and mechanics employed by the construction Contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation—

(1) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;

(2) Painting and decorating;

(3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;

(4) Transportation of materials and supplies between the site of the work within the meaning of paragraphs (1)(i) and (ii) of the ''site of the work'' definition and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (1)(iii) of the ''site of work'' definition; and

(5) Transportation of portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the ''site of the work'' definition in paragraph (1)(ii), and the physical place or places where the building or work will remain (paragraph (1)(i) in the ''site of the work'' definition).

(b) The Contractor shall insert in any subcontracts for construction, alterations and repairs within the United States the clauses entitled—

(1) Davis-Bacon Act;

(2) Contract Work Hours and Safety Standards Act—Overtime Compensation (if the clause is included in this contract);

(3) Apprentices and Trainees;

(4) Payrolls and Basic Records;

(5) Compliance with Copeland Act Requirements;

(6) Withholding of Funds;

(7) Subcontracts (Labor Standards);

(8) Contract Termination—Debarment;

(9) Disputes Concerning Labor Standards;

(10) Compliance with Davis-Bacon and Related Act Regulations; and

(11) Certification of Eligibility.

(c) The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor performing construction within the United States with all the contract clauses cited in this paragraph.

(d)(1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed Statement and Acknowledgment Form (SF 1413) for each subcontract for construction within the United States, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (a) of this clause have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e) in all subcontracts for construction within the United States.

(End of clause)

52.222–41 [Amended]

14. Amend section 52.222–41 in paragraph (r) by removing ''Bureau of Apprenticeship and Training, Employment and Training Administration'' and adding ''Office of Apprenticeship Training, Employer, and Labor Services (OATELS)'' in its place.

15. Add provision 52.222–XX to read as follows:

52.222–XX Davis-Bacon Act—Secondary Site of the Work.

As prescribed in 22.407(h), insert the following provision:

Davis-Bacon Act—Secondary Site of the Work (Date)

(a) The offeror shall notify the Government if—

(1) The offeror intends to perform work at any secondary site, as defined in paragraph (a)(1)(ii) of the Davis-Bacon Act clause of this solicitation; and

(2) The Davis-Bacon Act is applicable to the work at any secondary site.

(b) If the wage determination provided by the Government for work at the primary place of performance is not applicable to the secondary site(s), the offeror shall—

(1) Obtain a general wage determination for the secondary site via the Internet at *www.xxx,* provide it to the Government for inclusion in any subsequent contract; or

(2) If a general wage determination is not available for the secondary site, request the Contracting Officer to obtain a project wage determination from the Department of Labor. The offeror should request the project wage determination for the secondary site as soon as possible. The due date for receipt of offers will not be extended as a result of an offeror's request for a project wage determination for a secondary site of the work.

(End of provision)

PART 53—FORMS

53.222 [Amended]

16. Amend section 53.222 in paragraph (e) by removing ''(Rev 6/89)'' and adding ''(Date)'' in its place, and removing the last sentence.

17. Amend section 53.301–1413 by revising the form to read as follows:

52.301–1413 Statement and Acknowledgement.

BILLING CODE 6820–EP–P

DRAFT

STATEMENT AND ACKNOWLEDGMENT

OMB No.: 9000-0014
Expires: 10/31/2004

Public reporting burden for this collection of information is estimated to average .15 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVA), Regulatory and Federal Assistance Publications Division, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0014), Washingotn, DC 20503.

PART I - STATEMENT OF PRIME CONTRACTOR

1. PRIME CONTRACT NO.	2. DATE SUBCONTRACT AWARDED	3. SUBCONTRACT NUMBER

4. PRIME CONTRACTOR			5. SUBCONTRACTOR		
a. NAME			a. NAME		
b. STREET ADDRESS			b. STREET ADDRESS		
c. CITY	d. STATE	e. ZIP CODE	c. CITY	d. STATE	e. ZIP CODE

6. The prime contract ☐ does, ☐ does not contain the clause entitled "Contract Work Hours and Safety Standards Act -- Overtime Compensation."

7. The prime contractor states that under the contract shown in Item 1, a subcontract was awarded on the date shown in Item 2 to the subcontractor identified in item 5 by the following firm:

a. NAME OF AWARDING FIRM

b. DESCRIPTION OF WORK BY SUBCONTRACTOR

DRAFT

8. PROJECT	9. LOCATION

10a. NAME OF PERSON SIGNING	11. BY *(Signature)*	12. DATE SIGNED
10b. TITLE OF PERSON SIGNING		

PART II - ACKNOWLEDGMENT OF SUBCONTRACTOR

13. The subcontractor acknowledges that the following clauses of the contract shown in Item 1 are included in this subcontract:

- Contract Work Hours and Safety Standards Act - Overtime Compensation - (If included in prime contract see Block 6)
- Payrolls and Basic Records
- Withholding of Funds
- Dispustes Concerning Labor Standards
- Compliance with Davis-Bacon and Related Act Regulations
- Davis-Bacon Act
- Apprentices and Trainees
- Compliance with Copeland Act Requirements
- Subcontracts (Labor Standards)
- Contract Termination - Debarment
- Certification of Eligiblity

14. NAME(S) OF ANY INTERMEDIATE SUBCONTRACTORS, IF ANY

A		C	
B		D	

15a. NAME OF PERSON SIGNING	16. BY *(Signature)*	17. DATE SIGNED
15b. TITLE OF PERSON SIGNING		

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition is usable

STANDARD FORM 1413 (REV.)
Prescribed by GSA/FAR (48 CFR) 53.222(e)

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Federal Register

Tuesday,
December 23, 2003

Part VI

LOCAL Television Loan Guarantee Board

7 CFR Parts 2200 and 2201
LOCAL Television Loan Guarantee Program; Final Rule and Notice

LOCAL TELEVISION LOAN GUARANTEE BOARD

7 CFR Parts 2200 and 2201

RIN 0572–AB82

LOCAL Television Loan Guarantee Program

AGENCY: LOCAL Television Loan Guarantee Board.

ACTION: Final rule.

SUMMARY: The LOCAL Television Loan Guarantee Board (Board) is issuing regulations to implement the LOCAL Television Loan Guarantee Program (Program or LOCAL TV Program) as authorized by the Launching Our Communities' Access to Local Television Act of 2000 (the Act). Section 1002 of the Act sets forth that the primary purpose of the Act is to facilitate access, on a technologically neutral basis to signals of local television stations for households located in Nonserved Areas and Underserved Areas. The Act establishes a LOCAL Television Loan Guarantee Board (the Board) to approve Guarantees made under the Act. The Board is comprised of the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Secretary of Agriculture, and the Secretary of Commerce, or their designees.

This rule establishes eligibility and Guarantee requirements, the application and approval process, as well as the administration of Guarantees made by the Board. Additionally, this rule establishes the process through which the Board will consider applications under the priority considerations required in the Act.

DATES: *Effective:* This rule becomes effective December 23, 2003.

ADDRESSES: A complete set of comments filed in response to the Proposed Rules are available for public inspection at 1400 Independence Avenue, SW., STOP 1575, Room 2919–S, Washington, DC 20250–1575. These comments can be viewed electronically at *http://www.usda.gov/rus/localtvboard/reply-comments.htm.*

FOR FURTHER INFORMATION CONTACT: Jacqueline G. Rosier, Secretary, LOCAL Television Loan Guarantee Board, 1400 Independence Avenue, SW., STOP 1575, Room 2919–S, Washington, DC 20250–1575. Telephone (202) 720–0530; Facsimile (202) 720–2734; E-mail *localtv@rus.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant for purposes of Executive Order 12866, and therefore has been reviewed by the Office of Management and Budget (OMB). In accordance with Executive Order 12866, an Economic Impact Analysis was completed, outlining the costs and benefits of implementing this program. The complete analysis is available from the Board upon request.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Board has determined that this rule meets the applicable standards provided in Section 3 of the Executive Order, to minimize litigation, eliminate ambiguity, and reduce burden.

Administrative Procedure Act

Pursuant to authority at 5 U.S.C. 553(a)(2), this rule related to loans is exempt from the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, including the requirement to provide prior notice and an opportunity for public comment.

Regulatory Flexibility Act

Because this rule is not subject to a requirement to provide prior notice and an opportunity for public comment pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are inapplicable.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in the rule have been approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0572–0135.

Catalog of Federal Domestic Assistance

The Program described by this rule is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.853, LOCAL Television Loan Guarantee Program. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402. Telephone: (202) 512–1800.

Executive Order 12372

No intergovernmental consultation with State and local officials is required because this rule is not subject to the provisions of Executive Order 12372, Intergovernmental Consultation.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of Sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

National Environmental Policy Act

It has been determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969 [42 U.S.C. 4321 *et seq.*] (NEPA), an Environmental Impact Statement is not required. If necessary, Loans sought to be guaranteed under this Program will be assessed individually to determine appropriate compliance with NEPA.

Government Paperwork Elimination Act

The Board is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Civil Rights

The LOCAL TV Board is an equal opportunity lender. Applicants are required to comply with regulations on nondiscrimination and equal employment opportunity.

Executive Order 12630

This rule does not contain policies that have takings implications.

Executive Order 13132

This rule does not contain policies having federalism implications requiring preparation of a Federalism Summary Impact Statement.

Background

On December 21, 2000, the President signed into law Public Law 106–553, the Federal Funding Act for Fiscal Year 2001. Title X of Pub. L. 106–553, entitled Launching our Communities Access to Local Television Act of 2000 (''LOCAL TV Act'' or ''Act'') established the LOCAL Television Loan Guarantee Board (''Board''). The Board is authorized to guarantee loans to facilitate access, on a technologically neutral basis, to signals of local television stations for households located in nonserved or underserved areas. The Board is comprised of the

Secretary of Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Secretary of Agriculture, and the Secretary of Commerce, or their designees.

On August 15, 2003, the Board published proposed regulations to implement the LOCAL Television Loan Guarantee Program (Program or LOCAL TV Program).[1] The proposed regulations outlined proposed eligibility and guarantee requirements, the application process, as well as the administration of guarantees made by the Board. Additionally, the proposed regulations outlined the proposed process through which the Board would consider application under the priority considerations required in the Act. The Board received eight comments in response to the proposed regulations. In this document, the Board adopts rules to implement the LOCAL TV Program.

Section 2201.1 Definitions

One commenter suggested that the Board amend the proposed rule to provide that the Board will publish contour maps for each Designated Market Area (DMA), including grade A and B contours, to ensure that all applicants are using the same definitions and data sets.

The Act does not require the Board to create contour maps and the Board does not have funds available to undertake such a project. Applicants are required to indicate the number of nonserved and underserved households their projects will reach. *See* Section 2201.11(c)(4) of the regulations. It is expected that applicants will also disclose the manner in which this determination was made. This information, along with the other information requested as part of the application, will be analyzed in a consistent manner across all applicants by the Board.

A number of commenters suggested amending the definition of ''local television broadcast signals'' to include all local television broadcast stations in a DMA or, at least, all local television broadcast stations eligible for mandatory carriage under Federal Communications Commission (FCC) rules applicable to cable television systems or satellite providers. These suggestions were made because of the concerns of commenters that the proposed definition would have one of four possible negative results: (1) It would overlook some local stations in determining the existing availability of service; (2) it would cause some areas currently receiving local broadcast signals from a cable or satellite provider in accordance with FCC rules to be considered nonserved or underserved erroneously; (3) it would limit the applicability of the loan guarantee to that portion of a loan required to finance facilities necessary to provide only some of the local signals that a cable or satellite provider would be required by FCC rules to provide; or (4) it would direct applicants to provide retransmission of a smaller number of signals than the FCC's rules would dictate, thereby possibly running afoul of both FCC rules and copyright laws. While we do not agree that all of these results were possible, because nothing in the Board's rules would have affected the power of copyright law or the authority of the FCC's rules regarding carriage of local signals by providers applying for loan guarantees under the program, the Board acknowledges that the proposed definition could be improved.

Therefore, the Board has amended the definition of Local Television Broadcast Signals to include all television broadcast signals located in a DMA, subject to limitations pertaining to duplication, similar to the rules the FCC has used in Part 76 of Title 47 of the Code of Federal Regulations. The Board has also added definitions of the terms ''low power television station,'' ''television broadcast station,'' ''television broadcast translator station,'' and ''television network'' to ensure that these terms are well understood in the revised definition of ''local television broadcast signals.''

To address the concern that the local signals carried by a cable or satellite provider under the FCC's rules might, in some case, not accord with the definition of ''local television broadcast signals'' in this rule, the Board has added a new Section 2201.9 which clarifies that the local signals carried by cable or satellite providers in accordance with the FCC's rules will always be considered to meet the definition of ''local television broadcast signals'' for the purposes of this regulation.

Section 2201.10 Loan Amount and Guarantee Percentage

One comment recommended that the regulations be amended to delete the proposed $1 million minimum size of a guaranteed loan (floor), so that the Board might consider applications for small loans on a case-by-case basis. The commenter indicated that, while the proposed $1 million floor would not pose a problem for it, it might serve to deter certain small companies from applying for a loan guarantee under the program.

The floor was set by the Board after taking into consideration the full costs to the Board of analyzing the eligibility and creditworthiness of applicants and their compliance with appropriate statutes and regulations. Such costs, which might appear to be borne by the Board, would be passed on to applicants through application and origination fees. Lenders would be authorized to charge reasonable fees as well. For loans of less than $1 million, total amount of fees charged by the Board and the lenders would be larger than the benefit of reduced interest expense of the borrower from receiving a Federal loan guarantee. Therefore, the Board will not delete the $1 million floor from the regulations.

Two commenters expressed concern about how the Board would determine the portion of the loan eligible for coverage by the guarantee under Section 2201.10. The Act makes clear that the guarantee should not cover any portion of a loan being used for purposes other than the establishment of the means by which local television broadcast signals will be delivered to a nonserved or underserved Area. However, if the Board were to prorate the costs of facilities based simply on the percentage of local television broadcast signals carried relative to all signals carried or the percentage of signals delivered to nonserved or underserved areas relative to all Areas served and adjust the portion of the loan eligible for guarantee accordingly, the effect would be to undermine the effectiveness of the LOCAL TV Program, by dropping the actual guarantee percentage significantly in many cases. Nonetheless any separable costs used to pay for features, services, or facilities not essential to the means by which local television broadcast signals will be delivered to a nonserved or underserved Area will be excluded from the portion of the loan eligible for coverage by the guarantee. A new subsection 2201.10(b)(3) has been added to clarify this policy.

Section 2201.11 Application Requirements

Credit Opinion. The proposed rules require applicants for loans of $5 million or more to submit to the Board a preliminary credit rating opinion letter. The Board solicited comment on whether the minimum amount should be set within the range of $5 million to $25 million. One comment argued that this requirement could serve as a costly barrier for potential applicants and that this credit opinion letter was not

[1] *See* 68 FR 48814 (August 15, 2003). The proposed regulations can also be viewed at *http://www.usda.gov/rus/localtvboard/legislative_docs.htm.*

required by the Act. The commenter also stated that this requirement is inconsistent with the ''no credit elsewhere test'' and that the proposed regulations do not specify what outcome would be required from this opinion letter as a condition to obtaining a Guarantee.

The creditworthiness of an applicant is an important consideration for the Board as it implements this program. At the same time, the Board recognizes the commenter's concern that the cost of obtaining a credit opinion letter may be a potential barrier for some applicants. Therefore, the Board will raise the minimum amount of a loan for which a credit rating opinion letter is required from $5 million to $15 million. Section 2201.11(g)(2) of the final rules has been changed accordingly.

Environmental Impact and Documentation for Eligibility Determination. One commenter recommended amending the documentation and other requirements for an applicant to be eligible for a loan guarantee consistently throughout the regulations to provide that the environmental impact assessment and all necessary regulatory approvals, spectrum licenses, and delivery permissions will be required to be finalized prior to the closing of the loan to be guaranteed, but not necessarily at the time of application, as appeared to be required under certain sections of the proposed regulations.

Applications may be submitted, evaluated and conditionally approved prior to finalization of the environmental assessment and completion of the NEPA process however, guaranteed loan funds will not be advanced until the NEPA process is completed. Section 2201.11(i) of the regulations has been amended accordingly. Applications may also be submitted, evaluated and conditionally approved prior to an Applicant obtaining all required regulatory and other approvals, licenses and permissions; however, guaranteed loan funds will not be advanced until they have been obtained. The regulations have been amended to clarify this point as well.

Section 2201.12 Applicant

One commenter asked that the Board amend the regulations to clearly state what the Board actually requires in order for an applicant to be deemed eligible to receive a loan guarantee and indicate the timing for the Board's determination on the applicant's eligibility, as opposed to merely listing in the regulations the information required to be submitted as part of the application.

The Board's regulations state both the factors for determining eligibility of an applicant and the information items necessary to be submitted as part of a complete application. A determination that an applicant is eligible does not mean that the applicant will be made an offer of guarantee. Similarly, a complete application presenting an economically viable project cannot receive an offer of guarantee if the party submitting the application is not eligible. Several commenters suggested that the Board amend either the requirement that an applicant show that their loan would not be available on reasonable terms and conditions without a program guarantee or the documentation requested in the application to show that this requirement has been satisfied. *See* Section 2201.12(b)(2)(v) of the proposed rule.

The ''not available on reasonable terms and conditions'' requirement in the proposed rule is taken directly from the statute, and therefore cannot be eliminated by regulation. *See* Section 1004(d)(3)(v) of the Act. The documentation requirement is similar to that used in other government loan guarantee programs.

Section 2201.15 Ineligible Loan Purposes

One commenter noted that the regulations do not lay out how the Board, in consultation with the National Telecommunications and Information Administration (NTIA), will make a determination that a project is ''not likely to have a substantial adverse impact on competition that outweighs the benefits of improving access to Local Television Broadcast Signals in a Nonserved Area or Underserved area * * *. ''Another commenter asked that the section be moved to a new location in the regulations in order to underscore the importance of this requirement for Board deliberations on this issue.''

The standard that the Board is to apply in making its determination is clearly stated in the Act, *i.e.*, the project is not likely to have a substantial adverse impact on competition that outweighs the benefits of improving access to the signals of a local television station in a nonserved area or underserved area and is commercially viable. Moreover, the Act requires the Board to consult with the NTIA in its determination. Given the wide variety of types of projects, market conditions, and consumer services that may be offered, it would be inappropriate to specify a formula for making this determination in the regulations. Rather, the Board will make its determination, in accordance with the Act, on a case-by-case basis based on the nature of the project under consideration. A detailed process outlined in the regulations as to how the Board will make this determination is not required by the Act. Because of the importance of this determination, however, the regulations have been amended to move this determination from Section 2201.15(c) to Section 2201.18(f).

Section 2201.17 Submission of Applications

One group of commenters recommended that the Board amend the regulations to state that each application window will be *at least* 120 days long, and not just *approximately* 120 days long, as was stated in the proposed rule.

Elsewhere in today's **Federal Register** the Board is publishing a notice announcing that applications for guarantees are being accepted through April 21, 2004; a 120 day period. While the Board believes 120 days is an appropriate period of time for an applicant to submit an application, it does not believe that a slightly shorter period for additional application windows is inappropriate. As such, should the Board decide to open additional application windows, any such window could be shorter than 120 days.

Two commenters recommended that the regulations require that a public notice be put in place so that affected participants in the DMA are aware an application has been filed. The Board expects to give the public notice of the names of those who applied during an application window after the application window has closed. This notice will be published in the **Federal Register**.

Section 2201.18 Application Selection

Two commenters asked that the Board explain in the regulations how it will meet its statutory requirement to prioritize the service of nonserved areas over the course of the program; *e.g.*, how will the Board prevent the majority of loan guarantees from being issued to serve underserved areas in the initial application window or windows so that the opportunities to serve nonserved areas will not be limited in later application windows. Another commenter raised the related issue of how the Board will select applications from the same area if more than one application meets the eligibility requirements.

All applications received during the time period established in the Board's public notice, published elsewhere in

today's **Federal Register**, will be reviewed based on the criteria in the statute and these regulations. Included in these criteria is a statutory priority to provide service to nonserved areas. The Board will extend offers of guarantee to eligible applicants in accordance with such priority standards. However, the Board will apply that priority with regard only to the applications before it. The Board will not withhold funds for potential future applications that may be submitted during a possible additional funding availability period. With respect to applications covering the same geographic area, the Board will again apply the statutory and regulatory approval criteria to its determination as to whether to make an offer of guarantee. The Board may extend an offer of guarantee to more than one applicant seeking to provide service to the same geographic area. However, analysis of the financial feasibility of any particular project proposed by an applicant will necessarily take into account any other applications received by the Board covering the same geographic area. This analysis will include determining whether both Projects can be economically sustainable.

One commenter asked that the Board amend the regulations to facilitate the transition to digital television (DTV) by giving priority to those entities whose business and technical plans include the delivery of all local DTV broadcast stations and the entire 19.4 MBPS digital signal, whether stations are delivering one high-definition signal, several DTV multicast signals, data, or a combination.

The Act specifies the considerations that the Board shall give priority to with respect to the approval of loan guarantees. The transition to DTV is not included within the priorities stated in the Act. If Congress had wanted the Board to give priority to those entities that facilitate the transition to DTV, it could have made that a priority in the Act. The regulations have not been amended to give priority to those entities that facilitate the transition to DTV. However, Section 2201.11(e)(8) of the proposed rule does require the applicant to identify the capacity necessary to digitally broadcast all local television broadcast signals to be provided by the project so that the technical capabilities of the project can be evaluated in light of the ongoing transition to DTV.

One commenter proposed that the Board amend the proposed rule so that an applicant could refer to its entire system, and not merely the assets involved with a proposed project, when describing how high-speed Internet services will be provided in conjunction with the proposed project.

The Act states that the Board should give additional consideration to *projects* that also provide high-speed Internet service. *See* Section 1004(e)(1)(B) of the Act. The Board, therefore, does not have the flexibility to consider any means outside of the project in question by which an applicant might already provide, or would provide in the future, high-speed Internet service.

Another commenter recommended that the regulations be amended to preserve the statutory requirement that ''additional''—not ''higher'' as the regulations now state—priority is given to projects that provide high-speed Internet service. The Board agrees with this comment and has changed the regulations to reflect this change in Section 2201.18(b)(1).

Section 2201.20 Collateral

One commenter suggested amending the proposed rule to specifically allow collateral to include certain intangible assets. The definition of collateral in the proposed rule is broad, and does not preclude the use of intangible assets. All collateral, including any intangible assets, will be subject to review and approval by the Board under Section 2201.20(e) of the regulations.

Another commenter recommended amending the regulations to provide that the Board will adjust the value of collateral downward and require an applicant to pledge additional collateral only if the Board makes a finding that such an adjustment is appropriate as a result of fraud or abuse by the applicant or any affiliate of the applicant. Such an amendment cannot be made. The Act requires that collateral having a value equal to the unpaid balance of the loan, secure the loan. The government must be able to evaluate, at all times, the value of the collateral, regardless of fraud or abuse. The Act clearly contemplates that, in the event the value of pledged collateral is not equal to the unpaid balance of the loan, additional collateral securing the loan will be provided either by the applicant or its affiliates.

Another commenter recommended that the regulations be amended to enable the Board to use its discretion to minimize burdensome fees and penalties and the use of credit premiums by providing that: (1) The Administrator will never hold liens on assets securing the loan that are in excess of the unpaid balance of the loan amount covered by the loan guarantee; and (2) credit risk premiums should be required only in the event of an appropriations shortfall such that the cost of the loan guarantee cannot be covered and that, in such cases, that credit risk premiums will be kept to the lowest practical amount.

With regard to the liens issue, the regulations must preserve discretion for the Board to hold liens in an amount sufficient to protect the taxpayer. With respect to credit risk premiums, Section 2201.23 already permits the Board to use its discretion, with OMB concurrence as to the amount, regarding whether and to what extent credit risk premiums will be charged. Section 2201.23 also states that the Board will reduce the credit risk premium with respect to guarantees proportionately to the extent appropriations of budget authority are sufficient to cover the cost of guarantees, as determined under Section 502(5) of the Federal Credit Reform Act of 1990.

Section 2201.21 Fees

One commenter stated that the origination fee, if one is charged at all, should be capped at 50 percent of the application fee. A loan guarantee origination fee capped at 50 percent of the application fee would impair the Board's ability to recover its costs. The loan guarantee origination fee will be charged only to those applicants that have been made an offer of guarantee. The application fee, on the other hand, will be charged for all applications. The amount of the application fee is meant to cover Board expenses incurred in reviewing an application, while the loan guarantee origination fee is meant to recoup Board expenses incurred in issuing a guarantee and closing the loan.

To ensure that the loan guarantee origination fee more accurately reflects the administrative costs of issuing the guarantee and closing the loan, the Board has decided to revise the amount of the loan guarantee origination fee. This change is reflected in subsection 2201.21(b) of the final rules. This subsection provides a fee sufficient to cover the Board's administrative costs and requires borrowers to enter into an agreement with the Board regarding payment of the fee once an offer of guarantee has been extended. Such costs will likely include legal, financial analysis and other outside consulting fees as well as other administrative costs incurred by the Board. The language conditions closing the loan on full payment of the fee and makes it clear that a borrower is liable for the administrative costs of the Board regardless of whether the loan closes.

Section 2201.25 Performance Agreement

One commenter suggested that the proposed rule be amended to provide that the penalty in subsection 2201.25(b) of the proposed rule for failure to comply with a stipulated performance schedule would not be charged if the applicant in good faith failed to meet the performance schedule.

The Act provides the Board with authority to impose a penalty not to exceed three times the interest due on a guaranteed loan if an applicant fails to meet its stipulated performance schedule.[2] While the Board believes that it is important to retain the flexibility granted to it in the Act to impose the penalty, the Board expects to use its authority very judiciously in order to protect the financial interests of the United States.

Another commenter recommended that in the event a borrower in good faith failed to meet the stipulated performance schedule, the Administrator should provide the borrower with a minimum of 120 days to attempt to cure the failure to perform before the assessment of the penalty.

The issue of a ''cure period'' is more appropriately addressed in the loan documents. It is anticipated that an appropriate ''cure period'' provision will be included in the loan documents.

Section 2201.27 Assignment or Transfer of Loans

One commenter recommended that only modifications of significant material provisions of the Loan Documents should require prior written approval of the Board. The commenter also recommended that Board approval not be required for the transfer of certain participation interests in a Loan (*e.g.*, transfer of interests within a group of participating Lenders).

The requirements and limitations in section 2201.27 of the regulations are needed for the Board to assure compliance with the authorizing statute, which requires, for example, that the Board determine whether or not Lenders are eligible to participate in the Program and take note of any transfer of the guaranteed portion of the loan separate and apart from the unguaranteed portion of a loan (''loan stripping''). Such loan stripping is prohibited under subsection 1005(d) of the Act. The Board's need for this information exists not only at the time the loan is originated, but throughout the repayment period.

[2] See Section 1005(f)(2) of the Act.

Section 2201.31 Indemnification

One commenter recommended amending the regulations to clarify that only those affiliates that are providing collateral for the loan guarantee will be subject to the statutorily required indemnification requirements. A case-by-case statutorily required determination will be made concerning which affiliates will be required to indemnify the government. It is possible, however, that indemnification will be received from affiliates which are not providing collateral for a guarantee. It is anticipated that appropriate contracts, between the affiliates and the government, evidencing such indemnification obligation, will be obtained.

Section 2201.33 Defaults

One commenter recommended amending the regulations to state that the failure of a lender to provide all of the required documents to the Board in the event of a default will not void the loan guarantee and that instead only a good faith effort by lender in this regard will be required, which is consistent with current commercial practice.

Subsection 2201.33(c) of the regulations requires the lender to provide certain information, relating to the collection process, to the Board within 90 days of the date of a payment demand. Paragraph (f) of that section provides that the Board may withhold payment under the guarantee if such information has not been provided. This provision is reasonable in light of the Board's reliance on the lender in the loan collection process.

List of Subjects in 7 CFR Parts 2200 and 2201

Loan programs—Communications, Rural areas, Telecommunications, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, chapter XX of title 7 of the Code of Federal Regulations is amended as follows:

PART 2200—ACCESS TO LOCAL TELEVISION SIGNALS GUARANTEED LOAN PROGRAM; GENERAL POLICIES AND PROCEDURES

■ 1. The authority citation for part 2200 continues to read as follows:

Authority: 47 U.S.C. 1101 *et seq.*; Pub. L. 106–553; Pub. L.107–171.

■ 2. The title of part 2200 is revised to read as set out above.

■ 3. Section 2200.1 is amended by adding a new paragraph (d) to read as follows:

§ 2200.1 Definitions.

* * * * *

(d) *Person* means any individual, corporation, cooperative, partnership, joint venture, association, joint-stock company, limited liability company or partnership, trust, unincorporated organization, government entity, agency or instrumentality or any subdivision thereof.

■ 4. Part 2200 is amended by adding §§ 2200.10 through 2200.12 to read as follows:

§ 2200.10 Restrictions on lobbying.

(a) No funds received through a Loan guaranteed under this Program in this chapter may be expended by the recipient of a Federal contract, grant, loan, loan guarantee, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan or loan Guarantee, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, loan Guarantee, or cooperative agreement.

(b) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, set forth in the application form, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or Guarantee.

(c) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a Standard Form-LLL if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or Guarantee.

(d) Each person shall file a certification, contained in the application form, and a disclosure form (Standard Form-LLL), if required, with each submission that initiates agency consideration of such person for:

(1) Award of a Federal contract, grant, or cooperative agreement exceeding $100,000; or

(2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000.

(e) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

(1) A Federal contract, grant, or cooperative agreement exceeding $100,000; or

(2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000, unless such person previously filed a certification, and a disclosure form, if required, under paragraph (c) of this section.

(f) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (d) or (e) of this section. An event that materially affects the accuracy of the information reported includes:

(1) A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

§ 2200.11 Government-wide debarment and suspension (nonprocurement).

(a) Executive Order (E.O.) 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a governmentwide system for nonprocurement debarment and suspension. A person who is debarred or suspended shall be excluded from Federal financial and nonfinancial assistance and benefits under Federal programs and activities. Debarment or suspension of a participant in a program by one agency shall have governmentwide effect. The Board shall review the List of Debarred entities prior to making final loan Guarantee decisions. Suspension or debarment may be a basis for denying a loan Guarantee.

(b) This section applies to all persons who have participated, are currently participating or may reasonably be expected to participate in transactions under Federal nonprocurement programs. For purposes of this section such transactions will be referred to as ''covered transactions.''

(1) *Covered transaction.* For purposes of this section, a covered transaction is a primary covered transaction or a lower tier covered transaction. Covered transactions at any tier need not involve the transfer of Federal funds.

(i) *Primary covered transaction.* Except as noted in paragraph (b)(2) of this section, a primary covered transaction is any nonprocurement transaction between an agency and a person, regardless of type, including: grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan guarantees, subsidies, insurance, payments for specified use, donation agreements and any other nonprocurement transactions between a Federal agency and a person.

(ii) *Lower tier covered transaction.* A lower tier covered transaction is:

(A) Any transaction between a participant and a person other than a procurement contract for goods or services, regardless of type, under a primary covered transaction;

(B) Any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed the Federal procurement small purchase threshold fixed at 10 U.S.C. 2304(g) and 41 U.S.C. 253(g) (currently $100,000) under a primary covered transaction;

(C) Any procurement contract for goods or services between a participant and a person under a covered transaction, regardless of amount, under which that person will have a critical influence on or substantive control over that covered transaction. Such persons may include loan officers or chief executive officers acting as principal investigators and providers of federally required audit services.

(2) *Exceptions.* The following transactions are not covered:

(i) Statutory entitlements or mandatory awards (but not subtier awards thereunder which are not themselves mandatory), including deposited funds insured by the Federal Government;

(ii) Direct awards to foreign governments or public international organizations, or transactions with foreign governments or foreign governmental entities, public international organizations, foreign government owned (in whole or in part) or controlled entities, entities consisting wholly or partially of foreign governments or foreign governmental entities;

(iii) Benefits to an individual as a personal entitlement without regard to the individual's present responsibility (but benefits received in an individual's business capacity are not accepted);

(iv) Federal employment;

(v) Transactions pursuant to national or agency-recognized emergencies or disasters;

(vi) Incidental benefits derived from ordinary governmental operations; and

(vii) Other transactions where the application of this section would be prohibited by law.

(3) *Board covered transactions.* This section applies to the Board's Loan Guarantees, subcontracts and transactions at any tier that are charges as direct or indirect costs, regardless of type.

(c) *Primary covered transactions.* Except to the extent prohibited by law, persons who are debarred or suspended shall be excluded from primary covered transactions as either participants or principals throughout the Executive Branch of the Federal Government for the period of their debarment, suspension, or the period they are proposed for debarment under 48 CFR part 9, subpart 9.4. Accordingly, no agency shall enter into primary covered transactions with such excluded persons during such period, except as permitted pursuant to paragraph (l) of this section.

(d) *Lower tier covered transactions.* Except to the extent prohibited by law, persons who have been proposed for debarment under 48 CFR part 9, subpart 9.4, debarred or suspended shall be excluded from participating as either participants or principals in all lower tier covered transactions (*see* paragraph (b)(1)(ii) of this section for the period of their exclusion).

(e) *Exceptions.* Debarment or suspension does not affect a person's eligibility for:

(1) Statutory entitlements or mandatory awards (but not subtier awards thereunder which are not themselves mandatory), including deposited funds insured by the Federal Government;

(2) Direct awards to foreign governments or public international organizations, or transactions with foreign governments or foreign governmental entities, public international organizations, foreign government owned (in whole or in part) or controlled entities, and entities consisting wholly or partially of foreign governments or foreign governmental entities;

(3) Benefits to an individual as a personal entitlement without regard to the individual's present responsibility

(but benefits received in an individual's business capacity are not accepted);

(4) Federal employment;

(5) Transactions pursuant to national or agency-recognized emergencies or disasters;

(6) Incidental benefits derived from ordinary governmental operations; and

(7) Other transactions where the application of this section would be prohibited by law.

(f) Persons who are ineligible are excluded in accordance with the applicable statutory, executive order, or regulatory authority.

(g) Persons who accept voluntary exclusions are excluded in accordance with the terms of their settlements. The Board shall, and participants may, contact the original action agency to ascertain the extent of the exclusion.

(h) The Board may grant an exception permitting a debarred, suspended, or voluntarily excluded person, or a person proposed for debarment under 48 CFR part 9, subpart 9.4, to participate in a particular covered transaction upon a written determination by the agency head or an authorized designee stating the reason(s) for deviating from the Presidential policy established by Executive Order 12549. However, in accordance with the President's stated intention in the Executive Order, exceptions shall be granted only infrequently. Exceptions shall be reported in accordance with the Executive Order.

(i) Notwithstanding the debarment, suspension, proposed debarment under 48 CFR part 9, subpart 9.4, determination of ineligibility, or voluntary exclusion of any person by an agency, agencies and participants may continue covered transactions in existence at the time the person was debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, declared ineligible, or voluntarily excluded. A decision as to the type of termination action, if any, to be taken should be made only after thorough review to ensure the propriety of the proposed action.

(j) Agencies and participants shall not renew or extend covered transactions (other than no-cost time extensions) with any person who is debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, ineligible or voluntary excluded, except as provided in paragraph (h) of this section.

(k) Except as permitted under paragraphs (h) or (i) of this section, a participant shall not knowingly do business under a covered transaction with a person who is:

(1) Debarred or suspended;

(2) Proposed for debarment under 48 CFR part 9, subpart 9.4; or

(3) Ineligible for or voluntarily excluded from the covered transaction.

(l) Violation of the restriction under paragraph (k) of this section may result in disallowance of costs, annulment or termination of award, issuance of a stop work order, debarment or suspension, or other remedies as appropriate.

(m) A participant may rely upon the certification of a prospective participant in a lower tier covered transaction that it and its principals are not debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. An agency has the burden of proof that a participant did knowingly do business with a person that filed an erroneous certification.

§ 2200.12 Freedom of Information Act.

(a) *Definitions.* All terms used in this section, which are defined in 5 U.S.C. 551 or 5 U.S.C. 552 shall have the same meaning in this section. In addition the following definitions apply to this section:

(1) *FOIA,* as used in this section, means the ''Freedom of Information Act,'' as amended, 5 U.S.C. 552.

(2) *Commercial use request* means a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(3) *Direct costs* mean those expenditures that the Board actually incurs in searching for, reviewing, and duplicating documents in response to a request made under paragraph (c) of this section. Direct costs include, for example, the labor costs of the employee performing the work (the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits). Not included in direct costs are overhead expenses such as the costs of space and heating or lighting of the facility in which the records are kept.

(4) *Duplication* means the process of making a copy of a document in response to a request for disclosure of records or for inspection of original records that contain exempt material or that otherwise cannot be inspected directly. Among others, such copies may take the form of paper, microfilm, audiovisual materials, or machine-readable documentation (*e.g.*, magnetic tape or disk).

(5) *Educational institution* means a preschool, a public or private elementary or secondary school, or an institution of undergraduate higher education, graduate higher education, professional education, or an institution of vocational education that operates a program of scholarly research.

(6) *Noncommercial scientific institution* refers to an institution that is not operated on a ''commercial'' basis (as that term is used in this section) and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(7) *News* means information about current events or that would be of current interest to the public. Examples of news media entities include, but are not limited to, television or radio stations broadcasting to the public at large, and publishers of newspapers and other periodicals (but only in those instances when they can qualify as disseminators of ''news'') who make their products available for purchase or subscription by the general public. ''Freelance'' journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

(8) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the general public.

(9) *Review* means the process of examining documents, located in response to a request for access, to determine whether any portion of a document is exempt information. It includes doing all that is necessary to excise the documents and otherwise to prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(10) *Search* means the process of looking for material that is responsive to a request, including page-by-page or line-by-line identification within documents. Searches may be done manually or by computer.

(b) *Records available for public inspection and copying.* (1) *Types of records made available.* The information in this section is furnished for the guidance of the public and in compliance with the requirements of the FOIA. This section sets forth the procedures the Board follows to make publicly available the materials specified in 5 U.S.C. 552(a)(2). These materials shall be made available for inspection and copying at the Board's offices pursuant to 5 U.S.C. 552(a)(2). Information routinely provided to the public as part of a regular Board activity

(for example, press releases) may be provided to the public without following this section.

(2) *Reading room procedures.* Information available under this section is available for inspection and copying, from 9 a.m. to 5 p.m. weekdays, at 1400 Independence Avenue, SW., Washington, DC.

(3) *Electronic records.* Information available under this section shall also be available on the Board's Web site found at *http://www.usda.gov/rus/localtvboard.*

(c) *Records available to the public on request*—(1) *Types of records made available.* All records of the Board that are not available under paragraph (b) of this section shall be made available upon request, pursuant to the procedures in this section and the exceptions set forth in the FOIA.

(2) *Procedures for requesting records.* A request for records shall reasonably describe the records in a way that enables the Board's staff to identify and produce the records with reasonable effort and without unduly burdening or significantly interfering with any of the Board's operations. The request shall be submitted in writing to the Secretary of the Board at LOCAL Television Loan Guarantee Board, 1400 Independence Avenue, SW., STOP 1575, Room 2919–S, Washington, DC 20250–1575, or sent by facsimile to the Secretary of the Board at (202) 720–2734. The request shall be clearly marked *FREEDOM OF INFORMATION ACT REQUEST.*

(3) *Contents of request.* The request shall contain the following information:

(i) The name and address of the requester, and the telephone number at which the requester can be reached during normal business hours;

(ii) Whether the requested information is intended for commercial use, or whether the requester represents an educational or noncommercial scientific institution, or news media;

(iii) A statement agreeing to pay the applicable fees, or a statement identifying any fee limitation desired, or a request for a waiver or reduction of fees that satisfies paragraph (f) of this section.

(d) *Processing requests*—(1) *Priority of responses.* The date of receipt for any request, including one that is addressed incorrectly or that is referred to the Board by another agency, is the date the Secretary of the Board actually receives the request. The Secretary of the Board shall normally process requests in the order they are received. However, in the Secretary of the Board's discretion, the Board may use two or more processing tracks by distinguishing between simple and more complex requests based on the number of pages involved, or some other measure of the amount of work and/or time needed to process the request, and whether the request qualifies for expedited processing as described in paragraph (d)(2) of this section. When using multitrack processing, the Secretary of the Board may provide requesters in the slower track(s) with an opportunity to limit the scope of their requests in order to qualify for faster processing. The Secretary of the Board shall contact the requester by telephone or by letter, whichever is most efficient in each case.

(2) *Expedited processing.* (i) A person may request expedited access to records by submitting a statement, certified to be true and correct to the best of that person's knowledge and belief, that demonstrates a compelling need for the records, as defined in 5 U.S.C. 552(a)(6)(E)(v).

(ii) The Secretary of the Board shall notify a requester of the determination whether to grant or deny a request for expedited processing within ten working days of receipt of the request. If the Secretary of the Board grants the request for expedited processing, the Board shall process the request for access to information as soon as practicable. If the Secretary of the Board denies a request for expedited processing, the requester may file an appeal pursuant to the procedures set forth in paragraph (e) of this section, and the Board shall respond to the appeal within twenty days after the appeal was received by the Board.

(3) *Time limits.* The time for response to requests shall be 20 working days, except:

(i) In the case of expedited treatment under paragraph (d)(2) of this section;

(ii) Where the running of such time is suspended for payment of fees pursuant to paragraph (f)(2)(ii) of this section;

(iii) Where the estimated charge is less than $250, and the requester does not guarantee payment pursuant to paragraph (f)(2)(i) of this section; or

(iv) In unusual circumstances, as defined in 5 U.S.C. 552(a)(6)(B)(iii), the time limit may be extended for a period of time not to exceed 10 working days as provided by written notice to the requester, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched; or such alternative time period as mutually agreed to by the Secretary of the Board and the requester when the Secretary of the Board notifies the requester that the request cannot be processed in the specified time limit.

(4) *Response to request.* In response to a request that satisfies paragraph (c) of this section, an appropriate search shall be conducted of records in the custody and control of the Board on the date of receipt of the request, and a review made of any responsive information located. The Secretary of the Board shall notify the requester of:

(i) The Secretary of the Board's determination of the request and the reasons therefore;

(ii) The information withheld, and the basis for withholding; and

(iii) The right to appeal any denial or partial denial, pursuant to paragraph (e) of this section.

(5) *Referral to another agency.* To the extent a request covers documents that were created by, obtained from, classified by, or is in the primary interest of another agency, the Secretary of the Board may refer the request to that agency for a direct response by that agency and inform the requester promptly of the referral. The Secretary of the Board shall consult with another Federal agency before responding to a requester if the Board receives a request for a record in which:

(i) Another Federal agency subject to the FOIA has a significant interest, but not the primary interest; or

(ii) Another Federal agency not subject to the FOIA has the primary interest or a significant interest. Ordinarily, the agency that originated a record will be presumed to have the primary interest in it.

(6) *Providing responsive records.* (i) A copy of records or portions of records responsive to the request shall be sent to the requester by regular U.S. mail to the address indicated in the request, unless the requester elects to take delivery of the documents at the Board's Freedom of Information Office or makes other acceptable arrangements, or the Secretary of the Board deems it appropriate to send the documents by another means. The Secretary of the Board shall provide a copy of the record in any form or format requested if the record is readily reproducible in that form or format, but the Secretary of the Board need not provide more than one copy of any record to a requester.

(ii) The Secretary of the Board shall provide any reasonably segregable portion of a record that is responsive to the request after deleting those portions that are exempt under the FOIA or this section.

(iii) Except where disclosure is expressly prohibited by statute, regulation, or order, the Secretary of the Board may authorize the release of records that are exempt from mandatory disclosure whenever the Board or designated Board members determine that there would be no foreseeable harm in such disclosure.

(iv) The Board is not required in response to the request to create records or otherwise to prepare new records.

(7) *Prohibition against disclosure.* Except as provided in this part, no officer, employee, or agent of the Board shall disclose or permit the disclosure of any unpublished information of the Board to any person (other than Board officers, employees, or agents properly entitled to such information for the performance of official duties), unless required by law.

(e) *Appeals.* (1) Any person denied access to Board records requested under paragraph (c) of this section, denied expedited processing under paragraph (d) of this section, or denied a waiver of fees under paragraph (f) of this section may file a written appeal within 30 calendar days after the date of such denial with the Board. The written appeal shall prominently display the phrase *FREEDOM OF INFORMATION ACT APPEAL* on the first page, and shall be addressed to Chairman of the Board, LOCAL Television Loan Guarantee Board, 1400 Independence Avenue, SW., STOP 1575, Room 2919–S, Washington, DC 20250–1575, or sent by facsimile to (202) 720–2734. The appeal shall include a copy of the original request, the initial denial, if any, and a statement of the reasons why the requested records should be made available and why the initial denial was in error.

(2) The Chairman of the Board shall make a determination regarding any appeal within 20 working days of actual receipt of the appeal, and the determination letter shall notify the appealing party of the right to seek judicial review in event of denial.

(f) *Fee schedules and waiver of fees*—(1) *Fee schedule.* The fees applicable to a request for records pursuant to paragraph (c) of this section are set forth in the uniform fee schedule at the end of this paragraph (f).

(i) *Search.* (A) Search fees shall be charged for all requests other than requests made by educational institutions, noncommercial scientific institutions, or representatives of the news media, subject to the limitations of paragraph (f)(1)(iv) of this section. The Secretary of the Board shall charge for time spent searching even if no responsive record is located or if the Secretary of the Board withholds the record(s) located as entirely exempt from disclosure. Search fees shall be the direct costs of conducting the search by the involved employees.

(B) For computer searches of records, requesters will be charged the direct costs of conducting the search, although certain requesters (as provided in paragraph (f)(3) of this section) will be charged no search fee and certain other requesters (as provided in paragraph (f)(3)) are entitled to the cost equivalent of two hours of manual search time without charge. These direct costs include the costs, attributable to the search, of operating a central processing unit and operator/programmer salary.

(ii) *Duplication.* Duplication fees will be charged to all requesters, subject to the limitations of paragraph (f)(1)(iv) of this section. For a paper photocopy of a record (no more than one copy of which need be supplied), the fee shall be 15 cents per page. For copies produced by computer, such as tapes or printouts, the Secretary of the Board shall charge the direct costs, including operator time, of producing the copy. For other forms of duplication, the Secretary of the Board will charge the direct costs of that duplication.

(iii) *Review.* Review fees shall be charged to requesters who make a commercial use request. Review fees shall be charged only for the initial record review—the review done when the Secretary of the Board determines whether an exemption applies to a particular record at the initial request level. No charge will be made for review at the administrative appeal level for an exemption already applied. However, records withheld under an exemption that is subsequently determined not to apply may be reviewed again to determine whether any other exemption not previously considered applies, and the costs of that review are chargeable. Review fees shall be the direct costs of conducting the review by the involved employees.

(iv) *Limitations on charging fees.* (A) No search fee will be charged for requests by educational institutions, noncommercial scientific institutions, or representatives of the news media.

(B) No search fee or review fee will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(C) Whenever a total fee calculated under this paragraph is $25 or less for any request, no fee will be charged.

(D) For requesters other than those seeking records for a commercial use, no fee will be charged unless the cost of search in excess of two hours plus the cost of duplication in excess of 100 pages totals more than $25.

(2) *Payment procedures.* All persons requesting records pursuant to paragraph (c) of this section shall pay the applicable fees before the Secretary of the Board sends copies of the requested records, unless a fee waiver has been granted pursuant to paragraph (f)(6) of this section. Requesters must pay fees by check or money order made payable to the Treasury of the United States.

(i) *Advance notification of fees.* If the estimated charges are likely to exceed $25, the Secretary of the Board shall notify the requester of the estimated amount, unless the requester has indicated a willingness to pay fees as high as those anticipated. Upon receipt of such notice, the requester may confer with the Secretary of the Board to reformulate the request to lower the costs. The processing of the request shall be suspended until the requester provides the Secretary of the Board with a written guarantee that payment will be made upon completion of the processing.

(ii) *Advance payment.* The Secretary of the Board shall require advance payment of any fee estimated to exceed $250. The Secretary of the Board shall also require full payment in advance where a requester has previously failed to pay a fee in a timely fashion. If an advance payment of an estimated fee exceeds the actual total fee by $1 or more, the difference shall be refunded to the requester. The time period for responding to requests under paragraph (d)(4) of this section, and the processing of the request shall be suspended until the Secretary of the Board receives the required payment.

(iii) *Late charges.* The Secretary of the Board may assess interest charges when fee payment is not made within 30 days of the date on which the billing was sent. Assessment of such interest will commence on the 31st day following the day on which the billing was sent. Interest is at the rate prescribed in 31 U.S.C. 3717.

(3) *Categories of uses.* The fees assessed depend upon the fee category. In determining which category is appropriate, the Secretary of the Board shall look to the identity of the requester and the intended use set forth in the request for records. Where a requester's description of the use is insufficient to make a determination, the Secretary of the Board may seek additional clarification before categorizing the request.

(i) *Commercial use requester.* The fees for search, duplication, and review apply when records are requested for commercial use.

(ii) *Educational, non-commercial scientific institutions, or representatives of the news media requesters.* The fees for duplication apply when records are not sought for commercial use, and the requester is a representative of the news media or an educational or noncommercial scientific institution, whose purpose is scholarly or scientific

research. The first 100 pages of duplication, however, will be provided free.

(iii) *All other requesters.* For all other requests, the fees for search and duplication apply. The first two hours of search time and the first 100 pages of duplication, however, will be provided free.

(4) *Nonproductive search.* Fees for search may be charged even if no responsive documents are found. Fees for search and review may be charged even if the request is denied.

(5) *Aggregated requests.* A requester may not file multiple requests at the same time, solely in order to avoid payment of fees. If the Secretary of the Board reasonably believes that a requester is separating a request into a series of requests for the purpose of evading the assessment of fees or that several requesters appear to be acting together to submit multiple requests solely in order to avoid payment of fees, the Secretary of the Board may aggregate such requests and charge accordingly. It is considered reasonable for the Secretary of the Board to presume that multiple requests by one requester on the same topic made within a 30-day period have been made to avoid fees.

(6) *Waiver or reduction of fees.* A request for a waiver or reduction of the fees, and the justification for the waiver, shall be included with the request for records to which it pertains. If a waiver is requested and the requester has not indicated in writing an agreement to pay the applicable fees if the waiver request is denied, the time for response to the request for documents, as set forth in under paragraph (d)(4) of this section, shall not begin until a determination has been made on the request for a waiver or reduction of fees.

(i) *Standards for determining waiver or reduction.* The Secretary of the Board may grant a waiver or reduction of fees where it is determined both that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operation or activities of the government, and that the disclosure of information is not primarily in the commercial interest of the requester. In making this determination, the following factors shall be considered:

(A) Whether the subject of the records concerns the operations or activities of the government;

(B) Whether disclosure of the information is likely to contribute significantly to public understanding of government operations or activities;

(C) Whether the requester has the intention and ability to disseminate the information to the public;

(D) Whether the information is already in the public domain;

(E) Whether the requester has a commercial interest that would be furthered by the disclosure; and, if so,

(F) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(ii) *Contents of request for waiver.* A request for a waiver or reduction of fees shall include a clear statement of how the request satisfies the criteria set forth in paragraph (f)(6)(i) of this section.

(iii) *Burden of proof.* The burden shall be on the requester to present evidence or information in support of a request for a waiver or reduction of fees.

(iv) *Determination by Secretary of the Board.* The Secretary of the Board shall make a determination on the request for a waiver or reduction of fees and shall notify the requester accordingly. A denial may be appealed to the Board in accordance with paragraph (e) of this section.

(7) Uniform fee schedule.

Service	Rate
(i) Manual search	Actual salary rate of employee involved, plus 16 percent of salary rate.
(ii) Computerized search.	Actual direct cost, including operator time.
(iii) Duplication of records:	
(A) Paper copy reproduction.	$.15 per page.
(B) Other reproduction (*e.g.*, computer disk or printout, microfilm, microfiche, or microform).	Actual direct cost, including operator time.
(iv) Review of records (includes employee preparation for release, *i.e.* excising).	Actual salary rate of conducting review, plus 16 percent of salary rate.

(g) *Request for confidential treatment of business information*—(1) *Submission of request.* Any submitter of information to the Board who desires confidential treatment of business information pursuant to 5 U.S.C. 552(b)(4) shall file a request for confidential treatment with the Board at the time the information is submitted or a reasonable time after submission.

(2) *Form of request.* Each request for confidential treatment of business information shall state in reasonable detail the facts supporting the commercial or financial nature of the business information and the legal justification under which the business information should be protected. Conclusory statements that release of the information would cause competitive harm generally will not be considered sufficient to justify confidential treatment.

(3) *Designation and separation of confidential material.* All information considered confidential by a submitter shall be clearly designated *''PROPRIETARY''* or *''BUSINESS CONFIDENTIAL''* in the submission and separated from information for which confidential treatment is not requested. Failure to segregate confidential commercial or financial information from other material may result in release of the nonsegregated material to the public without notice to the submitter.

(h) *Request for access to confidential commercial or financial information*—(1) *Request for confidential commercial or financial information.* A request by a submitter for confidential treatment of any business information shall be considered in connection with a request for access to that information.

(2) *Notice to the submitter.* (i) The Secretary of the Board shall notify a submitter who requested confidential treatment of information pursuant to 5 U.S.C. 552(b)(4), of the request for access.

(ii) Absent a request for confidential treatment, the Secretary of the Board may notify a submitter of a request for access to submitter's business information if the Secretary of the Board reasonably believes that disclosure of the information may cause substantial competitive harm to the submitter.

(iii) The notice given to the submitter by mail, return receipt requested, shall be given as soon as practicable after receipt of the request for access, and shall describe the request and provide the submitter seven working days from the date of notice, to submit written objections to disclosure of the information. Such statement shall specify all grounds for withholding any of the information and shall demonstrate why the information which is considered to be commercial or financial information, and that the information is a trade secret, is privileged or confidential, or that its disclosure is likely to cause substantial competitive harm to the submitter. If the submitter fails to respond to the notice within the time specified, the submitter will be considered to have no objection to the release of the information. Information a submitter provides under

this paragraph may itself be subject to disclosure under the FOIA.

(3) *Exceptions to notice to submitter.* Notice to the submitter need not be given if:

(i) The Secretary of the Board determines that the request for access should be denied;

(ii) The requested information lawfully has been made available to the public;

(iii) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(iv) The submitter's claim of confidentiality under 5 U.S.C. 552(b)(4) appears obviously frivolous or has already been denied by the Secretary of the Board, except that in this last instance the Secretary of the Board shall give the submitter written notice of the determination to disclose the information at least seven working days prior to disclosure.

(4) *Notice to requester.* At the same time the Secretary of the Board notifies the submitter, the Secretary of the Board also shall notify the requester that the request is subject to the provisions of this section.

(5) *Determination by Secretary of the Board.* The Secretary of the Board's determination whether or not to disclose any information for which confidential treatment has been requested pursuant to this section shall be communicated to the submitter and the requester immediately. If the Secretary of the Board determines to disclose the business information over the objection of a submitter, the Secretary of the Board shall give the submitter written notice via mail, return receipt requested, or similar means, which shall include:

(i) A statement of reason(s) why the submitter's objections to disclosure were not sustained;

(ii) A description of the business information to be disclosed; and

(iii) A statement that the component intends to disclose the information seven working days from the date the submitter receives the notice.

(6) *Notice of lawsuit.* The Secretary of the Board shall promptly notify any submitter of information covered by this section of the filing of any suit against the Board to compel disclosure of such information, and shall promptly notify a requester of any suit filed against the Board to enjoin the disclosure of requested documents.

■ 5. Part 2201 is added to read as follows:

PART 2201—LOCAL TELEVISION LOAN GUARANTEE PROGRAM—PROGRAM REGULATIONS

Subpart A—General

Sec.
2201.1 Definitions.
2201.2–2201.8 [Reserved]
2201.9 Limitation on the applicability of the definition of Local Television Broadcast signals.

Subpart B—Loan Guarantees

2201.10 Loan amount and Guarantee percentage.
2201.11 Application requirements.
2201.12 Applicant.
2201.13 Lender.
2201.14 Eligible Loan purposes.
2201.15 Ineligible Loan purposes.
2201.16 Environmental requirements.
2201.17 Submission of applications.
2201.18 Application selection.
2201.19 Loan terms.
2201.20 Collateral.
2201.21 Fees.
2201.22 Issuance of Guarantees.
2201.23 Funding for the Program.
2201.24 Insurance.
2201.25 Performance Agreement.
2201.26 Lender standard of care.
2201.27 Assignment or transfer of Loans.
2201.28 Participation in guaranteed Loans.
2201.29 Supplemental guarantees.
2201.30 Adjustments.
2201.31 Indemnification.
2201.32 Termination of obligations.
2201.33 Defaults.
2201.34 OMB Control Number.

Authority: 47 U.S.C. 1101 *et seq.*; Pub. L. 106–553; Pub. L. 107–171.

Subpart A—General

§ 2201.1 Definitions.

Act means Title X of Public Law 106–553, entitled the Launching Our Communities' Access to Local Television (LOCAL TV) Act of 2000, as amended.

Administrator means the Administrator of the Rural Utilities Service, U.S. Department of Agriculture, acting pursuant to the Act and on behalf of the Board.

Affiliate means any person or entity that controls, or is controlled by, or is under common control with, another person or entity; and may include any individual who is a director or senior management officer of an Affiliate, a shareholder controlling more than 25 percent of the voting securities of an Affiliate, or more than 25 percent of the ownership interest in an Affiliate not organized in stock form.

Agent means that Lender authorized to take such actions, exercise such powers, and perform such duties on behalf and in representation of all Lenders party to a Guarantee of a single Loan, as is required by, or necessarily incidental to, the terms and conditions of the Guarantee.

Applicant means any party that is seeking financing under the Act in order to provide access to Local Television Broadcast Signals for households in Nonserved Areas and Underserved Areas.

Asset means anything owned by the Applicant that has commercial or exchange value including, but not limited to, cash flows and rights thereto.

Banking Institution means a bank or bank holding company.

Board means the LOCAL Television Loan Guarantee Board authorized by the Act to approve Guarantees to facilitate access, on a technologically neutral basis, to Local Television Broadcast Signals for households located in Nonserved Areas and Underserved Areas.

Borrower means the entity liable for the payment of principal and interest on any Loan guaranteed under the Act, where such entity shall be a corporation, partnership, joint venture trustee or government entity, agency or instrumentality. An individual cannot be a Borrower.

Collateral means all Assets economically pledged by the Applicant, any Affiliate of the Applicant, or both that is required under the provisions of the Act or the Loan Documents to secure the repayment of the indebtedness of the Borrower under the Loan Documents.

Default means a failure by a Borrower, other than a Payment Default, on its obligations under the Loan Documents which has not been cured by the Borrower or duly waived by the Lender within any applicable cure period.

Designated Market Area (DMA) means an area designated as such by Nielsen Media Research and published in the most recent Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates.

Generally Accepted Accounting Principles (GAAP) means a common set of accounting standards and procedures that are either promulgated by an authoritative accounting rulemaking body or accepted as appropriate due to wide-spread application in the United States.

Guarantee means the written agreement, including all terms and conditions and all exhibits thereto, guaranteeing repayment of a specified percentage of the principal of a Loan pursuant to the Act.

Guaranteed Portion means the portion of the principal of a loan that is subject to the Guarantee.

High-Speed Internet means a data connection to the Internet providing an information rate exceeding 200 kilobits per second (kbps) in the consumer's connection to the network in at least one direction, either from the provider to the consumer (downstream) or from the consumer to the provider (upstream).

Lender means an entity that has committed to make a Loan to an Applicant, where such entity shall be:

(1) An entity currently engaged in commercial lending in the normal course of its business; or

(2) A nonprofit corporation, including the National Rural Utilities Cooperative Finance Corporation, engaged primarily in commercial lending, but does not include any governmental entity or any Affiliate thereof, the Federal Agricultural Mortgage Corporation, any institution supervised by the Office of Federal Housing Enterprise Oversight, the Federal Housing Finance Board, or any Affiliate of such entities.

Loan means a Loan guaranteed pursuant to the Act and includes the funds made available to the Borrower by the Lender.

Loan Agreement means the contract between the Lender and the Borrower, approved by the Board, setting forth the terms applicable to the Loan.

Loan Documents means the Loan Agreement, Guarantee and all other instruments, and all documentation between or among the Lender, the Borrower, and the Board or Administrator, evidencing the making, disbursing, securing, collecting, or otherwise administering of the Loan.

Local Television Broadcast means the signals of all Television Broadcast Stations located in a DMA. However, when more than one commercial Television Broadcast Station within the same DMA is affiliated with a particular Television Network, the signal of any one of these commercial Television Broadcast Stations will qualify as the Local Television Broadcast Signal of the network at that location, unless such stations are licensed to communities in different States, in which case both stations must be counted. Even if they are not affiliated with the same Television Network, when two or more commercial Television Broadcast Stations simultaneously broadcast the identical programming for more than 50 percent of the broadcast week, the signal of any one of these Television Broadcast Stations will qualify as the Local Television Broadcast Signal. When two or more noncommercial television stations simultaneously broadcast the same programming for more than 50 percent of prime time as defined in 47 CFR 76.5(n), and more than 50 percent outside of prime time over a 3-month period, the signal of any one of these Television Broadcast Stations will qualify as the Local Television Broadcast Signal. In areas not included in a DMA, but under the jurisdiction of the Federal Communications Commission (FCC), an appropriate set of Local Television Broadcast Signals will be determined on a case-by-case basis, subject to the approval of the Board.

Low Power Television Station means a station authorized by the FCC under subpart G of part 74 of title 47, Code of Federal Regulations, that may retransmit the programs and signals of a Television Broadcast Station and that may originate programming in any amount greater than 30 seconds per hour and/or operates a subscription service.

Net equity means the value of the total Assets of an entity, less the total liabilities of that entity, as recorded under Generally Accepted Accounting Principles for the fiscal quarter ended immediately prior to the date on which the subject Loan is approved.

Net Worth Ratio means the book value of equity over total Assets.

Nonserved Area means any area that is outside the grade B contour (as determined using standards employed by the Federal Communications Commission (FCC)) of the Local Television Broadcast Signals serving a particular Designated Market Area and does not have access to such signals by any commercial, for profit, multichannel video provider.

Offer of Guarantee means the Board's decision to approve an application for, and extend a Guarantee under, the LOCAL TV Act.

Payment Default means any failure of a Borrower to pay any amount of principal or interest on the Loan when and as due under the Loan Agreement (including, without limitation, following any acceleration thereunder) which has not been cured within any applicable cure period.

Payment Demand means a request, by the Lender or Agent, following a Payment Default, in writing to the Board, for payment under the Guarantee in respect of the defaulted principal.

Performance Agreement means the written agreement between the Administrator and the Borrower (and Lender, if applicable), pursuant to which the Borrower provides stipulated performance schedules with respect to Local Television Broadcast Signals provided through the Project.

Program means the LOCAL Television Loan Guarantee Program (LOCAL TV Program) established under the Act.

Project means a proposal for the acquisition, improvement, enhancement, construction, deployment, launch, or rehabilitation of the means to deliver Local Television Broadcast Signals to a Nonserved Area or Underserved Area.

Regulatory Capital Ratio means tier 1 and total capital ratios as shown on a Banking Institution's balance sheet.

Security means all Collateral required by the provisions of the Act or the Loan Documents to secure repayment of any indebtedness of the Borrower under the Loan Documents.

Separate Tier of Local Television Broadcast Signals means a category or package of services provided by the applicant, to include the Local Television Broadcast Signals and all over-the-air television broadcast signals carried pursuant to the must-carry requirement of the Communications Act of 1934, as amended, offered as a distinct and separate service choice to the applicant's subscribers at a specified lower rate when compared to other program service choices.

Television Broadcast Station means an over-the-air commercial or noncommercial Television Broadcast Station licensed by the FCC under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a Low Power Television Station or Television Broadcast Translator Station.

Television Broadcast Translator Station means a station in the broadcast service operated for the purpose of retransmitting the programs and signals of a Television Broadcast Station, without significantly altering any characteristic of the original signal other than its frequency and amplitude, for the purpose of providing television reception to the general public.

Television Network means an entity which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.

Term Sheet means an executed agreement between the Applicant and the Lender or Agent that sets forth the key business terms and conditions of the proposed Loan. Execution of this agreement represents evidence of the commitment between the Applicant and Lender or Agent.

Underserved Area means any area that is outside the grade A contour (as determined using standards employed by the Federal Communications Commission) of the Local Television Broadcast Signals serving a particular Designated Market Area and has access to such signals from not more than one

commercial, for profit, multichannel video provider.

Unguaranteed Portion means the portion of the principal of a Loan that is not covered by the Guarantee.

§§ 2201.2—2201.8 [Reserved]

§ 2201.9 Limitation on the applicability of the definition of Local Television Broadcast Signals.

Notwithstanding the definition of Local Television Broadcast Signals provided in § 2201.1 of this part, if an area is being served by either a satellite carrier which rebroadcasts signals of Television Broadcast Stations located in the DMA or a cable television system, and that satellite carrier or cable television system is currently in compliance with the rules administered by the Federal Communications Commission (FCC) as described in part 76 of title 47, Code of Federal Regulations, the group of signals of Television Broadcast Stations located in the DMA being retransmitted by such satellite carrier or cable television system will be considered to meet the definition of Local Television Broadcast Signals for the purposes of the regulation.

Subpart B—Loan Guarantees

§ 2201.10 Loan amount and Guarantee percentage.

(a) *Aggregate Value of Loans.* The aggregate value of all Loans for which Guarantees are issued under the Program, including the Unguaranteed Portions of such Loans, may not exceed $1,250,000,000.

(b) *Guarantee Percentage.* (1) A Guarantee approved by the Board may not exceed an amount equal to 80 percent of the principal amount of a Loan made to finance the acquisition, improvement, enhancement, construction, deployment, launch, or rehabilitation of the means by which Local Television Broadcast Signals are delivered to a Nonserved Area or Underserved Area;

(2) If only a portion of a Loan is meant to achieve the purposes described in paragraph (b)(1) of this section, the Board shall determine that portion of the Loan meant to achieve such purpose and may approve a Guarantee in an amount not exceeding 80 percent of that portion of the Loan.

(3) The portion of the Loan meant to achieve the purposes described in paragraph (b)(1) of this section will not be lowered simply because the means by which Local Television Broadcast Signals are delivered to a Nonserved Area or Underserved Area also enable either the provision of signals other than Local Television Broadcast Signals or the provision of signals to areas other than Nonserved or Underserved Areas. However, any amounts of a Loan which the Board determines will be used for separable costs not essential to funding the means by which Local Television Broadcast Signals are delivered to a Nonserved Area or Underserved Area, will be excluded from the portion of the Loan eligible for a Guarantee.

(c) *Minimum Loan Amount.* The Board will not approve a Guarantee for a Loan in an amount less than $1,000,000 (inclusive of both the Guaranteed and Unguaranteed Portions of the Loan).

§ 2201.11 Application requirements.

A completed application consists of the following information:

(a) *An executive summary of the Project.* The Applicant must provide the Board with a general Project overview that addresses each of the following six categories:

(1) A general overview of the system to be developed and description of the Project including the types of equipment, technologies, and facilities to be used;

(2) An explanation of how the Applicant will provide Local Television Broadcast Signals to Nonserved Areas and Underserved Areas;

(3) A short description of the Applicant including a written narrative describing its demonstrated capability and experience in providing access to Local Television Broadcast Signals for households;

(4) An explanation of the total Project cost including a breakdown of the Loan required and the source of funding for the remainder of the Project, if a portion of the Project is to be paid with non-Loan funds;

(5) The name of the Lender or Agent (including a listing of other participating Lenders, if applicable) and a description of the financing structure of the proposed Loan; and

(6) A general description of the geographic area to be served.

(b) *Background information.* General information concerning the Applicant, its Affiliates, and its Lender or Agent, including a description of any financial and contractual arrangements among the parties. Specific information required of all Applicants is as follows:

(1) *Evidence of legal authority and existence of the applicant.* The Applicant must provide evidence of its legal existence and authority to execute the Loan Documents under the proposed Loan and perform the activities proposed under the Project. Such evidence must include Articles of Incorporation and bylaws for incorporated Applicants; other types of Applicants should submit appropriate documentation for their forms of organization. If the Applicant is a special purpose entity (SPE) formed for the purpose of the Project, then the Applicant must provide a copy of the Deed of Partnership or Articles of Organization for the SPE.

(2) *Affiliates descriptions.* A listing of all Affiliates of the Applicant including a description of the nature of the Applicant's relationship to each Affiliate. Any existing or proposed contractual arrangements with each Affiliate should be described.

(3) *Legal name.* The legal name and form of organization of the proposed Lender or Agent.

(4) *Cover Form.* A signed copy of Standard Form 424.

(5) *Management Credentials.* A description of the experience and capabilities of the Applicant's management to carry out the Project.

(c) *A business plan.* A plan, satisfactory to the Board, presenting in detail the fundamentals of the business and providing sufficient financial data to indicate that the business will be economically sustainable. The business plan should include, at a minimum:

(1) *Risk Assessments.* An assessment of the risks related to construction, performance, demand, and financing structure, including a narrative statement detailing planned risks mitigation strategies;

(2) *Plans.* A comprehensive operations and maintenance plan, as well as a marketing strategy;

(3) *Economic and Financial Analysis.* A review of economic and financial factors affecting the business in general and the Project in particular. Applicants should refer to economic and financial conditions in the past three years, and also discuss expectations of such conditions in the future, including:

(i) The adequacy and stability of the business' customer base. Applicants should provide information on the number of subscribers, subscriber churn, subscriber acquisition cost or cost per gross added, subscriber penetration, geographic concentration of customers, nature of the terms of customer contracts, customer technical support, customer satisfaction and retention;

(ii) The demand for services;

(iii) The sensitivity of the business to economic cycles;

(iv) Future capital needs;

(v) The adequacy, competitiveness and affordability of service fees;

(vi) An overview of the prevailing economic and demographic trends in the target service area; and

(vii) Information on programming content and costs.

(4) *Project Market Analysis.* A breakdown of the key elements of the Project, including:

(i) All proposed services to be offered, including High-speed Internet Service, and whether a Separate Tier of Local Television Broadcast Signals will be provided;

(ii) The total number of households, by DMA, and by Nonserved and Underserved Area, which will have access to Local Television Broadcast Signals under the Project;

(iii) The total number of households, by DMA, and by Nonserved and Underserved Area, which will have access under the Project to any other services as described pursuant to paragraph (c)(4)(i) of this section, including an explanation if this number is greater than the total identified in paragraph (c)(4)(ii);

(iv) Estimates of the number of households identified in paragraphs (c)(4)(ii) and (c)(4)(iii) which will subscribe to each of the services identified in paragraph (c)(4)(i) of this section by DMA, including a breakdown of Nonserved and Underserved households;

(v) A breakdown of the Applicant's proposed pricing coupled with an evaluation of any competitor's services offerings and pricings; and

(vi) A service deployment plan and a deployment performance schedule, by DMA, for the services to access the Local Television Broadcast Signals.

(d) *Financial forecast and information.* The Applicant must demonstrate its financial ability to complete and maintain the Project and repay its obligations. The financial data must include the following:

(1) *Audited financial statements.* Income statements, balance sheets, and cash flow statements for at least the last three years or from the date of inception if less than three years. If the Applicant is an SPE, then the Applicant must provide at least the last three years of audited financial statements of the shareholders or partners of the SPE. If an Affiliate has been designated by the Applicant as a source of credit support, then at least three years audited financial statements for the Affiliate must be submitted as well.

(2) *Plan of finance.* An identification and explanation of all sources and uses of funds throughout the proposed loan period, including, but not limited to, any payments to Affiliates or shareholders of the Applicant, estimated Project costs, and proposed terms.

(3) *A Pro-forma financial forecast* covering the life of the proposed loan, including balance sheets, income statements and cash flow statements, with an explanation of assumptions. These Projections must be prepared in accordance with Generally Accepted Accounting Principles and should discuss such issues as the effects of inflation, competition, ongoing repair and replacement needs, technological obsolescence, working capital requirements, and other factors that may affect the Applicant's ability to meet its debt service obligations.

(4) *Project budget.* A detailed cost breakdown of all facilities to be constructed as part of the Project. This breakdown should be on a per unit basis. It should also clearly show what will be financed with guaranteed loan funds and what will be financed with other funds, consistent with the plan of finance in paragraph (d)(2) of this section.

(5) *Commitments.* The Applicant must disclose all reasonably foreseeable financial obligations, contingent liabilities, or other commitments that could affect its financial health over the proposed financing term. At the Board's request, the Applicant must take all reasonable measures to insulate the Project and the Loan from external factors that could affect timely payment of principal and interest. The Board may ask for additional detailed information on commitments where it is deemed necessary.

(6) *Credit enhancement.* In cases where an Affiliate provides credit enhancement, the Applicant must provide documentation demonstrating the Affiliate is sufficiently capitalized and evidencing the strength, extent, limitations, and priority of the credit enhancement relative to the other obligations of the Affiliate.

(e) *A certified system plan, technical analysis, and design.* Prepared by qualified personnel on the Applicant's staff or by a licensed consulting engineer, consisting of the following:

(1) A detailed description of the proposed service area including maps of the service area;

(2) A TV Signals Coverage Diagram and detailed description of all existing and proposed facilities. The diagram must include proposed route miles of cable plant, if applicable, the estimated area served, types of facilities to be deployed (terrestrial microwave or satellite microwave, wireless, translator, fiber optic cable or coaxial cable, electronic equipment, etc.), the capacity of the facilities (number of fibers, size of the cables, and intended number of channels, frequencies used, bandwidth capacity, etc.), and the serving area of the proposed facilities;

(3) The intended capabilities of the Project's facilities, including bandwidth, proposed television signal topology, standards, and television signal transmission protocols. In addition, the Applicant must explain the manner in which the transmission facilities will deliver the proposed Local Television Broadcast Signals, including any equipment necessary to receive the signals which will be located at the subscribers' premises, and/or, near or on the subscribers' television sets;

(4) A listing of all regulatory approvals required to operate facilities, including licenses, permits, and franchises and the status of any required approvals not obtained at the time of the application. For any approvals not yet received, the Applicant should provide details on the nature of the needed approval, the justification for expecting such an approval, the track-record of the Applicant in obtaining such approvals, and the contingency plan in the event the approval is delayed;

(5) A description of the television signal sources (including, but not limited to local, regional and national television signal broadcasters, other television signal providers, content providers, cable television operators and providers, enhanced service providers, providers of satellite services, and the anticipated role of such providers in the proposed Project);

(6) The results of discussions, if any, with local television broadcasters serving the Project area;

(7) An identification of all Local Television Broadcast Signals that will be carried by the Project;

(8) An identification of the digital signal quality and capacity in megabits per second (Mb/s) that will be required to digitally broadcast all Local Television Broadcast Signals to be provided by the Project;

(9) An identification of the net usable bandwidth, in Mb/s, that are surplus to the provision of the Local Television Broadcast Signals to be provided by the Project and that will be used to provide High Speed Internet Service; and

(10) A description of the extent to which the Project will enable the delivery of Local Television Broadcast Signals by a means reasonably compatible with existing systems or devices predominantly in use for the reception of television signals.

(f) *Lender information*—(1) *Lender.* The Application shall include the information described in § 2201.13(b),

(c) and (d) of this part concerning the Lender or Lenders.

(2) *Term Sheet.* The Application shall include a signed Term Sheet.

(3) *Lender's Analysis.* The Applicant shall submit the Lender's detailed analysis of the creditworthiness of the transaction at the time of application and any supporting due diligence documentation, including a complete underwriting analysis of the Project (assessing Applicant creditworthiness and Project feasibility) exercising the Lender's standard of care as set forth at § 2201.26(a).

(4) *Certification.* The Lender must certify that the information provided pursuant to paragraphs (f)(1), (2) and (3) of this section is true and accurate.

(5) *Additional Information.* The Board will request any other information the Board deems material to its assessment of the Lender.

(g) *Other Financial Information*—(1) *Collateral.* The Applicant shall provide a detailed description and valuation of all Collateral to be used to secure the Loan. This valuation shall be supported by an independent, third party appraisal for existing Assets, and/or adequate cost substantiation for Assets to be constructed for purposes of the Project, and in all cases shall be acceptable to the Board. Such a valuation should address, at a minimum, pledged Assets of the Applicant, any designated Affiliate of the Applicant, or both as identified in the Loan Documents, including primary Assets to be used in the delivery of the service for which the Loan sought would be guaranteed. The Applicant also must provide a depreciation schedule (as classified under and in accordance with GAAP) for the major Assets in order for the Board to determine the economically useful life of the primary Assets to be used in delivery of the signals concerned. Appraisals of real property must be prepared by State licensed or certified appraisers, and be consistent with the ''Uniform Standards of Professional Appraisal Practice,'' promulgated by the Appraisal Standards Board of the Appraisal Foundation.

(2) *Credit Opinion.* With respect to applications for a Loan of $15 million or more, the Applicant is required to obtain and submit to the Board a preliminary credit rating opinion letter on the proposed transaction at the time of application, prepared by a nationally recognized statistical rating organization (rating agency) approved by the Board. This preliminary credit rating opinion shall be based on the financing structure proposed by the Applicant for the Project absent the Federal Guarantee, without regard to recovery expectations. The Board will utilize this preliminary credit assessment to assist in evaluating the creditworthiness of the proposed transaction and determining whether it provides a reasonable assurance of repayment. In addition, applicants for loans less than $15 million that have a credit rating shall provide that credit rating to the Board. The Board will utilize this preliminary credit assessment (for loans over $15 million) or an existing credit rating (for loans less than $15 million) to assist in evaluating the creditworthiness of the proposed transaction and determining whether it provides a reasonable assurance of repayment. The Board may approve a Guarantee over $15 million only if it receives a final credit rating opinion letter from the rating agency on the Loan that is in form and substance acceptable to the Board.

(3) *Evidence of Lack of Credit Elsewhere.* The Applicant shall provide the information required pursuant to § 2201.12(b)(2)(v) of this part.

(h) *Compliance with other Federal statutes, regulations and Executive Orders.* The Applicant must certify compliance with other applicable Federal statutes, regulations, and Executive Orders.

(i) *Environmental impact.* The Applicant must provide information describing the Project's impact on the environment as required pursuant to § 2201.16 of this part. The application may be submitted prior to final determination of a Project's environmental impacts; however, a Guarantee shall not be made and no Loan funds will be advanced prior to such determination and demonstrated compliance with all environmental statutes, regulations and executive orders.

(j) *Federal debt certification.* The Applicant must provide a certification that it is not delinquent on any obligation owed to the government (7 CFR parts 3016 and 3019). No Guarantee will be made if either the Applicant or Lender has an outstanding, delinquent Federal debt until:

(1) The delinquent account has been paid in full;

(2) A negotiated repayment schedule is established and at least one payment has been received; or

(3) Other arrangements, satisfactory to the agency responsible for collecting the debt, are made.

(k) *Supplemental information.* The Applicant should provide any additional information it considers relevant to the Project and likely to be helpful in determining the extent to which the Project would further the purposes of the Act.

(l) *Additional information required by the Board.* The Applicant must provide any additional information the Board determines is necessary to adequately evaluate the application.

(m) *Application Fee.* For an application to be considered complete, the Applicant must submit a check payable to the United States Treasury in the amount of the application fee as set forth in § 2201.21(a) of this part.

(n) *Incomplete application.* An incomplete application, including any fee submitted therewith, will be returned to the Applicant without action.

§ 2201.12 Applicant.

(a) *Eligibility.* (1) The Board will make a determination of eligibility of an Applicant to be a Borrower under the Program based upon the Applicant's ability to directly provide, as a result of financing received under the Program, Local Television Broadcast Signals to households in Nonserved Areas and/or Underserved Areas and the information provided pursuant to paragraph (b) of this section.

(2) A determination that an Applicant is eligible does not assure that the Board will approve a Guarantee sought, or otherwise preclude the Board from declining to approve a Guarantee.

(b) *Documentation for Eligibility Determination.* (1) An Applicant must provide a Term Sheet evidencing a commitment of that Lender or Agent, and the Lenders it represents, to make a Loan to the Applicant upon an Offer of Guarantee by the Board, subject to the requirements of the Act and the regulations set forth in this part.

(2) An Applicant must provide documentation demonstrating that:

(i) The Assets, facilities, or equipment covered by the Loan will be utilized economically and efficiently;

(ii) The terms, conditions, security, and schedule and amount of repayments of principal and the payment of interest with respect to the Loan protect the financial interests of the United States and are reasonable;

(iii) Appropriate and adequate Collateral secures the Loan sought to be guaranteed;

(iv) All necessary and required regulatory and other approvals, spectrum licenses, and delivery permissions for the Loan and the Project under the Loan have been applied for or obtained (a Guarantee shall not be made and no Loan funds will be advanced until all such approvals, licenses and permissions have been obtained);

(v) The Loan would not be available on reasonable terms and conditions without a Guarantee under this

Program. To satisfy this requirement, an Applicant must provide, with its application, documentation from at least one lending institution other than the Lender to which the Applicant has applied for financial assistance dated within six months of submission of the application, indicating that the Applicant was unable to obtain substantially the same Loan it is applying for on reasonable terms and conditions; and

(vi) Repayment of the Loan can reasonably be expected.

§ 2201.13 Lender.

(a) *Eligibility.* (1) The Board will make a determination of eligibility of a Lender to make a Loan to be guaranteed under the Program based upon the criteria set forth in paragraphs (b) and (c) of this section.

(2) A determination that a Lender is eligible does not assure that the Board will approve a Guarantee sought, or otherwise preclude the Board from declining to approve a Guarantee.

(b) *Qualifications.* In addition to evaluating an application pursuant to § 2201.18, in making a determination to approve a Guarantee to a Lender, the Board will assess:

(1) The Lender's Regulatory Capital Ratios, in the case of Banking Institutions, or Net Worth Ratios, in the case of other institutions;

(2) Whether the Lender possesses the ability to administer the Loan, including its experience with loans to telecommunications companies;

(3) The scope, volume and duration of the Lender's activity in administering loans, including federally guaranteed loans;

(4) The performance of the Lender's loan portfolio, including its current delinquency rate;

(5) The Lender's charge-off rate, expressed as a percentage of outstanding loans for its current fiscal year;

(6) If the Lender intends to sell participation interests in the Loan, the plan of syndication; and

(7) Any other matter the Board deems material to its assessment of the Lender.

(c) A Loan will not be guaranteed unless:

(1) If the Lender is not a nonprofit corporation and is subject to loan-to-one-borrower and Affiliate transaction restrictions under applicable law, the Loan is made in accordance with such restrictions;

(2) If the Lender is not a nonprofit corporation and is not subject to the restrictions described in paragraph (c)(1) of this section, the Loan is made to a Borrower that is not an Affiliate of the Lender and the amount of the Loan, and all outstanding loans by the Lender to the Borrower and any of its Affiliates, does not exceed 10 percent of the Net Equity of the Lender; and

(3) If the Lender is a nonprofit corporation, the Board determines that:

(i) Such nonprofit corporation has one or more issues of outstanding long-term debt that is rated within the highest 3 rating categories of a nationally recognized statistical rating organization, as evidenced by written confirmation from the nationally recognized statistical rating organization, subject to updating upon request of the Board; and

(ii) The making of the Loan would not cause a decline in the rating of such Lender's long-term debt below the highest 3 rating categories of a nationally recognized statistical rating organization, as evidenced by written confirmation from the nationally recognized statistical rating organization, subject to updating upon request of the Board.

(d) *Agent.* (1) An application for a Guarantee of a single Loan that includes participation of more than one Lender must identify one of the Lenders participating in such Loan to act as Agent for all Lenders. This Agent is responsible for administering the Loan and shall have those duties and responsibilities required of an Agent, as set forth in the Guarantee.

(2) If more than one Lender is seeking a Guarantee of a single Loan, each one of the Lenders on the application must meet the qualifications set forth in paragraphs (b) and (c) of this section. However, only the Agent must meet the qualifications set forth in paragraph (b)(2) and (3) of this section.

(3) Each Lender, irrespective of any indemnities or other agreements between the Lenders and the Agent, shall be bound by all actions, and/or failures to act, of the Agent. The Board and the Administrator shall be entitled to rely upon such actions and/or failures to act of the Agent as binding all Lenders.

§ 2201.14 Eligible Loan purposes.

To be guaranteed under the Program, a Loan must be made for the purpose of financing the acquisition, improvement, enhancement, construction, deployment, launch, or rehabilitation of the means by which Local Television Broadcast Signals will be delivered to a Nonserved Area or Underserved Area.

§ 2201.15 Ineligible Loan purposes.

(a) The proceeds of the Loan shall not be used for operating, advertising, or promotion expenses, or for the acquisition of licenses for the use of spectrum in any competitive bidding.

(b) The Applicant shall not transfer proceeds of the Loan to any Affiliate(s).

(c) The Board will not fund a Project that is designed primarily to serve one or more of the top 40 Designated Market Areas.

(d) The Board will not fund a Project that would alter or remove National Weather Service warnings from Local Television Broadcast Signals.

(e) No Guarantee may be granted or used to provide funds to a Project that extends, upgrades, or enhances the services provided over any cable system to an area that, as of the enactment of the Act, is covered by a cable franchise agreement that expressly obligates a cable operator to serve such area.

§ 2201.16 Environmental requirements.

(a) *General.* (1) Environmental assessments of the Board's actions will be conducted in accordance with applicable statutes, regulations, and other applicable authorities. Therefore, each application for a Guarantee under the Program must be accompanied by information necessary for the Board to meet the requirements of applicable law.

(2) *Actions requiring compliance with NEPA.* (i) The types of actions classified as ''major Federal actions'' subject to NEPA procedures are discussed in 40 CFR parts 1500 through 1508.

(ii) With respect to this Program, these actions typically include:

(A) Any Project, permanent or temporary, that will involve construction and/or installations;

(B) Any Project, permanent or temporary, that will involve ground disturbing activities; and

(C) Any Project supporting renovation, other than interior remodeling.

(3) *Environmental information required from the Applicant.* (i) Environmental data or documentation concerning the use of the proceeds of any Loan guaranteed under this Program must be provided by the Applicant to the Board to assist the Board in meeting its legal responsibilities.

(ii) Such information includes:

(A) Documentation for an environmental threshold review from qualified data sources, such as a Federal, State or local agency with expertise and experience in environmental protection, or other sources, qualified to provide reliable environmental information;

(B) Any previously prepared environmental reports or data relevant to the Loan at issue;

(C) Any environmental review prepared by Federal, State, or local

agencies relevant to the Loan at issue; and

(D) Any other information that can be used by the Board to ensure compliance with environmental laws.

(iii) All information supplied by the Applicant is subject to verification by the Board.

(b) The regulations of the Council on Environmental Quality implementing NEPA require the Board to provide public notice of the availability of Project specific environmental documents such as environmental impact statements, environmental assessments, findings of no significant impact, records of decision, etc., to the affected public. *See* 40 CFR 1506.6(b). Environmental information concerning specific Projects can be obtained from the Board by contacting: Secretary, LOCAL Television Loan Guarantee Board, 1400 Independence Ave., SW., Room 2919–S, Stop 1575; Washington, DC 20250–1575.

(c) *National Environmental Policy Act*— (1) *Purpose.* The purpose of this paragraph (c) is to adopt procedures for compliance with the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, by the Board. This paragraph supplements regulations at 40 CFR Chapter V.

(2) *Definitions.* For purposes of this section, the following definitions apply:

Categorical exclusion means a category of actions which do not individually or cumulatively have a significant effect on the human environment and for which neither an environmental assessment nor an environmental impact statement is required.

Environmental assessment means a document that briefly discusses the environmental consequences of a proposed action and alternatives prepared for the purposes set forth in 40 CFR 1508.9.

EIS means an environmental impact statement prepared pursuant to section 102(2)(C) of NEPA.

FONSI means a finding of no significant impact on the quality of human environment after the completion of an environmental assessment.

NEPA means the National Environmental Policy Act, 42 U.S.C. 4321, *et seq.*

Working capital loan means money used by an ongoing business concern to fund its existing operations.

(3) *Delegations to the Secretary of the Board.* (i) All incoming correspondence from Council on Environmental Quality (CEQ) and other agencies concerning matters related to NEPA, including draft and final EIS, shall be brought to the attention of the Secretary of the Board. The Secretary of the Board will prepare or, at his or her discretion, coordinated replies to such correspondence.

(ii) With respect to actions of the Board, the Board will:

(A) Ensure preparation of all necessary environmental assessments and EISs;

(B) Maintain a list of actions for which environmental assessments are being prepared;

(C) Revise this list at regular intervals, and send the revisions to the Environmental Protection Agency;

(D) Make the list available for public inspection;

(E) Maintain a list of EISs; and

(F) Maintain a file of draft and final EISs.

(4) *Categorical exclusions.* (i) This paragraph describes various classes of Board actions that normally do not have a significant impact on the human environment and are categorically excluded. The word ''normally'' is stressed; there may be individual cases in which specific factors require contrary action.

(ii) Subject to the limitations in paragraph (c)(4)(iii) of this section, the actions described in this paragraph have been determined not to have a significant impact on the quality of the human environment. They are categorically excluded from the need to prepare an environmental assessment or an EIS under NEPA.

(A) Guarantees of working capital loans; and

(B) Guarantees of loans for the refinancing of outstanding indebtedness of the Applicant, regardless of the purpose for which the original indebtedness was incurred.

(iii) Actions listed in paragraph (c)(4)(ii) of this section that otherwise are categorically excluded from NEPA review are not necessarily excluded from review if they would be located within, or in other cases, potentially affect:

(A) A floodplain;

(B) A wetland;

(C) Important farmlands, or prime forestlands or rangelands;

(D) A listed species or critical habitat for an endangered species;

(E) A property that is listed on or may be eligible for listing on the National Register of Historic Places;

(F) An area within an approved State Coastal Zone Management Program;

(G) A coastal barrier or a portion of a barrier within the Coastal Barrier Resources System;

(H) A river or portion of a river included in, or designated for, potential addition to the Wild and Scenic Rivers System;

(I) A sole source aquifer recharge area;

(J) A State water quality standard (including designated and/or existing beneficial uses and anti-degradation requirements); or

(K) The release or disposal of regulated substances above the levels set forth in a permit or license issued by an appropriate regulatory authority.

(5) *Responsibilities and procedures for preparation of an environmental assessment.* (i) The Board will request that the Lender and Applicant prepare an environmental assessment that provides information concerning all potentially significant environmental impacts of the Applicant's proposed Project. The Board, consulting at its discretion with CEQ, will review the information provided by the Lender and Applicant. Though no specific format for an environmental assessment is prescribed, it shall be a separate document, suitable for public review and should include the following in conformance with 40 CFR 1508.9:

(A) *Description of the environment.* The existing environmental conditions relevant to the Board's analysis determining the environmental impacts of the proposed Project should be described. The no action alternative also should be discussed;

(B) *Documentation.* Citations to information used to describe the existing environment and to assess environmental impacts should be clearly referenced and documented. These sources should include, as appropriate, but not be limited to, local, tribal, regional, State, and Federal agencies, as well as, public and private organizations and institutions;

(C) *Evaluating environmental consequences of proposed actions.* A brief discussion should be included of the need for the proposal, of alternatives as required by 42 U.S.C. 4332(2)(E) and their environmental impacts. The discussion of the environmental impacts should include measures to mitigate adverse impacts and any irreversible or irretrievable commitments of resources to the proposed Project.

(ii) An environmental assessment, may:

(A) Tier upon the information contained in a previous EIS, as described in 40 CFR 1502.20;

(B) Incorporate by reference reasonably available material, as described in 40 CFR 1502.21; and/or

(C) Adopt a previously completed EIS reasonably related to the Project for which the proceeds of the Loan sought to be guaranteed under the Program will be used, as described in 40 CFR 1506.3.

(iii) If, on the basis of the environmental assessment, the Board

determines that an EIS is not required, a FONSI, as described in 40 CFR 1508.13 will be prepared. The FONSI will include the environmental assessment or a summary of it and be available to the public from the Board. The Board shall maintain a record of these decisions, making them available to interested parties upon request. Requests should be directed to LOCAL Television Loan Guarantee Board, 1400 Independence Ave., SW., Room 2919–S, Stop 1575; Washington, DC 20250–1575. Prior to a final Guarantee decision, a copy of the NEPA documentation shall be sent to the Board for consideration.

(6) *Responsibilities and procedures for preparation of an environmental impact statement.* (i) If after the environmental assessment has been completed, the Board determines that an EIS is necessary, it and other related documentation will be prepared by the Board in accordance with section 102(2)(c) of NEPA, this section, and 40 CFR parts 1500 through 1508. The Board may seek additional information from the Applicant in preparing the EIS. Once the document is prepared, the Board will transmit the document to the Environmental Protection Agency.

(ii) *EIS.* (A) The following procedures, as discussed in 40 CFR parts 1500 through 1508, will be followed in preparing an EIS:

(*1*) The format and contents of the draft and final EIS shall be as discussed in 40 CFR part 1502.

(*2*) The requirements of 40 CFR 1506.9 for filing of documents with the Environmental Protection Agency shall be followed.

(*3*) The Board, consulting at its discretion with CEQ, shall examine carefully the basis on which supportive studies have been conducted to assure that such studies are objective and comprehensive in scope and in depth.

(*4*) NEPA requires that the decision making ''utilize a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts.'' 42 U.S.C. 4332(A). If such disciplines are not present on the Board staff, appropriate use should be made of personnel of Federal, State, and local agencies, universities, non-profit organizations, or private industry.

(B) Until the Board issues a record of decision as provided in 40 CFR 1502.2 no action concerning the proposal shall be taken which would:

(*1*) Have an adverse environmental impact; or

(*2*) Limit the choice of reasonable alternatives.

(*3*) 40 CFR 1506.10 places certain limitations on the timing of Board decisions on taking ''major Federal actions.'' A Guarantee shall not be made before the times set forth in 40 CFR 1506.10.

(iii) A public record of decision stating what the decision was; identifying alternatives that were considered, including the environmentally preferable one(s); discussing any national considerations that entered into the decision; and summarizing a monitoring and enforcement program if applicable for mitigating the environmental effects of a proposal will be prepared. This record of decision will be prepared at the time the decision is made.

§ 2201.17 Submission of applications.

(a) Applications should be submitted as follows:

(1) Applications for Guarantees shall be submitted to the LOCAL Television Loan Guarantee Board, 1400 Independence Avenue, SW., Stop 1575, Room 2919–S, Washington, DC 20250–1575. Applications should be marked Attention: Secretary, LOCAL Television Loan Guarantee Board.

(2) Applications must be submitted postmarked not later than the application filing deadline established by the Board if the applications are to be considered during the period for which the application was submitted.

(3) All Applicants must submit an original and two copies of a completed application.

(b) *Application deadline.* One or more application windows will be announced. The duration of each application window for submission of applications will be approximately 120 days. Notice of an application window will be published in the **Federal Register**.

§ 2201.18 Application selection.

(a) *Application Priority.* When evaluating applications to determine which Project or combinations of Projects will best facilitate access to Local Television Broadcast Signals, the Board shall give priority in the approval of Guarantees to the following categories:

(1) First, to applications for Projects that will serve households in Nonserved Areas.

(2) Second, to applications for Projects that will serve households in Underserved Areas.

(3) Within each category, the Board shall balance applications for Projects that will serve the largest number of households with applications for Projects that will serve remote, isolated communities (including noncontiguous States) in areas that are unlikely to be served through market mechanisms. The Board shall consider the Project's estimated cost per household and shall give priority to those applications for Projects that provide the highest quality service at the lowest cost per household.

(b) *Additional Considerations.* (1) The Board shall give additional consideration to applications for Projects that, in addition to providing Local Television Broadcast Signals, also provide High-speed Internet service.

(2) The Board shall consider other factors, which shall include applications for Projects that:

(i) Offer a separate tier of Local Television Broadcast Signals at a lower cost to consumers, except where prohibited by applicable Federal, State, or local laws or regulations; and

(ii) Enable the delivery of Local Television Broadcast Signals consistent with the purpose of the Act by means reasonably compatible with existing systems or devices predominantly in use.

(c) *Other Considerations.* All other evaluation factors and priority considerations being equal, the Board will give a preference in approving Guarantees to those applications for Projects that provide greater amounts and higher quality Collateral.

(d) *Protection of United States Financial Interests.* The Board may not approve the Guarantee of a Loan unless:

(1) The Board has been given documentation, assurances, and access to information, persons, and entities necessary, as determined by the Board, to address issues relevant to review of the Loan by the Board for purposes of the Act; and

(2) The Board makes a determination in writing that:

(i) To the best of its knowledge upon due inquiry, the Assets, facilities, or equipment covered by the Loan will be utilized economically and efficiently;

(ii) The terms, conditions, security, and schedule and amount of repayments of principal and the payment of interest with respect to the Loan protect the financial interests of the United States and are reasonable;

(iii) The value of Collateral provided by an Applicant is at least equal to the unpaid balance of the Loan amount; and if the value of Collateral provided by an Applicant is less than the Loan amount, additional required Collateral is provided by the Applicant or an Affiliate designated by the Applicant and acceptable to the Board;

(iv) All necessary and required regulatory and other approvals, spectrum licenses, and delivery

permissions have been received for the Loan and the Project under the Loan;

(v) The Loan would not be available on reasonable terms and conditions without a Guarantee under the Act; and

(vi) Repayment of the Loan can be reasonably expected.

(e) *Non approvals.* A Guarantee will not be approved if it is determined that:

(1) The Applicant's proposal does not indicate financial feasibility, or the Collateral is determined to not adequately secure the Loan;

(2) The Applicant's proposal indicates technical flaws, which, in the opinion of the Board, would prevent successful implementation, or operation of the Project;

(3) Any other aspect of the Applicant's proposal fails to adequately address any requirements of the Act or the regulations in this part or contains inadequacies which would, in the opinion of the Board, undermine the ability of the Project to meet the general purpose of the Act or comply with requirements in this part; or

(4) Proceeds for the Loan will be used for any of the ineligible purposes set forth in § 2201.15.

(f) *Impact on Competition.* A Loan shall not be guaranteed unless the proposed Project, as determined by the Board in consultation with the National Telecommunications and Information Administration, is not likely to have a substantial adverse impact on competition that outweighs the benefits of improving access to Local Television Broadcast Signals in a Nonserved Area or Underserved Area and is commercially viable.

§ 2201.19 Loan terms.

(a) All Loans guaranteed under the Program shall be due and payable in full no later than the earlier of 25 years from date of the closing of the Loan or the economically useful life of the primary Assets to be used in delivery of the signals concerned, as determined by the Board.

(b) Loans guaranteed under the Program must:

(1) Bear a rate of interest determined by the Board to protect the financial interests of the United States and to be reasonable. This determination will be based on the Board's comparison of the:

(i) Difference, or interest rate spread, between the interest rate on the Loan sought to be guaranteed and the current average yield on outstanding marketable obligations of the United States of comparable maturity; and

(ii) The interest rate spread between the rates on recently issued and similarly rated and structured obligations and the current yields on outstanding marketable obligations of the United States of comparable maturity.

(2) Have terms that, in the judgment of the Board, are consistent in material respects with the terms of similar obligations in the private capital market.

(c) So long as any principal and interest is due and payable on a Loan guaranteed under the Act, a Borrower shall:

(1) Maintain Assets, equipment, facilities, and operations on a continuing basis;

(2) Not make any discretionary dividend payments that impair its ability to repay obligations guaranteed under the Act;

(3) Remain sufficiently capitalized; and

(4) Submit to and cooperate fully with any audit or Collateral review required by the Board.

§ 2201.20 Collateral.

(a) *Existence of adequate Collateral.* An Applicant shall provide the Board such documentation as is necessary, in the judgment of the Board, to provide satisfactory evidence that appropriate and adequate Collateral secures a Loan guaranteed under the Program. Prior to approving a Guarantee, the Board shall require that the value of the Collateral pledged be at least equal to the unpaid balance of the Loan Amount.

(b) *Form of Collateral.* Collateral required by paragraph (a) of this section shall consist solely of Assets of the Applicant, any Affiliate of the Applicant, or both, as identified in the Loan Documents, including primary Assets to be used in the delivery of the service for which the Loan is guaranteed. Such Assets may include, but are not limited to, the following:

(1) Tangible Assets, including current Assets (such as cash, accounts receivable, and inventory), reserve funds, land, buildings, machinery, fixtures, and equipment;

(2) Assignments of all relevant contractual agreements, including contractual rights to certain cash flows, marketing arrangements, third-party guarantees, insurance policies, contractors' bonds, and other agreements or rights that may be of value;

(3) All permits, governmental approvals, franchises and licenses, necessary to carry out and operate the required equipment or service; and

(4) Other Assets, which, in the judgment of the Board, possess Collateral value suitable for securing the Loan, including a pledge of all or part of the Applicant's ownership interest in the Project or company, and any after-acquired property.

(c) *Applicant's compliance findings.* An Applicant's compliance with paragraphs (a) and (b) of this section does not assure a finding of reasonable assurance of repayment, or assure the Board's Guarantee of the Loan.

(d) *Collateral for entire loan.* The same Collateral shall secure the entire Loan, including both the Guaranteed Portion and the Unguaranteed Portion.

(e) *Review of valuation.* The value of Collateral securing a Loan is subject to review and approval by the Board, and may be adjusted downward by the Board if the Board reasonably believes such adjustment is appropriate. The Board's evaluation of the proposed Collateral for the Loan will be based on several factors, including but not limited to:

(1) The expected value of the pledged Collateral in the event of defaults with specific consideration given to the residual value of Project Assets to third-parties and the liquidity of such Assets;

(2) The cash flow characteristics of the Project;

(3) The contractual characteristics of the Project to the extent Project-related agreements underpin the Project's estimated cash flows;

(4) The competitiveness of the Project's economics and the associated certainty of cash flows in the future; and

(5) The creditworthiness of any designated Affiliates(s) that provides services to the Applicant or provides any credit support.

(f) *Ongoing Collateral Assessment.* The Board shall require that the value of the Collateral shall be at all times at least equal to the unpaid balance of the Loan Amount. To ensure that the ongoing value of the Collateral is properly maintained, the Board may require the borrower to have an ongoing third-party inspection and valuation of the Collateral that is acceptable to the Board. If the Collateral value at the measurement date is less than the unpaid balance of the Loan Amount, the Borrower or its designated Affiliates(s) will be required to pledge additional acceptable Collateral to cover any deficit.

(g) *Lien on Collateral.* (1) Upon the Board's approval of a Guarantee, the Administrator shall have liens on Collateral securing the Loan, which shall be superior to all other liens on such Collateral. The value of the Collateral (based on a determination satisfactory to the Board) shall be at least equal to the unpaid balance of the Loan amount, giving significant consideration to the expected value of the Collateral in the event of defaults

with specific consideration given to the residual value of the Project Assets to third-parties and the liquidity of such Assets.

(2) Both the Administrator and the Lender or Agent shall have a perfected security interest in the Collateral fully sufficient to protect the financial interests of the United States and the Lenders. However, the security interest perfected by the Administrator shall ensure that the Administrator has first priority in such Collateral.

§ 2201.21 Fees.

(a) *Application Fee.* The Board shall charge each Applicant for a Guarantee under the Program a non-refundable fee, payable to the United States Treasury, to cover the costs of making necessary determinations and findings with respect to an application for a Guarantee under the Program. The amount of the fee is $10,000 for Loans of $1 million up to $50 million, $15,000 for Loans of $50 million up to $100 million, $30,000 for Loans of $100 million up to $500 million, and $40,000 for Loans of $500 million or greater.

(b) *Guarantee Origination Fee.* The Board shall charge and collect from a Borrower a Guarantee Origination Fee. The amount of such fee will be sufficient to cover the administrative costs of the Board associated with the Loan. Upon extending an offer of Guarantee, the Board and the Borrower shall enter into an agreement providing for the payment of the Guarantee Origination Fee; the agreement shall include terms relating to the schedule of payments and deposit of such payments into an escrow account. The Guarantee Origination Fee must be paid in full no later than and as a condition of the closing of any Loan. A Borrower will be responsible for paying the administrative costs of the Board regardless of whether the Loan actually closes.

(c) *Lender Fees.* A Lender or Agent may assess and collect from the Borrower such fees and costs associated with the application and origination of the Loan as are reasonable and customary, taking into consideration the amount and complexity of the credit. The Board may take such fees and costs into consideration when determining whether to offer a Guarantee.

§ 2201.22 Issuance of Guarantees.

(a) The Board's decision to approve an application and extend an Offer of Guarantee under the Program is conditioned upon:

(1) The Lender or Agent and Applicant obtaining any required regulatory or judicial approvals;

(2) The Lender or Agent and Applicant being legally authorized to enter into the Loan under the terms and conditions submitted to the Board in the application;

(3) The Board's receipt of the Loan Documents and any related instruments, in form and substance satisfactory to the Board all properly executed by the Lender or Agent, Applicant, and any other required party other than the Board;

(4) No material adverse change in the Applicant's ability to repay the Loan between the date of the Board's approval and the date the Guarantee is to be issued;

(5) Entering into the Guarantee violates no Loan covenants or existing contractual obligations of the Borrower; and

(6) Such other conditions as determined by the Board.

(b) The Board may withdraw its approval of an application and rescind its Offer of Guarantee if the Board determines that the Lender or Agent or the Applicant cannot, or is unwilling to, provide adequate documentation and proof of compliance with paragraph (a) of this section within the time provided for in the Offer of Guarantee.

(c) Only after receipt of all the documentation required by this section will the Administrator sign and deliver the Guarantee.

§ 2201.23 Funding for the Program.

(a) *Costs incurred by the Government.* The Act provides funding for the costs incurred by the Government as a result of granting Guarantees under the Program. While pursuing the goals of the Act, it is the intent of the Board to minimize the cost of the Program to the Government. The Board will estimate the risk posed by the guaranteed Loans to the funds appropriated for the costs of the Guarantees under the Program and operate the Program accordingly.

(b) *Credit Risk Premium*—(1) *Establishment and approval.* The Board may establish and approve the acceptance of credit risk premiums with respect to a Guarantee under this Act in order to offset the cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of the Guarantee. To the extent that appropriations of budget authority are insufficient to cover the cost, as so determined, of a Guarantee, and the Board approves such a Guarantee, credit risk premiums shall be accepted from a non-Federal source on behalf of a Borrower.

(2) *Credit risk premium amount*—(i) *General.* The Board shall determine the amount of any credit risk premium to be accepted with respect to a Guarantee on the basis of:

(A) The financial and economic circumstances of the Borrower, including the amount of Collateral offered;

(B) The proposed schedule of Loan disbursements;

(C) The business plans of the Borrower;

(D) Any financial commitment from a broadcast signal provider; and

(E) The concurrence of the Director of the Office of Management and Budget as to the amount of the credit risk premium.

(ii) *Proportionality.* To the extent that appropriations of budget authority are sufficient to cover the cost, as determined under section 502(5) of the Federal Credit Reform Act of 1990, of Guarantees, the credit risk premium with respect to each Guarantee shall be reduced proportionately.

(iii) *Payment of premiums.* Credit risk premiums under this paragraph shall be paid to an escrow account established in the Treasury, which shall accrue interest. Such interest shall be retained by the escrow account, subject to paragraph (b)(2)(iv) of this section.

(iv) *Deductions from escrow account.* If a liquidation of the Collateral occurs pursuant to § 2201.33(h), any shortfall between the proceeds of the liquidation net of costs and expenses relating to the liquidation, and the guarantee amount paid shall be deducted from funds in the escrow account and credited to the Administrator for payment of such shortfall. At such time as all Loans guaranteed under this Program have been repaid or otherwise satisfied in accordance with the Act and the regulations in this part, remaining funds in the escrow account, if any, shall be refunded, on a pro rata basis, to Borrowers whose Loans guaranteed under the Program were not in Payment Default or Default, or where any Payment Default or Default was cured in accordance with the terms of the Loan Documents.

§ 2201.24 Insurance.

The Borrower of a Loan guaranteed under the Program shall obtain, at its expense, insurance sufficient to protect the financial interests of the United States, as determined by the Board.

§ 2201.25 Performance Agreement.

(a) The Borrower of a Loan guaranteed under the Program shall enter into a Performance Agreement with the Administrator with respect to the Local Television Broadcast Signals to be provided through the Project.

(b) The Administrator may assess against and collect from a Borrower a

penalty not to exceed 3 times the interest accrued on the Loan during the period of noncompliance if the Borrower fails to meet its stipulated Performance Agreement entered into under paragraph (a) of this section.

§ 2201.26 Lender standard of care.

(a) The Lender or Agent shall exercise due care and diligence in analyzing and administering the Loan as would be exercised by a responsible and prudent Banking Institution when analyzing and administering a secured loan of such Banking Institution's own funds without a Guarantee. Such standards shall also apply to any and all underwriting analysis, approvals, determinations, permissions, acceptances, requirements, or opinion made, given, imposed or reached by Lender.

(b) The Lender or Agent shall have such other obligations and duties to the Board and the Administrator as are set forth in the Act or Loan Documents.

§ 2201.27 Assignment or transfer of Loans.

(a) *Modifications.* The Loan Documents may not be modified, in whole or in part, without the prior written approval of the Board.

(b) *Requirements.* (1) Subject to the provisions of paragraphs (c) and (d) of this section and other provisions of this part, a Lender or Agent may assign or transfer the Loan including the Loan Documents to another Lender that meets the eligibility requirements of § 2201.13 of this part.

(2) Any assignment or transfer of a Loan, or any pledge or other use of a Loan as security, including but not limited to any derivatives transaction, will require the prior written approval of the Board.

(c) The provisions of paragraph (b) of this section shall not apply to transfers which occur by operation of law.

(d) The Agent must hold an interest in a Loan guaranteed under the Program equal to at least the lesser of $25 million or fifteen percent of the aggregate amount of the Loan. Of this amount, the Agent must hold an interest in the Unguaranteed Portion of the Loan equal to at least the minimum amount of the Loan required to be held by the Agent under the preceding sentence multiplied by the percentage of the entire Loan that is not guaranteed. A non-Agent Lender must hold an interest in the Unguaranteed Portion of the Loan representing no less than five percent of such Lender's total interest in the Loan; provided, that a non-Agent Lender may transfer its interest in the Unguaranteed Portion after payment of the Guaranteed Portion has been made under the Guarantee.

(e) The Guarantee shall have no force or effect if any part of the Guaranteed Portion of the Loan is transferred separate and apart from the Unguaranteed Portion of the Loan. At least five percent of any assignment or transfer interest in a Loan must be unguaranteed to ensure that no part of the Guaranteed Portion of the Loan is transferred separate and apart from the Unguaranteed Portion of the Loan.

§ 2201.28 Participation in guaranteed Loans.

(a) Subject to paragraphs (b), (c) and (d) of this section, a Lender may distribute the risk of a portion of a Loan guaranteed under the Program by sale of participations therein if:

(1) Neither the Loan note nor the Guarantee is assigned, conveyed, sold, or transferred in whole or in part as a result of the sale of such participations;

(2) The Lender remains solely responsible for the administration of the Loan as an Agent; and

(3) The Board's ability to assert any and all defenses available to it under the law and under the Loan Documents is not adversely affected.

(b) The following categories of entities may purchase participation interests in Loans guaranteed under the Program:

(1) Lenders that meet the eligibility requirements of § 2201.13 of this part;

(2) Qualified institutional buyers as defined in 17 CFR 230.144A (a), known as Rule 144A (a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*); or

(3) Any other entity approved by the Board on a case-by-case basis.

(c) An Agent may not grant participations in that portion of its interest in a Loan that may not be assigned or transferred under § 2201.27(d) of this part. A Lender, other than the Agent, may not grant participations in that portion of its interest in a Loan that may not be assigned or transferred under § 2201.27(d) of this part.

(d) At least five percent of any participation interest in a Loan must be unguaranteed.

§ 2201.29 Supplemental guarantees.

The Board will allow the structure of a guaranteed Loan to include one or more supplemental guarantees only from a State or local governmental or tribal entity that cover the Unguaranteed Portion of the Loan, provided that:

(a) There shall be no supplemental guarantee with respect to the Unguaranteed Portion required to be held by the Agent or sole Lender pursuant to § 2201.27(d) of this part;

(b) The Loan Documents relating to any supplemental guarantee shall be acceptable in form and substance to the Board; and

(c) In approving the issuance of a Guarantee, the Board may impose any conditions with respect to supplemental guarantee(s) relating to the Loan that it considers appropriate.

§ 2201.30 Adjustments.

(a) The Board must approve the adjustment of any term or condition of the Loan Documents under this Program, including the rate of interest, time of payment of principal or interest, or Collateral requirements. Adjustments may be approved by the Board only if:

(1) The adjustment is consistent with the financial interests of the United States;

(2) Consent has been obtained from the parties to the Loan Agreement;

(3) The adjustment is consistent with the underwriting criteria developed for the Program;

(4) The adjustment does not adversely affect the interest of the Federal Government in the Assets or Collateral of the Borrower;

(5) The adjustment does not adversely affect the ability of the Borrower to repay the Loan; and

(6) The National Telecommunications and Information Administration of the Department of Commerce has been consulted by the Board regarding the adjustment.

(b) A Lender's decision to forego remedial action in the event of a breach of financial covenants required under the Loan Agreement will not constitute an adjustment under this section.

§ 2201.31 Indemnification.

(a) The United States may be indemnified by any Affiliate of a Borrower designated in the Loan Documents for any losses that the United States incurs as a result of:

(1) A judgment against the Borrower or any of its Affiliates;

(2) Any breach by the Borrower or any of its Affiliates of their obligations under the Loan Documents;

(3) Any violation of the provisions of the Act, or the regulations in this part, by the Borrower or any of its Affiliates;

(4) Any penalties incurred by the Borrower or any of its Affiliates for any reason, including violation of a performance schedule stipulated in a Performance Agreement; and

(5) Any other circumstances that the Board considers appropriate.

(b) The Board may require more than one Affiliate of a Borrower to make the

indemnifications referred to in paragraph (a) of this section.

(c) The indemnifications referred to in paragraph (a) of this section shall be included in the Loan Documents.

§ 2201.32 Termination of obligations.

The Board shall have such rights to terminate the Guarantee as are set forth in the Act and Loan Documents.

§ 2201.33 Defaults.

(a) In determining, following any Payment Default or Default, whether to accelerate the maturity of any amounts outstanding under the Loan Documents or otherwise to declare such amounts to be immediately due and payable, or pursue other remedial actions available under the Loan Documents, the Agent or Lender, as the case may be, shall act at all times in accordance with the standard of care and diligence required under § 2201.26(a) of this part.

(b) Following any Payment Default, the Agent or Lender shall promptly notify the Board and be entitled to make a Payment Demand. Any Payment Demand shall:

(1) Identify the amount and due date of the defaulted payment of principal and the outstanding amounts of principal and interest under the Loan;

(2) Describe briefly the circumstances leading to the Payment Default, including, without limitation, the nature of any precipitating Default, whether an acceleration has occurred, and whether a bankruptcy proceeding has been instituted or threatened; and

(3) Be accompanied by a copy of each of the Loan Documents and all notices and other correspondence with the Borrower or other Lender relating to the Payment Default and any precipitating Default.

(c) Following any Payment Demand being made, the Agent or Lender shall furnish to the Board promptly upon request from the Board and, in any event, not later than ninety (90) days from the date of such request, each of the following:

(1) A written, detailed and reasonable plan for the partial or complete foreclosure on and liquidation of the Collateral, including, without limitation, detailed estimates by the Agent or Lender of the time and reasonable costs of collection anticipated to be necessary in order to carry out such plan; and

(2) A written, detailed and reasonable work-out plan, if such a plan is feasible, for the continued operation of the Borrower calculated, in the Agent's or Lender's judgment, to assure the best prospect for repayment of principal and interest under the Loan without partial or complete foreclosure and liquidation of the Collateral, including, without limitation, detailed estimates of the time and expense required for such work-out and an assessment of the risks to the Agent or Lender and the Board associated therewith relative to such risks associated with complete foreclosure and liquidation; and, if any partial foreclosure and liquidation is a part of such proposed work-out plan, a detailed estimate of the time and reasonable costs of collection anticipated by the Agent or Lender to be required to effect such partial liquidation.

(d) By making a Payment Demand, the Agent or Lender shall be conclusively deemed to have certified, with full knowledge of the provisions of 18 U.S.C. 1001 and 31 U.S.C. 3729 including, without limitation, the provisions thereof for penalties and damages, to the Board that it has fully and timely complied with all material provisions and obligations under the Guarantee and the Loan Documents, that the amount demanded is past due and owed by the Borrower under the Loan Agreement, and that the demand is properly made and required to be satisfied by the Board under the terms of the Guarantee.

(e) Following receipt of any Payment Demand, the Board or, on its behalf, any duly authorized representative or designee, may conduct an audit and investigation of compliance with all material provisions and obligations under the Guarantee. The Agent and/or Lender shall cooperate fully and diligently with any such audit and investigation.

(f) Within a reasonable period of time from receipt by the Board of a Payment Demand, the Board shall approve payment of the amount to be paid in respect of the unpaid principal amount under the Loan to which the Payment Demand relates. The Board may withhold such payment if any audit or investigation is pending or if information remains to be furnished by the Agent or Lender. Further, payment shall not be made to the extent it is determined by the Board, whether as the result of an audit, investigation or otherwise, that the Board's payment obligation has terminated. Payment shall be made by wire transfer in immediately available funds to the bank and account designated by the Agent or Lender for such purpose.

(g) The Board may take, or direct to be taken any action in liquidating the Collateral that the Board determines to be necessary or proper, consistent with Federal law and regulations.

(h) Pursuant to the Guarantee, upon Payment Demand by the Agent or Lender, and whether the Board has approved any payment under the Guarantee or any payment has been made under the Guarantee, the Board, through the Administrator, shall have the right to liquidate, or cause to be liquidated, the Collateral. The Board, at its sole discretion, shall have the right to require that the Agent or Lender, solely or with the Administrator, conduct to completion any liquidation of any of the Collateral. Such liquidation shall be conducted by the Agent or Lender in accordance with the standards of care specified in § 2201.26(a) of this part.

§ 2201.34 OMB Control Number.

The information collection requirements in this part are approved by the Office of Management and Budget and assigned OMB control number 0572–0135.

Dated: December 15, 2003.

Jacqueline G. Rosier,

Secretary, LOCAL Television Loan Guarantee Board.

[FR Doc. 03–31299 Filed 12–22–03; 8:45 am]

BILLING CODE 3410–15–P

LOCAL TELEVISION LOAN GUARANTEE BOARD

LOCAL Television Loan Guarantee Program

AGENCY: LOCAL Television Loan Guarantee Board.

ACTION: Notice of application filing deadline.

SUMMARY: The LOCAL Television Loan Guarantee Board (Board) announces a 120-day application window for the submission of guarantee applications.

DATES: Applications for guarantees must be postmarked no later than April 21, 2004. Applications submitted through guaranteed carrier services will be considered postmarked on the date they are submitted to the carrier. Applications must show proof of mailing consisting of one of the following: (1) A legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; or (3) a dated shipping label, invoice, or receipt from a commercial carrier. If an application is sent through the U.S. Postal Service, neither of the following will be accepted as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service. Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post office.

Due to screening procedures at the Department of Agriculture, packages arriving via the United States Postal Service's Priority Mail, First Class, and Parcel Post services are irradiated, which can damage the contents, or delay delivery to the Board. Thus, applicants are encouraged to consider the impact of these procedures in selecting their chosen method for application delivery.

Applications will not be accepted via facsimile machine transmission or electronic mail.

Applications with postmarked dates after April 21, 2004 will not be considered and will be returned to the applicant.

ADDRESSES: An original and two copies of completed applications must be submitted to the Board at: Secretary, Local Television Loan Guarantee Board, STOP 1575, Room 2919–S, 1400 Independence Avenue, SW., Washington, DC 20250–1575.

FOR FURTHER INFORMATION CONTACT: Richard Anderson, Rural Utilities Service/USDA, STOP 1590, Room 5151, 1400 Independence Avenue, SW., Washington, DC 20250–1590. Telephone: (202) 720–9556, fax: (202) 720–0810, e-mail: *randerso@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: On December 21, 2000, the President signed Public Law 106–553, the Federal Funding Act for Fiscal Year 2001. Title X of the statute, entitled the ''Launching Our Communities'' Access to Local Television Act of 2000'' (Act), established the LOCAL Television Loan Guarantee Board and authorized the Board to guarantee loans to facilitate access, on a technologically neutral basis, to signals of local television stations for households located in nonserved areas or underserved areas. The Board is composed of the Secretaries of Agriculture, Treasury, and Commerce, and the Chairman of the Board of Governors of the Federal Reserve System, or their designees. Individuals have been designated as Board members for each of the agencies represented on the Board. The Act authorizes the Board to approve loan guarantees up to 80 percent of the principal amount of loans; the aggregate value of all loans for which loan guarantees are issued under the Act (including the unguaranteed portion of such loans) may not exceed $1.25 billion. The Board's authority to guarantee loans under the program expires on the earlier of the date the Secretary of Agriculture determines that at least 75 percent of designated market areas (DMAs), other than the top 40 DMAs, have access to local television broadcast signals for virtually all households or December 31, 2006.

The Act requires the issuance of regulations to implement its provisions. Specifically, the Act requires that these regulations set forth: (1) The form of any application to be submitted to the Board; (2) the time periods for the review and consideration by the Board of applications submitted to the Board, as well as any other actions to be taken by the Board with respect to such applications; (3) appropriate safeguards against evasions of the Act; (4) circumstances in which an applicant, together with any affiliate of an applicant, shall be treated as an applicant for a guarantee; (5) requirements that appropriate parties submit to the Board any documents and assurances that are required for the administration of the Act's provisions; (6) requirements governing defaults on loans guaranteed under the Act, including the administration of the payment of guaranteed amounts upon default; and (7) other provisions consistent with the Act's purposes as the Board considers appropriate. The final regulations to implement the program are published elsewhere in today's **Federal Register** and will be codified at Title 7 of the Code of Federal Regulations Parts 2200 and 2201.

Application requirements are set forth in the final regulations published today. Each application will be reviewed in accordance with the program's final regulations. Incomplete or ineligible applications will be returned to applicants.

Dated: December 15, 2003.

Jacqueline G. Rosier,

Secretary, LOCAL Television Loan Guarantee Board.

[FR Doc. 03–31298 Filed 12–22–03; 8:45 am]

BILLING CODE 3410–15–P

Federal Register

Tuesday,

December 23, 2003

Part VII

Securities and Exchange Commission

17 CFR Part 211

Staff Accounting Bulletin No. 104; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB 104]

Staff Accounting Bulletin No. 104

AGENCY: Securities and Exchange Commission.

ACTION: Publication of staff accounting bulletin.

SUMMARY: This staff accounting bulletin revises or rescinds portions of the interpretative guidance included in Topic 13 of the codification of staff accounting bulletins in order to make this interpretive guidance consistent with current authoritative accounting and auditing guidance and SEC rules and regulations. The principal revisions relate to the rescission of material no longer necessary because of private sector developments in U.S. generally accepted accounting principles.

This staff accounting bulletin also rescinds the Revenue Recognition in Financial Statements Frequently Asked Questions and Answers document issued in conjunction with Topic 13. Selected portions of that document have been incorporated into Topic 13.

EFFECTIVE DATE: December 17, 2003.

FOR FURTHER INFORMATION CONTACT: Chad Kokenge or Shelly Luisi in the Office of the Chief Accountant (202) 942–4400, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1103.

SUPPLEMENTARY INFORMATION: The statements in staff accounting bulletins are not rules or interpretations of the Commission, nor are they published as bearing the Commission's approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Dated: December 17, 2003.

Margaret H. McFarland,

Deputy Secretary.

PART 211—[AMENDED]

■ Accordingly, part 211 of title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 104 to the table found in subpart B.

Staff Accounting Bulletin No. 104

Note: The text of SAB 104 will not appear in the Code of Federal Regulations.

The staff hereby revises Topic 13 of the Staff Accounting Bulletin Series as follows:

1. Topic 13.A.1 is modified as follows:
   a. The examples of existing literature referenced in the first paragraph are deleted.
   b. The last paragraph, including footnote 7, is added to make reference to EITF Issue 00–21, ''*Revenue Arrangements With Multiple Deliverables,*'' which governs how to determine if revenue arrangements contain more than one unit of accounting.
2. Topic 13.A.2 is modified as follows:
   a. Question 3 (formerly Question 1 of the staff's Revenue Recognition in Financial Statements Frequently Asked Questions and Answers document (FAQ)) is added.
3. Topic 13.A.3 is modified as follows:
   a. The subheading *Bill and hold arrangements* is added.
   b. Topic 13.A.3(a) Question is formerly Question 3.
   c. The subheading *Customer acceptance* is added.
   d. Topic 13.A.3(b) Question 1 (formerly Question 5 of the FAQ) is added. The question format is conformed.
   e. Topic 13.A.3(b) Question 2 (formerly Question 6 of the FAQ) is added. The facts, question and interpretive response are modified to reflect the evaluation of the arrangement in the context of separate units of accounting. In addition, the last paragraph of the interpretive response is deleted due to the issuance of EITF Issue 00–21.
   f. Footnote 29 is added to highlight that the changes to Topic 13.A.3(b) Question 2 are to facilitate an analysis of revenue recognition, not interpret EITF Issue 00–21.
   g. Topic 13.A.3(b) Question 3 (formerly Exhibit A Example 1 Scenario A of the FAQ) is added.
   h. Topic 13.A.3(b) Question 4 (formerly Exhibit A Example 1 Scenario B of the FAQ) is added.
   i. Topic 13.A.3(b) Question 5 (formerly Exhibit A Example 1 Scenario C of the FAQ) is added.
   j. The subheading *Inconsequential or perfunctory performance obligations* is added.
   k. Topic 13.A.3(c) Question 1 (formerly Question 2 of the FAQ) is added. The question and interpretive response are modified from the FAQ to reflect the evaluation of the arrangement in the context of a single unit of accounting. The question format is conformed.
   l. Topic 13.A.3(c) Question 2 (formerly Question 3 of the FAQ) is added. The question and interpretive response are modified from the FAQ to reflect the evaluation in the context of a single unit of accounting.
   m. Topic 13.A.3(c) Question 3 (formerly Question 7 of the FAQ) is added. The facts, question and interpretive response are modified to reflect the evaluation of the arrangement in the context of combined deliverables, which result in a single unit of accounting. In addition, the interpretive response is modified to delete the last four sentences as this guidance is no longer necessary due to the issuance of EITF 00–21.
   n. The segue sentence and related footnote discussing delivery or performance of multiple deliverables is deleted to eliminate redundancy.
   o. The subheading *License fee revenue* is added.
   p. Topic 13.A.3(d) Question (formerly Question 9 of the FAQ) is added. The interpretive response is modified to eliminate redundancy.
   q. The subheading *Layaway sales arrangements* is added.
   r. Topic 13.A.3(e) Question is formerly Question 4.
   s. The subheading *Nonrefundable up-front fees* is added.
   t. The examples in Topic 13.A.3(f) Question 1 (formerly Question 5) are modified to include the examples from what was formerly Question 10 of the FAQ. Guidance in the interpretive response is added and conformed from Question 10 of the FAQ which clarifies the incurrence of substantive costs does not necessarily indicate there is a separate earnings event, and that the determination of a separate earnings event should be evaluated on a case-by-case basis.
   u. Footnote 36 is added to clarify the staff's view regarding the vendor activities associated with up-front fees.
   v. Topic 13.A.3(f) Question 2 (formerly Question 6) is modified to reflect the evaluation in the context of a single unit of accounting.
   w. Footnote 14 is deleted. The subject matter of footnote 14 is conformed and included in Topic 13.A.3(f) Question 3; accordingly, Topic 13.A.3(f) Question 3 reflects the guidance formerly located in footnote 14.
   x. Topic 13.A.3(f) Question 4 (formerly Question 15 of the FAQ) is added. The question format is conformed.
   y. Topic 13.A.3(f) Question 5 (formerly Question 16 of the FAQ) is added. The question format is conformed.
   z. The subheading *Deliverables within an arrangement* is added.
   aa. Topic 13.A.3(g) Question (formerly Question 8 of the FAQ) is added and is modified to reflect the evaluation of the question under EITF Issue 00–21.
   bb. Footnote 45 is added to clarify the staff's view of the obligation described in Topic 13.A.3(g) Question under FIN 45.
4. Topic 13.A.4 is modified as follows:
   a. The subheading *Refundable fees for services* is added.
   b. Topic 13.A.4(a) Question 1 is formerly Question 7.
   c. Footnote 56 is added to include guidance from Question 23 of the FAQ.
   d. Topic 13.A.4(a) Question 2 (formerly Question 18 of the FAQ) is added.
   e. Topic 13.A.4(a) Question 3 (formerly Question 19 of the FAQ) is added. The question format is conformed.
   f. Topic 13.A.4(a) Question 4 (formerly Question 20 of the FAQ) is added.
   g. Topic 13.A.4(a) Question 5 (formerly Question 21 of the FAQ) is added. The question format is conformed.
   h. Topic 13.A.4(a) Question 6 (formerly Question 22 of the FAQ) is added.
   i. The subheading *Estimates and changes in estimates* is added.

j. Topic 13.A.4(b) Question 1 is formerly Question 9.
k. Topic 13.A.4(b) Question 2 (formerly Question 24 of the FAQ) is added.
l. Topic 13.A.4(b) Question 3 (formerly Question 25 of the FAQ) is added. The question format is conformed. The last two sentences of the interpretive response are deleted to eliminate redundancy.
m. Topic 13.A.4(b) Question 4 (formerly Question 26 of the FAQ) is added.
n. Topic 13.A.4(b) Question 5 (formerly Question 27 of the FAQ) is added.
o. The subheading *Contingent rental income* is added.
p. Topic 13.A.4(c) Question is formerly Question 8.
q. The subheading *Claims processing and billing services* is added.
r. Topic 13.A.4(d) Question (formerly Question 28 of the FAQ) is added. The facts are modified to reflect to evaluation in the context of a single unit of accounting.

5. Topic 13.A.5 is deleted. This topic provided guidance on income statement presentation and whether transactions should be presented on a gross as a principal or net as an agent basis. EITF Issue 99–19, *''Reporting Revenue Gross as a Principal versus Net as an Agent''*, which was issued subsequent to SAB 101, provides such guidance. Therefore, this guidance is no longer necessary.

6. Topic 13.B is modified as follows:
a. The interpretive response to Question 1 is modified to reference multiple units of accounting in lieu of multiple elements.
b. Question 2 is modified to delete the reference to Question 10 of Topic 13.A and Topic 8.A.
c. Question 3 (formerly Question 29 of the FAQ) is added.
d. Question 4 (formerly Question 30 of the FAQ) is added.
e. Question 5 (formerly Question 31 of the FAQ) is added.

Topic 13: Revenue Recognition

A. Selected Revenue Recognition Issues

1. Revenue recognition—general

The accounting literature on revenue recognition includes both broad conceptual discussions as well as certain industry-specific guidance.[1] If a transaction is within the scope of specific authoritative literature that provides revenue recognition guidance, that literature should be applied. However, in the absence of authoritative literature addressing a specific arrangement or a specific industry, the staff will consider the existing authoritative accounting standards as well as the broad revenue recognition criteria specified in the FASB's conceptual framework that contain basic guidelines for revenue recognition.

Based on these guidelines, revenue should not be recognized until it is realized or realizable and earned.[2] Concepts Statement 5, paragraph 83(b) states that ''an entity's revenue-earning activities involve delivering or producing goods, rendering services, or other activities that constitute its ongoing major or central operations, and revenues are considered to have been earned when the entity has substantially accomplished what it must do to be entitled to the benefits represented by the revenues'' [footnote reference omitted]. Paragraph 84(a) continues ''the two conditions (being realized or realizable and being earned) are usually met by the time product or merchandise is delivered or services are rendered to customers, and revenues from manufacturing and selling activities and gains and losses from sales of other assets are commonly recognized at time of sale (usually meaning delivery)'' [footnote reference omitted]. In addition, paragraph 84(d) states that ''If services are rendered or rights to use assets extend continuously over time (for example, interest or rent), reliable measures based on contractual prices established in advance are commonly available, and revenues may be recognized as earned as time passes.''

The staff believes that revenue generally is realized or realizable and earned when all of the following criteria are met:

- Persuasive evidence of an arrangement exists,[3]
- Delivery has occurred or services have been rendered,[4]
- The seller's price to the buyer is fixed or determinable,[5] and
- Collectibility is reasonably assured.[6]

Some revenue arrangements contain multiple revenue-generating activities. The staff believes that the determination of the units of accounting within an arrangement should be made prior to the application of the guidance in this SAB Topic by reference to the applicable accounting literature.[7]

2. Persuasive evidence of an arrangement

Question 1

Facts: Company A has product available to ship to customers prior to the end of its current fiscal quarter. Customer Beta places an order for the product, and Company A delivers the product prior to the end of its current fiscal quarter. Company A's normal and customary business practice for this class of customer is to enter into a written sales agreement that requires the signatures of the authorized representatives of the Company and its customer to be binding. Company A prepares a written sales agreement, and its authorized representative signs the agreement before the end of the quarter. However, Customer Beta does not sign the agreement because Customer Beta is awaiting the requisite approval by its legal department. Customer Beta's purchasing department has orally agreed to the sale and stated that it is highly likely that the contract will be approved the first week of Company A's next fiscal quarter.

Question: May Company A recognize the revenue in the current fiscal quarter for the sale of the product to Customer Beta when (1) the product is delivered by the end of its current fiscal quarter and (2) the final written sales agreement is executed by Customer Beta's authorized representative within a few days after the end of the current fiscal quarter?

Interpretive Response: No. Generally the staff believes that, in view of Company A's business practice of requiring a written sales agreement for this class of customer, persuasive evidence of an arrangement would require a final agreement that has been executed by the properly authorized personnel of the customer. In the staff's view, Customer Beta's execution of the sales agreement after the end of the quarter causes the transaction to be considered a transaction of the subsequent period.[8] Further, if an arrangement is subject to subsequent approval (*e.g.*, by the management committee or board of directors) or execution of another agreement, revenue recognition would be inappropriate until that subsequent approval or agreement is complete.

Customary business practices and processes for documenting sales transactions vary among companies and industries. Business practices and processes may also vary within individual companies (*e.g.*, based on the class of customer, nature of product or service, or other distinguishable factors). If a company does not have a standard or customary business practice of relying on

[1] The February 1999 AICPA publication ''Audit Issues in Revenue Recognition'' provides an overview of the authoritative accounting literature and auditing procedures for revenue recognition and identifies indicators of improper revenue recognition.

[2] Concepts Statement 5, paragraphs 83–84; ARB 43, Chapter 1A, paragraph 1; Opinion 10, paragraph 12. The citations provided herein are not intended to present the complete population of citations where a particular criterion is relevant. Rather, the citations are intended to provide the reader with additional reference material.

[3] Concepts Statement 2, paragraph 63 states ''Representational faithfulness is correspondence or agreement between a measure or description and the phenomenon it purports to represent.'' The staff believes that evidence of an exchange arrangement must exist to determine if the accounting treatment represents faithfully the transaction. See also SOP 97–2, paragraph 8. The use of the term ''arrangement'' in this SAB Topic is meant to identify the final understanding between the parties as to the specific nature and terms of the agreed-upon transaction.

[4] Concepts Statement 5, paragraph 84(a), (b), and (d). Revenue should not be recognized until the seller has substantially accomplished what it must do pursuant to the terms of the arrangement, which usually occurs upon delivery or performance of the services.

[5] Concepts Statement 5, paragraph 83(a); Statement 48, paragraph 6(a); SOP 97–2, paragraph 8. SOP 97–2 defines a ''fixed fee'' as a ''fee required to be paid at a set amount that is not subject to refund or adjustment. A fixed fee includes amounts designated as minimum royalties.'' Paragraphs 26–33 of SOP 97–2 discuss how to apply the fixed or determinable fee criterion in software transactions. The staff believes that the guidance in paragraphs 26 and 30–33 is appropriate for other sales transactions where authoritative guidance does not otherwise exist. The staff notes that paragraphs 27 through 29 specifically consider software transactions, however, the staff believes that guidance should be considered in other sales transactions in which the risk of technological obsolescence is high.

[6] ARB 43, Chapter 1A, paragraph 1 and Opinion 10, paragraph 12. *See also* Concepts Statement 5, paragraph 84(g) and SOP 97–2, paragraph 8.

[7] See EITF Issue 00–21 paragraph 4 for additional discussion.

[8] AU Section 560.05

written contracts to document a sales arrangement, it usually would be expected to have other forms of written or electronic evidence to document the transaction. For example, a company may not use written contracts but instead may rely on binding purchase orders from third parties or on-line authorizations that include the terms of the sale and that are binding on the customer. In that situation, that documentation could represent persuasive evidence of an arrangement.

The staff is aware that sometimes a customer and seller enter into ''side'' agreements to a master contract that effectively amend the master contract. Registrants should ensure that appropriate policies, procedures, and internal controls exist and are properly documented so as to provide reasonable assurances that sales transactions, including those affected by side agreements, are properly accounted for in accordance with GAAP and to ensure compliance with Section 13 of the Securities Exchange Act of 1934 (*i.e.*, the Foreign Corrupt Practices Act). Side agreements could include cancellation, termination, or other provisions that affect revenue recognition. The existence of a subsequently executed side agreement may be an indicator that the original agreement was not final and revenue recognition was not appropriate.

Question 2

Facts: Company Z enters into an arrangement with Customer A to deliver Company Z's products to Customer A on a consignment basis. Pursuant to the terms of the arrangement, Customer A is a consignee, and title to the products does not pass from Company Z to Customer A until Customer A consumes the products in its operations. Company Z delivers product to Customer A under the terms of their arrangement.

Question: May Company Z recognize revenue upon delivery of its product to Customer A?

Interpretive Response: No. Products delivered to a consignee pursuant to a consignment arrangement are not sales and do not qualify for revenue recognition until a sale occurs. The staff believes that revenue recognition is not appropriate because the seller retains the risks and rewards of ownership of the product and title usually does not pass to the consignee.

Other situations may exist where title to delivered products passes to a buyer, but the substance of the transaction is that of a consignment or a financing. Such arrangements require a careful analysis of the facts and circumstances of the transaction, as well as an understanding of the rights and obligations of the parties, and the seller's customary business practices in such arrangements. The staff believes that the presence of one or more of the following characteristics in a transaction precludes revenue recognition even if title to the product has passed to the buyer:

1. The buyer has the right to return the product and:

(a) The buyer does not pay the seller at the time of sale, and the buyer is not obligated to pay the seller at a specified date or dates.[9]

(b) The buyer does not pay the seller at the time of sale but rather is obligated to pay at a specified date or dates, and the buyer's obligation to pay is contractually or implicitly excused until the buyer resells the product or subsequently consumes or uses the product,[10]

(c) The buyer's obligation to the seller would be changed (*e.g.*, the seller would forgive the obligation or grant a refund) in the event of theft or physical destruction or damage of the product,[11]

(d) The buyer acquiring the product for resale does not have economic substance apart from that provided by the seller,[12] or

(e) The seller has significant obligations for future performance to directly bring about resale of the product by the buyer.[13]

2. The seller is required to repurchase the product (or a substantially identical product or processed goods of which the product is a component) at specified prices that are not subject to change except for fluctuations due to finance and holding costs,[14] and the amounts to be paid by the seller will be adjusted, as necessary, to cover substantially all fluctuations in costs incurred by the buyer in purchasing and holding the product (including interest).[15] The staff believes that indicators of the latter condition include:

(a) The seller provides interest-free or significantly below market financing to the buyer beyond the seller's customary sales terms and until the products are resold,

(b) The seller pays interest costs on behalf of the buyer under a third-party financing arrangement, or

(c) The seller has a practice of refunding (or intends to refund) a portion of the original sales price representative of interest expense for the period from when the buyer paid the seller until the buyer resells the product.

3. The transaction possesses the characteristics set forth in EITF Issue 95–1 and does not qualify for sales-type lease accounting.

4. The product is delivered for demonstration purposes.[16]

This list is not meant to be a checklist of all characteristics of a consignment or a financing arrangement, and other characteristics may exist. Accordingly, the staff believes that judgment is necessary in assessing whether the substance of a transaction is a consignment, a financing, or other arrangement for which revenue recognition is not appropriate. If title to the goods has passed but the substance of the arrangement is not a sale, the consigned inventory should be reported separately from other inventory in the consignor's financial statements as ''inventory consigned to others'' or another appropriate caption.

Question 3

Facts: The laws of some countries do not provide for a seller's retention of a security interest in goods in the same manner as established in the U.S. Uniform Commercial Code (UCC). In these countries, it is common for a seller to retain a form of title to goods delivered to customers until the customer makes payment so that the seller can recover the goods in the event of customer default on payment.

Question: Is it acceptable to recognize revenue in these transactions before payment is made and title has transferred?

Interpretive Response: Presuming all other revenue recognition criteria have been met, the staff would not object to revenue recognition at delivery if the only rights that a seller retains with the title are those enabling recovery of the goods in the event of customer default on payment. This limited form of ownership may exist in some foreign jurisdictions where, despite technically holding title, the seller is not entitled to direct the disposition of the goods, cannot rescind the transaction, cannot prohibit its customer from moving, selling, or otherwise using the goods in the ordinary course of business, and has no other rights that rest with a titleholder of property that is subject to a lien under the U.S. UCC. On the other hand, if retaining title results in the seller retaining rights normally held by an owner of goods, the situation is not sufficiently different from a delivery of goods on consignment. In this particular case, revenue should not be recognized until payment is received. Registrants and their auditors may wish to consult legal counsel knowledgeable of the local law and customs outside the U.S. to determine the seller's rights.

3. Delivery and performance

a. Bill and hold arrangements

Facts: Company A receives purchase orders for products it manufactures. At the end of its fiscal quarters, customers may not yet be ready to take delivery of the products for various reasons. These reasons may include, but are not limited to, a lack of available space for inventory, having more than sufficient inventory in their distribution channel, or delays in customers' production schedules.

Question: May Company A recognize revenue for the sale of its products once it has completed manufacturing if it segregates the inventory of the products in its own warehouse from its own products?

May Company A recognize revenue for the sale if it ships the products to a third-party warehouse but (1) Company A retains title to the product and (2) payment by the customer is dependent upon ultimate delivery to a customer-specified site?

Interpretative Response: Generally, no. The staff believes that delivery generally is not

[9] Statement 48, paragraphs 6(b) and 22.

[10] Statement 48, paragraphs 6(b) and 22. The arrangement may not specify that payment is contingent upon subsequent resale or consumption. However, if the seller has an established business practice permitting customers to defer payment beyond the specified due date(s) until the products are resold or consumed, then the staff believes that the seller's right to receive cash representing the sales price is contingent.

[11] Statement 48, paragraph 6(c).

[12] Statement 48, paragraph 6(d).

[13] Statement 48, paragraph 6(e).

[14] Statement 49, paragraph 5(a). Paragraph 5(a) provides examples of circumstances that meet this requirement. As discussed further therein, this condition is present if (a) a resale price guarantee exists, (b) the seller has an option to purchase the product, the economic effect of which compels the seller to purchase the product, or (c) the buyer has an option whereby it can require the seller to purchase the product.

[15] Statement 49, paragraph 5(b).

[16] *See* SOP 97–2, paragraph 25.

considered to have occurred unless the customer has taken title and assumed the risks and rewards of ownership of the products specified in the customer's purchase order or sales agreement. Typically this occurs when a product is delivered to the customer's delivery site (if the terms of the sale are ''FOB destination'') or when a product is shipped to the customer (if the terms are ''FOB shipping point'').

The Commission has set forth criteria to be met in order to recognize revenue when delivery has not occurred.[17] These include:

1. The risks of ownership must have passed to the buyer;

2. The customer must have made a fixed commitment to purchase the goods, preferably in written documentation;

3. The buyer, not the seller, must request that the transaction be on a bill and hold basis.[18] The buyer must have a substantial business purpose for ordering the goods on a bill and hold basis;

4. There must be a fixed schedule for delivery of the goods. The date for delivery must be reasonable and must be consistent with the buyer's business purpose (*e.g.*, storage periods are customary in the industry);

5. The seller must not have retained any specific performance obligations such that the earning process is not complete;

6. The ordered goods must have been segregated from the seller's inventory and not be subject to being used to fill other orders; and

7. The equipment [product] must be complete and ready for shipment.

The above listed conditions are the important conceptual criteria that should be used in evaluating any purported bill and hold sale. This listing is not intended as a checklist. In some circumstances, a transaction may meet all factors listed above but not meet the requirements for revenue recognition. The Commission also has noted that in applying the above criteria to a purported bill and hold sale, the individuals responsible for the preparation and filing of financial statements also should consider the following factors: [19]

1. The date by which the seller expects payment, and whether the seller has modified its normal billing and credit terms for this buyer; [20]

2. The seller's past experiences with and pattern of bill and hold transactions;

3. Whether the buyer has the expected risk of loss in the event of a decline in the market value of goods;

4. Whether the seller's custodial risks are insurable and insured;

5. Whether extended procedures are necessary in order to assure that there are no exceptions to the buyer's commitment to accept and pay for the goods sold (*i.e.*, that the business reasons for the bill and hold have not introduced a contingency to the buyer's commitment).

Delivery generally is not considered to have occurred unless the product has been delivered to the customer's place of business or another site specified by the customer. If the customer specifies an intermediate site but a substantial portion of the sales price is not payable until delivery is made to a final site, then revenue should not be recognized until final delivery has occurred.[21]

b. Customer acceptance

After delivery of a product or performance of a service, if uncertainty exists about customer acceptance, revenue should not be recognized until acceptance occurs.[22] Customer acceptance provisions may be included in a contract, among other reasons, to enforce a customer's rights to (1) test the delivered product, (2) require the seller to perform additional services subsequent to delivery of an initial product or performance of an initial service (*e.g.*, a seller is required to install or activate delivered equipment), or (3) identify other work necessary to be done before accepting the product. The staff presumes that such contractual customer acceptance provisions are substantive, bargained-for terms of an arrangement. Accordingly, when such contractual customer acceptance provisions exist, the staff generally believes that the seller should not recognize revenue until customer acceptance occurs or the acceptance provisions lapse.

Question 1

Question: Do circumstances exist in which formal customer sign-off (that a contractual customer acceptance provision is met) is unnecessary to meet the requirements to recognize revenue?

Interpretive Response: Yes. Formal customer sign-off is not always necessary to recognize revenue provided that the seller objectively demonstrates that the criteria specified in the acceptance provisions are satisfied. Customer acceptance provisions generally allow the customer to cancel the arrangement when a seller delivers a product that the customer has not yet agreed to purchase or delivers a product that does not meet the specifications of the customer's order. In those cases, revenue should not be recognized because a sale has not occurred. In applying this concept, the staff observes that customer acceptance provisions normally take one of four general forms. Those forms, and how the staff generally assesses whether customer acceptance provisions should result in revenue deferral, are described below:

(a) *Acceptance provisions in arrangements that purport to be for trial or evaluation purposes.*[23] In these arrangements, the seller delivers a product to a customer, and the customer agrees to receive the product, solely to give the customer the ability to evaluate the delivered product prior to acceptance. The customer does not agree to purchase the delivered product until it accepts the product. In some cases, the acceptance provisions lapse by the passage of time without the customer rejecting the delivered product, and in other cases affirmative acceptance from the customer is necessary to trigger a sales transaction. Frequently, the title to the product does not transfer and payment terms are not established prior to customer acceptance. These arrangements are, in substance, consignment arrangements until the customer accepts the product as set forth in the contract with the seller. Accordingly, in arrangements where products are delivered for trial or evaluation purposes, revenue should not be recognized until the earlier of when acceptance occurs or the acceptance provisions lapse.

In contrast, other arrangements do not purport to be for trial or evaluation purposes. In these instances, the seller delivers a specified product pursuant to a customer's order, establishes payment terms, and transfers title to the delivered product to the customer. However, customer acceptance provisions may be included in the arrangement to give the purchaser the ability to ensure the delivered product meets the criteria set forth in its order. The staff evaluates these provisions as follows:

(b) *Acceptance provisions that grant a right of return or exchange on the basis of subjective matters.* An example of such a provision is one that allows the customer to return a product if the customer is dissatisfied with the product.[24] The staff believes these provisions are not different from general rights of return and should be accounted for in accordance with Statement 48. Statement 48 requires that the amount of future returns must be reasonably estimable in order for revenue to be recognized prior to the expiration of return rights.[25] That estimate may not be made in the absence of a large volume of homogeneous transactions or if customer acceptance is likely to depend on conditions for which sufficient historical experience is absent.[26] Satisfaction of these requirements may vary from product-to-product, location-to-location, customer-to-customer, and vendor-to-vendor.

(c) *Acceptance provisions based on seller-specified objective criteria.* An example of such a provision is one that gives the

[17] See In the Matter of Stewart Parness, AAER 108 (August 5, 1986); *SEC* v. *Bollinger Industries, Inc., et al.,* LR 15093 (September 30, 1996); In the Matter of Laser Photonics, Inc., AAER 971 (September 30, 1997); In the Matter of Cypress Bioscience Inc., AAER 817 (September 19, 1996). *Also see* Concepts Statement 5, paragraph 84(a) and SOP 97–2, paragraph 22.

[18] Such requests typically should be set forth in writing by the buyer.

[19] *See* Note 17, *supra.*

[20] Such individuals should consider whether Opinion 21 pertaining to the need for discounting the related receivable, is applicable. Opinion 21, paragraph 3(a), indicates that the requirements of that Opinion to record receivables at a discounted value are not intended to apply to ''receivables and payables arising from transactions with customers or suppliers in the *normal course of business which are due in customary trade terms* not exceeding approximately one year'' (emphasis added).

[21] SOP 97–2, paragraph 22.

[22] SOP 97–2, paragraph 20. Also, Concepts Statement 5, paragraph 83(b) states ''revenues are considered to have been earned when the entity has substantially accomplished what it must do to be entitled to the benefits represented by the revenues.'' If an arrangement expressly requires customer acceptance, the staff generally believes that customer acceptance should occur before the entity has substantially accomplished what it must do to be entitled to the benefits represented by the revenues, especially when the seller is obligated to perform additional steps.

[23] *See*, for example, SOP 97–2, paragraph 25.

[24] Statement 48, paragraph 13.

[25] Statement 48, paragraph 6(f).

[26] Statement 48, paragraphs 8(c) and 8(d).

customer a right of return or replacement if the delivered product is defective or fails to meet the vendor's published specifications for the product.[27] Such rights are generally identical to those granted to all others within the same class of customer and for which satisfaction can be generally assured without consideration of conditions specific to the customer. Provided the seller has previously demonstrated that the product meets the specified criteria, the staff believes that these provisions are not different from general or specific warranties and should be accounted for as warranties in accordance with Statement 5. In this case, the cost of potentially defective goods must be reliably estimable based on a demonstrated history of substantially similar transactions.[28] However, if the seller has not previously demonstrated that the delivered product meets the seller's specifications, the staff believes that revenue should be deferred until the specifications have been objectively achieved.

(d) *Acceptance provisions based on customer-specified objective criteria.* These provisions are referred to in this document as ''customer-specific acceptance provisions'' against which substantial completion and contract fulfillment must be evaluated. While formal customer sign-off provides the best evidence that these acceptance criteria have been met, revenue recognition also would be appropriate, presuming all other revenue recognition criteria have been met, if the seller reliably demonstrates that the delivered products or services meet all of the specified criteria prior to customer acceptance. For example, if a seller reliably demonstrates that a delivered product meets the customer-specified objective criteria set forth in the arrangement, the delivery criterion would generally be satisfied when title and the risks and rewards of ownership transfers unless product performance may reasonably be different under the customer's testing conditions specified by the acceptance provisions. Further, the seller should consider whether it would be successful in enforcing a claim for payment even in the absence of formal sign-off. Whether the vendor has fulfilled the terms of the contract before customer acceptance is a matter of contract law, and depending on the facts and circumstances, an opinion of counsel may be necessary to reach a conclusion.

Question 2

Facts: Consider an arrangement that calls for the transfer of title to equipment upon delivery to a customer's site. However, customer-specific acceptance provisions permit the customer to return the equipment unless the equipment satisfies certain performance tests. The arrangement calls for the vendor to perform the installation. Assume the equipment and the installation are separate units of accounting under EITF Issue 00–21.[29]

Question: Must revenue allocated to the equipment always be deferred until installation and on-site testing are successfully completed?

Interpretive Response: No. The staff would not object to revenue recognition for the equipment upon delivery (presuming all other revenue recognition criteria have been met for the equipment) if the seller demonstrates that, at the time of delivery, the equipment already meets all of the criteria and specifications in the customer-specific acceptance provisions. This may be demonstrated if conditions under which the customer intends to operate the equipment are replicated in pre-shipment testing, unless the performance of the equipment, once installed and operated at the customer's facility, may reasonably be different from that tested prior to shipment.

Determining whether the delivered equipment meets all of a product's criteria and specifications is a matter of judgment that must be evaluated in light of the facts and circumstances of a particular transaction. Consultation with knowledgeable project managers or engineers may be necessary in such circumstances.

For example, if the customer acceptance provisions were based on meeting certain size and weight characteristics, it should be possible to determine whether those criteria have been met before shipment. Historical experience with the same specifications and functionality of a particular machine that demonstrates that the equipment meets the customer's specifications also may provide sufficient evidence that the currently shipped equipment satisfies the customer-specific acceptance provisions.

If an arrangement includes customer acceptance criteria or specifications that cannot be effectively tested before delivery or installation at the customer's site, the staff believes that revenue recognition should be deferred until it can be demonstrated that the criteria are met. This situation usually will exist when equipment performance can vary based on how the equipment works in combination with the customer's other equipment, software, or environmental conditions. In these situations, testing to determine whether the criteria are met cannot be reasonably performed until the products are installed or integrated at the customer's facility.

Although the following questions provide several examples illustrating how the staff evaluates customer acceptance, the determination of when customer-specific acceptance provisions of an arrangement are met in the absence of the customer's formal notification of acceptance depends on the weight of the evidence in the particular circumstances. Different conclusions could be reached in similar circumstances that vary only with respect to a single variable, such as complexity of the equipment, nature of the interface with the customer's environment, extent of the seller's experience with the same type of transactions, or a particular clause in the agreement. The staff believes management and auditors are uniquely positioned to evaluate the facts and arrive at a reasoned conclusion. The staff will not object to a determination that is well reasoned on the basis of this guidance.

Question 3

Facts: Company E is an equipment manufacturer whose main product is generally sold in a standard model. The contracts for sale of that model provide for customer acceptance to occur after the equipment is received and tested by the customer. The acceptance provisions state that if the equipment does not perform to Company E's published specifications, the customer may return the equipment for a full refund or a replacement unit, or may require Company E to repair the equipment so that it performs up to published specifications. Customer acceptance is indicated by either a formal sign-off by the customer or by the passage of 90 days without a claim under the acceptance provisions. Title to the equipment passes upon delivery to the customer. Company E does not perform any installation or other services on the equipment it sells and tests each piece of equipment against its specifications before shipment. Payment is due under Company E's normal payment terms for that product 30 days after customer acceptance.

Company E receives an order from a new customer for a standard model of its main product. Based on the customer's intended use of the product, location and other factors, there is no reason that the equipment would operate differently in the customer's environment than it does in Company E's facility.

Question: Assuming all other revenue recognition criteria are met (other than the issue raised with respect to the acceptance provision), when should Company E recognize revenue from the sale of this piece of equipment?

Interpretive Response: While the staff presumes that customer acceptance provisions are substantive provisions that generally result in revenue deferral, that presumption can be overcome as discussed above. Although the contract includes a customer acceptance clause, acceptance is based on meeting Company E's published specifications for a standard model. Company E demonstrates that the equipment shipped meets the specifications before shipment, and the equipment is expected to operate the same in the customer's environment as it does in Company E's. In this situation, Company E should evaluate the customer acceptance provision as a warranty under Statement 5. If Company E can reasonably and reliably estimate the amount of warranty obligations, the staff believes that it should recognize revenue upon delivery of the equipment, with an appropriate liability for probable warranty obligations.

Question 4

Facts: Assume the same facts about Company E's equipment, contract terms and customary practices as in Question 3 above. Company E enters into an arrangement with a new customer to deliver a version of its standard product modified as necessary to fit into a space of specific dimensions while still meeting all of the published vendor specifications with regard to performance. In addition to the customer acceptance provisions relating to the standard

[27] Statement 5, paragraph 24 and Statement 48, paragraph 4(c).

[28] Statement 5, paragraph 25.

[29] This fact is provided as an assumption to facilitate an analysis of revenue recognition in this fact pattern. No interpretation of Issue 00–21 is intended.

performance specifications, the customer may reject the equipment if it does not conform to the specified dimensions. Company E creates a testing chamber of the exact same dimensions as specified by the customer and makes simple design changes to the product so that it fits into the testing chamber. The equipment still meets all of the standard performance specifications.

Question: Assuming all other revenue recognition criteria are met (other than the issue raised with respect to the acceptance provision), when should Company E recognize revenue from the sale of this piece of equipment?

Interpretive Response: Although the contract includes a customer acceptance clause that is based, in part, on a customer specific criterion, Company E demonstrates that the equipment shipped meets that objective criterion, as well as the published specifications, before shipment. The staff believes that the customer acceptance provisions related to the standard performance specifications should be evaluated as a warranty under Statement 5. If Company E can reasonably and reliably estimate the amount of warranty obligations, it should recognize revenue upon delivery of the equipment, with an appropriate liability for probable warranty obligations.

Question 5

Facts: Assume the same facts about Company E's equipment, contract terms and customary practices as in Question 3 above. Company E enters into an arrangement with a new customer to deliver a version of its standard product modified as necessary to be integrated into the customer's new assembly line while still meeting all of the standard published vendor specifications with regard to performance. The customer may reject the equipment if it fails to meet the standard published performance specifications or cannot be satisfactorily integrated into the new line. Company E has never modified its equipment to work on an integrated basis in the type of assembly line the customer has proposed. In response to the request, Company E designs a version of its standard equipment that is modified as believed necessary to operate in the new assembly line. The modified equipment still meets all of the standard published performance specifications, and Company E believes the equipment will meet the requested specifications when integrated into the new assembly line. However, Company E is unable to replicate the new assembly line conditions in its testing.

Question: Assuming all other revenue recognition criteria are met (other than the issue raised with respect to the acceptance provision), when should Company E recognize revenue from the sale of this piece of equipment?

Interpretive Response: This contract includes a customer acceptance clause that is based, in part, on a customer specific criterion, and Company E cannot demonstrate that the equipment shipped meets that criterion before shipment. Accordingly, the staff believes that the contractual customer acceptance provision has not been met at shipment. Therefore, the staff believes that Company E should wait until the product is successfully integrated at its customer's location and meets the customer-specific criteria before recognizing revenue. While this is best evidenced by formal customer acceptance, other objective evidence that the equipment has met the customer-specific criteria may also exist (*e.g.*, confirmation from the customer that the specifications were met).

c. Inconsequential or Perfunctory Performance Obligations

Question 1

Question: Does the failure to complete all activities related to a unit of accounting preclude recognition of revenue for that unit of accounting?

Interpretive Response: No. Assuming all other recognition criteria are met, revenue for the unit of accounting may be recognized in its entirety if the seller's remaining obligation is inconsequential or perfunctory.

A seller should substantially complete or fulfill the terms specified in the arrangement related to the unit of accounting at issue in order for delivery or performance to have occurred.[30] When applying the substantially complete notion, the staff believes that only inconsequential or perfunctory actions may remain incomplete such that the failure to complete the actions would not result in the customer receiving a refund or rejecting the delivered products or services performed to date. In addition, the seller should have a demonstrated history of completing the remaining tasks in a timely manner and reliably estimating the remaining costs. If revenue is recognized upon substantial completion of the terms specified in the arrangement related to the unit of accounting at issue, all related costs of performance or delivery should be accrued.

Question 2

Question: What factors should be considered in the evaluation of whether a remaining obligation related to a unit of accounting is inconsequential or perfunctory?

Interpretive Response: A remaining performance obligation is not inconsequential or perfunctory if it is essential to the functionality of the delivered products or services. In addition, remaining activities are not inconsequential or perfunctory if failure to complete the activities would result in the customer receiving a full or partial refund or rejecting (or a right to a refund or to reject) the products delivered or services performed to date. The terms of the sales contract regarding both the right to a full or partial refund and the right of return or rejection should be considered when evaluating whether a portion of the purchase price would be refundable. If the company has a historical pattern of granting such rights, that historical pattern should also be considered even if the current contract expressly precludes such rights. Further, other factors should be considered in assessing whether remaining obligations are inconsequential or perfunctory. For example, the staff also considers the following factors, which are not all-inclusive, to be indicators that a remaining performance obligation is substantive rather than inconsequential or perfunctory:

- The seller does not have a demonstrated history of completing the remaining tasks in a timely manner and reliably estimating their costs.
- The cost or time to perform the remaining obligations for similar contracts historically has varied significantly from one instance to another.
- The skills or equipment required to complete the remaining activity are specialized or are not readily available in the marketplace.
- The cost of completing the obligation, or the fair value of that obligation, is more than insignificant in relation to such items as the contract fee, gross profit, and operating income allocable to the unit of accounting.
- The period before the remaining obligation will be extinguished is lengthy. Registrants should consider whether reasonably possible variations in the period to complete performance affect the certainty that the remaining obligations will be completed successfully and on budget.
- The timing of payment of a portion of the sales price is coincident with completing performance of the remaining activity.

Registrants' determinations of whether remaining obligations are inconsequential or perfunctory should be consistently applied.

Question 3

Facts: Consider a unit of accounting that includes both equipment and installation because the two deliverables do not meet the separation criteria under EITF Issue 00–21. This may be because the equipment does not have value to the customer on a standalone basis, there is no objective and reliable evidence of fair value for the installation or there is a general right of return when the installation is not considered probable and in control of the vendor.

Question: In this situation, must all revenue be deferred until installation is performed?

Interpretive Response: Yes, if installation is essential to the functionality of the equipment. [31] Examples of indicators that installation is essential to the functionality of equipment include:

- The installation involves significant changes to the features or capabilities of the equipment or building complex interfaces or connections;
- The installation services are unavailable from other vendors.[32]

Conversely, examples of indicators that installation is not essential to the functionality of the equipment include:

- The equipment is a standard product;
- Installation does not significantly alter the equipment's capabilities;

[30] Concepts Statement 5, paragraph 83(b) states ''revenues are considered to have been earned when the entity has substantially accomplished what it must do to be entitled the benefits represented by the revenues.''

[31] *See* SOP 97–2, paragraph 13.

[32] *See* SOP 97–2, paragraphs 68–71 for analogous guidance.

• Other companies are available to perform the installation.[33]

If it is determined that the undelivered service is not essential to the functionality of the delivered product but a portion of the contract fee is not payable until the undelivered service is delivered, the staff would not consider that obligation to be inconsequential or perfunctory. Generally, the portion of the contract price that is withheld or refundable should be deferred until the outstanding service is delivered because that portion would not be realized or realizable.[34]

d. License Fee Revenue

Facts: Assume that intellectual property is physically delivered and payment is received on December 20, upon the registrant's consummation of an agreement granting its customer a license to use the intellectual property for a term beginning on the following January 1.

Question: Should the license fee be recognized in the period ending December 31?

Interpretive Response: No. In licensing and similar arrangements (*e.g.*, licenses of motion pictures, software, technology, and other intangibles), the staff believes that delivery does not occur for revenue recognition purposes until the license term begins.[35] Accordingly, if a licensed product or technology is physically delivered to the customer, but the license term has not yet begun, revenue should not be recognized prior to inception of the license term. Upon inception of the license term, revenue should be recognized in a manner consistent with the nature of the transaction and the earnings process.

e. Layaway sales arrangements

Facts: Company R is a retailer that offers ''layaway'' sales to its customers. Company R retains the merchandise, sets it aside in its inventory, and collects a cash deposit from the customer. Although Company R may set a time period within which the customer must finalize the purchase, Company R does not require the customer to enter into an installment note or other fixed payment commitment or agreement when the initial deposit is received. The merchandise generally is not released to the customer until the customer pays the full purchase price. In the event that the customer fails to pay the remaining purchase price, the customer forfeits its cash deposit. In the event the merchandise is lost, damaged, or destroyed, Company R either must refund the cash deposit to the customer or provide replacement merchandise.

Question: In the staff's view, when may Company R recognize revenue for merchandise sold under its layaway program?

Interpretive Response: Provided that the other criteria for revenue recognition are met, the staff believes that Company R should recognize revenue from sales made under its layaway program upon delivery of the merchandise to the customer. Until then, the amount of cash received should be recognized as a liability entitled such as ''deposits received from customers for layaway sales'' or a similarly descriptive caption. Because Company R retains the risks of ownership of the merchandise, receives only a deposit from the customer, and does not have an enforceable right to the remainder of the purchase price, the staff would object to Company R recognizing any revenue upon receipt of the cash deposit. This is consistent with item two (2) in the Commission's criteria for bill-and-hold transactions which states ''the customer must have made a fixed commitment to purchase the goods.''

f. Nonrefundable up-front fees

Question 1

Facts: Registrants may negotiate arrangements pursuant to which they may receive nonrefundable fees upon entering into arrangements or on certain specified dates. The fees may ostensibly be received for conveyance of a license or other intangible right or for delivery of particular products or services. Various business factors may influence how the registrant and customer structure the payment terms. For example, in exchange for a greater up-front fee for an intangible right, the registrant may be willing to receive lower unit prices for related products to be delivered in the future. In some circumstances, the right, product, or service conveyed in conjunction with the nonrefundable fee has no utility to the purchaser separate and independent of the registrant's performance of the other elements of the arrangement. Therefore, in the absence of the registrant's continuing involvement under the arrangement, the customer would not have paid the fee. Examples of this type of arrangement include the following:

• A registrant sells a lifetime membership in a health club. After paying a nonrefundable ''initiation fee,'' the customer is permitted to use the health club indefinitely, so long as the customer also pays an additional usage fee each month. The monthly usage fees collected from all customers are adequate to cover the operating costs of the health club.

• A registrant in the biotechnology industry agrees to provide research and development activities for a customer for a specified term. The customer needs to use certain technology owned by the registrant for use in the research and development activities. The technology is not sold or licensed separately without the research and development activities. Under the terms of the arrangement, the customer is required to pay a nonrefundable ''technology access fee'' in addition to periodic payments for research and development activities over the term of the contract.

• A registrant requires a customer to pay a nonrefundable ''activation fee'' when entering into an arrangement to provide telecommunications services. The terms of the arrangement require the customer to pay a monthly usage fee that is adequate to recover the registrant's operating costs. The costs incurred to activate the telecommunications service are nominal.

• A registrant charges users a fee for non-exclusive access to its Web site that contains proprietary databases. The fee allows access to the Web site for a one-year period. After the customer is provided with an identification number and trained in the use of the database, there are no incremental costs that will be incurred in serving this customer.

• A registrant charges a fee to users for advertising a product for sale or auction on certain pages of its Web site. The company agrees to maintain the listing for a period of time. The cost of maintaining the advertisement on the Web site for the stated period is minimal.

• A registrant charges a fee for hosting another company's Web site for one year. The arrangement does not involve exclusive use of any of the hosting company's servers or other equipment. Almost all of the projected costs to be incurred will be incurred in the initial loading of information on the host company's Internet server and setting up appropriate links and network connections.

Question: Assuming these arrangements qualify as single units of accounting under EITF Issue 00–21[36], when should the revenue relating to nonrefundable, up-front fees in these types of arrangements be recognized?

Interpretive Response: The staff believes that registrants should consider the specific facts and circumstances to determine the appropriate accounting for nonrefundable, up-front fees. Unless the up-front fee is in exchange for products delivered or services performed that represent the culmination of a separate earnings process,[37] the deferral of revenue is appropriate.

In the situations described above, the staff does not view the activities completed by the registrants (*i.e.*, selling the membership, signing the contract, enrolling the customer, activating telecommunications services or providing initial set-up services) as discrete earnings events.[38] The terms, conditions, and amounts of these fees typically are negotiated in conjunction with the pricing of all the elements of the arrangement, and the customer would ascribe a significantly lower, and perhaps no, value to elements ostensibly associated with the up-front fee in the absence of the registrant's performance of other contract elements. The fact that the registrants do not sell the initial rights, products, or services separately (*i.e.*, without the registrants' continuing involvement) supports the staff's view. The staff believes that the customers are purchasing the on-

[33] *Ibid.*

[34] Concepts Statement 5, paragraph 83(a) and Statement 48, paragraph 6(b).

[35] SOP 00–2, paragraph 7.

[36] The staff believes that the vendor activities associated with the up-front fee, even if considered a deliverable to be evaluated under EITF Issue 00–21, will rarely provide value to the customer on a standalone basis.

[37] *See* Concepts Statement 5, footnote 51, for a description of the ''earning process.''

[38] In a similar situation, lenders may collect nonrefundable loan origination fees in connection with lending activities. The FASB concluded in Statement 91 that loan origination is not a separate revenue-producing activity of a lender, and therefore, those nonrefundable fees collected at the outset of the loan arrangement are not recognized as revenue upon receipt but are deferred and recognized over the life of the loan (paragraphs 5 and 37).

going rights, products, or services being provided through the registrants' continuing involvement. Further, the staff believes that the earnings process is completed by performing under the terms of the arrangements, not simply by originating a revenue-generating arrangement.

While the incurrence of nominal up-front costs helps make it clear that there is not a separate earnings event in the telecommunications example above, incurrence of substantive costs, such as in the web hosting example above, does not necessarily indicate that there is a separate earnings event. Whether there is a separate earnings event should be evaluated on a case-by-case basis. Some have questioned whether revenue may be recognized in these transactions to the extent of the incremental direct costs incurred in the activation. Because there is no separable deliverable or earnings event, the staff would generally object to that approach, except where it is provided for in the authoritative literature (*e.g.*, Statement 51).

Supply or service transactions may involve the charge of a nonrefundable initial fee with subsequent periodic payments for future products or services. The initial fees may, in substance, be wholly or partly an advance payment for future products or services. In the examples above, the on-going rights or services being provided or products being delivered are essential to the customers receiving the expected benefit of the up-front payment. Therefore, the up-front fee and the continuing performance obligation related to the services to be provided or products to be delivered are assessed as an integrated package. In such circumstances, the staff believes that up-front fees, even if nonrefundable, are earned as the products and/or services are delivered and/or performed over the term of the arrangement or the expected period of performance [39] and generally should be deferred and recognized systematically over the periods that the fees are earned.[40]

Some propose that revenue should be recognized when the initial set-up is completed in cases where the on-going obligation involves minimal or no cost or effort and should, therefore, be considered perfunctory or inconsequential. However, the staff believes that the substance of each of these transactions indicates that the purchaser is paying for a service that is delivered over time. Therefore, revenue recognition should occur over time, reflecting the provision of service.[41]

Question 2

Facts: Company A provides its customers with activity tracking or similar services (*e.g.*, tracking of property tax payment activity, sending delinquency letters on overdue accounts, etc.) for a ten-year period. Company A requires customers to prepay for all the services for the term specified in the arrangement. The on-going services to be provided are generally automated after the initial customer set-up. At the outset of the arrangement, Company A performs set-up procedures to facilitate delivery of its on-going services to the customers. Such procedures consist primarily of establishing the necessary records and files in Company A's pre-existing computer systems in order to provide the services. Once the initial customer set-up activities are complete, Company A provides its services in accordance with the arrangement. Company A is not required to refund any portion of the fee if the customer terminates the services or does not utilize all of the services to which it is entitled. However, Company A is required to provide a refund if Company A terminates the arrangement early. Assume Company A's activities are not within the scope of Statement 91 and that this arrangement qualifies as a single unit of accounting under EITF Issue 00–21.[42]

Question: When should Company A recognize the service revenue?

Interpretive Response: The staff believes that, provided all other revenue recognition criteria are met, service revenue should be recognized on a straight-line basis, unless evidence suggests that the revenue is earned or obligations are fulfilled in a different pattern, over the contractual term of the arrangement or the expected period during which those specified services will be performed,[43] whichever is longer. In this case, the customer contracted for the on-going activity tracking service, not for the set-up activities. The staff notes that the customer could not, and would not, separately purchase the set-up services without the on-going services. The services specified in the arrangement are performed continuously over the contractual term of the arrangement (and any subsequent renewals). Therefore, the staff believes that Company A should recognize revenue on a straight-line basis, unless evidence suggests that the revenue is earned or obligations are fulfilled in a different pattern, over the contractual term of the arrangement or the expected period during which those specified services will be performed, whichever is longer.

In this situation, the staff would object to Company A recognizing revenue in proportion to the costs incurred because the set-up costs incurred bear no direct relationship to the performance of services specified in the arrangement. The staff also believes that it is inappropriate to recognize the entire amount of the prepayment as revenue at the outset of the arrangement by accruing the remaining costs because the services required by the contract have not been performed.

Question 3

Facts: Assume the same facts as in Question 2 above.

Question: Are the initial customer set-up costs incurred by Company A within the scope of SOP 98–5?

Interpretive Response: Footnote 1 of SOP 98–5 states that ''this SOP does not address the financial reporting of costs incurred related to ongoing customer acquisition, such as policy acquisition costs in Statement 60 * * * and loan origination costs in Statement 91 * * * The SOP addresses the more substantive one-time efforts to establish business with an entirely new class of customers (for example, a manufacturer who does all of its business with retailers attempts to sell merchandise directly to the public).'' As such, the set-up costs incurred in this example are not within the scope of SOP 98–5.

The staff believes that the incremental direct costs (Statement 91 provides an analogous definition) incurred related to the acquisition or origination of a customer contract in a transaction that results in the deferral of revenue, unless specifically provided for in the authoritative literature, may be either expensed as incurred or accounted for in accordance with paragraph 4 of Technical Bulletin 90–1 or paragraph 5 of Statement 91. The staff believes the accounting policy chosen for these costs should be disclosed and applied consistently.

Question 4

Facts: Assume the same facts as in Question 2 above.

Question: What is the staff's view of the pool of contract acquisition and origination costs that are eligible for capitalization?

Interpretive Response: As noted in Question 3 above, Statement 91 includes a definition of incremental direct costs in its glossary. Paragraph 6 of Statement 91 provides further guidance on the types of costs eligible for capitalization as customer acquisition costs indicating that only costs that result from successful loan origination efforts are capitalized. The FASB staff has published an Implementation Guide on Statement 91 that provides additional guidance on the costs that qualify for capitalization as customer acquisition costs. Further, Technical Bulletin 90–1 also requires capitalization of incremental direct customer acquisition costs and requires that those costs be ''identified consistent with the guidance in paragraph 6 of Statement 91.'' Although the facts of a particular situation should be analyzed closely to capture those costs that are truly direct and incremental, the staff generally would not object to an accounting policy that results in the capitalization of costs in accordance with paragraph 6(a) and (b) of Statement 91 or Technical Bulletin 90–1. Registrants should disclose their policies for determining which costs to capitalize as contract acquisition and origination costs.

Question 5

Facts: Assume the same facts as in Question 2 above. Based on the guidance in Questions 2, 3 and 4 above, Company A has capitalized certain direct and incremental customer set-up costs associated with the deferred revenue.

Question: Over what period should Company A amortize these costs?

[39] The revenue recognition period should extend beyond the initial contractual period if the relationship with the customer is expected to extend beyond the initial term and the customer continues to benefit from the payment of the up-front fee (*e.g.*, if subsequent renewals are priced at a bargain to the initial up-front fee).

[40] A systematic method would be on a straight-line basis, unless evidence suggests that revenue is earned or obligations are fulfilled in a different pattern, in which case that pattern should be followed.

[41] Concepts Statement 5, paragraph 84(d).

[42] *See* Note 36, *supra.*

[43] *See* Note 39, *supra.*

Interpretive Response: When both costs and revenue (in an amount equal to or greater than the costs) are deferred, the staff believes that the capitalized costs should be charged to expense proportionally and over the same period that deferred revenue is recognized as revenue.[44]

g. Deliverables within an arrangement

Question: If a company (the seller) has a patent to its intellectual property which it licenses to customers, the seller may represent and warrant to its licensees that it has a valid patent, and will defend and maintain that patent. Does that obligation to maintain and defend patent rights, in and of itself, constitute a deliverable to be evaluated under EITF Issue 00–21?

Interpretive Response: No. Provided the seller has legal and valid patents upon entering the license arrangement, existing GAAP on licenses of intellectual property (*e.g.*, SOP 97–2, SOP 00–2, and SFAS No. 50) does not indicate that an obligation to defend valid patents represents an additional deliverable to which a portion of an arrangement fee should be allocated in an arrangement that otherwise qualifies for sales-type accounting. While this clause may obligate the licenser to incur costs in the defense and maintenance of the patent, that obligation does not involve an additional deliverable to the customer. Defending the patent is generally consistent with the seller's representation in the license that such patent is legal and valid. Therefore, the staff would not consider a clause like this to represent an additional deliverable in the arrangement.[45]

4. Fixed or determinable sales price

a. Refundable fees for services

A company's contracts may include customer cancellation or termination clauses. Cancellation or termination provisions may be indicative of a demonstration period or an otherwise incomplete transaction. Examples of transactions that financial management and auditors should be aware of and where such provisions may exist include ''side'' agreements and significant transactions with unusual terms and conditions. These contractual provisions raise questions as to whether the sales price is fixed or determinable. The sales price in arrangements that are cancelable by the customer is neither fixed nor determinable until the cancellation privileges lapse.[46] If the cancellation privileges expire ratably over a stated contractual term, the sales price is considered to become determinable ratably over the stated term.[47] Short-term rights of return, such as thirty-day money-back guarantees, and other customary rights to return products are not considered to be cancellation privileges, but should be accounted for in accordance with Statement 48.[48]

Question 1

Facts: Company M is a discount retailer. It generates revenue from annual membership fees it charges customers to shop at its stores and from the sale of products at a discount price to those customers. The membership arrangements with retail customers require the customer to pay the entire membership fee (*e.g.*, $35) at the outset of the arrangement. However, the customer has the unilateral right to cancel the arrangement at any time during its term and receive a full refund of the initial fee. Based on historical data collected over time for a large number of homogeneous transactions, Company M estimates that approximately 40% of the customers will request a refund before the end of the membership contract term. Company M's data for the past five years indicates that significant variations between actual and estimated cancellations have not occurred, and Company M does not expect significant variations to occur in the foreseeable future.

Question: May Company M recognize in earnings the revenue for the membership fees and accrue the costs to provide membership services at the outset of the arrangement?

Interpretive Response: No. In the staff's view, it would be inappropriate for Company M to recognize the membership fees as earned revenue upon billing or receipt of the initial fee with a corresponding accrual for estimated costs to provide the membership services. This conclusion is based on Company M's remaining and unfulfilled contractual obligation to perform services (*i.e.*, make available and offer products for sale at a discounted price) throughout the membership period. Therefore, the earnings process, irrespective of whether a cancellation clause exists, is not complete.

In addition, the ability of the member to receive a full refund of the membership fee up to the last day of the membership term raises an uncertainty as to whether the fee is fixed or determinable at any point before the end of the term. Generally, the staff believes that a sales price is not fixed or determinable when a customer has the unilateral right to terminate or cancel the contract and receive a cash refund. A sales price or fee that is variable until the occurrence of future events (other than product returns that are within the scope of Statement 48) generally is not fixed or determinable until the future event occurs. The revenue from such transactions should not be recognized in earnings until the sales price or fee becomes fixed or determinable. Moreover, revenue should not be recognized in earnings by assessing the probability that significant, but unfulfilled, terms of a contract will be fulfilled at some point in the future. Accordingly, the revenue from such transactions should not be recognized in earnings prior to the refund privileges expiring. The amounts received from customers or subscribers (*i.e.*, the $35 fee mentioned above) should be credited to a monetary liability account such as ''customers' refundable fees.''

The staff believes that if a customer has the unilateral right to receive both (1) the seller's substantial performance under an arrangement (*e.g.*, providing services or delivering product) and (2) a cash refund of prepaid fees, then the prepaid fees should be accounted for as a monetary liability. In consideration of whether the monetary liability can be derecognized, Statement 140 provides that liabilities may be derecognized only if (1) the debtor pays the creditor and is relieved of its obligation for the liability (paying the creditor includes delivery of cash, other financial assets, goods, or services or reacquisition by the debtor of its outstanding debt securities) or (2) the debtor is legally released from being the primary obligor under the liability.[49] If a customer has the unilateral right to receive both (1) the seller's substantial performance under the arrangement and (2) a cash refund of prepaid fees, then the refund obligation is not relieved upon performance of the service or delivery of the products. Rather, the seller's refund obligation is relieved only upon refunding the cash or expiration of the refund privilege.

Some have argued that there may be a limited exception to the general rule that revenue from membership or other service transaction fees should not be recognized in earnings prior to the refund privileges expiring. Despite the fact that Statement 48 expressly does not apply to the accounting for service revenue if part or all of the service fee is refundable under cancellation privileges granted to the buyer,[50] they believe that in certain circumstances a potential refund of a membership fee may be seen as being similar to a right of return of products under Statement 48. They argue that revenue from membership fees, net of estimated refunds, may be recognized ratably over the period the services are performed whenever pertinent conditions of Statement 48 are met, namely, there is a large population of transactions that grant customers the same unilateral termination or cancellation rights and reasonable estimates can be made of how many customers likely will exercise those rights.

The staff believes that, because service arrangements are specifically excluded from the scope of Statement 48, the most direct authoritative literature to be applied to the extinguishment of obligations under such contracts is Statement 140. As noted above, because the refund privilege extends to the end of the contract term irrespective of the amount of the service performed, Statement 140 indicates that the liability would not be extinguished (and therefore no revenue would be recognized in earnings) until the cancellation or termination and related refund privileges expire. Nonetheless, the staff recognizes that over the years the accounting for membership refunds evolved based on analogy to Statement 48 and that practice did not change when Statement 140 became effective. Reasonable people held, and continue to hold, different views about the application of the accounting literature.

Pending further action in this area by the FASB, the staff will not object to the recognition of refundable membership fees, net of estimated refunds, as earned revenue over the membership term in the limited

[44] Technical Bulletin 90–1, paragraph 4.

[45] Note, however, the staff believes that this obligation qualifies as a guarantee within the scope of FIN 45, subject to a scope exception from the initial recognition and measurement provisions.

[46] SOP 97–2, paragraph 31.

[47] *Ibid.*

[48] *Ibid.*

[49] Statement 140, paragraph 16.

[50] Statement 48, paragraph 4.

circumstances where all of the following criteria have been met:[51]

• The estimates of terminations or cancellations and refunded revenues are being made for a large pool of homogeneous items (*e.g.*, membership or other service transactions with the same characteristics such as terms, periods, class of customers, nature of service, etc.).

• Reliable estimates of the expected refunds can be made on a timely basis.[52] Either of the following two items would be considered indicative of an inability to make reliable estimates: (1) Recurring, significant differences between actual experience and estimated cancellation or termination rates (*e.g.*, an actual cancellation rate of 40% versus an estimated rate of 25%) even if the impact of the difference on the amount of estimated refunds is not material to the consolidated financial statements [53] or (2) recurring variances between the actual and estimated amount of refunds that are material to either revenue or net income in quarterly or annual financial statements. In addition, the staff believes that an estimate, for purposes of meeting this criterion, would not be reliable unless it is remote [54] that material adjustments (both individually and in the aggregate) to previously recognized revenue would be required. The staff presumes that reliable estimates cannot be made if the customer's termination or cancellation and refund privileges exceed one year.

• There is a sufficient company-specific historical basis upon which to estimate the refunds,[55] and the company believes that such historical experience is predictive of future events. In assessing these items, the staff believes that estimates of future refunds should take into consideration, among other things, such factors as historical experience by service type and class of customer, changing trends in historical experience and the basis thereof (*e.g.*, economic conditions), the impact or introduction of competing services or products, and changes in the customer's ''accessibility'' to the refund (*i.e.*, how easy it is for customers to obtain the refund).

• The amount of the membership fee specified in the agreement at the outset of the arrangement is fixed, other than the customer's right to request a refund.

If Company M does not meet all of the foregoing criteria, the staff believes that Company M should not recognize in earnings any revenue for the membership fee until the cancellation privileges and refund rights expire.

If revenue is recognized in earnings over the membership period pursuant to the above criteria, the initial amounts received from customer or subscribers (*i.e.*, the $35 fee mentioned above) should be allocated to two liability accounts. The amount of the fee representing estimated refunds should be credited to a monetary liability account, such as ''customers' refundable fees,'' and the remaining amount of the fee representing unearned revenue should be credited to a nonmonetary liability account, such as ''unearned revenues.'' For each income statement presented, registrants should disclose in the footnotes to the financial statements the amounts of (1) the unearned revenue and (2) refund obligations as of the beginning of each period, the amount of cash received from customers, the amount of revenue recognized in earnings, the amount of refunds paid, other adjustments (with an explanation thereof), and the ending balance of (1) unearned revenue and (2) refund obligations.

If revenue is recognized in earnings over the membership period pursuant to the above criteria, the staff believes that adjustments for changes in estimated refunds should be recorded using a retrospective approach whereby the unearned revenue and refund obligations are remeasured and adjusted at each balance sheet date with the offset being recorded as earned revenue.[56]

Companies offering memberships often distribute membership packets describing and discussing the terms, conditions, and benefits of membership. Packets may include vouchers, for example, that provide new members with discounts or other benefits from third parties. The costs associated with the vouchers should be expensed when distributed. Advertising costs to solicit members should be accounted for in accordance with SOP 93–7. Incremental direct costs incurred in connection with enrolling customers (*e.g.*, commissions paid to agents) should be accounted for as follows: (1) If revenue is deferred until the cancellation or termination privileges expire, incremental direct costs should be either (a) charged to expense when incurred if the costs are not refundable to the company in the event the customer obtains a refund of the membership fee, or (b) if the costs are refundable to the company in the event the customer obtains a refund of the membership fee, recorded as an asset until the earlier of termination or cancellation or refund; or (2) if revenue, net of estimated refunds, is recognized in earnings over the membership period, a like percentage of incremental direct costs should be deferred and recognized in earnings in the same pattern as revenue is recognized, and the remaining portion should be either (a) charged to expense when incurred if the costs are not refundable to the company in the event the customer obtains a refund of the membership fee, or (b) if the costs are refundable to the company in the event the customer obtains a refund of the membership fee, recorded as an asset until the refund occurs.[57] All costs other than incremental direct costs (*e.g.*, indirect costs) should be expensed as incurred.

Question 2

Question: Will the staff accept an analogy to Statement 48 for service transactions subject to customer cancellation privileges other than those specifically addressed in the previous question?

Interpretive Response: The staff has accepted the analogy in limited circumstances due to the existence of a large pool of homogeneous transactions and satisfaction of the criteria in the previous question. Examples of other arrangements involving customer cancellation privileges and refundable service fees that the staff has addressed include the following:

• A leasing broker whose commission from the lessor upon a commercial tenant's signing of a lease agreement is refundable (or in some cases, is not due) under lessor cancellation privileges if the tenant fails to move into the leased premises by a specified date.

• A talent agent whose fee receivable from its principal (*i.e.*, a celebrity) for arranging a celebrity endorsement for a five-year term is cancelable by the celebrity if the celebrity breaches the endorsement contract with its customer.

• An insurance agent whose commission received from the insurer upon selling an insurance policy is refundable in whole for the 30-day period that state law permits the consumer to repudiate the contract and then refundable on a declining pro rata basis until the consumer has made six monthly payments.

In the first two of these cases, the staff advised the registrants that the portion of revenue subject to customer cancellation and refund must be deferred until no longer subject to that contingency because the registrants did not have an ability to make reliable estimates of customer cancellations due to the lack of a large pool of

[51] The staff will question further analogies to the guidance in Statement 48 for transactions expressly excluded from its scope.

[52] Reliability is defined in Concepts Statement 2 as ''the quality of information that assures that information is reasonably free from error and bias and faithfully represents what it purports to represent.'' Paragraph 63 of Concepts Statement 5 reiterates the definition of reliability, requiring that ''the information is representationally faithful, verifiable, and neutral.''

[53] For example, if an estimate of the expected cancellation rate varies from the actual cancellation rate by 100% but the dollar amount of the error is immaterial to the consolidated financial statements, some would argue that the estimate could still be viewed as reliable. The staff disagrees with that argument.

[54] The term ''remote'' is used here with the same definition as used in Statement 5.

[55] Paragraph 8 of Statement 48 notes various factors that may impair the ability to make a reasonable estimate of returns, including the lack of sufficient historical experience. The staff typically expects that the historical experience be based on the particular registrant's historical experience for a service and/or class of customer. In general, the staff typically expects a start-up company, a company introducing new services, or a company introducing services to a new class of customer to have at least two years of experience to be able to make reasonable and reliable estimates.

[56] The staff believes deferred costs being amortized on a basis consistent with the deferred revenue should be similarly adjusted. Such an approach is generally consistent with the amortization methodology in Statement 91, paragraph 19.

[57] Statement 91, paragraph 5 and Technical Bulletin 90–1, paragraph 4 both provide for the deferral of incremental direct costs associated with acquiring a revenue-producing contract. Even though the revenue discussed in this example is refundable, if a registrant meets the aforementioned criteria for revenue recognition over the membership period, the staff would analogize to this guidance. However, if neither a nonrefundable contract nor a reliable basis for estimating net cash inflows under refundable contracts exists to provide a basis for recovery of incremental direct costs, the staff believes that such costs should be expensed as incurred. *See* SAB Topic 13.A.3.f. Question 3.

homogeneous transactions. In the case of the insurance agent, however, the particular registrant demonstrated that it had a sufficient history of homogeneous transactions with the same characteristics from which to reliably estimate contract cancellations and satisfy all the criteria specified in the previous question. Accordingly, the staff did not object to that registrant's policy of recognizing its sales commission as revenue when its performance was complete, with an appropriate allowance for estimated cancellations.

Question 3

Question: Must a registrant analogize to Statement 48, or may it choose to defer all revenue until the refund period lapses as suggested by Statement 140 even if the criteria above for analogy to Statement 48 are met?

Interpretive Response: The analogy to Statement 48 is presented as an alternative that would be acceptable to the staff when the listed conditions are met. However, a registrant may choose to defer all revenue until the refund period lapses. The policy chosen should be disclosed and applied consistently.

Question 4

Question: May a registrant that meets the above criteria for reliable estimates of cancellations choose at some point in the future to change from the Statement 48 method to the Statement 140 method of accounting for these refundable fees? May a registrant change from the Statement 140 method to the Statement 48 method?

Interpretive Response: The staff believes that Statement 140 provides a preferable accounting model for service transactions subject to potential refunds. Therefore, the staff would not object to a change from the Statement 48 method to the Statement 140 method. However, if a registrant had previously chosen the Statement 140 method, the staff would object to a change to the Statement 48 method.

Question 5

Question: Is there a minimum level of customers that must be projected not to cancel before use of Statement 48 type accounting is appropriate?

Interpretive Response: Statement 48 does not include any such minimum. Therefore, the staff does not believe that a minimum must apply in service transactions either. However, as the refund rate increases, it may be increasingly difficult to make reasonable and reliable estimates of cancellation rates.

Question 6

Question: When a registrant first determines that reliable estimates of cancellations of service contracts can be made (*e.g.*, two years of historical evidence becomes available), how should the change from the complete deferral method to the method of recognizing revenue, net of estimated cancellations, over time be reflected?

Interpretive Response: Changes in the ability to meet the criteria set forth above should be accounted for in the manner described in paragraph 6 of Statement 48, which addresses the accounting when a company experiences a change in the ability to make reasonable estimates of future product returns.

b. Estimates and changes in estimates

Accounting for revenues and costs of revenues requires estimates in many cases; those estimates sometimes change. Registrants should ensure that they have appropriate internal controls and adequate books and records that will result in timely identification of necessary changes in estimates that should be reflected in the financial statements and notes thereto.

Question 1

Facts: Paragraph 8 of Statement 48 lists a number of factors that may impair the ability to make a reasonable estimate of product returns in sales transactions when a right of return exists.[58] The paragraph concludes by stating ''other factors may preclude a reasonable estimate.''

Question: What ''other factors,'' in addition to those listed in paragraph 8 of Statement 48, has the staff identified that may preclude a registrant from making a reasonable and reliable estimate of product returns?

Interpretive Response: The staff believes that the following additional factors, among others, may affect or preclude the ability to make reasonable and reliable estimates of product returns: (1) Significant increases in or excess levels of inventory in a distribution channel (sometimes referred to as ''channel stuffing''), (2) lack of ''visibility'' into or the inability to determine or observe the levels of inventory in a distribution channel and the current level of sales to end users, (3) expected introductions of new products that may result in the technological obsolescence of and larger than expected returns of current products, (4) the significance of a particular distributor to the registrant's (or a reporting segment's) business, sales and marketing, (5) the newness of a product, (6) the introduction of competitors' products with superior technology or greater expected market acceptance, and (7) other factors that affect market demand and changing trends in that demand for the registrant's products. Registrants and their auditors should carefully analyze all factors, including trends in historical data, which may affect registrants' ability to make reasonable and reliable estimates of product returns.

The staff reminds registrants that if a transaction fails to meet all of the conditions of paragraphs 6 and 8 in Statement 48, no revenue may be recognized until those conditions are subsequently met or the return privilege has substantially expired, whichever occurs first.[59] Simply deferring recognition of the gross margin on the transaction is not appropriate.

Question 2

Question: Is the requirement cited in the previous question for ''reliable'' estimates meant to imply a new, higher requirement than the ''reasonable'' estimates discussed in Statement 48?

Interpretive Response: No. ''Reliability'' of financial information is one of the qualities of accounting information discussed in Concepts Statement 2. The staff's expectation that estimates be reliable does not change the existing requirement of Statement 48. If management cannot develop an estimate that is sufficiently reliable for use by investors, the staff believes it cannot make a reasonable estimate meeting the requirements of that standard.

Question 3

Question: Does the staff expect registrants to apply the guidance in Question 1 of Topic 13.A.4(a) above to sales of tangible goods and other transactions specifically within the scope of Statement 48?

Interpretive Response: The specific guidance above does not apply to transactions within the scope of Statement 48. The views set forth in Question 1 of Topic 13.A.4(a) are applicable to the service transactions discussed in that Question. Service transactions are explicitly outside the scope of Statement 48.

Question 4

Question: Question 1 of Topic 13.A.4(a) above states that the staff would expect a two-year history of selling a new service in order to be able to make reliable estimates of cancellations. How long a history does the staff believe is necessary to estimate returns in a product sale transaction that is within the scope of Statement 48?

Interpretive Response: The staff does not believe there is any specific length of time necessary in a product transaction. However, Statement 48 states that returns must be subject to reasonable estimation. Preparers and auditors should be skeptical of estimates of product returns when little history with a particular product line exists, when there is inadequate verifiable evidence of historical experience, or when there are inadequate internal controls that ensure the reliability and timeliness of the reporting of the appropriate historical information. Start-up companies and companies selling new or significantly modified products are frequently unable to develop the requisite historical data on which to base estimates of returns.

Question 5

Question: If a company selling products subject to a right of return concludes that it cannot reasonably estimate the actual return rate due to its limited history, but it can conservatively estimate the maximum possible returns, does the staff believe that the company may recognize revenue for the portion of the sales that exceeds the maximum estimated return rate?

Interpretive Response: No. If a reasonable estimate of future returns cannot be made, Statement 48 requires that revenue not be recognized until the return period lapses or

[58] These factors include ''(a) the susceptibility of the product to significant external factors, such as technological obsolescence or changes in demand, (b) relatively long periods in which a particular product may be returned, (c) absence of historical experience with similar types of sales of similar products, or inability to apply such experience because of changing circumstances, for example, changes in the selling enterprise's marketing policies and relationships with its customers, and (d) absence of a large volume of relatively homogeneous transactions.''

[59] Statement 48, paragraph 6.

a reasonable estimate can be made.[60] Deferring revenue recognition based on the upper end of a wide range of potential return rates is inconsistent with the provisions of Statement 48.

c. Contingent rental income

Facts: Company A owns and leases retail space to retailers. Company A (lessor) renews a lease with a customer (lessee) that is classified as an operating lease. The lease term is one year and provides that the lease payments are $1.2 million, payable in equal monthly installments on the first day of each month, plus one percent of the lessee's net sales in excess of $25 million if the net sales exceed $25 million during the lease term (*i.e.*, contingent rental). The lessee has historically experienced annual net sales in excess of $25 million in the particular space being leased, and it is probable that the lessee will generate in excess of $25 million net sales during the term of the lease.

Question: In the staff's view, should the lessor recognize any rental income attributable to the one percent of the lessee's net sales exceeding $25 million before the lessee actually achieves the $25 million net sales threshold?

Interpretive Response: No. The staff believes that contingent rental income ''accrues'' (*i.e.*, it should be recognized as revenue) when the changes in the factor(s) on which the contingent lease payments is (are) based actually occur.[61]

Statement 13 paragraph 19(b) states that lessors should account for operating leases as follows: ''Rent shall be reported in income over the lease term as it becomes receivable according to the provisions of the lease. However, if the rentals vary from a straight-line basis, the income shall be recognized on a straight-line basis unless another systematic and rational basis is more representative of the time pattern in which use benefit from the leased property is diminished, in which case that basis shall be used.''

Statement 29 amended Statement 13 and clarifies that ''lease payments that depend on a factor that does not exist or is not measurable at the inception of the lease, such as future sales volume, would be contingent rentals in their entirety and, accordingly, would be excluded from minimum lease payments and included in the determination of income as they accrue.'' [Summary] Paragraph 17 of Statement 29 provides the following example of determining contingent rentals:

A lease agreement for retail store space could stipulate a monthly base rental of $200 and a monthly supplemental rental of one-fourth of one percent of monthly sales volume during the lease term. Even if the lease agreement is a renewal for store space that had averaged monthly sales of $25,000 for the past 2 years, minimum lease payments would include only the $200 monthly base rental; the supplemental rental is a contingent rental that is excluded from minimum lease payments. The future sales for the lease term do not exist at the inception of the lease, and future rentals would be limited to $200 per month if the store were subsequently closed and no sales were made thereafter.

Technical Bulletin 85–3 addresses whether it is appropriate for lessors in operating leases to recognize scheduled rent increases on a basis other than as required in Statement 13, paragraph 19(b). Paragraph 2 of Technical Bulletin 85–3 states ''using factors such as the time value of money, anticipated inflation, or *expected future revenues* [emphasis added] to allocate scheduled rent increases is inappropriate because these factors do not relate to the *time pattern* of the physical usage of the leased property. However, such factors may affect the periodic reported rental income or expense if the lease agreement involves contingent rentals, which are excluded from minimum lease payments and accounted for separately under Statement 13, as amended by Statement 29.'' In developing the basis for why scheduled rent increases should be recognized on a straight-line basis, the FASB distinguishes the accounting for scheduled rent increases from contingent rentals. Paragraph 13 states ''There is an important substantive difference between lease rentals that are contingent upon some specified future event and scheduled rent increases that are unaffected by future events; the accounting under Statement 13 reflects that difference. If the lessor and lessee eliminate the risk of variable payments by agreeing to scheduled rent increases, the accounting should reflect those different circumstances.''

The example provided in Statement 29 implies that contingent rental income in leases classified as sales-type or direct-financing leases becomes ''accruable'' when the changes in the factors on which the contingent lease payments are based actually occur. Technical Bulletin 85–3 indicates that contingent rental income in operating leases should not be recognized in a manner consistent with scheduled rent increases (*i.e.*, on a straight-line basis over the lease term or another systematic and rational allocation basis if it is more representative of the time pattern in which the leased property is physically employed) because the risk of variable payments inherent in contingent rentals is substantively different than scheduled rent increases. The staff believes that the reasoning in Technical Bulletin 85–3 supports the conclusion that the risks inherent in variable payments associated with contingent rentals should be reflected in financial statements on a basis different than rental payments that adjust on a scheduled basis and, therefore, operating lease income associated with contingent rents would not be recognized as time passes or as the leased property is physically employed. Furthermore, prior to the lessee's achievement of the target upon which contingent rentals are based, the lessor has no legal claims on the contingent amounts. Consequently, the staff believes that it is inappropriate to anticipate changes in the factors on which contingent rental income in operating leases is based and recognize rental income prior to the resolution of the lease contingencies.

Because Company A's contingent rental income is based upon whether the customer achieves net sales of $25 million, the contingent rentals, which may not materialize, should not be recognized until the customer's net sales actually exceed $25 million. Once the $25 million threshold is met, Company A would recognize the contingent rental income as it becomes accruable, in this case, as the customer recognizes net sales. The staff does not believe that it is appropriate to recognize revenue based upon the probability of a factor being achieved. The contingent revenue should be recorded in the period in which the contingency is resolved.

d. Claims processing and billing services

Facts: Company M performs claims processing and medical billing services for healthcare providers. In this role, Company M is responsible for preparing and submitting claims to third-party payers, tracking outstanding billings, and collecting amounts billed. Company M's fee is a fixed percentage (*e.g.*, five percent) of the amount collected. If no collections are made, no fee is due to Company M. Company M has historical evidence indicating that the third-party payers pay 85 percent of the billings submitted with no further effort by Company M. Company M has determined that the services performed under the arrangement are a single unit of accounting.

Question: May Company M recognize as revenue its five percent fee on 85 percent of the gross billings at the time it prepares and submits billings, or should it wait until collections occur to recognize any revenue?

Interpretive Response: The staff believes that Company M must wait until collections occur before recognizing revenue. Before the third-party payer has remitted payment to Company M's customers for the services billed, Company M is not entitled to any revenue. That is, its revenue is not yet realized or realizable.[62] Until Company M's customers collect on the billings, Company M has not performed the requisite activity under its contract to be entitled to a fee.[63] Further, no amount of the fee is fixed or determinable or collectible until Company Ms' customers collect on the billings.

B. Disclosures

Question 1

Question: What disclosures are required with respect to the recognition of revenue?

Interpretive Response: A registrant should disclose its accounting policy for the recognition of revenue pursuant to Opinion 22. Paragraph 12 thereof states that ''the disclosure should encompass important judgments as to appropriateness of principles relating to recognition of revenue * * *.'' Because revenue recognition generally involves some level of judgment, the staff believes that a registrant should always disclose its revenue recognition policy. If a company has different policies for different types of revenue transactions, including barter sales, the policy for each material type of transaction should be disclosed. If sales transactions have multiple units of accounting, such as a product and service,

[60] Statement 48, paragraph 6(f).

[61] Lessees should follow the guidance established in EITF Issue 98–9.

[62] Concepts Statement 5, paragraph 83(a).

[63] Concepts Statement 5, paragraph 83(b).

the accounting policy should clearly state the accounting policy for each unit of accounting as well as how units of accounting are determined and valued. In addition, the staff believes that changes in estimated returns recognized in accordance with Statement 48 should be disclosed, if material (*e.g.*, a change in estimate from two percent of sales to one percent of sales).

Regulation S–X requires that revenue from the sales of products, services, and other products each be separately disclosed on the face of the income statement.[64] The staff believes that costs relating to each type of revenue similarly should be reported separately on the face of the income statement.

MD&A requires a discussion of liquidity, capital resources, results of operations and other information necessary to an understanding of a registrant's financial condition, changes in financial condition and results of operations.[65] This includes unusual or infrequent transactions, known trends or uncertainties that have had, or might reasonably be expected to have, a favorable or unfavorable material effect on revenue, operating income or net income and the relationship between revenue and the costs of the revenue. Changes in revenue should not be evaluated solely in terms of volume and price changes, but should also include an analysis of the reasons and factors contributing to the increase or decrease. The Commission stated in FRR 36 that MD&A should ''give investors an opportunity to look at the registrant through the eyes of management by providing a historical and prospective analysis of the registrant's financial condition and results of operations, with a particular emphasis on the registrant's prospects for the future.'' [66]

Examples of such revenue transactions or events that the staff has asked to be disclosed and discussed in accordance with FRR 36 are:

- Shipments of product at the end of a reporting period that significantly reduce customer backlog and that reasonably might be expected to result in lower shipments and revenue in the next period.
- Granting of extended payment terms that will result in a longer collection period for accounts receivable (regardless of whether revenue has been recognized) and slower cash inflows from operations, and the effect on liquidity and capital resources. (The fair value of trade receivables should be disclosed in the footnotes to the financial statements when the fair value does not approximate the carrying amount.) [67]
- Changing trends in shipments into, and sales from, a sales channel or separate class of customer that could be expected to have a significant effect on future sales or sales returns.
- An increasing trend toward sales to a different class of customer, such as a reseller distribution channel that has a lower gross profit margin than existing sales that are principally made to end users. Also, increasing service revenue that has a higher profit margin than product sales.
- Seasonal trends or variations in sales.
- A gain or loss from the sale of an asset(s).[68]

Question 2

Question: Will the staff expect retroactive changes by registrants to comply with the accounting described in this bulletin?

Interpretive Response: All registrants are expected to apply the accounting and disclosures described in this bulletin. The staff, however, will not object if registrants that have not applied this accounting do not restate prior financial statements provided they report a change in accounting principle in accordance with Opinion 20 and Statement 3 no later than the fourth fiscal quarter of the fiscal year beginning after December 15, 1999. In periods subsequent to transition, registrants should disclose the amount of revenue (if material to income before income taxes) recognized in those periods that was included in the cumulative effect adjustment. If a registrant files financial statements with the Commission before applying the guidance in this bulletin, disclosures similar to those described in SAB Topic 11.M should be provided.

However, if registrants have not previously complied with GAAP, for example, by recording revenue for products prior to delivery that did not comply with the applicable bill-and-hold guidance, those registrants should apply the guidance in Opinion 20 for the correction of an error.[69] In addition, registrants should be aware that the Commission may take enforcement action where a registrant in prior financial statements has violated the antifraud or disclosure provisions of the securities laws with respect to revenue recognition.

Question 3

Question: The previous question indicates that the staff will not object to cumulative effect-type transition so long as the prior accounting does not represent an error. Could a company whose prior accounting does not represent an error voluntarily adopt a new method consistent with this SAB Topic by restatement of prior periods, rather than through a cumulative catch-up adjustment?

Interpretive Response: In most instances, no. Opinion 20 does not permit restatement of financial statements for a change in accounting principle that does not represent correction of an error, except in very rare circumstances.[70] An exception is a company that is filing publicly for the first time. As stated in paragraph 29 of Opinion 20, those companies are permitted to reflect the adoption of the new policy via a restatement, and the staff believes that approach is usually necessary to avoid confusing investors in an initial public offering.

Question 4

Question: Should a registrant reporting a change in accounting principle as a result of this SAB Topic file a preferability letter?

Interpretive Response: No preferability letter is required if an accounting change is made in response to a newly issued Staff Accounting Bulletin.

Question 5

Question: If a company had not previously adjusted sales revenues, but deferred recognition of the gross margin of estimated returns for a transaction subject to Statement 48, how should it present a current change in accounting to reduce revenue and cost of sales for estimated returns?

Interpretive Response: Paragraph 7 of Statement 48 states that ''sales revenue and cost of sales reported in the income statement shall be reduced to reflect estimated returns.'' Statement 48 does not provide for recognition of sales and costs of sales while deferring gross margin under any circumstance. This SAB Topic provides no new guidance on this point. If a registrant has failed to comply with GAAP, the registrant should retroactively revise prior financial statements in the manner set forth in Opinion 20 and Statement 16.

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[64] *See* Regulation S–X, Article 5–03(b)(1) and (2).

[65] *See* Regulation S–K, Article 303 and FRR 36.

[66] FRR 36, also see In the Matter of Caterpillar Inc., AAER 363 (March 31, 1992).

[67] Statement 107.

[68] Gains or losses from the sale of assets should be reported as ''other general expenses'' pursuant to Regulation S–X, Article 5–03(b)(6). Any material item should be stated separately.

[69] Opinion 20, paragraph 13 and paragraphs 36–37 describe and provide the accounting and disclosure requirements applicable to the correction of an error in previously issued financial statements. Because the term ''error'' as used in Opinion 20 includes ''oversight or misuse of facts that existed at the time that the financial statements were prepared,'' that term includes both unintentional errors as well as intentional fraudulent financial reporting and misappropriation of assets as described in SAS 99.

[70] *See*, for example, Opinion 20, paragraph 27.

Federal Register

Tuesday,
December 23, 2003

Part VIII

Federal Retirement Thrift Investment Board

5 CFR Parts 1600, 1601, et al.
Employee Elections To Contribute To the Thrift Savings Plan, Participants' Choices of Investment Funds, Vesting, Uniformed Services Accounts, Correction of Administrative Errors, Lost Earnings Attributable to Employing Agency Errors, Participant Statements, Calculation of Share Prices, Methods of Withdrawing Funds From the Thrift Savings Plan, Death Benefits, Domestic Relations Orders Affecting Thrift Savings Plan Accounts, Loans, Miscellaneous; Final Rule

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1600, 1601, 1603, 1604, 1605, 1606, 1640, 1645, 1650, 1651, 1653, 1655, 1690

Employee Elections To Contribute To the Thrift Savings Plan, Participants' Choices of Investment Funds, Vesting, Uniformed Services Accounts, Correction of Administrative Errors, Lost Earnings Attributable to Employing Agency Errors, Participant Statements, Calculation of Share Prices, Methods of Withdrawing Funds From the Thrift Savings Plan, Death Benefits, Domestic Relations Orders Affecting Thrift Savings Plan Accounts, Loans, Miscellaneous

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is adopting as final the interim rule the Board published in June 2003 to implement the new Thrift Savings Plan (TSP) record keeping system and to permit the making of catch-up contributions by TSP participants who are age 50 and over.

EFFECTIVE DATE: This final rule is effective December 23, 2003.

FOR FURTHER INFORMATION CONTACT: Patrick J. Forrest or Merritt A. Willing on (202) 942–1684.

SUPPLEMENTARY INFORMATION: The Board administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA have been codified, as amended, largely at 5 U.S.C. 8351 and 8401–8479. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services, which is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)). Sums in a TSP participant's account are held in trust for the participant.

Congress amended FERSA in 1996 by enacting the Thrift Savings Plan Act of 1996, Public Law 104–208, 110 Stat. 3009, which permitted the Executive Director of the Board to offer, among other things, new withdrawal options to TSP participants. In order to accommodate these new withdrawal options and to make a number of benefits arising from recent technological advances available to TSP participants, the Board redesigned its record keeping system.

On June 25, 2002, the Board published a proposed rule with request for comments in the **Federal Register** (67 FR 42856). The proposed rule explained how the Board planned to amend TSP regulations to reflect the processes and terminology of the new record keeping system. On April 4, 2003, the Board published a notice of proposed rulemaking in the **Federal Register** (68 FR 16449). That notice explained that the Board also planned to amend TSP regulations to permit participants who are age 50 or older to make catch-up TSP contributions. The notice also proposed additional changes to the TSP regulations to accommodate further the operation of the new record keeping system.

On June 13, 2003, the Board published an interim rule with request for comments in the **Federal Register** (68 FR 35492). The interim rule adopted the June 25, 2002, proposed rule with the changes discussed in the April 4 notice.

The Board received no comment on the proposed rule, the notice of proposed rulemaking, or the interim rule. Accordingly, the Board is adopting the interim rule as a final rule with several minor changes. These changes are described below.

Part 1640

Interim § 1640.6 requires the TSP to mail quarterly account statements and twice-yearly investment fund information to each participant, unless the participant elects to receive that information via the TSP Web site. The Board has determined that it is more cost effective to furnish account and investment fund information to the 3.2 million TSP participants by posting it on the TSP Web site and to mail costly paper copies of that information only to participants who request them. Therefore, final § 1640.6 establishes the TSP Web site as the primary source for TSP account statements and investment fund information.

Part 1650

A participant can qualify for a hardship withdrawal if his or her monthly income is insufficient to pay monthly expenses or the participant cannot pay certain specified extraordinary expenses. Interim § 1650.32(f) states that a participant cannot receive a hardship withdrawal while he or she is a debtor in a chapter 13 bankruptcy action. The Board adopted this policy because the bankruptcy court establishes a plan for a chapter 13 debtor to repay creditors while preserving sufficient monthly income for the debtor's support. However, a participant who is a chapter 13 debtor is not necessarily protected from hardship based on an extraordinary expense. Therefore, final § 1650.32(f) provides that a participant cannot receive a hardship withdrawal based solely on negative monthly cash flow while he or she is a debtor in a chapter 13 bankruptcy action.

Parts 1651 and 1653

Parts 1651 and 1653 concern the payment of death benefits and court ordered payments to TSP beneficiaries. When the TSP informs a beneficiary that he or she will receive a payment from the TSP, it also provides each beneficiary with information concerning TSP payment options, the tax treatment of a payment from the TSP and the forms the beneficiary needs to elect tax withholding, electronic funds transfer, or a transfer of the payment to an individual retirement account or eligible employer plan. The TSP schedules the payment to occur 60 days after the information and forms are mailed to the beneficiary. If the TSP does not receive any of the election forms from the beneficiary by the scheduled payment date, or if the beneficiary does not request additional time to complete the forms, the TSP pays the beneficiary directly by United States Treasury check.

The TSP expects a beneficiary to review the tax and payment information, and return, in a timely manner, the appropriate forms to the TSP to request additional tax withholding or to elect a payment option. Therefore, if the TSP pays a beneficiary directly, he or she cannot return the funds to the TSP with an untimely request to reissue the payment in a different form. The current TSP regulations do not inform participants of this policy; therefore, the final rule explains that a beneficiary cannot return a properly paid court order or death benefit payment, once issued, to the TSP.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees and former employees of the Federal government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, Public Law 104–4, section 201, 109 Stat. 48, 64, the effects of this regulation on State, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by State, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 801(a)(1)(A), the Board submitted a report containing these rules and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in today's **Federal Register**. These rules are not major rules as defined at 5 U.S.C. 804(2).

List of Subjects

5 CFR Parts 1600, 1601, 1603, 1606, 1645, 1650, 1651, 1653, 1690

Employee benefit plans, Government employees, Pensions, Retirement.

5 CFR Parts 1604, 1655

Employee benefit plans, Government employees, Military personnel, Pensions, Retirement.

5 CFR Part 1605

Administrative practice and procedure, Employee benefit plans, Government employees, Pensions, Retirement.

5 CFR Part 1640

Employee benefit plans, Government employees, Pensions, Reporting and recordkeeping requirements, Retirement.

Gary A. Amelio,

Executive Director, Federal Retirement Thrift Investment Board.

■ For the reasons set out in the preamble, the Executive Director of the Federal Retirement Thrift Investment Board adopts as a final rule the interim rule amending 5 CFR parts 1600, 1601, 1603, 1604, 1605, 1606, 1640, 1645, 1560, 1651, 1653, 1655 and 1690, which was published at 68 FR 35492 on June 13, 2003, with the following changes:

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

■ 1. The authority citation for part 1605 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432a, and 8474(b)(5) and (c)(1).

■ 2. Amend § 1605.2 by removing ''after December 31, 2000'' from paragraph (b)(1) and adding in its place ''on or after January 1, 2000''.

■ 3. Amend § 1605.12 as follows:

■ a. By removing ''after December 31, 2000'' from paragraphs (a) and (c)(1) and adding in its place ''on or after January 1, 2000''.

■ b. By removing ''on or before December 31, 2000'' from paragraph (a) and adding in its place ''before January 1, 2000''.

■ 4. Amend § 1605.13 as follows:

■ a. By removing ''after December 31, 2000'' from paragraph (b)(3)(i) and adding in its place ''on or after January 1, 2000''.

■ b. By removing ''on or before December 31, 2000'' from paragraph (b)(3)(ii) and adding in its place ''before January 1, 2000''.

■ 5. Amend § 1605.14 as follows:

■ a. By removing ''after December 31, 2000'' from paragraph (a)(1) and adding in its place ''on or after January 1, 2000''.

■ b. By removing ''on or before December 31, 2000'' from paragraph (a)(1) and adding in its place ''before January 1, 2000''.

PART 1640—PERIODIC PARTICIPANT STATEMENTS

■ 6. The authority citation for Part 1640 continues to read as follows:

Authority: 5 U.S.C. 8439(c)(1) and (c)(2), 5 U.S.C. 8474(b)(5) and (c)(1).

■ 7. Revise § 1640.6 to read as follows:

§ 1640.6 Methods of providing information.

The TSP will furnish the information described in this part to participants by making it available on the TSP Web site. A participant can request paper copies of that information from the TSP by calling the ThriftLine, submitting a request through the TSP Web site, or by writing to the TSP record keeper.

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

■ 8. The authority citation for Part 1650 continues to read as follows:

Authority: 5 U.S.C. 8351, 8433, 8434, 8435, 8474(b)(5), and 8474(c)(1).

Subpart D—In-Service Withdrawals

■ 9. Amend § 1650.32 by revising paragraph (f) to read as follows:

§ 1650.32 Financial hardship withdrawals.

* * * * *

(f) A participant is not eligible for an in-service hardship withdrawal based solely on monthly negative cash flow (as described in paragraph (b)(1) of this section) during the time he or she has pending a petition in bankruptcy under Chapter 13 of the Bankruptcy Code (11 U.S.C. chapter 13).

PART 1651—DEATH BENEFITS

■ 10. The authority citation for part 1651 continues to read as follows:

Authority: 5 U.S.C. 8424(d), 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

■ 11. Amend § 1651.14 by adding a new paragraph (h) to read as follows:

§ 1651.14 How payment is made.

* * * * *

(h) A properly paid death benefit payment cannot be returned to the TSP.

PART 1653—COURT ORDERS AND LEGAL PROCESSES AFFECTING THRIFT SAVINGS PLAN ACCOUNTS

■ 12. The authority citation for Part 1653 continues to read as follows:

Authority: 5 U.S.C. 8435, 8436(b), 8437(e)(3), 8467, 8474(b)(5) and 8474(c)(1).

Subpart A—Retirement Benefits Court Orders

■ 13. Amend § 1653.5 by adding a new paragraph (l) after paragraph (k) to read as follows:

§ 1653.5 Payment.

* * * * *

(l) A properly paid court order payment cannot be returned to the TSP.

PART 1655—LOAN PROGRAM

■ 14. The authority citation for Part 1655 continues to read as follows:

Authority: 5 U.S.C. 8433(g) and 8474.

■ 15. Amend § 1655.15 by removing the word ''because'' from paragraph (a)(7) and adding in its place the word ''became''.

■ 16. Amend § 1655.18 by removing the citation ''1650.64 and 1650.65'' from paragraph (c) and adding in its place the citation ''part 1650, subpart G''.

[FR Doc. 03–31516 Filed 12–22–03; 8:45 am]

BILLING CODE 6760–01–P

Federal Register

Tuesday,
December 23, 2003

Part IX

The President

Presidential Determination No. 2004–10 of December 6, 2003

Presidential Determination No. 2004–11 of December 8, 2003

Presidential Determination No. 2004–12 of December 9, 2003

Presidential Determination No. 2004–14 of December 11, 2003

Proclamation 7745—Wright Brothers Day, 2003

Executive Order 13321—Appointments During National Emergency

Federal Register
Vol. 68, No. 246
Tuesday, December 23, 2003

Presidential Documents

Title 3—

The President

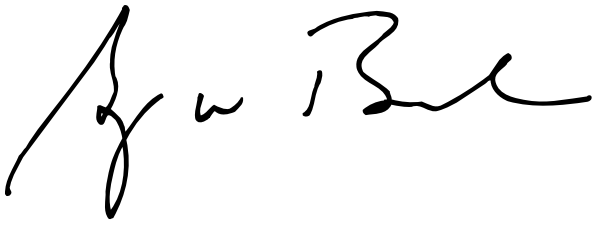
Presidential Determination No. 2004–10 of December 6, 2003

Presidential Determination on Waiver of Conditions on Obligation and Expenditure of Funds for Planning, Design, and Construction of a Chemical Weapons Destruction Facility in Russia

Memorandum for the Secretary of State

Consistent with the authority vested in me by section 1306 of the Department of Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136) (the ''Act''), I hereby certify that waiving the conditions described in section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) is important to the national security interests of the United States, and include herein, for submission to the Congress, the statement, justification, and plan described in section 1306 of the Act.

You are authorized and directed to transmit this certification, including the statement, justification, and plan to the Congress and to arrange for its publication of this determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, December 6, 2003.

[FR Doc. 03–31589
Filed 12–22–03; 8:45 am]
Billing code 4710–10–P

Presidential Documents

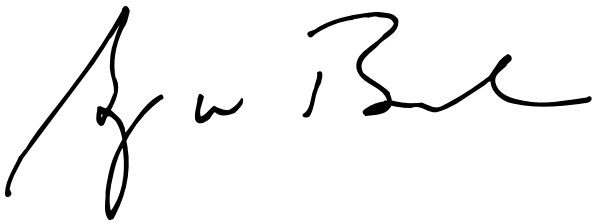
Presidential Determination No. 2004–11 of December 8, 2003

Determination Consistent with Section 620(q) of the Foreign Assistance Act of 1961, as amended, and Section 512 of the FY 2002 and 2003 Foreign Operations, Export Financing, and Related Programs Appropriations Acts

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Defense[, and] the Administrator, U.S. Agency for International Development

Consistent with the authority vested in me by section 620(q) of the Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2370) and section 512 of the FY 2002 and 2003 Foreign Operations, Export Financing, and Related Programs Appropriations Acts, (Public Law 107–115 and Public Law 108–7), I hereby determine that the furnishing of assistance to Liberia is in the national interest of the United States and waive, with respect to that country, the application of section 620(q) of the Foreign Assistance Act and section 512 of the FY 2002 and 2003 Foreign Operations, Export Financing, and Related Programs Appropriations Acts.

The Secretary of State is authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, December 8, 2003.

[FR Doc. 03–31590
Filed 12–22–03; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2004–12 of December 9, 2003

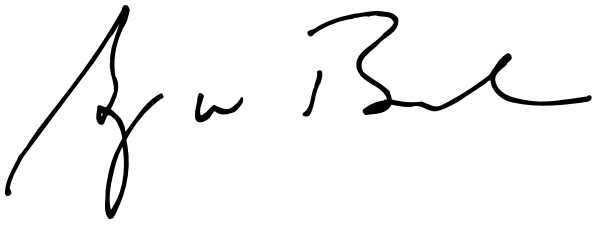
Suspension of Limitations Under the Jerusalem Embassy Act

Memorandum for the Secretary of State

Consistent with the authority vested in me as President by the Constitution and the laws of the United States, including section 7(a) of the Jerusalem Embassy Act of 1995 (Public Law 104–45) (the ''Act''), I hereby determine that it is necessary to protect the national security interests of the United States to suspend for a period of 6 months the limitations set forth in sections 3(b) and 7(b) of the Act. My Administration remains committed to beginning the process of moving our embassy to Jerusalem.

You are hereby authorized and directed to transmit this determination to the Congress, accompanied by a report in accordance with section 7(a) of the Act, and to publish the determination in the **Federal Register**.

This suspension shall take effect after transmission of this determination and report to the Congress.



THE WHITE HOUSE,
Washington, December 9, 2003.

[FR Doc. 03–31591
Filed 12–22–03; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2004–14 of December 11, 2003

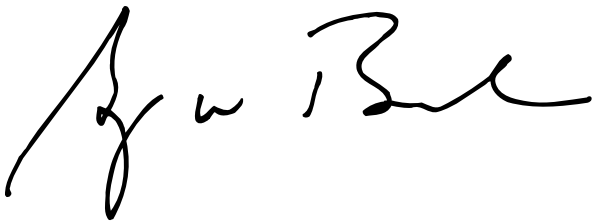
Imposition and Waiver of Sanctions Under Section 604 of the FY 2003 Foreign Relations Authorization Act (Public Law 107–228)

Memorandum for the Secretary of State

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

You are authorized and directed to transmit to the appropriate congressional committees the report described in section 603 of the Act.

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



THE WHITE HOUSE,
Washington, December 11, 2003.

[FR Doc. 03–31592
Filed 12–22–03; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Proclamation 7745 of December 17, 2003

Wright Brothers Day, 2003

By the President of the United States of America

A Proclamation

A spirit of exploration and discovery has been a part of the American character since our founding days. Orville and Wilbur Wright exemplified this spirit when they made the dream of human flight a reality on December 17, 1903. On Wright Brothers Day, we honor the vision of these bicycle mechanics from Dayton, Ohio, and celebrate the centennial of manned, powered flight.

One hundred years ago, the Wright brothers changed our world with their 12-second, 120-foot flight in North Carolina. Their achievement inspired other aviation pioneers and marked the beginning of a new era of freedom. Since that first flight, aviation and aerospace technology has advanced at a remarkable pace, allowing us to fly across oceans, break the sound barrier, orbit the Earth, land on the moon, and study our universe in a way our ancestors could not have imagined. Each new generation of engineers and other inventors, following in the Wright Brothers' footsteps, continues to move the technology of flight further.

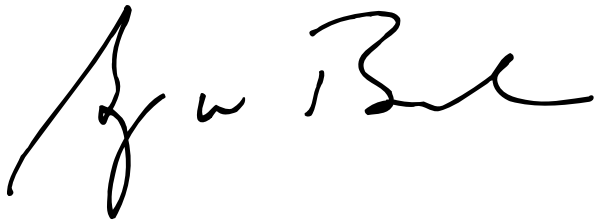
Today, air transportation touches the lives of people throughout the United States, and helps unite the American people. Air transportation brings families and friends together, delivers aid to those in need, and facilitates industry and commerce.

As we look to the future, we remember the extraordinary accomplishments of the Wright Brothers. Their determination and innovation continue to inspire us as we embark on the second century of flight.

The Congress, by a joint resolution approved December 17, 1963 (77 Stat. 402; 36 U.S.C. 143) as amended, has designated December 17 of each year as ''Wright Brothers Day'' and has authorized and requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim December 17, 2003, as Wright Brothers Day.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of December, 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. 03–31593
Filed 12–22–03; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13321 of December 17, 2003

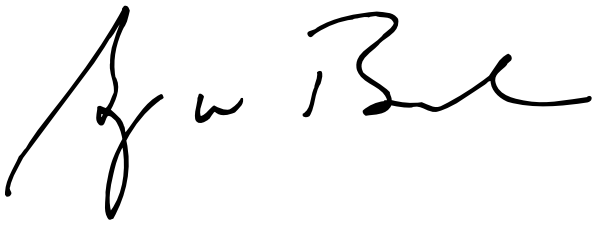
Appointments During National Emergency

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code, and in order to further respond to the national emergency I declared in Proclamation 7463 of September 14, 2001, I hereby order as follows:

Section 1. *Emergency Appointments Authority.* The emergency appointments authority at section 603 of title 10, United States Code, is invoked and made available to the Secretary of Defense in accordance with the terms of that statute and of Executive Order 12396 of December 9, 1982.

Sec. 2. *Judicial Review.* This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, entities, officers, employees or agents, or any person.

Sec. 3. *Administration.* This order shall be transmitted to the Congress and published in the **Federal Register**.



THE WHITE HOUSE,
December 17, 2003.

[FR Doc. 03–31594
Filed 12–22–03; 8:45 am]
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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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H.R. 2297/P.L. 108–183

Veterans Benefits Act of 2003 (Dec. 16, 2003; 117 Stat. 2651)

H.R. 3491/P.L. 108–184

National Museum of African American History and Culture Act (Dec. 16, 2003; 117 Stat. 2676)

H.J. Res. 82/P.L. 108–185

Making further continuing appropriations for the fiscal year 2004, and for other purposes. (Dec. 16, 2003; 117 Stat. 2684)

S. 811/P.L. 108–186

To support certain housing proposals in the fiscal year 2003 budget for the Federal Government, including the downpayment assistance initiative under the HOME Investment Partnership Act, and for other purposes. (Dec. 16, 2003; 117 Stat. 2685)

S. 877/P.L. 108–187

Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (Dec. 16, 2003; 117 Stat. 2699)

H.J. Res. 63/P.L. 108–188

Compact of Free Association Amendments Act of 2003 (Dec. 17, 2003; 117 Stat. 2720)

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