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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–02–AD; Amendment 39–12514; AD 2001–23–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that currently requires repetitive detailed visual inspections to find discrepancies of the installation of the midspar fuse pins of the inboard and outboard struts, and follow-on actions, if necessary. That AD also provides for an optional terminating modification for the repetitive inspections. This amendment continues to require repetitive detailed visual inspections to find discrepancies of the installation of the midspar fuse pins of the inboard and outboard struts, and follow-on actions, if necessary. This amendment mandates accomplishment of the previously optional terminating modification. The actions specified by this AD are intended to find and fix discrepancies of the installation of the midspar fuse pins, which could result in loss of the secondary retention capability of the fuse pins, migration of the fuse pins, and consequent loss of the strut and engine from the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective December 31, 2001.

The incorporation by reference of Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001, as listed in the regulations, is approved by the Director of the Federal Register, as of December 31, 2001.

The incorporation by reference of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, as listed in the regulations, was approved previously by the Director of the Federal Register as of March 21, 2001 (66 FR 13424, March 6, 2001).

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: Tamara Anderson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2771; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: Existing airworthiness directive AD 2001–05–05, amendment 39–12141 (66 FR 13424), applicable to certain Boeing Model 747 series airplanes, was published in the **Federal Register** on March 6, 2001 as a final rule with request for comments. This AD requires repetitive detailed visual inspections to find discrepancies of the installation of the midspar fuse pins of the inboard and outboard struts, and follow-on actions, if necessary. This AD also provides for an optional terminating modification for the repetitive inspections. The rule became effective on March 21, 2001.

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2001–05–05 was published in the **Federal Register** on April 26, 2001 (66 FR 20950). The action proposed to continue to require repetitive detailed visual inspections to find discrepancies of the installation of the midspar fuse pins of the inboard and outboard struts, and follow-on actions, if necessary. The action also proposed to mandate accomplishment of the previously optional terminating modification.

Actions Since the Issuance of the NPRM

Since the issuance of the NPRM, the FAA has reviewed and approved Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001. Revision 2 describes procedures for use of an alternate replacement nut, in addition to the replacement nut specified in Revision 1, dated February 22, 2001.

Comments

Interested persons have been afforded an opportunity to participate in the making of this rule. The FAA received comments regarding both AD 2001–05–05 and the proposed rule having Docket Number 2001–NM–02–AD. These comments and our response are presented below.

I. Comments to AD 2001–05–05

Request for Use of an Alternate Replacement Nut

One commenter requests that the FAA provide for use of an alternate replacement for the primary retention nut having part number (P/N) BACN10JC24CD, which is listed in Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001. The commenter states that the replacement nuts specified in AD 2001–05–05 are not readily available from the manufacturer.

The FAA concurs, and has changed this final rule accordingly by approving Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001, which provides for use of an alternate replacement nut.

Request for Increase of Repetitive Inspection Interval

Another commenter asks that the repetitive inspection interval specified in paragraph (a) be increased from 8,000 flight hours to 8,500 flight hours to facilitate inspections at the C-check.

The FAA does not concur because the specified repetitive interval is based on the recommendation of the manufacturer and on the C-check schedule of the majority of operators. However, the FAA notes that the commenter may apply for an alternative method of compliance, in accordance with paragraph (c)(1) of this AD.

II. Comments to 2001–NM–02–AD

Request To Continue Terminating Action as Optional

One commenter objects to the proposal to mandate accomplishment of the previously optional terminating action. The commenter cites two

reasons for its objection: (1) It has found no instances of backed-off primary retention nuts for the midspar fuse pins on the inboard and the outboard strut, and (2) there are two fuse pin retention devices in place, which are designed to prevent midspar fuse pin migration.

The FAA does not concur that the previously optional terminating action should remain optional. The unsafe condition has resulted in at least three incidents of the primary retention nut on the midspar fitting fuse pin backing off. In one of these incidents, the primary retention nut contacted the secondary retention washer. This action will require that the terminating action be performed within 6 years. If the repetitive inspections reveal a discrepancy, the terminating action must be performed sooner. Therefore, no change to the final rule has been made in response to this comment.

Request for Clarification of Applicability

The manufacturer requests that the wording in paragraph (a)(1) of the proposed AD be changed from ''For airplanes modified per the production equivalent of one of the AD's listed in Table 1 of this AD:'' to ''For airplanes having the production equivalent of one of the AD's listed in Table I of this AD:'' and that AD 99–10–10 be removed from Table 1.

The FAA agrees that these changes will provide clarification and has changed paragraph (a)(1) of this AD accordingly. In line with this change, the FAA has also revised the applicability of this AD to specify this clarification.

Request To Revise Cost Impact

One commenter requests that the FAA revise the Cost Impact paragraph to reflect that at least 12 work-hours may be necessary to perform the required action rather than the 4 work-hours cited in the proposed rule.

The FAA does not concur. The cost analysis of the AD is limited to the cost of actions actually required by the rule. It does not consider the costs of ''on condition'' actions, such as replacing a nut, if replacement is needed during a required inspection. Such ''on-condition'' actions would be required to be accomplished, regardless of AD direction, in order to correct an unsafe condition identified in an airplane and to ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations. In addition, the FAA recognizes that, in accomplishing the requirements of any AD, operators may incur ''incidental'' costs in addition to the ''direct'' costs that are reflected in the cost analysis presented in the AD preamble. However, the cost analysis in AD rulemaking actions typically does not include incidental costs, such as the time required to gain access and close up; planning time; or time necessitated by other administrative requirements. No change to the cost impact is necessary in the final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described above. The FAA has 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 1,111 Boeing Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 256 airplanes of U.S. registry will be affected by this AD.

The inspections that are currently required by AD 2001–05–05 take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required inspections on U.S. operators is estimated to be $61,440, or $240 per airplane, per inspection cycle.

The terminating modification that is required by this new AD will take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,000 per airplane. Based on these figures, the cost impact of the modification required by this AD on U.S. will be $317,440, or $1,240 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 39–12141 (66 FR 13424, March 6, 2001), and by adding a new airworthiness directive (AD), amendment 39–12514, to read as follows:

2001–23–15 Boeing: Docket 2001–NM–02–AD. Supersedes AD 2001–05–05, amendment 39–12141.

Applicability: Model 747 series airplanes, line numbers 1 through 1046 that have accomplished Airworthiness Directives 95–10–16, 95–13–05, 95–13–06, or 95–13–07; and line numbers 1047 through 1271 inclusive; 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)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To find and fix discrepancies of the installation of the midspar fuse pins of the inboard and outboard strut, which could result in loss of the secondary retention capability of the fuse pins, migration of the fuse pins, and consequent loss of the strut and engine from the airplane; accomplish the following:

Restatement of the Requirements of AD 2001–05–05

Inspections/Follow-On Actions

(a) At the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable: Do a detailed visual inspection to find discrepancies (e.g., incorrect thread protrusion, which is less than two threads protruding from the nut between the nut and the secondary retention washer; incorrect gap between the fuse pin primary nut and secondary retention washer; cracked or broken torque stripe) of the installation of the midspar fuse pins of the inboard and outboard struts, per Figure 2 of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, or Revision 2, dated May 17, 2001.

(1) For airplanes having the production equivalent of one of the AD's listed in Table 1 of this AD: Do the inspection at the later of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Before the accumulation of 8,000 total flight hours, or within 24 months since manufacture of the airplane, whichever occurs first.

(ii) Within 90 days after March 21, 2001 (the effective date of AD 2001–05–05, amendment 39–12141).

(2) For airplanes modified per one of the AD's listed in Table 1 of this AD: Do the inspection at the later of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD. Table 1 follows:

TABLE 1

AD No.	Amendment No.
AD 95–10–16	39–9233
AD 95–13–05	39–9285
AD 95–13–06	39–9286
AD 95–13–07	39–9287

(i) Within 8,000 flight hours or 24 months after the modification, whichever occurs first.

(ii) Within 90 days after March 21, 2001.

Note 2: Where there are differences between the AD and the service bulletin, the AD prevails.

Note 3: For the purposes of this AD, a detailed visual 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.''

(A) If no discrepancy is found: Repeat the inspection at intervals not to exceed 8,000 flight hours or 24 months, whichever occurs first, until you do the terminating modification specified in paragraph (b) of this AD.

(B) If any discrepancy is found, and the primary nut has backed off and contacts the secondary retention washer: Before further flight, do the terminating modification specified in paragraph (b) of this AD.

(C) If any discrepancy is found, and the primary nut does not contact the secondary retention washer: Repeat the inspection at intervals not to exceed 90 days. Within 18 months after the initial finding, or before March 21, 2001, whichever occurs later, do the terminating modification specified in paragraph (b) of this AD.

Note 4: Inspections done prior to the effective date of this AD per Boeing Alert Service Bulletin 747–54A2206, dated October 19, 2000, are acceptable for compliance with the inspections required by paragraph (a) of this AD.

New Requirements of This AD

Terminating Action

(b) Within 6 years after the effective date of this AD: Do the terminating modification (replacement of the primary nut of the midspar fuse pin, installation of torque strip, a detailed visual inspection of the fuse pin threads for damage, and replacement, if necessary) per Figure 3 of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, or Figure 3 of Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001. Doing this modification ends the repetitive inspections required by this AD.

Note 5: Doing the terminating modification prior to the effective date of this AD per Boeing Alert Service Bulletin 747–54A2206, dated October 19, 2000, is acceptable for compliance with the terminating action required by paragraph (b) of this AD.

Alternative Methods of Compliance

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

(2) Any alternative method of compliance which was approved previously in accordance with AD 2001–05–05 is approved for compliance with this AD.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(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) The actions shall be done in accordance with Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001; or Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001.

(1) The incorporation by reference of Boeing Service Bulletin 747–54A2206, Revision 2, dated May 17, 2001, is approved by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Service Bulletin 747–54A2206, Revision 1, dated February 22, 2001, was approved previously by the Director of the Federal Register as of March 21, 2001 (66 FR 13424, March 6, 2001).

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

Effective Date

(f) This amendment becomes effective on December 31, 2001.

Issued in Renton, Washington, on November 15, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–29187 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–40–AD; Amendment 39–12515; AD 2001–23–16]

RIN 2120–AA64

Airworthiness Directives; Aeromot-Industria Mecanico Metalurgica Itda. Models AMT–100 and AMT–200 Powered Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Aeromot-Industria Mecanico Metalurgica Itda. (Aeromot) Models AMT–100 and AMT–200 powered sailplanes. This AD requires

you to inspect (one-time) the main landing gear lever and elevator control rod for interference, warping, or incorrect gaps; and requires you to reconfigure or replace discrepant parts. This AD also requires you to report to the Federal Aviation Administration (FAA) any instances of interference, warping, or incorrect gaps. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Brazil. The actions specified by this AD are intended to detect and correct bending or warping in the main landing gear lever before it interferes with the elevator control rod. Such interference could result in the elevator control becoming jammed with consequent loss of control of the powered sailplane.

DATES: This AD becomes effective on December 7, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation as of December 7, 2001.

The FAA must receive any comments on this rule on or before December 26, 2001.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–40–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Aeromot-Industria Mecanico Metalurgica ltda., Av. Das Industrias, 1210-Bairro Anchieta, Caixa Postal 8031, 90 200–290–Porto Alegre-RS-Brazil. You may view this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–40–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brian Hancock, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4143; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The Departamento de Aviacao Civil (DEAC), which is the airworthiness authority for Brazil, recently notified FAA that an unsafe condition may exist on certain Aeromot Models AMT–100 and AMT–200 powered sailplanes. The DEAC reports an instance where the elevator control jammed on one of the affected powered sailplanes. This occurred when the main landing gear lever interfered with the nut that attaches the rod end of the elevator control rod.

What Are the Consequences if the Condition Is Not Corrected?

Bending or warping in the main landing gear lever, if not detected and corrected before it interferes with the elevator control rod, could result in the elevator control becoming jammed with consequent loss of control of the powered sailplane.

Is There Service Information That Applies to This Subject?

Aeromot has issued Service Bulletin (S.B.) No. 200–27–078, Issue Date: September 18, 2001.

The service bulletin includes procedures for inspecting the main landing gear lever and elevator control rod for interference, warping, or incorrect gaps. It also specifies reconfiguring or replacing discrepant parts.

What Action Did the DEAC Take?

The DEAC classified this service bulletin as mandatory and issued Brazilian Emergency Airworthiness Directive (EAD) 2001–10–01, dated October 9, 2001, in order to ensure the continued airworthiness of these powered sailplanes in Brazil.

Was This in Accordance With the Bilateral Airworthiness Agreement?

These powered sailplane models are manufactured in Brazil and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the DEAC has kept us informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of This AD

What Has FAA Decided?

The FAA has examined the findings of the DEAC; reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Aeromot Models AMT–100 and AMT–200 powered sailplanes of the same type design that are registered for operation in the United States;

—The actions specified in the previously-referenced service information (as specified in this AD) should be accomplished on the affected powered sailplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Does This AD Require?

This AD requires you to inspect (one-time) the main landing gear lever and elevator control rod for interference, warping, or incorrect gaps; and requires you to reconfigure or replace discrepant parts. This AD also requires you to report to the FAA any instances of interference, warping, or incorrect gaps.

We will use the information from the reports to determine whether additional rulemaking action is necessary (*e.g.,* repetitive inspections).

In preparation of this rule, we contacted type clubs and aircraft operators to obtain technical information and information on operational and economic impacts. We did not receive any information through these contacts. If received, we would have included, in the rulemaking docket, a discussion of any information that may have influenced this action.

Will I Have the Opportunity to Comment Prior to the Issuance of the Rule?

Because the unsafe condition described in this document could result in the elevator control becoming jammed with consequent loss of control of the powered sailplane, we find that notice and opportunity for public prior comment are impracticable. Therefore, good cause exists for making this amendment effective in less than 30 days.

Comments Invited

How Do I Comment on This AD?

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, FAA invites your comments on the rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date specified above. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of This AD I Should Pay Attention to?

We specifically invite comments on the overall regulatory, economic,

environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

How Can I Be Sure FAA Receives my Comment?

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2001–CE–40–AD.'' We will date stamp and mail the postcard back to you.

Regulatory Impact

Does This AD Impact Various Entities?

These regulations 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, FAA has determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

We have determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and 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 (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

2001–23–16 Aeromot-Industria Mecanico Metalurgica ITDA.: Amendment 39–12515; Docket No. 2001–CE–40–AD

(a) *What powered sailplanes are affected by this AD?* This AD affects the following powered sailplane models and serial numbers that are certificated in any category:

Models	Serial Nos.
AMT–100	100.001 through 100.003, 100.005 through 100.015, 100.017, 100.019, 100.022 through 100.039, and 100.041 through 100.044.
AMT–100(remotorized to AMT–200) 100.004, 100.016, 100.018, 100.020, and 100.021.	
AMT–200	200.040, 200.045 through 200.105, 200.108 through 200.111, 200.113 through 200.118, and 200.121.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above powered sailplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct bending or warping in the main landing gear lever before it interferes with the elevator control rod. Such interference could result in the elevator control becoming jammed with consequent loss of control of the powered sailplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect (one-time) the main landing gear lever and elevator control rod for interference, warping, or incorrect gaps.	Inspect within the next 5 hours time-in-service (TIS) after December 7, 2001 (the effective date of this AD).	Inspect in accordance with the procedures in Aeromot Service Bulletin (S.B.) No. 200–27–078, Issue Date: September 18, 2001.

Actions	Compliance	Procedures
(2) If any discrepancy is found during the inspection required by paragraph (d)(1) of this AD, accomplish the following:. (i) Reconfigure or replace any discrepant parts, as specified in the service information; and. (ii) Report these discrepancies to the FAA. Include the powered sailplane model, serial number, the total number of hours TIS, and an explanation of the discrepancy. The Office of Management and Budget (OMB) approved the information collection requirements contained in this regulation under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*.) and assigned OMB Control Number 2120–0056.	Accomplish any reconfiguration or replacement prior to further flight after the inspection required by paragraph (d)(1) of this AD. Submit the report within 10 days after the inspection or within 10 days after December 7, 2001 (the effective date of this AD), whichever occurs later..	Accomplish any reconfiguration or replacement in accordance with the applicable maintenance manual. Submit the report to FAA, Att: Brian Hancock, Aerospace Engineer, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4143; facsimile: (816) 329–4090.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 1: This AD applies to each powered sailplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For powered sailplanes 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 (e) 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 you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Brian Hancock, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4143; facsimile: (816) 329–4090.

(g) *What if I need to fly the powered sailplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your powered sailplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Aeromot Service Bulletin (S.B.) No. 200–27–078, Issue Date: September 18, 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Aeromot-Industria Mecanico Metalurgica ltda., Av. Das Industrias, 1210–Bairro Anchieta, Caixa Postal 8031, 90 200–290–Porto Alegre-RS-Brazil. You may view this information at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on December 7, 2001.

Note 2: The subject of this AD is addressed in Brazilian Emergency Airworthiness Directive (EAD) 2001–10–01, dated October 9, 2001.

Issued in Kansas City, Missouri, on November 14, 2001.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–29221 Filed 11–23–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–350–AD; Amendment 39–12512; AD 2001–23–13]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that requires an inspection of the flap drive transmission of the trailing edge flaps at positions 2 and 7 to determine if a discrepant torque brake is installed; and corrective action, if necessary. The action specified by this AD are intended to prevent damage to the flap system, adjacent systems, or structural components; or excessive skew of the trailing edge flap, which could result in flap asymmetry and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective December 31, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 31, 2001.

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: Barbara Mudrovich, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2983; fax (425) 227–1181.

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 747 series airplanes was published in the **Federal Register** on May 14, 2001 (66 FR 24304). That action proposed to require an inspection of the flap drive transmission of the trailing edge flaps at positions 2 and 7 to determine if a wound-spring torque brake is installed; and corrective action, if necessary.

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 Air Transport Association of America, on behalf of its members, states that two commenters agree with the intent of the proposal, but recommend certain changes. These recommendations and additional requests are described in the following paragraphs.

Request To Extend the Compliance Time in Paragraph (a)

A number of commenters request an extension to the proposed compliance time of 6,000 flight hours in paragraph (a) of the proposed AD. These comments and the rationale for requesting such an extension are described in the following paragraphs.

- One commenter states that 6,000 flight hours would fall short of its average C-check, which is usually at 7,500 flight hours. A compliance time of 10,000 flight hours would be more appropriate.
- One commenter states that 6,000 flight hours would require accomplishment of the work at another repair facility, which would put the airplane out of service for at least 1 month. In addition, modification of its fleet of 12 affected airplanes is estimated at 2 to 3 years. In light of this, the commenter recommends a compliance time of 3 years.
- Two commenters recommend that the requirements of the proposed AD be accomplished at a D-check interval. Both commenters are concerned about the availability of spare parts within the proposed compliance time.

The first commenter recommends a compliance time of between 5 and 8 years (25,000 to 38,000 flight hours) for several reasons. Over a 30-year period, none of its Model 747 series airplanes have experienced the unsafe condition cited in the proposed AD (i.e., damage to the flap system, adjacent systems, or structural components; or excessive skew of the trailing edge flap). It is not aware of any incidents related to such a condition anywhere in the world. In light of this, it considers that such a compliance time is unwarranted and unrealistic. In addition, the manufacturer recommended that the proposed actions be accomplished at the earliest convenient maintenance opportunity, which is more realistic.

The second commenter states that a large number of components and special maintenance schedules would be required to accomplish the proposed actions within 6,000 flight hours. The commenter recommends that the FAA consider how the costs of accomplishing the required actions would affect operators worldwide, and suggests a compliance time of 5 years.

- One commenter contends that the turnaround time required to accomplish the proposed inspection and corrective actions would exceed 6,000 flight hours. In addition, the affected airplanes would need to be transported to a specific repair station because of the test equipment available at that facility. The commenter recommends extending the compliance time to 10,000 flight hours so that the proposed actions could be accomplished during regular maintenance schedules.
- One commenter suggests an 18-month compliance time instead of 6,000 flight hours. The commenter notes that the proposed work could be best accomplished during a C-check maintenance schedule, which coincides with an 18-month compliance time. In addition, all of its Model 747 series airplanes are on an 18-month flight cycle. During that period, a Model 747–200 series airplane accumulates about 6,000 flight hours; however, a Model 747–400 series airplane can accumulate up to 7,000 flight hours. Because flaps typically are used only during climb and descent, flap transmissions are more dependent on flight cycles than flight hours. Therefore, 18 months would provide an equivalent level of safety because actual use of the flap transmission, by cycles, is less on Model 747–400 series airplanes than on Model 747–200 series airplanes. For these reasons, the commenter suggests that the compliance time be revised to ''Within 6,000 flight hours or 18 months after the effective date of this AD, whichever is later.''
- One commenter, the manufacturer, states that 6,000 flight hours would be unduly restrictive, with an unjustified impact on airline operations. It suggests scheduling the rework during a D-check, and recommends extending the compliance time to 3 years or 15,000 flight hours, whichever occurs later. The commenter also requests an extension of the proposed compliance time so that it could buy ''seed'' transmissions that will be required by the operators for their replacement program. This extension would avoid creating an undue burden.

The FAA partially concurs with the commenters' requests, and has determined that the compliance time can be extended somewhat. We point out that the ''Differences'' paragraph in the proposed AD is not included in the final rule, so no change to that paragraph is necessary. However, we have extended the compliance time somewhat in paragraph (a) of the final rule.

Our intent in developing an appropriate compliance time for the inspections and corrective actions was that the proposed actions be conducted during a regularly scheduled maintenance visit for the majority of the affected fleet. We also intended that the proposed actions be accomplished when the airplanes are located at a facility where special equipment and trained personnel are readily available. Based on the information provided by the commenters, we now recognize that a compliance time of within 18 months or 7,500 flight hours after the effective date of this AD, whichever occurs later, corresponds more closely to the interval that represents most of the affected operators' normal maintenance schedules. This extension will allow operators to schedule the required actions during a convenient maintenance opportunity, and will not adversely affect safety. Paragraph (a) of the final rule is revised accordingly.

Request To Revise Compliance Time in Paragraph (a)(2)(ii)

One commenter requests revising the compliance time in paragraph (a)(ii), which is cited as (a)(2)(ii) in the proposed AD. The commenter considers that, given the level of the hazard posed to the fleet by the torque brake discrepancy, requiring replacement of the torque brake ''before further flight'' is not warranted. Instead, the proposed AD should allow operators to accomplish the corrective action at a convenient maintenance opportunity. The FAA infers that the commenter is requesting that we revise paragraph (a)(2)(ii) of this AD to require the corrective action within 18 months or 7,500 flight hours after the effective date of this AD, instead of ''before further flight.''

The FAA concurs with the commenter's request. The extended compliance time in paragraph (a) of this AD should allow sufficient time for operators to accomplish the rework or replacement action specified in paragraph (a)(2)(ii) at a convenient maintenance opportunity. However, in the final rule we have revised paragraph (a)(2)(ii) to require such action ''within the compliance time required by paragraph (a) of this AD,'' instead of ''before further flight.''

Request To Clarify the Rework or Replacement Action

One commenter requests a revision to the ''Explanation of Relevant Service Information'' paragraph in the proposed AD. The AD should clarify that operators have the option of either replacing the transmission with a new,

improved transmission or reworking the existing transmission by replacing the torque brake with a new or reworked torque brake.

The FAA partially concurs with the commenter's request. Although the ''Explanation of Relevant Service Information'' paragraph is not included in the final rule, we agree that the replacement and rework action should be revised. In response, we have revised paragraph (a)(2)(ii) in the final rule to require operators to either replace the transmission with a new, improved transmission or rework the existing transmission by replacing the torque brake with a new or reworked torque brake per the service bulletin.

Request To Revise the Applicability

One commenter states that ''an Information Notice (IN) made available for 747–27–2374 (IN 01)'' was issued June 1, 2000, to clarify that Model 747SP series airplanes are excluded from the effectivity. The notice lists 10 Model 747SP series airplanes by line number and variable number. In addition, those same airplanes are excluded from the effectivity of Boeing Service Bulletin 747–27–2374. The FAA infers that the commenter is suggesting that we revise the applicability of the proposed AD to reflect the exclusion of these airplanes.

The FAA concurs that the applicability of this AD should be changed. We agree that Model 747SP series airplanes should be excluded from the applicability of this AD, and have determined that further clarification of the applicability is necessary. We point out that the applicability of the proposed AD references Boeing Service Bulletin 747–27–2374, dated November 18, 1999, as the appropriate source of service information for determining the affected Model 747 series airplanes. We have revised the applicability of the final rule to include line numbers 0001 through 1207, and to exclude the airplane having line number 1174 and Model 747SP series airplanes.

Request To Correct the Torque Brake References in the Proposed AD

One commenter requests that all references to ''wound-spring'' torque brakes be removed from the proposed AD. That type of brake is not used in the rework or replacement actions required by the proposed AD.

The FAA concurs. We have removed all references to ''wound-spring'' torque brakes in the final rule, and have clarified that the ''Belleville'' spring design is the discrepant torque brake.

Request To Resolve Parts Discrepancies

One commenter states that the Boeing and Moog service bulletins list different part numbers for the flap drive transmission and torque brake installed on Model 747 series airplanes. Any such discrepancies should be resolved before the final rule is issued.

The FAA concurs that any parts discrepancies should be resolved before issuance of the final rule. However, we point out that the parts references included in the Boeing and Moog service bulletins are correct, and that the incorrect parts references were included in the proposed AD. After contacting Boeing, we were informed that it had contacted United to explain that the discrepant torque brake is a ''Belleville'' spring design, not a ''wound-spring'' design as cited in the proposed AD. This clarification resolved the commenter's confusion. We have removed all references to the wound-spring torque brake from the final rule, and clarified that the Belleville spring design is the discrepant torque brake.

Request To Revise the Cost Estimate

One commenter states that only 1 hour for the inspection was estimated in the cost impact information in the proposed NPRM to determine whether the affected transmissions are installed on an airplane. The cost of removal, overhaul, and reinstallation of the transmission is not included, and the service bulletin estimates 50 hours per airplane for the associated costs. The FAA infers that the commenter considers that the cost estimate in the proposed AD is too low.

The FAA partially concurs with the commenter. However, we do not agree with the cost estimate of 50 hours specified by the service bulletin for the removal, overhaul, and reinstallation of transmissions. We point out that the estimate in the service bulletin included the action required to replace or rework the torque brake in positions 2, 4, 5, and 7. However, the proposed AD only requires rework or replacement action for positions 2 and 7. As indicated in the preamble of this AD, the economic analysis is limited only to the cost of actions actually required by the rule and does not include the costs of on-condition actions, such as the rework or replacement action specified in paragraph (a)(2)(ii) of the NPRM. However, in this case we have included the on-condition action. These costs include a total of 32 hours per airplane for accomplishing the replacement or rework action for transmission positions 2 and 7 (10 hours for the replacement and 6 hours for the rework). We also have included an estimate of $12,942 for parts. The final rule is revised accordingly.

Request To Reduce the Compliance Time

The Civil Aviation Authority (CAA), which is the airworthiness authority of the United Kingdom, requests reducing the compliance time for the inspection and corrective action if a discrepant part is found installed on the airplane. The CAA considers that the proposed 6,000 flight hours for the inspection is excessively long. It recommends full accomplishment of the inspection and corrective action within 3,000 flight hours, which is approximately 1 year for most operators. In addition, operators should have the discretion of accomplishing corrective action within the recommended total timeframe of 3,000 flight hours.

The FAA does not concur with the need for a shorter compliance time, although operators are always permitted to accomplish the requirements of an AD at a time earlier than that specified as the compliance time. As described earlier, we have determined that it is necessary to somewhat extend the compliance time in paragraphs (a) and (a)(2)(ii) of the final rule to require accomplishment of the actions within 18 months or 7,500 flight hours. We consider such an extension appropriate in consideration of the safety implications, practical aspects of accomplishing the work during regular maintenance periods, and availability of required parts. Therefore, a reduction to the compliance time in paragraph (a) of the final rule would not be warranted.

Request To Correct Paragraph References

One commenter states that, in paragraph (a) of the proposed AD, paragraphs (a)(3) and (a)(4) do not exist. The FAA concurs and has deleted those two paragraph references in paragraph (a) of the final rule.

Conclusion

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

Cost Impact

There are approximately 1,181 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA

estimates that 263 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $15,780, or $60 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.

If an operator is required to accomplish the replacement or rework action, it will take approximately 32 work hours per airplane to accomplish such action, at an average labor rate of $60 per work hour. Required parts will cost approximately $12,942 per airplane. Based on these figures, the cost impact of the required replacement or rework is estimated to be $14,862 per airplane.

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:

2001–23–13 Boeing: Amendment 39–12512. Docket 2000–NM–350–AD.

Applicability: Model 747 series airplanes, line numbers 0001 through 1207, certificated in any category; excluding those airplanes having line number 1174 and Model 747SP series airplanes.

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 prevent damage to the flap system, adjacent systems, or structural components; or excessive skew of the trailing edge flap; which could result in flap asymmetry and consequent reduced controllability of the airplane, accomplish the following:

Part Verification/Replacement/Modification

(a) Within 18 months or 7,500 flight hours after the effective date of this AD, whichever occurs later: Inspect the flap drive transmission of the trailing edge flaps at positions 2 and 7 to determine if a discrepant (''Belleville'' spring design) torque brake is installed in the transmission, by verifying the transmission part number, per Boeing Service Bulletin 747–27–2374, dated November 18, 1999. Then do the actions specified in paragraphs (a)(1) and (a)(2) of this AD, as applicable.

(1) If the part number of the flap drive transmission shows that no discrepant torque brake is installed, no further action is required by this AD.

(2) If the part number of the flap drive transmission shows that a discrepant torque brake may be installed, within the compliance time required by paragraph (a) of this AD: Inspect the part number of the torque brake to verify whether it is a discrepant torque brake, per the Accomplishment Instructions of the service bulletin.

(i) If the part number of the torque brake shows that it is not a discrepant torque brake, no further action is required by this AD.

(ii) If the part number of the torque brake shows that it is a discrepant torque brake: Within the compliance time required by paragraph (a) of this AD either replace the transmission with a new, improved transmission or rework the existing transmission by replacing the torque brake with a new or reworked torque brake having the part number specified in the service bulletin; per the Accomplishment Instructions of the service bulletin.

Spares

(b) As of the effective date of this AD, no person shall install on any airplane any transmission or torque brake assembly identified in the ''Existing Part Number'' column of Paragraph 2.E. of Boeing Service Bulletin 747–27–2374, dated November 18, 1999.

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, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

Special Flight Permit

(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) The actions shall be done in accordance with Boeing Service Bulletin 747–27–2374, dated November 18, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on December 31, 2001.

Issued in Renton, Washington, on November 15, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–29185 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–405–AD; Amendment 39–12513; AD 2001–23–14]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, that requires a review of maintenance records or an inspection to determine the serial numbers of geared rotary actuators (GRA) for the leading edge slats, and replacement of certain actuators with new or reworked actuators. This action is necessary to prevent a fractured spring washer in a GRA, which could lead to a disconnect in the GRA, and result in a slat skew condition and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective December 31, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 31, 2001.

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: Barbara Mudrovich, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2983; fax (425) 227–1181.

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 757 series airplanes was published in the **Federal Register** on May 15, 2001 (66 FR 26819). That action proposed to require an inspection to determine the serial numbers of geared rotary actuators (GRA) for the leading edge slats, and replacement of certain actuators with new or reworked actuators.

Comments Received

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

Support for the Proposed Rule

One commenter supports the proposed rule.

Requests To Allow Review of Maintenance Records

Two commenters request that, in lieu of the inspection of the GRAs in paragraph (a) of the proposed AD, we allow a review of the maintenance records to determine the part number series and serial number for each installed GRA for the leading edge slats. One of the commenters states that if an operator tracks installed parts by serial number, that operator ought to be allowed to use its records to demonstrate compliance.

We concur and have revised paragraph (a) to allow a review of the airplane's maintenance records as an acceptable means of determining the part number series and serial number for each installed GRA for the leading edge slats.

Request To Extend Compliance Time

One commenter requests that the FAA extend the compliance time for the proposed requirements to 36 months for all affected airplanes. The commenter states that the parts manufacturer will be unable to provide an adequate number of parts to allow affected operators to meet the proposed compliance time of 18 months for replacement of GRAs on airplanes without an enhanced slat skew or loss detection system.

We concur to extend the compliance time, but not necessarily for the reason stated by the commenter. We find that the 18-month compliance time for the required actions is necessary only for GRAs on slat number 2 outboard, slat number 9 outboard, slat number 4 inboard, and slat number 7 inboard on Boeing 757–200 series airplanes with line numbers 1 through 803, on which an enhanced slat skew or loss detection system has NOT been installed according to Boeing Service Bulletin 757–27–0126, dated May 11, 2000, or Boeing Production Revision Record 54755. For other slats on those airplanes, we find a 36-month compliance time (which is the compliance time for airplanes on which an enhanced slat skew or loss detection system has been installed) to be adequate. We have revised paragraphs (a)(1), (a)(2), (c)(1), and (c)(2) of this AD accordingly. This change to this AD will limit the number of replacement parts that will be needed within the 18-month compliance time, thus resolving the commenter's concern.

Request for Clarification of Parts Affected by This AD

One commenter requests that we revise paragraph (b) of the proposed AD to clarify that no further action is required by this AD for any subject GRA that has been reworked and marked with ''SB27–21'' on the modification plate. The same commenter asks that we revise paragraph (c) of the proposed AD to state that further action is required for any subject part number that has NOT been previously reworked and marked with ''SB27–21'' on the modification plate. The commenter states that the wording of paragraphs (b) and (c) of the proposed AD suggest that GRAs with a part number series and serial number listed under Section 1.A. of Hamilton Sundstrand Service Bulletins 5006397/755299–27–21 or 5006398/755300–27–21, both dated January 24, 2000, cannot be installed on an airplane whether they have been reworked or not.

Similarly, several other commenters request that we revise paragraph (d), the ''Spares'' paragraph, of the proposed AD, to allow use of affected GRAs, as long as the GRAs have a modification plate installed. These commenters note that the part number series and serial number of the parts will not be changed when they are reworked, but a modification plate will be installed on the reworked parts.

We agree that some clarification of parts affected by this AD is necessary. We have confirmed with the parts supplier that, when the parts are reworked, the part number series and serial number are not necessarily changed, but the dash number for the service bulletin associated with the rework is stamped on the modification plate, which is installed on the part to the left of the data plate. In this case, the modification plate will be stamped with ''–21,'' if the part has been reworked per

Hamilton Sundstrand Service Bulletins 5006397/755299–27–21 or 5006398/755300–27–21. Based on this information and the requests of the commenters, we have made the following changes to this final rule:

• Paragraph (b) of this AD states that no further action is required by this AD if no GRA has a part number series and serial number listed under Section 1.A. of the Hamilton Sundstrand service bulletins, or if GRAs with a part number series and serial number listed under Section 1.A. of the referenced service bulletins have been reworked previously and the modification plates are marked with ''–21.''

• Paragraph (c) of this AD identifies parts subject to the actions in that paragraph as any GRA with a part number series and serial number listed under Section 1.A. of the referenced service bulletins that does not have a modification plate marked with ''–21.''

• Paragraph (d) of this AD states that no one may install a GRA that has a part number series and serial number listed under Section 1.A. of Hamilton Sundstrand Service Bulletins 5006397/755299–27–21 or 5006398/755300–27–21, on any airplane, unless the part has been reworked and the modification plate has been marked with ''–21.''

Request To Revise Language in Preamble

One commenter requests that the FAA revise the section in the preamble of the proposed rule titled ''Explanation of Applicability.'' The commenter asks that we clarify that paragraph (d) of the proposed AD prohibits installation of NON-REWORKED affected parts after the effective date of this AD.

We concur with the intent of the commenter's request. However, the section to which the commenter refers is not restated in this final rule, so no change is necessary in this regard.

Request To Revise Cost Impact Information

One commenter states that it projects that a total of 90 work hours will be necessary to accomplish the proposed requirements, including 20 work hours for the inspection, and 40 hours for replacement of the GRAs. The commenter also provides a summary of its costs associated with the proposed rule, based on actual direct costs associated with replacing all GRAs. Its estimates include time for testing and inspection of the installation of GRAs.

The FAA does not concur that any change to the proposed rule is necessary in this regard. As stated in the proposed rule, the cost impact information in AD rulemaking actions typically includes only the ''direct'' costs of the specific actions required by that AD. The number of work hours necessary to accomplish the required actions, specified in the cost impact information as 20 work hours for the inspection, and 30 work hours for replacement of the GRAs, if necessary, was provided to the FAA by the manufacturer based on the best data available to date. The FAA recognizes that, in accomplishing the requirements of any AD, operators may incur ''incidental'' costs in addition to the ''direct'' costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate.

Explanation of Change to Proposed Rule

The applicability statement of the proposed AD included ''Model 757 series airplanes with a date of manufacture that is on or before the effective date of this AD.'' However, since the issuance of the proposed AD, we have determined that such an applicability may not ensure that a part subject to this AD is not installed in the future as a replacement part on airplanes manufactured after the effective date of this AD. Therefore, the applicability statement in this final rule has been revised to ''All Model 757 series airplanes.'' Because all Model 757 airplanes that are currently operating were included in the applicability of the proposed AD, we find that this change will not impose an additional burden on any operator and does not necessitate providing an additional opportunity for public comment.

Conclusion

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

Cost Impact

There are approximately 950 Model 757 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 606 airplanes of U.S. registry will be affected by this AD, that it will take approximately 20 work hours per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $727,200, or $1,200 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.

Should an operator be required to accomplish the replacement of all GRAs on an airplane, it will take approximately 30 work hours per airplane (1.5 work hours per actuator), at an average labor rate of $60 per work hour. Required parts may be provided by the parts manufacturer at no cost to the operator. Based on these figures, the cost impact of the replacement is estimated to be up to $1,800 per airplane.

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:

2001–23–14 Boeing: Amendment 39–12513. Docket 2000–NM–405–AD.

Applicability: All Model 757 series 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 (e) 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 prevent a fractured spring washer in a geared rotary actuator (GRA) for the leading edge slats, which could lead to a disconnect in the GRA, and result in a slat skew condition and consequent reduced controllability of the airplane, accomplish the following:

Inspection To Determine Serial Numbers

(a) At the applicable compliance time specified in paragraph (a)(1) or (a)(2) of this AD, to determine the part number series and serial number for each GRA for the leading edge slats, review the maintenance records for the airplane, or inspect the 20 GRAs for the leading edge slats according to Boeing Alert Service Bulletin 757–27A0133 (for Model 757–200, 757–200CB, and 757–200PF series airplanes), or 757–27A0134 (for Model 757–300 series airplanes), both dated October 11, 2000; as applicable.

(1) For slat number 2 outboard, slat number 9 outboard, slat number 4 inboard, and slat number 7 inboard on Boeing 757–200 series airplanes with line numbers (L/N) 1 through 803, on which an enhanced slat skew or loss detection system has NOT been installed according to Boeing Service Bulletin 757–27–0126, dated May 11, 2000, or Boeing Production Revision Record 54755: Do the review or inspection within 18 months after the effective date of this AD.

(2) For slats other than those in the locations identified in paragraph (a)(1) of this AD, on the airplanes identified in paragraph (a)(1) of this AD, AND for all slats on airplanes other than those identified in paragraph (a)(1) of this AD: Do the review or inspection within 36 months after the effective date of this AD.

If No Subject GRA Is Installed—No Further Action

(b) If no GRA has a part number series and serial number listed under Section 1.A. of Hamilton Sundstrand Service Bulletins 5006397/755299–27–21 or 5006398/755300–27–21, both dated January 24, 2000; or if GRAs with a part number series and serial number listed in the referenced service bulletins have been reworked previously and the modification plates are marked with ''–21'': No further action is required by this AD.

If Any Subject GRAs Are Installed—Corrective Actions

(c) For any GRA with a part number series and serial number listed under Section 1.A. of Hamilton Sundstrand Service Bulletins 5006397/755299–27–21 or 5006398/755300–27–21, both dated January 24, 2000, that does not have a modification plate marked with ''–21'': At the applicable compliance time specified in paragraph (c)(1) or (c)(2) of this AD, replace the subject GRA with a new or reworked GRA, according to Boeing Alert Service Bulletin 757–27A0133 (for Model 757–200, 757–200CB, and 757–200PF series airplanes), or 757–27A0134 (for Model 757–300 series airplanes), both dated October 11, 2000; as applicable.

(1) For slat number 2 outboard, slat number 9 outboard, slat number 4 inboard, and slat number 7 inboard on Boeing Model 757–200 series airplanes with L/N 1 through 803, on which an enhanced slat skew or loss detection system has NOT been installed according to Boeing Service Bulletin 757–27–0126, dated May 11, 2000, or Boeing Production Revision Record 54755: Replace any subject GRA within 18 months after the effective date of this AD.

(2) For slats other than those in the positions identified in paragraph (c)(1) of this AD, on the airplanes identified in paragraph (c)(1) of this AD, AND for all slats on airplanes other than those identified in paragraph (c)(1) of this AD: Replace any subject GRA within 36 months after the effective date of this AD.

Spares

(d) After the effective date of this AD, no one may install a GRA that has a part number series and serial number listed under Section 1.A. of Hamilton Sundstrand Service Bulletins 5006397/755299–27–21 or 5006398/755300–27–21, both dated January 24, 2000, on any airplane, unless the part has been reworked and the modification plate has been marked with ''–21.''

Alternative Methods of Compliance

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

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

Special Flight Permits

(f) 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

(g) The actions shall be done in accordance with Boeing Alert Service Bulletin 757–27A0133, dated October 11, 2000; or Boeing Alert Service Bulletin 757–27A0134, dated October 11, 2000; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on December 31, 2001.

Issued in Renton, Washington, on November 15, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–29186 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–258–AD; Amendment 39–12510; AD 2001–17–28 R1]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to all Boeing Model 767 series airplanes, that currently requires a one-time inspection to detect abrasion damage and installation discrepancies of the wire bundles located below the

P37 panel, corrective action if necessary, relocating the wire support standoff, and installing protective sleeving over the wire bundles. This amendment removes the requirements to relocate the wire support standoff and install the protective sleeving, and revises the applicability by removing certain airplanes. The actions specified in this AD are intended to detect and correct such abrasion damage and installation discrepancies, which could result in arcing to structure and consequent fire or loss of function of affected systems.

DATES: Effective December 11, 2001.

The incorporation by reference of certain publications listed in the regulations, is approved by the Director of the Federal Register as of December 11, 2001.

The incorporation by reference of certain other publications listed in the regulations was approved previously by the Director of the Federal Register as of September 13, 2001 (66 FR 45579, August 29, 2001).

Comments for inclusion in the Rules Docket must be received on or before January 25, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–258–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. 2001–NM–258–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 for Windows or ASCII text.

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

FOR FURTHER INFORMATION CONTACT: Elias Natsiopoulos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1279; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On August 20, 2001, the FAA issued AD 2001–17–28, amendment 39–12419 (66 FR 45579, August 29, 2001), applicable to all Boeing Model 767 series airplanes, to require a one-time inspection to detect abrasion damage and installation discrepancies of the wire bundles located below the P37 panel, corrective action if necessary, relocating the wire support standoff, and installing protective sleeving over the wire bundles. The actions required by that AD are intended to detect and correct such damage and other discrepancies, which could result in arcing to structure and consequent fire or loss of function of affected systems.

Explanation of Relevant Service Information

AD 2001–17–28 cited the original versions of Boeing Alert Service Bulletins 767–24A0134 and 767–24A0135 as the appropriate sources of service information for accomplishment of the requirements. Since that AD was issued, Boeing has issued Revision 1, dated October 18, 2001, of both alert service bulletins. Revision 1 clarifies certain accomplishment instructions and specifies optional sleeving material. Revision 1 also revises the effectivity to add ''Group 2'' airplanes, which comprise airplanes on which the sleeving installed in production may have been an incorrect type or incorrectly installed. Revision 1 includes different actions for Group 2 airplanes to address the discrepant sleeving installation.

Since Issuance of Previous Rule

Since the issuance of AD 2001–17–28, the FAA has become aware of certain requirements that were inadvertently included in that AD.

FAA Determination

The FAA has determined that the 90-day compliance time required by AD 2001–17–28 is sufficient for operators to accomplish the inspection and repair any damage found, but insufficient to also relocate the wire support standoff and install protective sleeving over the wire bundles. The FAA has revised the AD to remove the relocation and installation actions.

In addition, the FAA has determined that, because Group 2 airplanes are newly manufactured, the unsafe condition does not indicate the need for the immediate accomplishment of the actions specified for those airplanes in the alert service bulletins; i.e., delaying their accomplishment would not adversely affect safety. The FAA has therefore determined that, if the actions are necessary to be accomplished on Group 2 airplanes, a notice of proposed rulemaking would be proper because notice and the opportunity for public comment would be practicable.

The FAA is considering issuing a notice of proposed rulemaking that would add requirements to relocate the wire support standoff and install protective sleeving over the wire bundles, and revise the applicability to add Group 2 airplanes to accomplish additional actions in the event of discrepant sleeving installation.

Comment on the Immediately Adopted Rule

After AD 2001–17–28 was issued, the FAA received a comment regarding the routing of the bundle under the blanket. According to the AD, such routing ''violates wire bundle installation and routing requirements.'' The commenter suggests that, if the violation refers to Boeing's routing requirements, the unsafe condition would result not from a design error but rather a production quality problem. In that event, the commenter considers that other aircraft types might be affected, and questions whether the FAA has investigated this possibility.

The FAA has determined that the cause of the discrepant wiring installation is unknown; the routing of the wire bundle under an insulation blanket is isolated to the incident airplane. Its operator reports that all Model 767 series airplanes remaining in the fleet (approximately 100) have been inspected. The results of those inspections revealed other installation discrepancies, but no wire bundle found under an insulation blanket in another airplane. Boeing specifies that wire bundles be installed inboard of (over) the insulation blankets; i.e., insulation blankets are installed before wire bundles. The FAA has concluded that the wire bundle in the incident airplane had been covered by the blanket inadvertently during in-service maintenance.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this amendment revises AD 2001–17–28 to continue to require a one-time detailed visual inspection to detect abrasion damage and installation discrepancies of the wire bundles located below the P37 panel, and corrective action if necessary. This amendment revises AD 2001–17–28 to remove the requirements to relocate the

wire support standoff and install protective sleeving over the wire bundles. This amendment also revises the applicability to remove certain airplanes.

Interim Action

This is considered to be interim action. The FAA is considering future rulemaking to add requirements to relocate the wire support standoff and install protective sleeving over the wire bundles. The planned compliance time for these actions is sufficiently long so that notice and opportunity for prior public comment will be practicable. In addition, the FAA may revise the applicability to include Group 2 airplanes.

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 2001–NM–258–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 removing amendment 39–12419 (66 FR 45579, August 29, 2001), and by adding a new airworthiness directive (AD), amendment 39–12510, to read as follows:

2001–17–28 R1 Boeing: Amendment 39–12510. Docket 2001–NM–258–AD. Revises AD 2001–17–28, Amendment 39–12419.

Applicability: Model 767 airplanes, certificated in any category, line numbers 1 through 815 inclusive.

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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct abrasion damage and installation discrepancies of the wire bundles located below the P37 panel, which could result in arcing to structure and consequent fire or loss of function of affected systems, accomplish the following:

Inspection

(a) Within 90 days after September 13, 2001 (the effective date of AD 2001–17–28, amendment 39–12419): Perform a one-time detailed visual inspection of the wire bundles located below the P37 panel to detect abrasion damage and wire installation discrepancies (including missing standoffs; missing, chafed, or loose cable clamps; chafed grommets; and wire bundles located beneath an insulation blanket), in accordance with Boeing Alert Service Bulletin 767–24A0134, dated March 15, 2001, or Revision 1, dated October 18, 2001 (for Model 767–200 and –300 series airplanes); or 767–24A0135, dated March 15, 2001, or Revision 1, dated October 18, 2001 (for Model 767–400ER series airplanes). If any damage or other discrepancy is found, prior to further flight, perform corrective actions in accordance with the applicable alert service bulletin. After the effective date of this AD, only Revision 1 of the alert service bulletin may be used.

Note 2: For the purposes of this AD, a detailed visual 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.''

Alternative Methods of Compliance

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

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

Special Flight Permits

(c) 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

(d) The actions must be done in accordance with Boeing Alert Service Bulletin 767–24A0134, dated March 15, 2001; Boeing Alert Service Bulletin 767–24A0134, Revision 1, dated October 18, 2001; Boeing Alert Service Bulletin 767–24A0135, dated March 15, 2001; or Boeing Alert Service Bulletin 767–24A0135, Revision 1, dated October 18, 2001; as applicable.

(1) The incorporation by reference of Boeing Alert Service Bulletin 767–24A0134, Revision 1, dated October 18, 2001; and Boeing Alert Service Bulletin 767–24A0135, Revision 1, dated October 18, 2001; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Alert Service Bulletin 767–24A0134, dated March 15, 2001; and Boeing Alert Service Bulletin 767–24A0135, dated March 15, 2001 was approved previously by the Director of the Federal Register as of September 13, 2001 (66 FR 45579, August 29, 2001).

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

Effective Date

(e) This amendment becomes effective on December 11, 2001.

Issued in Renton, Washington, on November 15, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–29183 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–91–AD; Amendment 39–12511; AD 2001–23–12]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB SF340A and SAAB 340B series airplanes, that requires a one-time review of records to determine whether an airplane has been repainted since its delivery from the factory; and a one-time inspection to detect damage associated with improper preparation for the repainting, and corrective action if necessary. This amendment is prompted by mandatory continuing airworthiness information from a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct damage to the aluminum skin of the airplane, which could result in a weakening of the structure of the airplane.

DATES: Effective December 31, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 31, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. 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: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: 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 Saab Model SAAB SF340A and SAAB 340B series airplanes was published in the **Federal Register** on August 17, 2001 (66 FR 43130). That action proposed to require a one-time review of records to determine whether an airplane has been repainted since its delivery from the factory; and a one-time inspection to detect damage associated with improper preparation for the repainting, and corrective action if necessary.

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.

Requests To Revise Compliance Time for Initial Actions

The compliance time of the proposed AD is 200 flight hours, which corresponds to the compliance time mandated by parallel Swedish airworthiness directive SAD 1–161 R1, dated March 5, 2001. Several commenters note that the parallel Swedish airworthiness directive has been further revised to correct a printing error. SAD 1–161 R2, dated March 13, 2001, was issued to revise the compliance time to 2,000 flight hours. The commenters request that the proposed AD be revised to reflect the longer compliance time. They assert that there is no correlation between 200 flight hours and 1 year, and that the average fleet utilization is approximately 2,000 flight hours annually or about 200 flight hours every 2 to 3 months.

The FAA concurs, for the reasons identified by the commenters. The compliance times for the initial actions specified by paragraphs (a) and (b) of the final rule have been revised accordingly.

Requests To Extend Compliance Time for Corrective Action

Paragraph (b)(2) of the proposed AD specifies that chemical stripping and corrective action must be accomplished prior to further flight after detection of discrepancies. Two commenters request that the proposed AD be revised to extend this compliance time to correspond to that specified in Saab Service Bulletin 340–51–020: 4,000 flight hours or 2 years. One commenter states that the proposed compliance time is far too restrictive, and requests that the airplane be allowed to continue in service for the period of time specified by the service bulletin. The commenter anticipates that requiring immediate repair might ground numerous airplanes and impose

significant economic impact on Saab operators.

Based on the comments and the findings of the manufacturer and the Luftfartsverket (LFV), which is the airworthiness authority for Sweden, FAA agrees that allowing up to 4,000 flight hours or 2 years for those actions would not compromise the safety of affected airplanes. Such an interim period of flight with known discrepancies is acceptable in light of the safety implications, the average utilization rate of the affected fleet, the practical aspects of scheduling repair during regular maintenance periods, and the availability of required parts. Paragraph (b)(2) of this final rule has been revised accordingly.

Request To Allow Alternative Paint

One commenter requests that the proposed AD be revised to allow use of an alternative paint system that would extend the compliance time temporarily until final corrective action, if necessary, can be accomplished. The commenter asserts that other paint systems commonly used in the industry, if appropriately applied, would provide adequate protection for another two years if no corrosion is found.

The FAA does not concur with the request. Developing an exhaustive list of all possible paint systems that would be acceptable for compliance with this AD would be very difficult. However, under the provisions of paragraph (c) of the final rule, the FAA may approve requests to use an alternative paint system if data are submitted to substantiate that such an alternative paint system would provide an acceptable level of safety.

Request To Allow Manufacturer Approval of Corrective Action

The proposed AD specifies that the FAA or the LFV (or its delegated agent) must approve methods of corrective action if pitting corrosion or reduced skin thickness is detected. One commenter requests that the proposed AD be revised to specify that the manufacturer, rather than the FAA or the LFV, approve the repair methods. The commenter asserts that repair approval by the manufacturer would omit unnecessary approval actions by the FAA or the LFV. The commenter adds that the FAA has always accepted manufacturer's data, and that this policy of manufacturer involvement should continue in this case to avoid inappropriate repairs.

The FAA does not concur with the request to allow manufacturer approval of repair methods, which would constitute delegating the FAA's rulemaking authority to the manufacturer. However, as the proposed AD stated, the approval may be obtained from either the FAA or the LFV (or the LFV's designated agent). The LFV's designated agent is often a representative of the manufacturer. In any event, the manufacturer is consulted on issues related to appropriate repair methods so that the approved repair scheme will be consistent with methods previously used on a particular airplane. No change to the final rule is necessary in this regard.

Requests for Definition of ''Approved'' Paint System

Two commenters request that paragraph (b) of the proposed AD be revised to clearly define an ''approved'' paint system. One of the commenters notes that the proposed AD does not account for previous paint systems applied on the airplane. That commenter requests that the AD provide specifications that will enable operators to distinguish approved from unapproved paint systems to avoid confusion. The other commenter questions whether a paint system is ''approved'' by the manufacturer or by virtue of being performed at a paint facility using an FAA-approved paint system.

The FAA agrees that clarification may be necessary. The SAAB 340 paint system is approved by the LFV as part of the type design. The FAA accepts the LFV approval and considers the paint system to be FAA-approved. Criteria for an approved paint system are found in section 51–20–43 of the Saab 340 Structural Repair Manual, as referred to by Saab Service Bulletin 340–51–020, Revision 01, dated May 16, 2001. Paragraph (b)(2)(ii)(B) of this AD has been revised to include this definition.

Additional Change to Final Rule

The FAA notes that paragraph (b)(2)(ii)(B)(2) of the proposed AD inadvertently referred to airplanes that were ''painted,'' instead of ''repainted,'' using an unapproved paint system. This final rule has been revised accordingly.

Conclusion

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

Cost Impact

The FAA estimates that 288 airplanes of U.S. registry will be affected by this AD.

It will take 1 work hour per airplane to review the records, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the records review on U.S. operators is estimated to be $17,280, or $60 per airplane.

For those airplanes that have been repainted, it will take 20 to 45 work hours per airplane to accomplish the inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection is estimated to be $1,200 to $2,700 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:

2001–23–12 Saab Aircraft AB: Amendment 39–12511. Docket 2001–NM–91–AD.

Applicability: Model SAAB SF340A series airplanes having serial numbers –004 through –159 inclusive, and SAAB 340B series airplanes having serial numbers –160 through –459 inclusive; 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 detect and correct damage to the aluminum skin of the airplane, which could result in a weakening of the structure of the airplane, accomplish the following:

Review of Records

(a) Within 2,000 flight hours or 1 year after the effective date of this AD, whichever occurs first: Perform a review of records to determine whether an airplane subject to this AD has been repainted since its delivery from the factory. If the airplane has not been repainted, no further action is needed.

Inspection and Corrective Action

(b) If an airplane has been repainted since its delivery from the factory: Within 2,000 flight hours or 1 year after the effective date of this AD, whichever occurs first, perform chemical stripping of local areas of the skin and inspection to detect damage to (or removal of) the protective coat of bonding primer, in accordance with Saab Service Bulletin 340–51–020, Revision 01, dated May 16, 2001.

(1) If no damage to the protective coat of bonding primer is detected: Prior to further flight, repaint the stripped areas, in accordance with the service bulletin.

(2) If damage to (or removal of) the protective coat of bonding primer is detected: Prior to further flight, repaint the stripped areas, in accordance with the service bulletin; and within 4,000 flight hours or 2 years after detection of the damage or removed protective coating, perform additional chemical stripping and inspection of the skin for pitting corrosion, in accordance with the service bulletin.

(i) If pitting corrosion is detected: Perform corrective action in a manner and within a compliance time approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the Luftfartsverket (or its designated agent).

(ii) If no pitting corrosion is detected: Prior to further flight, measure the thickness of the skin of the airplane, in accordance with the service bulletin.

(A) If a reduction in skin thickness is detected: Perform corrective action in a manner and within a compliance time approved by the Manager, International Branch, ANM–116, or the Luftfartsverket (or its designated agent).

(B) If no reduction in skin thickness is detected: Prior to further flight, check records to determine whether the airplane was repainted using an approved paint system. For purposes of this AD, criteria for an ''approved'' paint system are found in section 51–20–43 of the Saab 340 Structural Repair Manual.

(*1*) If the airplane was repainted using an approved paint system: Prior to further flight, repaint the stripped areas of the airplane, in accordance with the service bulletin.

(*2*) If the airplane was repainted using an unapproved paint system: Prior to further flight, chemically strip the entire airplane and repaint it, in accordance with the service bulletin.

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, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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) Except as required by paragraphs (a), (b)(2)(i), (b)(2)(ii)(A), and (b)(2)(ii)(B) of this AD: The actions shall be done in accordance with Saab Service Bulletin 340–51–020, Revision 01, dated May 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 Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. 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 Swedish airworthiness directive SAD 1–161R2, dated March 13, 2001.

Effective Date

(f) This amendment becomes effective on December 31, 2001.

Issued in Renton, Washington, on November 15, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–29184 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–32–AD; Amendment 39–12509; AD 2001–23–11]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model EC 155B Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an airworthiness directive (AD) for Eurocopter France Model EC 155B helicopters that currently requires, before each flight, visually checking each sliding door to ensure that each door roller is inside its rail. This amendment requires modifying the cabin sliding door rails and replacing the roller fitting. This amendment is prompted by the development of a modification that mechanically restrains the roller within its rail. The actions specified by this AD are intended to prevent in-flight loss of a cabin sliding door, impact with the main rotor or fenestron, and subsequent loss of control of the helicopter.

DATES: Effective December 11, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 11, 2001.

Comments for inclusion in the Rules Docket must be received on or before January 25, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–32–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.*

The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On June 12, 2001, the FAA issued AD 2001–13–04, Amendment 39–12284 (66 FR 34103), to require, before each flight, visually checking the door rails of the sliding cabin door to ensure that each roller is inside its rail and revised the Limitations section of the Rotorcraft Flight Manual (RFM) to prohibit opening and closing either cabin sliding door in flight. That action was prompted by the loss of a cabin sliding door in flight. That condition, if not corrected, could result in loss of a cabin sliding door, impact with the main rotor or fenestron, and subsequent loss of control of the helicopter.

The manufacturer has introduced a modification to the cabin sliding door that mechanically restrains the roller within its rail. However, sufficient information about this modification was not received by the FAA in time to be incorporated into AD 2001–13–04.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on Eurocopter France Model EC 155B helicopters. The DGAC advises of an in-flight loss of a cabin sliding door.

Eurocopter France has issued Alert Service Bulletin No. 52A004, dated March 15, 2001 (ASB). The ASB specifies modifying the left-hand and right-hand cabin sliding door fitting roller attachment and upper rail. The DGAC classified this ASB as mandatory and issued AD No. 2001–058–001(A) R1, dated April 18, 2001, to ensure the continued airworthiness of these helicopters in France.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to this bilateral agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since we have identified an unsafe condition that is likely to exist or develop on other Eurocopter France Model EC 155B helicopters of the same type design registered in the United States, this AD supersedes AD 2001–13–04 to require, before further flight, modifying the cabin sliding door rails and replacing the roller fitting. The actions must be accomplished in accordance with the service bulletin described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability and structural integrity of the helicopter. Therefore, modifying the cabin sliding door rails and replacing the roller fitting are required before further flight, and this AD must be issued immediately.

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.

The FAA estimates that 2 helicopters will be affected by this AD, that it will take approximately 20 work hours to modify the sliding cabin door, and that the average labor rate is $60 per work hour. Required parts will cost approximately $800 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,000.

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 should 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.

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 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 No. 2001–SW–32–AD.'' The postcard will be date stamped and returned to the commenter.

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 removing Amendment 39–12284 (66 FR 34103, June 27, 2001), and by adding a new airworthiness directive (AD), Amendment 39–12509, to read as follows:

2001–13–04 Eurocopter France: Amendment 39–12509. Docket No. 2001–SW–32–AD. Supersedes AD 2001–13–04, Amendment 39–12284, Docket No. 2001–SW–08–AD.

Applicability: Model EC 155B helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 before further flight, unless accomplished previously.

To prevent in-flight loss of a cabin sliding door, impact with the main rotor or fenestron, and subsequent loss of control of the helicopter, accomplish the following:

(a) Modify the left-hand and right-hand cabin sliding door rails and replace the roller fitting in accordance with the Accomplishment Instructions, paragraph 2, of Eurocopter France Alert Service Bulletin No. 52A004, dated March 15, 2001.

(b) After accomplishing paragraph (a) of this AD, remove from the Limitations section of the Rotorcraft Flight Manual either the statements prohibiting the opening and closing of a cabin sliding door in flight and, before each flight with an open cabin sliding door, visually checking the open door to ensure each door roller is inside its rail or the copy of AD 2001–13–04, whichever is appropriate.

(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, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment, and then send it to the Manager, Regulations Group.

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

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

(e) The modification shall be done in accordance with the Accomplishment Instructions, paragraph 2, of Eurocopter France Alert Service Bulletin No. 52A004, dated March 15, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on December 11, 2001.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD No. 2001–058–001(A) R1, dated April 18, 2001.

Issued in Fort Worth, Texas, on November 13, 2001.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–29188 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–68–AD; Amendment 39–12488; AD 2001–22–09]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects information in an existing airworthiness directive (AD) that applies to certain Bombardier Model CL–600–2B19 series airplanes. That AD currently requires repetitive eddy current inspections for cracking of the main landing gear (MLG) main fittings, and replacement with a new or serviceable MLG, if necessary. That AD also requires servicing the MLG shock struts; inspecting the MLG shock struts for nitrogen pressure, visible chrome dimension, and oil leakage; and performing corrective actions, if necessary. This document corrects a typographical error existing in the ''Applicability'' section of the AD. This correction is necessary to ensure that the correct airplane model is specified.

DATES: Effective December 4, 2001.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of December 4, 2001, (66 FR 54658, October 30, 2001).

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7512; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: On October 22, 2001, the Federal Aviation Administration (FAA) issued AD 2001–22–09, amendment 39–12488 (66 FR 54658, October 30, 2001), which applies to certain Bombardier Model CL–600–2B19 series airplanes. That AD requires repetitive eddy current inspections for cracking of the main landing gear (MLG) main fittings, and replacement with a new or serviceable MLG, if necessary. That AD also requires servicing the MLG shock struts; inspecting the MLG shock struts for nitrogen pressure, visible chrome dimension, and oil leakage; and performing corrective actions, if necessary. The actions specified by that AD are intended to prevent failure of the MLG main fitting, which could result in collapse of the MLG upon landing. The actions are intended to address the identified unsafe condition.

Need for the Correction

The FAA notes that a typographical error occurred in the ''Applicability'' section of AD 2001–22–09. Although the airplane model was referred to correctly as ''CL–600–2B19'' in all other areas of that AD, the ''Applicability'' section incorrectly identified the applicable airplane model as ''CL–200–2B19.'' We have corrected the ''Applicability'' section of this AD to specify ''CL–600–2B19.''

The FAA has determined that a correction to AD 2001–22–09 is necessary. The correction will correctly identify the applicable airplane model in the ''applicability'' section of the AD.

Correction of Publication

This document corrects the error and correctly adds the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains December 4, 2001.

Since this action only corrected a typographical error, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

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 [Corrected]

2. Section 39.13 is amended by correctly adding the following airworthiness directive (AD):

Bombardier: Amendment 39–. Docket 2000–NM–68–AD.

Applicability: Model CL–600–2B19 series airplanes, certificated in any category, having serial numbers 7003 and subsequent, and equipped with a main landing gear (MLG) main fitting having part number (P/N) 17064–101, 17064–102, 17064–103, or 17064–104.

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 (g) 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 prevent failure of MLG main fitting, which could result in collapse of the MLG upon landing, accomplish the following:

Inspection and Replacement

(a) Prior to the accumulation of 1,500 total flight cycles, or within 150 flight cycles after December 4, 2001, the effective date of this AD, whichever occurs later: Perform an eddy current inspection to detect cracking of the MLG main fittings, in accordance with Part B of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000. If any cracking is found, prior to further flight, replace the cracked fitting with a new or serviceable fitting in accordance with the alert service bulletin. Repeat the inspection thereafter at intervals not to exceed 500 flight cycles.

Servicing the Shock Struts

(b) Prior to the accumulation of 1,500 total flight cycles since the date of manufacture, or within 500 flight cycles after the effective date of this AD, whichever occurs later: Perform a servicing (Oil and Nitrogen) of the MLG shock struts (left and right main landing shock struts), in accordance with Part C (for airplanes on the ground) or Part D (for airplanes on jacks) of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000.

Other Inspections

(c) Within 500 flight cycles after completing the actions required by paragraph (b) of this AD: Perform an inspection of the MLG left and right shock struts for nitrogen pressure, visible chrome dimension, and oil leakage, in accordance with Part E of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000. Thereafter, repeat the inspection at intervals not to exceed 500 flight cycles.

Corrective Actions for Certain Inspections

(d) If the chrome extension dimension of the shock strut pressure reading is outside the limits specified in the Airplane Maintenance Manual, Task 32–11–05–220–801, or any oil leakage is found: Prior to further flight, service the MLG shock strut in accordance with Part C (for airplanes on the ground) or Part D (for airplanes on jacks) of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000.

Extension of the Repetitive Interval

(e) After the effective date of this AD: After a total of five consecutive inspections of the MLG shock struts that verify that the shock struts are serviced properly, and a total of five consecutive eddy current inspections of the MLG main fitting has been accomplished that verify there is no cracking of the main fitting, in accordance with Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000, the repetitive interval for the eddy current inspections required by paragraph (a) of this AD may be extended from every 500 flight cycles to every 1,000 flight cycles.

Reporting Requirement

(f) Within 30 days after each inspection and servicing required by paragraphs (a), (b), and (c) of this AD, report all findings, positive or negative, to: Bombardier Aerospace, Regional Aircraft, CRJ Action Desk, fax number 514–855–8501. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(g) 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, New York 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, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

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

Incorporation by Reference

(i) The actions shall be done in accordance with Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000. This incorporation by reference was approved previously by the Director of the Federal Register as of December 4, 2001 (66 FR 54658, October 30, 2001). Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–1999–32R1, dated January 22, 2001.

Effective Date

(j) The effective date of this amendment remains December 4, 2001.

Issued in Renton, Washington, on November 16, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–29322 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–330–AD; Amendment 39–12519; AD 2001–24–03]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 50 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 certain Dassault Model Mystere-Falcon 50 series airplanes. This action requires revising the Airplane Flight Manual to prohibit flight operation under reduced vertical separation minimum (RVSM). This action is necessary to prevent near misses or collision with other aircraft during flight, due to incorrect altitude information.

DATES: Effective December 11, 2001.

Comments for inclusion in the Rules Docket must be received on or before December 26, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–330–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 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. 2001–NM–330–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 for Windows or ASCII text.

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: 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: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Dassault Model Mystere-Falcon 50 series airplanes. The DGAC advises that certain airplanes may exceed the reduced vertical separation minimum (RVSM) that was established by the International Civil Aviation Organization (ICAO). The cause of exceeding RVSM is currently under investigation by the manufacturer. This condition, if not corrected, could result in flight operation under RVSM, and consequent near misses or collision with other aircraft.

The DGAC has issued French airworthiness directive T2001–524–037(B), effective October 27, 2001, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of 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 is being issued to prevent near misses or collision with other aircraft during flight, due to incorrect altitude information. This AD requires revising the Airplane Flight Manual to prohibit flight operation under RVSM until further testing and corrective actions are accomplished.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

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 2001–NM–330–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, 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:

2001–24–03 Dassault Aviation: Amendment 39–12519. Docket 2001–NM–330–AD.

Applicability: Model Mystere-Falcon 50 series airplanes having serial numbers 11, 16, 67, 107, 128, 138, 175, 183, 184, 185, 190, 222, and 225; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent near misses or collision with other aircraft during flight, due to incorrect altitude information, accomplish the following:

Airplane Flight Manual (AFM) Revision

(a) Within 10 days after the effective date of this AD, revise the Limitations Section of the FAA-approved AFM to include the following (this may be accomplished by inserting a copy of this AD in the AFM):

''The reduced vertical separation minimum (RVSM) approval is suspended until testing and corrective actions, if necessary, are accomplished in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or by the Direction Générale de l'Aviation Civile (DGAC).''

Alternative Methods of Compliance

(b) 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, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) 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.

Note 2: The subject of this AD is addressed in French airworthiness directive T2001–524–037(B), effective date, October 27, 2001.

Effective Date

(d) This amendment becomes effective on December 11, 2001.

Issued in Renton, Washington, on November 19, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–29342 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Oxytetracycline Hydrochloride Soluble Powder; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by Bimeda, Inc., that provides for a revised withdrawal time for use of oxytetracycline hydrochloride soluble powder in the drinking water of turkeys and swine. The regulations are also being amended to reflect approval of an additional pail size, which was approved under ANADA 200–144 on June 26, 1995; however, inadvertently this change has not yet been made in title 21 CFR. This document corrects that omission and improves the accuracy of the regulations.

DATES: This rule is effective November 26, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Bimeda, Inc., 288 County Rd. 28, LeSueur, MN 56058–9322, filed a supplement to ANADA 200–144 that provides for use of TETROXY® (oxytetracycline HCl) Soluble Powder for making medicated drinking water for the treatment of various bacterial diseases of livestock. The supplemental ANADA provides for a zero-day withdrawal time after the use of the product in the drinking water of turkeys and swine. The ANADA is approved as of September 17, 2001, and the regulations are amended in 21 CFR 520.1660d to reflect the approval.

Section 520.1660d is also being amended to reflect approval of a 3.09-pound pail size, which was approved under ANADA 200–144 on June 26, 1995.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

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

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

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner

of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 520.1660d [Amended]

2. Section 520.1660d *Oxytetracycline hydrochloride soluble powder* is amended in paragraph (a)(9) by adding ''3.09 and '' after ''pails:''; in paragraphs (d)(1)(ii)(A)(*3*), (d)(1)(ii)(B)(*3*), and (d)(1)(ii)(C)(*3*) by removing ''and 053389'' and by adding in its place '', 053389, and 061133''; and in paragraph (d)(1)(iii)(C) by removing ''No. 046573'' and by adding in its place ''Nos. 046573 and 061133.''

Dated: November 8, 2001.

Claire M. Lathers,

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

[FR Doc. 01–29351 Filed 11–23–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Fenbendazole

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to restore indications for fenbendazole medicated feeds for cattle that have been inadvertently deleted from the regulations. Changes to a table format are also being made. This action is being taken to correct these errors and to improve the accuracy of the regulations.

DATES: This rule is effective November 26, 2001.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–4567, e-mail: ghaibel@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: FDA has discovered that an error has become incorporated into the agency's regulation for part 558 (21 CFR part 558). A portion of the list of indications for fenbendazole medicated feeds for cattle was inadvertently deleted as a publication error beginning with the April 1, 1996, edition of the CFR. At this time, the regulations are being amended in § 558.258 to correct this error, to format some portions of this section as a table, and to restructure other portions to more closely resemble similar regulations for free-choice medicated feeds for cattle. Indications for the control of certain swine parasites, inadvertently removed in a previous revision of the regulations in the **Federal Register** of November 20, 1990 (55 FR 48230), are also being added. The entire text of § 558.258 is being provided for the convenience of the reader.

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedure are unnecessary because FDA is merely correcting nonsubstantive errors.

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

2. Section 558.258 is revised to read as follows:

§ 558.258 Fenbendazole.

(a) *Specifications.* Type A medicated articles: 4 percent (18.1 grams per pound (g/lb)), 8 percent (36.2 g/lb), and 20 percent (90.7 g/lb) fenbendazole.

(b) *Approvals.* See No. 057926 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.275 of this chapter.

(d) *Special considerations.* See § 500.25 of this chapter.

(e) *Conditions of use*—(1) *Turkeys.*

Amount fenbendazole in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
14.5 (16 parts per million).	.....	Growing turkeys: For the removal and control of gastrointestinal worms: round worms, adult and larvae (*Ascaridia dissimilis*); cecal worms, adult and larvae (*Heterakis gallinarum*), an important vector of *Histomonas meleagridis* (Blackhead).	Feed continuously as the sole ration for 6 days. For growing turkeys only.	057926

(2) *Swine.*

Amount fenbendazole in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 10 to 300 (to provide 9 milligrams per kilogram (mg/kg) of body weight) given over a 3- to 12-day period.	.....	For the removal and control of: Adult stage lungworms (*Metastrongylus apri* and *M. pudendotectus*); adult and larvae (L3, 4 stages—liver, lung, intestinal forms) large roundworms (*Ascaris suum*); adult stage nodular worms (*Oesophagostomum dentatum*, *O. quadrispinulatum*); adult stage small stomach worms (*Hyostrongylus rubidus*); adult and larvae (L2, 3, 4 stages—intestinal mucosal forms) whipworms (*Trichuris suis*); adult and larvae kidney worms (*Stephanurus dentatus*).	Feed as sole ration	057926
(ii) 10 to 80 (to provide 9 mg/kg of body weight).	Lincomycin 20	As in paragraph (e)(2)(i) of this section; for increased rate of gain in growing-finishing swine.	Feed as sole ration. Do not feed to swine that weigh more than 250 pounds (lbs); lincomycin as provided by 000009 in § 510.600(c) of this chapter.	057926
(iii) 10 to 80 (to provide 9 mg/kg of body weight).	Lincomycin 40	As in paragraph (e)(2)(i) of this section; for control of swine dysentery in animals on premises with a history of swine dysentery, but where symptoms have not yet occurred.	Feed as sole ration. Do not feed to swine that weigh more than 250 lbs.; lincomycin as provided by 000009 in § 510.600(c) of this chapter.	057926
(iv) 10 to 80 (to provide 9 mg/kg of body weight).	Lincomycin 100.	As in paragraph (e)(2)(i) of this section; for the treatment of swine dysentery.	Feed as sole ration. Do not use within 6 days of slaughter. Do not feed to swine that weigh more than 250 lbs.; lincomycin as provided by 000009 in§ 510.600(c) of this chapter.	057926
(v) 10 to 80 (to provide 9 mg/kg of body weight).	Lincomycin 200.	As in paragraph (e)(2)(i) of this section; for reduction in the severity of swine mycoplasmal pneumonia caused by *Mycoplasma hyopneumoniae*.	Feed as sole ration. Do not use within 6 days of slaughter. Do not feed to swine that weigh more than 250 pound (lb); lincomycin as provided by 000009 in § 510.600(c) of this chapter.	057926
(vi) 10 to 300 (to provide 9 mg/kg of body weight).	Bacitracin methylene disalicylate 10 to 30.	Growing/finishing swine: As in paragraph (e)(2)(i) of this section; for increased rate of weight gain and improved feed efficiency.	Feed as sole ration. Under conditions of continued exposure to parasites, retreatment may be needed after 4 to 6 weeks. Bacitracin methylene disalicylate as provided by 046573 in § 510.600(c) of this chapter.	046573
(vii) 10 to 300 (to provide 9 mg/kg of body weight).	Bacitracin methylene disalicylate 250.	1. Growing/finishing swine: As in paragraph (e)(2)(i) of this section; for control of swine dysentery associated with *Treponema hyodysenteriae* on premises with a history of swine dysentery, but where signs of disease have not yet occurred; or following an approved treatment of the disease condition.	1. Growing/finishing swine: Feed as sole ration. Not for use in growing and finishing swine that weigh more than 250 lbs. Diagnosis of swine dysentery should be confirmed by a veterinarian when results are not satisfactory. Under conditions of continued exposure to parasites, retreatment may be needed after 4 to 6 weeks. Bacitracin methylene disalicylate as provided by 046573 in § 510.600(c) of this chapter.	046573
.....	.....	2. Pregnant sows: As in paragraph (e)(2)(i) of this section; for control of clostridial enteritis in suckling pigs caused by *Clostridium perfringens*.	2. Pregnant sows: Feed as sole ration. Diagnosis of clostridial enteritis should be confirmed by a veterinarian when results are not satisfactory. Under conditions of continued exposure to parasites, retreatment may be needed after 4 to 6 weeks. Bacitracin methylene disalicylate as provided by 046573 in § 510.600(c) of this chapter.	

(3) *Cattle*—(i) *Conditions of use are as follows*:

Amount fenbendazole in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(A) 5 mg/kg body weight (2.27 mg/lb).	.....	For the removal and control of lungworms (*Dictyocaulus viviparus*); barberpole worms (*Haemonchus contortus*); brown stomach worms (*Ostertagia ostertagi*); small stomach worms (*Trichostrongylus axei*); hookworms (*Bunostomum phlebotomum*); thread-necked intestinal worms (*Nematodirus helvetianus*); small intestinal worms (*Cooperia oncophora* and *C. punctata*), bankrupt worms (*Trichostrongylus colubriformis*), and nodular worms (*Oesophagostomum radiatum*).	Feed as sole ration for one day. Do not use within 13 days of slaughter.	057926
(B) 5 mg/kg body weight (2.27 mg/lb) in a free-choice feed.	.....	As in paragraph (e)(3)(i)(A) of this section.	Formulate as specified in paragraph (e)(3)(ii) of this section. Feed a total of 5 mg of fenbendazole per kg (2.27 mg/lb) of body weight to cattle over a 3- to 6-day period. Retreatment may be needed after 4 to 6 weeks. Do not slaughter within 13 days following last treatment.	057926

(ii) *Formulate for use as a free-choice cattle feed as in paragraph (e)(3)(i)(B) of this section as follows*:

Ingredient[1]	Percent	International feed No.
(A) Ingredient: ...		
Copper sulfate	0.45	6–01–720
Dried Cane Molasses	3.12	4–04–695
Monosodium phosphate	31.16	6–04–288
Salt (sodium chloride)	59.00	6–04–152
Zinc sulfate	0.76	6–05–556
Fenbendazole Type A article (20%)	5.51	
(B) Ingredient: ...		
Dicalcium phosphate	32.31	6–00–080
Limestone ..	17.13	6–02–632
Magnesium oxide	9.79	6–02–756
Zinc sulfate	1.47	6–05–556
Copper sulfate	0.29	6–01–720
Potassium iodide	0.0098	6–03–759
Dried Cane Molasses	0.98	4–04–695
Selenium	0.0002	
Salt	35.93	6–04–152
Fenbendazole Type A article (20%)	2.09	

[1]The content of any added vitamin and trace mineral may be varied; however, they should be comparable to those used by the firm for other free-choice feeds. Formulation modifications require FDA approval prior to marketing. The amount of selenium must comply with published regulations.

(4) *Zoo and wildlife animals.*

Species/Class	Amount fenbendazole	Indications for use	Limitations	Sponsor
(i) Feral swine (*Sus scrofa*).	3 mg/kg/day for 3 days..	For the removal and control of kidney worm (*Stephanurus dentatus*), roundworm (*Ascaris suum*), nodular worm (*Oesophagostomum dentatum*).	Use as complete feed. Prior withdrawal of feed or water is not necessary. Retreatment may be required in 6 weeks. Do not use 14 days before or during the hunting season.	057926
(ii) Ruminants (subfamily Antilopinae, Hippotraginae, Caprinae).	2.5 mg/kg/day for 3 days..	For the removal and control of small stomach worm (*Trichostrongylus* spp.), thread necked intestinal worm (*Nematodirus* spp.), barberpole worm (*Haemonchus* spp.), whipworm (*Trichuris* spp.).	Use as complete feed. Prior withdrawal of feed or water is not necessary. Retreatment may be required in 6 weeks. Do not use 14 days before or during the hunting season.	057926

Species/Class	Amount fenbendazole	Indications for use	Limitations	Sponsor
(iii) Rocky mountain bighorn sheep (*Ovis c. canadensis*).	10 mg/kg/day for 3 days..	For the removal and control of *Protostrongylus* spp.	Use as complete feed. Prior withdrawal of feed or water is not necessary. Retreatment may be required in 6 weeks. Do not use 14 days before or during the hunting season.	057926

Dated: November 9, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–29352 Filed 11–23–01; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 19, 24, 194, 250 and 251

[T.D. ATF–470 RE: T.D. ATF–398, Notice No. 859, Notice No. 869, T.D. ATF–418, Notice No. 881 and T.D. ATF–430]

RIN 1512–AB71

Hard Cider, Semi-Generic Wine Designations, and Wholesale Liquor Dealers' Signs (97–2523)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule (Treasury decision).

SUMMARY: This rule finalizes temporary regulations related to semi-generic designations on wine labels and wholesale liquor dealers' signs. This rule also finalizes some of the temporary regulations concerning hard cider, and amends others.

DATES: *Effective date:* January 25, 2002.

Compliance date: Compliance with the amendments to hard cider labeling requirements in 27 CFR 4.21 and 24.257(a) is not mandatory until May 27, 2002.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226; (202) 927–8202; or mdruhf@atfhq.atf.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

This final rule implements some of the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, specifically the sections that amended the Internal Revenue Code (26 U.S.C., ''the IRC'') to:

—Create a wine excise tax category for hard cider (sec. 908),

—List semi-generic designations for wine (sec. 910), and

—Repeal the requirement for wholesale dealers in liquors to post signs (sec. 1415).

The definition of hard cider in Public Law 105–34 was amended by section 6009 of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, as we will discuss later.

On August 21, 1998, ATF issued a temporary rule, T.D. ATF–398 (63 FR 44779), to implement various sections of Public Law 105–34. On the same day, ATF issued a notice of proposed rulemaking, Notice No. 859 (63 FR 44819), inviting comments on this temporary rule for a 60 day period. In response to requests from the industry, ATF reopened the comment period for an additional 30 days on November 6, 1998, by Notice No. 869 (63 FR 59921). We will discuss our proposals, the public comments, and our decisions below.

Temporary Rule, Comments and Decision on Semi-generic Designations

Section 910 of Public Law 105–34 amended 26 U.S.C. 5388 by adding a new subsection (c), Use of semi-generic designations, which generally parallels the language of 27 CFR 4.24 on the same subject, but places the existing list of semi-generic designations outside the discretion of the Secretary.

Since the IRC regulations concerning wine labeling appear in 27 CFR 24.257, we amended that regulation to incorporate the wording of 26 U.S.C. 5388, concerning the use of semi-generic wine designations. Additionally, we incorporated the standards of identity for wines under 27 U.S.C. 205 by reference in this section. Finally, we placed a cross-reference to this new rule in § 4.24.

Since the rules for use of semi-generic designations have been made part of the IRC, the rules apply to all wines, including wines that contain less than 7 percent alcohol by volume and to wines sold only in intrastate commerce.

The use of semi-generic designations on wine labels was the subject of two comments. Peter M. Brody of Ropes & Gray, writing on behalf of the Institut National des Appellations d'Origine (INAO) objected to ''entrenching'' the U.S. policy of allowing use of the names champagne, chablis, burgundy and sauternes, on wines made outside France. Jean-Christophe Paille, Counselor for Agriculture of the Ambassade de France aux Etats-Unis, made the same objection. However, these objections were to the underlying statute and not to the regulatory changes made as a result. Therefore, we are adopting the language of the temporary rule in this final regulation.

Temporary Rule, Comments and Decision on Wholesale Dealers' Signs

Section 1415 of Public Law 105–34 repealed the requirement for wholesale dealers in liquor to post signs identifying their premises and made conforming changes to sections of the law which referenced that requirement. In the temporary rule, ATF amended the Liquor Dealers' regulations by removing §§ 194.239 through 194.241, which relate to this requirement. This change received no comments, so we are adopting the language of the temporary rule in this final regulation.

Hard Cider

The Taxpayer Relief Act of 1997, Pub. L. 105–34, was enacted on August 5, 1997. Section 908 added a new tax class (6) for wine, called ''hard cider,'' to 26 U.S.C. 5041 and imposed a new rate of tax on hard cider as follows:

> On hard cider [which is a still wine] derived primarily from apples or apple concentrate and water, containing no other fruit product, and containing at least one-half of 1 percent and less than 7 percent alcohol by volume, 22.6 cents per wine gallon.

The phrase in brackets was added by section 6009 of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, enacted July 22, 1998, and effective as if it were part of Pub. L. 105–34.

In the temporary rule, ATF added a definition of hard cider to the wine regulations and made other changes to the wine production and labeling regulations. In associated Notice Number 859, ATF invited comments on the definition of hard cider established in the temporary rule. We noted there were numerous traditional ways of making fermented cider, some of which

may not fit the definition of hard cider provided in the temporary rule. We invited comments, including citations of standard references on cider making, on whether adjustments to the definition of hard cider are warranted.

The portion of the temporary rule related to cider generated 48 comments on our definition of cider and the labeling rules. In particular, many commenters expressed concern that the labeling rules for hard cider in T.D. ATF–398 did not allow appropriate designation of their products. Therefore, on September 27, 1999, ATF published T.D. ATF–418 (64 FR 51896) postponing the labeling compliance date for the rules in T.D. ATF–398 for one year. At the same time, we published Notice No. 881 (64 FR 51933) to solicit comments on alternative labeling rules. ATF subsequently published T.D. ATF–430 (65 FR 57734) postponing the labeling compliance date until January 31, 2001. Our proposals and the public comments on both the original temporary rule and the later notice related only to labeling will be summarized and discussed below as background for this final rule.

Tax Rate and Credit Information: Temporary Rule, Comments and Decisions

Public Law 105–34 created a new tax rate that applied to hard cider removed from bond on or after October 1, 1997. This law also amended the small producer's wine tax credit allowed by 26 U.S.C. 5041(c) to provide for a 5.6 cent credit on hard cider removed by small producers. This credit has the effect of reducing the net tax paid on hard cider by a small domestic producer to 17 cents, the equivalent of the lowest tax available to domestic producers for still wine under 14 percent alcohol by volume ($1.07 tax less $0.90 credit). As with the full 90 cent credit applicable to other wines, the hard cider credit of 5.6 cents per gallon is reduced by 1 percent ($.00056 per gallon) for each thousand gallons of wine over 150,000 gallons which are produced in a year. The full tax rate is reached at the 250,000 gallon annual production level. We amended 27 CFR 24.278, which implements the tax credit for small domestic producers, to reflect the change.

Commenter Jeffrey House of California Cider Company, Inc. noted that ''Hard cider is marketed like beer and merchandised next to beer. It is fermented like wine but at less than half the volume of alcohol. It is unfair and illogical that a small beer producer is allowed up to 1.8 million gallons before a new tax bracket and a cider mill that produces * * * hard apple/pear cider is only allowed 100,000 before a very substantial tax change.''

Mr. House correctly notes that the reduced tax rate for small domestic brewers applies to the first 60,000 31-gallon barrels per year (1.86 million gallons), whereas the small domestic wine producer's tax credit applies only to the first 100,000 gallons per year. Mr. House's comment relates to a distinction that exists in the law, so we are unable to change the regulations. No other comments related directly to either the tax rate or the credit provisions, so we are adopting these provisions in the final rule without any change.

Changes Related To Wine and Flavor Credit: Temporary Rule, Comments and Decisions

In T.D. ATF–398, we reworded the regulations related to the wine and flavor credit allowed against distilled spirits tax under 26 U.S.C. 5010. We made these changes to clarify that the new still wine category of hard cider was not eligible for the wine and flavor credit. No comments were received on these changes, so they are adopted in the final rule.

Definition of Hard Cider

ATF took the statutory definition of ''hard cider'' eligible for the new tax rate and placed it in the regulations. We added detail and clarification as follows:

26 U.S.C.5041(b)(6)	Temporary 27 CFR 24.10 ''hard cider''
a still wine	(same)
derived primarily from apples or apple concentrate and water.	primarily from apples or apple concentrate and water (apple juice, or the equivalent amount of concentrate reconstituted to the original brix of the juice prior to concentration, must represent more than 50 percent of the volume of the finished product)
containing no other fruit product	containing no other fruit product nor any artificial product which imparts a fruit flavor other than apple
containing at least one-half of 1 percent and less than 7 percent alcohol by volume.	(same)
(no provision)	having the taste, aroma, and characteristics generally attributed to hard cider, and sold or offered for sale as hard cider and not as a substitute for any other alcohol product.

Each element of the regulatory definition was the subject of comment.

Ten commenters, all distributors of cider and other alcohol beverages, specifically advocated adopting the Washington State definition of cider, which they quoted as:

> Hard cider means table wine that contains not less than one-half of one percent of alcohol by volume and not more than seven percent of alcohol by volume and is made from normal alcoholic fermentation of the juice of sound ripe apples and pears. Hard cider includes, but is not limited to flavored, sparkling, or carbonated cider and cider from condensed apple or pear must.

Other commenters addressed only specific elements of the definition. We will summarize the comments and our decision for each element separately.

''Still''—Temporary Rule, Comments and Decision

First, the regulatory definition specifies that hard cider is a still wine, as stated in 26 U.S.C. 5041(b)(6). The commenters supporting ATF adoption of similar rules to the Washington State definition noted that it allowed carbonation of cider. In addition, e-mail commenter Dan Burick expressed support for a modest amount of carbonation in hard cider, equivalent to the carbonation in microbrews. ATF is precluded from even considering such a change, since the statute limits the application of the hard cider tax rate to still wine. In this final rule, we continue to specify that hard cider is a still wine. The law defines still wine as wine that contains not more than 0.392 gram of carbon dioxide per hundred milliliters of wine.

''Primarily from Apples''—Temporary Rule, Comments and Decision

We interpreted the statutory phrase ''derived primarily from apples or apple concentrate and water'' to mean that apple juice, or the equivalent amount of concentrate reconstituted to the original brix of the juice prior to concentration, must represent more than 50 percent of the volume of the finished product. We note the Washington State definition, supported by ten commenters, does not

contain a requirement for a minimum percentage of apple juice, as we did in our temporary rule. When we set a threshold for apple juice content as part of the regulatory definition of hard cider, we did so in an effort to implement the statutory requirement that hard cider be made ''primarily from apples.'' Although one commenter stated that he believed 95% apple juice should be the minimum, we recognize that one traditional method of making hard cider involves diluting apple wine (approximately 12% alcohol) with juice, concentrate and water, or other non-alcoholic ingredients to a final strength of 6 to 7 % alcohol. We also consulted dictionary definitions of the word ''primarily'', which yielded synonyms such as ''mainly'' ''chiefly,'' and ''for the most part.''

Several other commenters objected to any use of concentrate in production of hard cider; however, the statutory definition of hard cider specifically allows the use of concentrate. In all other wine regulations, reconstituted concentrate is treated the same as unconcentrated juice.

Several commenters stated that 50% was too high a requirement for apple juice. Nicholas Bradstock of the UK National Association of Cider Makers, stated that a ''parallel exists with beer where the characterising ingredient is malt, but the malt levels may often be at less than 50% of the extract material in beer.''

In view of the comments on both sides of the question, we consulted the legislative history. When they introduced S. 475, the bill that eventually became the hard cider tax, Senator James Jeffords of Vermont noted it was ''designed to increase opportunities for the apple industry in the United States,'' and Senator Patrick Leahy of Vermont noted he had ''received letters from officials at state agriculture departments from across the nation—Arizona, Connecticut, Georgia, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Vermont and Virginia—supporting the taxing of draft cider at the beer rate because this change would allow apple farmers in their States to reap the benefits of an expanded culled apple market.'' That expressed intent, together with the choice of the word ''primarily'' in the version of the law that was finally enacted, leads us to adopt the definition of ''primarily'' in the temporary rule, unchanged, in this document.

''Containing No Other Fruit Product'' '' Temporary Rule, Comments and Decision

The Act defined hard cider as ''containing no other fruit product.'' In the regulatory definition, ATF interpreted that to mean, ''containing no other fruit product nor any artificial product which imparts a fruit flavor other than apple.'' In the accompanying notice, we acknowledged that some cider makers were experimenting with apple ciders flavored with other fruits, much as craft brewers experiment with different ingredients, including fruit. However, the statutory language expressly precludes the addition of any other fruit product to hard cider.

The Washington State definition recommended as a model by ten commenters allows apple or pear juice as a base and includes flavored cider. In addition to those commenters, 21 commenters stated they believed fruit flavors should be allowed in hard cider. One commenter, Cheryl Lau, of Transportation, Inc., submitted letters from Senators James Jeffords and Patrick Leahy of Vermont and Representative Richard Neal of Massachusetts, all of whom sponsored bills to allow cider its own tax rate, and from former Senator Bob Dole. These letters were originally sent to ATF before the issuance of the temporary rule. In response to the publication of the temporary rule and the associated notice, we also received comments concerning flavored cider from Senator Harry Reid of Nevada and Representative Michael D. Crapo of Idaho. These legislators expressed concern that ATF was too restrictive in its interpretation of the statute. They stated that they believed a fermented apple cider could contain a minor amount of some other fruit flavor yet retain its cider character and remain eligible for the hard cider tax rate. Senators Jeffords and Leahy, in the April 23, 1998, letter submitted by Ms. Lau, said they ''hope [ATF] will adopt a definition of 'hard cider' which does not bar the addition of post-fermentation fruit flavorings.'' Representative Crapo expressed concern on behalf of American cidermakers because he believed ATF's regulatory definition of hard cider would favor imports of traditional all-apple cider at the expense of the vitality of the American industry. He notes that the restrictive definition of cider ''is at odds with the historical nature of cidermaking in the U.S.'' He cites the book *The Art of Cider Making* by Paul Correnty, as an example: ''Raspberries have always held a special place in the cellars and casks of cidermakers.'' We did not receive any comments from legislators expressing the opposite view.

Other commenters who favor allowing fruit flavors in hard cider included cidermakers, distributors, a State legislator (Don Perata of the California Assembly), and a publisher (Thomas E. Dalldorf, Sr. of Celebrator Beer News). Mr. Dalldorf noted the omission of fruit flavored ciders ''would adversely affect producers and consumers alike.'' Some of the producers and distributors commenting on this issue noted that cider has the same alcohol content as beer and is generally marketed in competition with beer. Fruit-flavored beers are taxed at the same rate as conventional beers ($0.584 per gallon), yet if cider producers add flavors to their cider, their tax would rise from $0.226 to the ''table wine'' rate ($1.07 per gallon).

Other commenters did not discuss fruit flavors in general, but said they believed some pear juice should be allowed in cider. Jean-Christophe Paille, Counselor for Agriculture of the Ambassade de France aux Etats-Unis, noted that French regulations authorize the use of pear must in apple cider ''for purpose of gustative quality.'' Nicholas Bradstock of the National Association of Cider Makers (NACM, representing UK cider makers) and Jeffrey House of California Cider Company expressed the view that perry (wine derived from pears) should be given equal tax treatment with cider since the two products are so similar. Only one commenter, Brian Black of Black & Fagan Cider Co., supported the complete prohibition on other fruit flavors, saying ''wine coolers exist for that category.'' Representative Neal, in his March 17, 1998, letter to ATF, supported the idea of fruit flavored ciders, but noted the need for a distinction between an eligible product marketed as cider and ineligible products marketed as ''a fruit flavored wine cooler which was produced with an apple wine base.''

Although the law specified ''no other fruit product,'' ATF interpreted this to mean no artificial fruit flavors, either. Our basis for making that decision was the legislative history of the Taxpayer Relief Act of 1997, Public Law 105–34, contained in the General Explanation of Tax Legislation Enacted in 1997 (the ''Blue Book'') published by the Joint Committee (JCS–23–97, Government Printing Office ISBN 0–16–055897–2), which said,

> Once fermented, eligible hard cider may not be altered by the addition of other fruit juices, flavor, or other ingredient that alters the flavor that results from the fermentation process. Thus, for example, cider fermented

from apples, but which has raspberry flavor added to it prior to bottling and marketing to the public, will not be eligible for the 22.6 cents-per-gallon tax rate.

Further, we do not believe it was Congress's intent to provide a tax incentive for use of artificial ingredients in preference to real ones.

Finally, H.P. Bulmer North America suggested, in its comment, that ATF has the authority to make a de minimis rule that would allow a small amount of fruit flavor in hard cider. They cited court cases recognizing administrative discretion inherent in a statutory scheme to allow de minimis rules despite the absence of such an allowance in the statute, and to allow a de minimis maximum in accordance with congressional intent even when the statute is absolute.

In the present case, ATF does not have discretion to set de minimis exceptions to the statutory definition of hard cider, which proscribes the use of any fruit product other than apples. First, the Blue Book reveals Congress' expressed intent to limit the fruit component of hard cider to apples as reflected in its statement that hard cider must be ''fermented solely from apples or apple concentrate and water, containing no other fruit product'' and that post fermentation processing may not include the addition of other fruit juices or flavors prior to bottling and still be eligible for the 22.6 cents-per-gallon rate. In addition, when Congress revisited the hard cider provisions in Public Law 105–206, the Internal Revenue Service Restructuring and Reform Act, it declined to allow other fruit products despite the fact that this very issue had been raised. These factors present a statutory scheme indicating that Congress intended that hard cider would not be composed of any fruit product other than apples. Finally, we note that the examples cited in the Bulmer comment differ from our situation in that the fruit flavorings, while small as a percentage of the total product, would change the character of the product enough so that the product would be described as, for instance, ''raspberry flavored apple cider,'' and not ''apple cider.'' We are adopting this part of the temporary rule without change.

Other Flavors in Hard Cider

Mr. House expressed concern that his cyser (apple cider mixed with honey) or his mulled cider (flavored with spices) might not be eligible for the hard cider tax rate. Flavoring materials will only affect the tax classification of hard cider if they are derived from or impart the flavor of a fruit other than apple. Products that are otherwise eligible for the hard cider tax rate may be flavored with honey or spices, to use Mr. House's examples, without affecting the tax. We did not make any regulatory changes related to this question.

Wine Treating Materials

Although we did not address other wine ingredients in the regulatory language of the temporary rule, we asked in the notice if the prohibition on ''other fruit products'' should be interpreted to restrict use of authorized wine treating materials or sugars that were derived from fruits other than apple. We noted that some wine treating materials, such as tannin or citric acid, may be derived from fruit other than apples. Mr. Daniels of Green Mountain Cidery, Stephen Swift, Export Manager of Matthew Clark Brands, Ltd., Paul Thorpe of E. & J. Gallo Winery and Mr. Bradstock of NACM, expressed support for continued acceptance of citric acid and sugars as wine treating materials and not as fruit additives. Mr. Thorpe noted that, despite their names, ''citric'' acid and ''fructose'' sugar may be derived from sources other than fruit. Scott Benson, an independent cider distributor, said he thought if fruit flavored ciders were not eligible for the cider tax rate, then citric acid and fruit derived sugars should not be allowed in cider, either. After reviewing these comments, we have decided not to restrict the use of approved wine treating materials in cider. We believe it would be impractical to make a distinction between fruit derived wine treating materials and the same materials derived from other sources, unless there were other circumstances that indicated the producer was using these materials as flavorings. Used as directed in 27 CFR part 24, authorized wine treating materials would not impart a fruit flavor to wine. However, we note that some ciders are made under approved formulas rather than under the rules for production of natural wine in subparts F and L of part 24. In approving such formulas, ATF may allow the use of wine treating materials at a level beyond the amount necessary to stabilize or adjust the acidity of a natural wine. While there is no limit on the amount of wine treating materials that may be used in a formula wine, hard cider may not contain treating materials in amounts sufficient to impart a fruit flavor other than apple and still be taxed as hard cider. For example, if a cider contained more citric acid than the amount allowed under subpart L, and was labeled as ''citrus flavored,'' the product would be classified for tax purposes as a still wine under 14% alcohol by volume rather than a hard cider. As we will discuss in more detail in the background material on labeling, we will allow the use of the term ''hard cider'' on labels of products that do not belong to the ''hard cider'' tax class, as long as other information on the label allows us to determine the tax class.

Alcohol Content: Temporary Rule, Comment and Decision

ATF's regulatory definition of hard cider included the phrase ''containing at least one-half of 1 percent and less than 7 percent alcohol by volume.'' This portion of the definition comes directly from the law. Commenter Greg Kushmerek, who identified himself as someone who has made hard cider in the past, noted it would be difficult for a small producer or hobbyist to control fermentation to prevent the cider from exceeding 7% abv. The ''less than 7 percent'' limit was imposed by statute. Home winemakers may produce any type of wine, subject to the limitations in 24.75, Wine for personal or family use, so they will not be affected by the 7% alcohol limit for hard cider. For commercial producers, the tolerances as to alcohol content already in wine regulations at 24.257 will apply to cider as well. This portion of the definition is adopted without change from the temporary rule.

''Characteristics Generally Attributed To Hard Cider''—Temporary Rule, Comments and Decision

ATF concluded the definition by stating that hard cider must have the taste, aroma and characteristics generally attributed to hard cider, and that it must be sold or offered for sale as hard cider. In its comment, Green Mountain Cidery noted that ''there are currently no agreed subjective taste, aroma or characteristic' profiles within the industry for cider.'' We recognize that hard cider may be made and presented a number of different ways. The limitations were added to insure that products eligible for the hard cider tax rate would not be confused with other types of beverages that are subject to different tax rates, such as malt-based ''coolers.''

Conclusions on Definition of Hard Cider

Senator Leahy, when he introduced S. 475, said,

> Draft cider is one of the oldest categories of alcoholic beverages in North America. Back in Colonial times, nearly every innkeeper served draft cider to his or her patrons during the long winter. In fact, through the 19th Century, beer and draft cider sold equally in the United States.

Recently, draft cider has made a comeback in the United States and around the world. Our tax law, however, unfairly taxes draft cider at a much higher rate than beer despite the two beverages sharing the same alcohol level and consumer market. This tax treatment, I believe, creates an artificial barrier to the growth of draft cider. Our legislation will correct this inequity.

In his comment on the temporary rule, Richard G. Burge of Wyder's Cider said, ''We fail to understand how it is that our hard ciders will not only be unable to enjoy the lower tax rate, but will also be completely shut out of the very product category that we helped to establish * * *. We believe the rules should promote the category, not choke it * * *.''

The exact wording of the law precludes ATF from making the changes in the definition requested by so many commenters.

Labeling of Hard Cider—Temporary Rule, Revised Notice, Comments and Decision

In T.D. ATF–398, ATF added temporary regulations for labeling hard cider. We changed both the IRC and the Federal Alcohol Administration (FAA) Act labeling rules to require use of the term ''hard cider'' on products that are taxable as hard cider, and prohibit use of that term on any other wine. We set a compliance date of February 17, 1999 (six months after publication), to allow time for producers to change labels to comply with the temporary rule. In associated Notice No. 859, ATF requested comments on the labeling rules. The comments we received on the labeling portion of our temporary rule indicated that we had imposed an unintended and unnecessary burden.

We learned there are producers who make ciders that are not eligible for the new tax rate, but who have been using the term ''hard cider'' to describe their products. Their products include apple wines containing 7 percent or more alcohol by volume and ciders that contain less than 7 percent alcohol by volume with other fruit flavors. Since such products are excluded from the definition of hard cider, we said in the temporary rule they were not entitled to be called ''hard cider'' on labels. The producers and other interested persons expressed concern that the temporary rule would create consumer confusion, since the word ''hard'' suggests ''hard liquor'' or higher alcohol content, rather than the meaning we gave it. Some producers of wines eligible for the hard cider tax rate stated they prefer to use a phrase like ''draft cider'' or ''fermented cider'' on their labels and in their marketing, for the same reason.

ATF based the requirement in the temporary rule on 26 U.S.C. 5368(b), which gives the Secretary of the Treasury general authority to issue labeling regulations that require evidence of compliance with tax rules. The Secretary of the Treasury also has authority under the FAA Act, 27 U.S.C. 205(e), to prescribe regulations to insure that wines with 7 percent alcohol by volume or more are labeled or marked to ''* * * provide the consumer with adequate information as to the identity and quality of the products * * *''

When we drafted the hard cider labeling sections of the temporary rule, we did not intend to cause a hardship for the industry or consumers. We intended to maintain the current system of identifying the tax class of wine by information on the label. The function of ATF's marking requirement is to insure proper identification of the wine for tax purposes, and to inform consumers of the identity of the product. From the comments, we saw that the term ''hard cider'' has broader meaning in the industry and among consumers than the definition given in the regulations.

In light of these comments, we reviewed our need for tax identification on the labels of wines. Although much of our work takes place on wine premises where supplemental information is available to establish the tax rate of a given lot of wine, we believe there are times when we must be able to tell the tax rate by looking at the label alone. However, we believed it would be possible to meet our tax identification needs and still allow greater flexibility for the industry. On September 27, 1999, we issued T.D. ATF–418 (64 FR 51896) to postpone the effective date of the cider labeling rules until September 27, 2000, and associated Notice No. 881 (64 FR 51933) proposing alternative labeling rules and requesting public comments.

Specifically, we proposed to remove the amendment we made to § 4.21(e)(5) of the FAA Act wine labeling regulations. Part 4 only applies to wines that contain 7%–24% alcohol by volume. As amended, that section prohibited the use of the term ''hard cider'' on any wine with 7% or more alcohol by volume. We intended to avoid confusion between these higher alcohol wines and wines in the new hard cider tax class by this prohibition. After reviewing the comments, we find this precaution unnecessary. We believe, since hard cider with 7% or more alcohol by volume will be marked with the alcohol content, it will be easy to distinguish the product from a lower-alcohol hard cider eligible for the hard cider tax rate. Therefore, we will allow use of the term ''hard cider'' on products over 7% alcohol by volume. Second, we are amending the IRC marking requirements in part 24. When the new tax class of hard cider was established, we amended the labeling rules to substitute the phrase ''hard cider'' for the word ''wine'' to identify the tax class. On IRC wine labels, no single item of information gives the tax class. On conventional wines, the word ''wine'' and the alcohol content (modified by the word ''carbonated'' or ''sparkling'' if either applies) identify the tax class.

For products under 7% alcohol by volume, we want to differentiate between ciders which are eligible for the hard cider tax rate and those which are taxable as still wine containing not more than 14% alcohol by volume. Some producers have marketed eligible products as ''draft cider,'' ''fermented cider'' or ''apple cider'' and do not wish to use the term ''hard cider'' on labels. Some producers have marketed mixed-fruit ciders or low-alcohol ciders that are otherwise excluded from the current definition of hard cider under the name ''hard cider'' and do not wish to rename their products.

Other commenters asked questions that indicated labeling requirements were not clear in the temporary rule:

—Does ATF require that the words ''hard cider'' must be inserted in the brand name?

—Where on the label must the required information appear?

—What size type should be used for the required information?

—Do the FAA Act labeling rules and standards of fill apply to hard cider?

To address these concerns, we proposed several changes to 27 CFR 24.257. First, we proposed to adopt the minimum and maximum type size requirements of 27 CFR 4.38 because they are already in use by the wine industry for higher alcohol products. We did not propose to specify placement of information required in § 24.257. Products with 7 percent or more alcohol by volume will still be subject to the FAA Act rules covering placement.

We proposed to remove the requirement that the word ''wine'' or the words ''carbonated wine'' must be ''part of the brand name or in a phrase in direct conjunction with the brand name.'' Information on the kind of wine may be anywhere on the label. We also proposed to add some alternative labeling terms to reflect the industry practice of calling products ''cider'' instead of ''wine'' on these labels. We did not propose to require or restrict the

use of words such as ''draft'', ''fermented'' or ''hard'' to identify products in the tax class of hard cider. We proposed, where the words on the label leave doubt as to the tax class, that cider makers must include a reference to the tax class by section of the law. For example, hard cider must contain more than 50 percent apple juice. If a cider contains less than 50 percent apple juice, it is taxed as a still wine under 14 percent alcohol by volume, but it may still be called cider. In order to make it clear that this cider is taxed at $1.07 instead of $0.226, we will require that the label show ''tax class 5041(b)(1) IRC'' or an equivalent phrase. This wording is similar to the wording of 27 CFR 25.242, on marking nontaxable cereal beverages. We requested industry and consumer comments on these proposals.

In response to Notice No. 881, ATF received four comments. Roger Daniels of Green Mountain Cidery wrote to support the proposed changes, but objected to use of specific examples in the proposed rule that used the temporary rule's definition of hard cider, which they believe should be changed. Since we have not changed the definition, we have retained the examples. Mr. Daniels also reiterated his request that we clarify when FAA Act labeling rules apply and when they do not. We have amended the final rule to include this information. We have also added a reference to the Health Warning Statement, which is required for any alcohol beverage over ½ percent alcohol, including cider. Richard G. Burge of Wyder's Cider supported our proposal to allow more open use of the word cider, but objected to our proposal that the tax class should be added to the label. He said the added tax information ''is not meaningful to the consumer and can be confusing.'' Mr. Bradstock of NACM said: ''Ciders qualifying as Hard Cider for tax purposes might be described in other terms, * * * and if the tax class is not clear from the manner of labelling [sic] then this might be confirmed by quoting the tax class on the label * * * with or without a supplementary declaration of hard cider.'' Stephen Swift of Matthew Clark Brands, Ltd., a cider maker from the U.K., wrote to express support for the NACM comment.

All the commenters supported ATF's proposal to allow more flexibility in naming hard cider and related products. Three of the four also accepted ATF's suggestion to supplement the product name with the IRC quote when the name and alcohol content alone do not give enough information to establish the tax class.

In response to Mr. Burge's objection to the use of the IRC cite as tax class identification, it is our responsibility under the Internal Revenue Code to identify taxable commodities and collect the tax. We have revised the requirement for the law cite to emphasize that it only applies in cases where it is impossible to identify the tax class from existing label information. In the notice, we requested suggestions for other ways of identifying the tax class, and received no suggestions. We have decided to adopt the proposed changes in this final rule with the revisions noted.

Conforming Changes on Hard Cider

We amended the definition of ''eligible wine'' that appears in parts 19, 250 and 251 to clarify that wine in the new tax category of hard cider is not eligible for wine and flavor credit if used in a distilled spirits product. We did not receive any comments on this change, so amendments to 27 CFR 19.11, 250.11 and 251.11 in the temporary rule are adopted in this final rule without change.

Transition to New Rules

While the labeling changes in this final rule are effective 60 days after publication in the **Federal Register** for new labels, we recognize that it is not practical to enforce the new requirements immediately for products already on the market. Therefore, we will allow a six-month period to change labels as necessary. The new requirements will become mandatory six months after publication in the **Federal Register**.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Moreover, any revenue effects of this rulemaking on small businesses flow directly from the underlying statute. Likewise, any secondary or incidental effects, and any reporting, recordkeeping, or other compliance burdens flow directly from the statute. Pursuant to 26 U.S.C. 7805(f), the temporary regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. That office did not comment on the regulation.

Nine commenters mentioned potential economic harm coming from the exclusion of fruit flavored ciders from the tax category ''hard cider.'' As noted earlier, we believe the wording of the statute does not allow for any other interpretation, thus, any economic effects flow directly from the statute.

Executive Order 12866

It has been determined that this temporary rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no new collection of information is contained in these regulations. Some of the amended regulatory sections contain collections of information that were previously approved by the Office of Management and Budget (OMB). Although these sections are being amended, the changes are not substantive or material.

Drafting Information

Marjorie Ruhf, of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, drafted this document. Other personnel of ATF and the Treasury Department participated in developing the document.

List of Subjects

27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

27 CFR Part 24

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavoring, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

Authority and Issuance

Accordingly, the temporary rule amending chapter I of title 27, Code of Federal Regulations, which was published at 63 FR 44779, August 21, 1998, is adopted as a final rule with the following changes:

PART 4—LABELING AND ADVERTISING OF WINE

Par. 1. The authority citation for 27 CFR part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

Par. 2. Section 4.21 is amended by revising the third sentence of paragraph (e)(5) to read as follows:

§ 4.21 The standards of identity.

* * * * *

(e) Class 5; fruit wine * * *

(5) * * * Fruit wines which are derived wholly (except for sugar, water, or added alcohol) from apples or pears may be designated ''cider'' and ''perry,'' respectively, and shall be so designated if lacking in vinous taste, aroma, and characteristics. * * *

* * * * *

PART 24—WINE

Par. 3. The authority citation for 27 CFR part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111–5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 4. Section 24.4 is amended by adding a reference to part 16 between the references to parts 9 and 18, to read as follows:

§ 24.4 Related Regulations.

* * * * *

27 CFR Part 16—Alcoholic Beverage Health Warning Statement

* * * * *

Par. 5. Section 24.257 is amended by revising paragraph (a) to read as follows:

§ 24.257 Labeling wine containers.

(a) The proprietor must label each bottle or other container of beverage wine prior to removal for consumption or sale. The minimum type size for information required by this section is: 2 millimeters for containers of more than 187 milliliters and 1 millimeter for containers of 187 milliliters or less. The maximum type size for alcohol content statements is 3 millimeters unless the container is larger than 5 liters. The label must be securely affixed and show:

(1) The name and address of the wine premises where bottled or packed;

(2) The brand name, if different from above;

(3) The alcohol content as percent by volume or the alcohol content stated in accordance with 27 CFR part 4. For wine with less than 7 percent alcohol by volume stated on the label there is allowed an alcohol content tolerance of plus or minus .75 percent by volume; and

(4) The kind of wine, shown as follows:

(i) If the wine contains 7 percent or more alcohol by volume and must have label approval under 27 CFR part 4, the kind of wine is the class, type, or other designation provided in that part.

(ii) If the wine has an exemption from label approval, an adequate statement of composition may be used instead of the class and type in 27 CFR part 4.

(iii) If the wine contains less than 7 percent alcohol by volume, an adequate statement of composition may be used instead of the class and type in 27 CFR part 4. The rules in 27 CFR part 4 pertaining to label approval and standards of fill do not apply to wine under 7 percent alcohol by volume. The rules in 27 CFR part 16 requiring a Health Warning Statement do apply to all wines over 1/2 percent alcohol. Except for the rules noted in this section, labeling of wines under 7 percent alcohol is under the jurisdiction of the Food and Drug Administration.

(iv) The statement of composition must include enough information to identify the tax class when viewed with the alcohol content. First, the wine should be identified by the word ''wine,'' ''mead,'' ''cider'' or ''perry,'' as applicable. If the wine contains more than 0.392 grams of carbon dioxide per 100 milliliters, the word ''sparkling'' or ''carbonated,'' as applicable, must be included in the statement of composition. If the statement of composition leaves doubt as to the tax class of the wine, the wine must be marked ''tax class 5041(b)(1) IRC'' or an equivalent phrase. For example, a still wine marked ''wine'' and ''16 percent alcohol by volume'' is adequately marked to identify its tax class as 5041(b)(2). A still wine marked ''hard cider'' and ''9 percent alcohol by volume'' is adequately marked to identify its tax class as 5041(b)(1). A still wine marked ''raspberry hard cider'' and ''9 percent alcohol by volume'' is adequately marked to identify its tax class as 5041(b)(1). A still wine eligible for the hard cider tax rate marked ''cider'' or ''hard cider'' and ''6 percent alcohol by volume'' is adequately marked to identify its tax class as 5041(b)(6). However, if a still wine that is not eligible for the hard cider tax rate is marked ''cider'' or ''hard cider'' and ''6 percent alcohol by volume'' it is not adequately marked to identify its tax class as 5041(b)(1), so the tax class must be shown.

(5) The net content of the container unless the net content is permanently marked on the container as provided in 27 CFR part 4.

* * * * *

Signed: July 13, 2001.

Bradley A. Buckles,

Director.

Approved: October 26, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 01–29361 Filed 11–23–01; 8:45 am]

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POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual Changes to Allow Co-Packaging of Automation Rate and Presorted Rate Flats

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule provides a new preparation option that allows mailers to place flat-size automation rate mailpieces together in packages with flat-size Presorted rate mailpieces of the same mail class. This new option is called ''co-packaging'' and will be available beginning March 31, 2002 for use with First-Class Mail, Periodicals, or Standard Mail.

EFFECTIVE DATE: March 31, 2002.

FOR FURTHER INFORMATION CONTACT: Jane Stefaniak, 703–292–3548; or Cheryl Beller, 202–268–5166.

SUPPLEMENTARY INFORMATION: In this rulemaking, the Postal Service announces the adoption of a new preparation option named ''co-packaging,'' which was initially proposed in a **Federal Register** notice dated August 28, 2001. The new co-packaging preparation option will allow mailers to combine flat-sized automation rate pieces and flat-sized Presorted rate pieces of the same mail class within the same package.

As information, this rule is an outgrowth of two related preparation standards the Postal Service previously adopted. The first of those two standards was adopted on January 7, 2001. It provided new preparation standards in Domestic Mail Manual (DMM) M910 that required mailers of Periodicals nonletters, and permitted mailers of First-Class Mail and Standard Mail flats, to co-sack (Periodicals and Standard Mail) or co-tray (First-Class Mail) packages of automation rate mail with packages of Presorted rate mail. The second of those two previously adopted standards was published on May 24, 2001 (66 FR 28659), and required mailers to begin co-traying First-Class Mail flats and co-sacking

Standard Mail flats within certain conditions, effective September 1, 2001.

The adoption of the new co-packaging rule is justified since most of the same operational justifications for allowing packages of automation rate and Presorted rate flats to be combined in the same container (co-sacking and co-traying) also support allowing the combining of flats within the same package (co-packaging). Currently, automation rate flats (ZIP+4 or delivery point barcoded) and Presorted rate flats (no barcode required) are usually processed by the Postal Service within the same operation.

It can also be noted that the Postal Service's prior need for segregating barcoded and nonbarcoded pieces no longer exists due to advances that include an optical character reader (OCR) on the flat sorting machine (FSM) 881 and the OCR/image lift capabilities of the new automated flat sorting machine (AFSM) 100. Beginning in 2002, the Postal Service plans to retrofit FSM 1000s with OCR capabilities. Therefore, continuing to require the separate preparation of automation rate and Presorted rate pieces results in more packages, which reduces the average depth of sort. This causes additional workhours for the Postal Service associated with sorting, opening, and prepping flats for processing.

The Postal Service requested that comments on the proposed rule for co-packaging (published in the **Federal Register** on August 28, 2001) be submitted by September 27, 2001. Comments were received from a total of seven interested parties that included two mailers, three mailing agents, and two industry organizations.

One of the mailing agents and both of the industry organizations supported the proposal and generally noted that it should reduce package handlings for the Postal Service. One industry organization agreed that a 5-digit barcode would be needed on Presorted rate pieces that are co-packaged. The Postal Service agrees with those comments.

One of the mailing agents maintained that the proposal should be made mandatory, while one of the industry organizations felt the proposal should remain optional. The Postal Service will adopt the rule as a mail preparation option.

One mailing agent, the two mailers, and one industry organization commented that they saw no benefit to limiting the co-packaging of automation rate and Presorted rate pieces to one physical package per logical presort destination. The other mailing agent contended that mailings presented under a manifest mailing system should not be subject to this requirement. Contrary to those comments, the second industry organization stated the limitation was reasonable. In this final rule, the Postal Service will limit the co-packaging of automation rate and Presorted rate pieces to one physical package for each ''logical'' destination. This is necessary in order to assist Postal Service personnel during the mail verification and acceptance processes.

The two mailers requested clarification of the rate eligibility requirements for pieces that are co-packaged, and one industry organization asked for clarification on the requirements for firm packages. The Postal Service believes the eligibility rules adopted for co-packaging and the existing rules for firm packages provide sufficient explanation.

However, in order to avoid confusion, we are providing this further clarification of the rate eligibility standards for co-packaged mail. Postage for Presorted rate and automation rate pieces will continue to be determined under DMM E130 and E140 for First-Class Mail; under E220 and E240 for Periodicals; and under E620 and E640 for Standard Mail. For example, a Periodicals mailer would prepare packages when there are a total of 6 or more Presorted rate and automation rate pieces to the same presort destination. First-Class Mail and Standard Mail users would prepare packages when there are a total of 10 or more Presorted rate and automation rate pieces to the same presort destination. The package level would always determine the automation rates.

For Periodicals and Standard Mail Presorted rate pieces, the rates will continue to be based on the sack level for mail in sacks, and on the package level for packages prepared on pallets. For example, in a sacked Periodicals or Standard Mail mailing, if a 5-digit package placed in a 5-digit sack contains 5 automation rate pieces and 5 Presorted rate pieces, the automation and Presorted 5-digit rates for Periodicals, or 3/5-digit rates for Standard Mail, would apply as appropriate. However, if that 5-digit package is placed in an SCF (Periodicals), ADC, or mixed ADC sack, the 5 Presorted rate pieces would be subject to the Presorted basic rate and the 5 automation rate pieces would still be subject to the automation 5-digit rate for Periodicals or the automation 3/5 rate for Standard Mail, as appropriate.

Periodicals firm packages claimed as a single piece will continue to be subject to the applicable Presorted rate based on the presort level of the logical package with which they are associated (e.g., 5 other pieces to the same destination whether automation rate or Presorted rate) and the sack level, if sacked.

One mailer requested an implementation date for co-packaging that would be earlier than the proposed date of March 31, 2002. In order to allow presort software vendors enough time to update, test, and distribute software to their clients, and because of Postal Service needs associated with the certification process for Presort Accuracy, Validation, and Evaluation (PAVE)-certified software, the Postal Service keeps the implementation date of March 31, 2002.

Both of the mailers commented that they preferred the third option for placing mail on pallets. Under the final rule in DMM M930.1.4e, M930.2.3e, M940.1.4e, and M940.2.3e, mailers may elect to use any one of the three options identified for placing mail on pallets.

One industry organization suggested that a 5-percent ''re-order'' tolerance be extended to co-packaged pieces. Presently, a 1-percent tolerance is applied to ink jet re-order pieces prepared under an authorized Optional Procedure (OP) agreement. As such, that comment falls outside the scope of this rulemaking. However, if necessary, the Postal Service can consider the need to include appropriate provisions in a mailer's OP agreement.

Finally, one industry organization asked that the Postal Service be tolerant of mailers who cannot follow these complex rules by issuing gentle treatment (i.e., education) rather than revenue deficiencies. That comment also falls outside the scope of this rulemaking and therefore will not be addressed at this time.

After full consideration of the comments received and for the reasons cited above, the Postal Service believes it appropriate to adopt a rulemaking for ''co-packaging'' as follows:

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend the following sections of the Domestic Mail Manual (DMM) as set forth below:

M MAIL PREPARATION AND SORTATION

M000 General Preparation Standards

M010 Mailpieces

M011 Basic Standards

1.0 TERMS AND CONDITIONS

* * * * *

1.3 Preparation Instructions

For purposes of preparing mail:

* * * * *

[Insert new 1.3ad and ae, as follows:]

ad. A ''logical'' presort destination represents the total number of pieces that are eligible for a specific presort level based on the required sortation, but which might not be contained in a single package or in a single container (i.e., sack, pallet) due to applicable preparation requirements or the size of the individual pieces. For example, there may be 42 mailpieces for ZIP Code 43112 forming a Standard Mail ''logical'' 5-digit package, and they are prepared in three physical 5-digit packages because of the applicable weight and height restrictions on packages. For pallets, 2,800 pounds of mail may be destined to an SCF destination, and these would form the ''logical'' SCF pallet, but the mail is placed on two physical SCF pallets each weighing 1,400 pounds because of the 2,200 pound maximum pallet weight requirement.

ae. Co-packaging is an alternate preparation option available under M900 for First-Class Mail, Periodicals, and Standard Mail that allows the combining of flat-size automation rate and Presorted rate pieces within the same package under the single minimum package size requirement. Pieces may not be combined in more than one physical package for each logical presort destination.

1.4 Mailing

Mailings are defined as:

* * * * *

[Revise 1.4b, d, and e by adding references to the advanced preparation options for flat-sized mail in M910, M920, M930, M940, and M950 as follows (the remainder of 1.4 is unchanged):]

b. *First-Class Mail.* Except as provided by standard, the types of First-Class Mail listed below may not be part of the same mailing despite being in the same processing category. See M910 and M950 for advanced preparation options for flat-size mail.* * *

* * * * *

d. *Periodicals.* Mail qualifying for the In-County rates may be part of a mailing that includes pieces eligible for the Outside County rates. Mail at carrier route rates, nonautomation Presorted rates, and automation rates must each be sorted as separate mailings. However, each of these mailings may be reported on the same postage statement if the pieces are for the same publication and edition. See M041, M045, M210, and M220 for copalletized, combined, and mixed rate mailings. See M910, M920, M930, M940, and M950 for advanced preparation options for nonletter-size mail.

e. *Standard Mail.* Except as provided in E620.1.2 and M900, the types of Standard Mail listed below may not be part of the same mailing. See M041, M045, M610, and M620 for copalletized, combined, and mixed rate mailings. See M910, M920, M930, M940, and M950 for advanced preparation options for flat-size mail.* * *

* * * * *

M040 Pallets

* * * * *

M045 Palletized Mailings

* * * * *

2.0 PACKAGES ON PALLETS

* * * * *

[Revise 2.2 by adding a sentence at the end to refer to the co-packaging option for Periodicals nonletters and Standard Mail flats, as follows (the remainder of 2.2 is unchanged):]

2.2 Basic Packaging Standards

* * * If palletized mailing jobs of nonletter-size Periodicals or palletized mailing jobs of flat-size Standard Mail contain both automation rate and Presorted rate pieces, the automation rate and Presorted rate pieces may be co-packaged under the standards in M950.

* * * * *

M100 First-Class Mail (Nonautomation)

* * * * *

M130 Presorted First-Class Mail

1.0 BASIC STANDARDS

* * * * *

[Revise the title of 1.6 and add a new sentence at the end to refer to the co-packaging option in M950, as follows (the remainder of 1.6 is unchanged):]

1.6 Co-Traying and Co-Packaging With Automation Rate Mail

* * * Flat-size Presorted rate pieces may be co-packaged with flat-size automation rate pieces under the standards in M950.

* * * * *

M200 Periodicals (Nonautomation)

M210 Presorted Rates

1.0 BASIC STANDARDS

* * * * *

[Revise the title and text of 1.2 a and b to refer to the new co-packaging option in M950, as follows (the remainder of 1.2 is unchanged):]

1.2 Additional Standards for Nonletter-Size Sacked Mailing Jobs Containing More Than One Mailing

The following standards apply:

a. Mailings prepared in sacks that are part of a mailing job that includes a carrier route mailing, an automation rate mailing, and a presorted rate mailing must be prepared under one of the following options:

(1) the carrier route mailing must be prepared under E230 and M220, and the automation rate and Presorted rate mailing must be prepared under M910; or

(2) all three mailings in the mailing job must be prepared under M920.

Presorted rate pieces may be co-packaged with automation rate pieces under the standards in M950.

b. Mailings prepared in sacks that are part of a mailing job that includes an automation rate mailing under E240 and a Presorted rate mailing under E220 must be prepared under the co-sacking standards in M910. Presorted rate pieces may be co-packaged with automation rate pieces under the standards in M950.

* * * * *

[Revise 1.6 to show that merging is optional and to refer to the co-packaging option in M950, as follows:]

1.6 Merged Containerization of Nonletter-Size Carrier Route, Automation Rate, and Presorted Rate Mail

Under the optional preparation method in M920, Presorted rate firm and 5-digit packages prepared under 1.0 and under 2.2a and b must be co-sacked with firm and carrier route packages prepared under M220 and with automation rate 5-digit packages prepared under M820 in merged 5-digit and 5-digit scheme sacks. Under the optional preparation methods in M920, M930, or M940, Presorted rate firm and 5-digit packages prepared under 1.0 and under 2.2a and b must be copalletized with firm and carrier route packages prepared under M220 and with automation rate 5-digit packages prepared under M820 on merged 5-digit

and 5-digit scheme pallets. See 1.2a for information on when preparation under M920 may be required. Presorted rate pieces may be co-packaged with automation rate pieces under M950.

* * * * *

M220 Carrier Route Rates

1.0 BASIC INFORMATION

* * * * *

[Revise 1.6 to show that merging is optional and to refer to the co-packaging option in M950, as follows:]

1.6 Merged Containerization of Nonletter-Size Carrier Route, Automation Rate, and Presorted Rate Mail

Under the optional preparation method in M920, firm and carrier route packages prepared under 1.0 and 2.4 must be co-sacked with Presorted rate 5-digit packages prepared under M210 and with automation rate 5-digit packages prepared under M820 in merged 5-digit and 5-digit scheme sacks. For sacked mailing jobs that contain an automation rate and a Presorted rate mailing as well as a carrier route mailing, the automation rate and the Presorted rate mailings must be prepared under M910 (see M210) and the carrier route mailing must be prepared under M220, unless the mailings are prepared under M920. Under the optional preparation methods in M920, M930, or M940, firm and carrier route packages prepared under 1.0 and 2.4 must be copalletized with Presorted rate 5-digit packages prepared under M210 and with automation rate 5-digit packages prepared under M820 on merged 5-digit and 5-digit scheme pallets. Presorted rate pieces may be co-packaged with automation rate pieces under M950.

* * * * *

M600 Standard Mail (Nonautomation)

M610 Presorted Standard Mail

1.0 BASIC STANDARDS

* * * * *

[Revise the title of 1.5 and add a new sentence at the end to refer to the co-packaging option in M950, as follows (the remainder of 1.5 is unchanged):]

1.5 Co-Traying and Co-Packaging With Automation Rate Mail

* * * Flat-size Presorted rate pieces may be co-packaged with flat-size automation rate pieces under the standards in M950.

[Revise the title and text of 1.6 to refer to the new co-packaging option in M950, as follows:]

1.6 Merged Containerization of Flat-Size Carrier Route, Automation Rate, and Presorted Rate Mail

When the conditions and preparation standards in M920 are met, Presorted rate 5-digit packages prepared under 4.3a may be co-sacked with carrier route rate packages prepared under M620 and with automation rate 5-digit packages prepared under M820 in merged 5-digit and 5-digit scheme sacks. When the conditions and preparation standards in M920, M930, or M940 are met, Presorted rate 5-digit packages prepared under 4.3a may be copalletized with carrier route rate packages prepared under M620 and with automation rate 5-digit packages prepared under M820 on merged 5-digit and 5-digit scheme pallets. Presorted rate pieces may be co-packaged with automation rate pieces under M950.

* * * * *

M620 Enhanced Carrier Route Standard Mail

1.0 BASIC STANDARDS

* * * * *

[Revise the title and text of 1.6 to refer to the co-packaging option in M950, as follows:]

1.6 Merged Containerization of Flat-Size Carrier Route, Automation Rate, and Presorted Rate Mail

When the conditions and preparation standards in M920 are met, carrier route rate packages prepared under 2.0 may be co-sacked with Presorted rate 5-digit packages prepared under M610 and with automation rate 5-digit packages prepared under M820 in merged 5-digit and 5-digit scheme sacks. When the conditions and preparation standards in M920, M930, or M940 are met, carrier route rate packages prepared under 2.0 may be copalletized with Presorted rate 5-digit packages prepared under M610 and with automation rate 5-digit packages prepared under M820 on merged 5-digit and 5-digit scheme pallets. Presorted rate pieces may be co-packaged with automation rate pieces under M950.

* * * * *

M800 All Automation Mail

* * * * *

M820 Flat-Size Mail

1.0 BASIC STANDARDS

* * * * *

[Revise the title of 1.9 and add a new sentence at the end to refer to the co-packaging option in M950, as follows (the remainder of 1.9 is unchanged):]

1.9 Co-Traying, Co-Sacking, and Co-Packaging With Presorted Rate Mail

* * *Automation rate pieces may be co-packaged with Presorted rate pieces under the standards in M950.

[Revise the title and text of 1.10 to be consistent with M210.1.6 and M610.1.6 to refer to the options for merged containerization and co-packaging, as follows:]

1.10 Merged Containerization of Flat-size Carrier Route, Automation Rate, and Presorted Rate Mail

Under the optional preparation methods in M920, 5-digit packages of Periodicals or Standard Mail automation rate flats must be co-sacked with 5-digit packages of Periodicals Presorted rate nonletters or Standard Mail Presorted rate flats prepared under M210 or M610, as applicable, and with packages of Periodicals carrier route nonletters or Standard Mail carrier route flats in merged 5-digit and 5-digit scheme sacks. Under the optional preparation methods in M920, M930, or M940, 5-digit packages of Periodicals or Standard Mail automation rate flats must be copalletized with 5-digit packages of Periodicals Presorted rate nonletters or Standard Mail Presorted rate flats prepared under M210 or M610, as applicable, and with packages of Periodicals carrier route nonletters or Standard Mail carrier route flats on merged 5-digit and 5-digit scheme pallets. Presorted rate nonletter-size Periodicals pieces or Presorted rate flat-size Standard Mail pieces may be co-packaged with flat-size automation rate pieces under M950.

* * * * *

M900 Advanced Preparation Options for Flats

M910 Co-Traying and Co-Sacking Packages of Automation and Presorted Mailings

1.0 FIRST-CLASS MAIL

1.1 Basic Standards

[Revise 1.1c, d, and g by changing the reference to tray preparation standards from ''1.3'' to ''1.4'' (the remainder of 1.1 is unchanged).]

* * * * *

[Revise 1.2 to refer to the co-packaging option in 1.3, as follows:]

1.2 Package Preparation

Except for mail prepared under the co-packaging option in 1.3, the automation rate mailing must be packaged and labeled under M820 and the Presorted rate mailing must be packaged and labeled under M130.

[Renumber current 1.3 as 1.4 and insert new 1.3, as follows:]

1.3 Optional Co-Packaging Preparation

As an option to the basic packaging requirements in 1.2, a mailer may choose to co-package (see M011) automation rate and Presorted rate flat-size pieces, subject to the conditions in M950.

[Revise the first sentence of the renumbered 1.4 to refer to the co-packaging option in 1.3, as follows (the remainder of 1.4 is unchanged):]

1.4 Tray Preparation and Labeling

Presorted rate and automation rate packages prepared under 1.2 or 1.3 must be presorted together into trays (co-trayed) in the sequence listed below.

* * *

* * * * *

2.0 PERIODICALS

2.1 Basic Standards

[Revise 2.1c, d, and f by changing the reference to sack preparation standards from ''2.4'' to ''2.5'' (the remainder of 2.1 is unchanged).]

* * * * *

[Revise 2.2 to refer to the co-packaging option in 2.3, as follows:]

2.2 Package Preparation

Except for mail prepared under the co-packaging option in 2.3, the automation rate mailing must be packaged and labeled under M820 (all package levels) and the Presorted rate mailing must be packaged and labeled under M210 (excluding carrier route level).

[Renumber current 2.3 and 2.4 as 2.4 and 2.5, respectively, and insert new 2.3 as follows:]

2.3 Optional Co-Packaging Preparation

As an option to the basic packaging requirements in 2.2, a mailer may choose to co-package (see M011) automation rate and Presorted rate nonletter-size pieces, subject to the conditions in M950.

[Revise the renumbered 2.4 by adding references to packages prepared under the co-packaging option in 2.3, as follows:]

2.4 Low-Volume Packages in Sacks or on Pallets

Periodicals 5-digit and 3-digit packages prepared under M210 and M820 or under 2.3 may contain fewer than six pieces when the publisher determines that such preparation improves service. These low-volume packages may be placed in 5-digit, 3-digit, and SCF sacks or on 5-digit, 3-digit, or SCF pallets. Presorted rate pieces in such low-volume packages must be claimed at the applicable basic Presorted rate. Automation rate pieces in such low-volume packages must be claimed at the applicable basic automation rate.

[Revise the first sentence of the renumbered 2.5 to refer to the co-packaging option in 2.3, as follows (the remainder of 2.5 is unchanged):]

2.5 Sack Preparation and Labeling

Presorted rate and automation rate packages prepared under 2.2 and 2.4 must be presorted together in sacks (co-sacked) in the sequence listed below.

* * *

3.0 STANDARD MAIL

3.1 Basic Standards

[Revise 3.1c, d, and g by changing the references to sack preparation standards from ''3.3 and 3.4'' to ''3.4 and 3.5'' (the remainder of 3.1 is unchanged).]

* * * * *

[Revise 3.2 to refer to the co-packaging option in 3.3, as follows:]

3.2 Package Preparation

Except for mail prepared under the co-packaging option in 3.3, the automation rate mailing must be packaged and labeled under M820 and the Presorted rate mailing must be packaged and labeled under M610. Loose packing under M610 is not permitted.

[Renumber current 3.3 and 3.4 as 3.4 and 3.5, respectively, and insert new 3.3, as follows:]

3.3 Optional Co-Packaging Preparation

As an option to the basic packaging requirements in 3.2, a mailer may choose to co-package (see M011) automation rate and Presorted rate flat-size pieces, subject to the conditions in M950.

* * * * *

M920 Merged Containerization of Packages Using the City State Product

[Revise the summary in M920 to refer to the co-packaging option in M950, as follows:]

Summary

M920 describes the eligibility and preparation requirements for co-sacking or copalletizing 5-digit automation rate packages, 5-digit Presorted packages, including automation and Presorted rate pieces co-packaged under M950, and carrier route packages of Periodicals nonletter-size mailings and Standard Mail flat-size mailings in merged 5-digit and 5-digit scheme containers using the City State Product.

[Revise the heading of 1.0, as follows:]

1.0 PERIODICALS

[Revise the first sentence in 1.1 to refer to the co-packaging option in M950, as follows:]

1.1 Basic Standards

Carrier route packages in a carrier route rate mailing may be placed in the same sack or on the same pallet (in a merged 5-digit or 5-digit scheme sack or pallet) as 5-digit packages from an automation rate mailing and 5-digit packages from a Presorted rate mailing, including automation and Presorted rate pieces co-packaged as permitted in M950, under the following conditions:

* * * * *

[Revise the first sentence in 1.1e to refer to the co-packaging option in M950, as follows (the remainder of 1.1e is unchanged):]

e. Carrier route packages must be co-sacked or copalletized with automation rate 5-digit packages and Presorted rate 5-digit packages, including automation and Presorted rate pieces co-packaged under M950, only for those 5-digit ZIP Codes that have an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product showing they are eligible for co-sacking or copalletization.* * *

* * * * *

1.2 Package Preparation

Packages must be prepared as follows:

[Revise 1.2a to refer to the co-packaging option in M950, as follows:]

a. *Sacked Mailings.* The carrier route mailing must be packaged and labeled under M220. Except when prepared under the co-packaging option in M950, the automation rate mailing must be packaged and labeled under M820 and the Presorted rate mailing must be packaged and labeled under M210.

* * * * *

1.3 Low-Volume Packages in Sacks or on Pallets

[Revise 1.3 to refer to the co-packaging option by adding ''or M950'' after the reference to M820 in the first sentence (the remainder of 1.3 is unchanged).]

* * * * *

2.0 STANDARD MAIL

[Revise the first sentence in 2.1 to refer to the co-packaging option in M950, as follows:]

2.1 Basic Standards

Carrier route packages of flat-size pieces in a carrier route rate mailing may be placed in the same sack or on the same pallet (a merged 5-digit or 5-digit scheme sack or pallet) as 5-digit packages from an automation rate mailing and 5-digit packages from a Presorted rate mailing, including automation and Presorted rate pieces co-packaged as permitted in M950, under the following conditions:

* * * * *

[Revise the first sentence in 2.1e to refer to the co-packaging option in M950, as follows (the remainder of 2.1e is unchanged):]

e. Carrier route rate packages must be co-sacked or copalletized with automation rate 5-digit packages and Presorted rate 5-digit packages, including automation and Presorted rate pieces co-packaged under M950, only for those 5-digit ZIP Codes with an ''A'' or ''C'' indicator in the Carrier Route Indicators field in the City State Product indicating they are eligible for such co-sacking or copalletization.* * *

* * * * *

2.2 Package Preparation

Packages must be prepared as follows:

[Revise 2.2a to refer to the co-packaging option in M950, as follows:]

a. *Sacked Mailings.* The carrier route mailing must be packaged and labeled under M620. Except when prepared under the co-packaging option in M950, the automation rate mailing must be packaged and labeled under M820 and the Presorted rate mailing must be packaged and labeled under M610.

* * * * *

M930 Merged Palletization of Packages Using a 5% Threshold

[Revise the summary in M930 to refer to the co-packaging option in M950, as follows:]

Summary

M930 describes the eligibility and preparation requirements for copalletizing 5-digit automation rate packages; 5-digit Presorted rate packages, including automation and Presorted rate pieces co-packaged under M950; and carrier route rate packages of Periodicals nonletter-size mailings and Standard Mail flat-size mailings in merged 5-digit and 5-digit scheme pallets using only the 5% threshold (not the City State Product).

[Revise the heading of 1.0, as follows:]

1.0 PERIODICALS

[Revise the heading and first sentence of 1.1 to refer to the co-packaging option in M950, as follows:]

1.1 Basic Standards

5-digit packages from an automation rate mailing and 5-digit packages from a Presorted rate mailing, including automation and Presorted rate pieces co-packaged under M950, may be placed on the same pallet (a merged 5-digit or 5-digit scheme pallet) as carrier route rate packages from a carrier route mailing under the following conditions:

* * * * *

[Revise the first sentence of 1.1d to refer to the co-packaging option in M950, as follows (the remainder of 1.1d is unchanged):]

d. Automation rate 5-digit packages and Presorted rate 5-digit packages, including automation rate and Presorted rate pieces co-packaged under M950, must be copalletized with carrier route rate packages only when the pieces in the 5-digit packages do not exceed the 5% limit described in 1.4.* * *

* * * * *

1.3 Low-Volume Packages on Pallets

[Revise 1.3 to refer to the co-packaging option by adding ''or M950'' after the reference to M820 in the first sentence (the remainder of 1.3 is unchanged).]

* * * * *

[Revise the first sentence of 1.4, as follows:]

1.4 5% Threshold Standard

5-digit packages and carrier route packages may be placed on the same merged 5-digit or 5-digit scheme pallet under 1.5 if all of the following conditions are met:

* * * * *

[Revise 1.4c by replacing the first sentence with the following new sentence; then delete the last four sentences beginning at the word ''Example'' (the remainder of 1.4c is unchanged):]

c. Except when packages are prepared under the co-packaging option in M950, all mail in a logical 5-digit package must be able to be placed on the logical pallet using the 5% limit. * * *

[Insert the following clause at the beginning of 1.4d (the remainder of 1.4d is unchanged):]

d. Except for packages prepared under the co-packaging option in M950, * * *

[Insert new 1.4e to permit mailers using the co-packaging option in M950 to place a portion of a ''logical'' 5-digit package on a merged 5-digit scheme or merged 5-digit pallet with carrier route mail; renumber current 1.4e and f as 1.4f and g, respectively; and change the references in renumbered 1.4f and g from ''1.4a through 1.4d'' to ''1.4a through 1.4e,'' as follows:]

e. For mailing jobs prepared using the co-packaging option in M950, if the total number of pieces prepared in a logical 5-digit package (containing automation rate and Presorted rate pieces) exceeds the 5% limit for a 5-digit ZIP Code in 1.4a, a mailer may, for each 5-digit ZIP Code, choose to place a portion of the pieces prepared in the logical 5-digit package on a merged 5-digit or 5-digit scheme pallet using one of the options below. Regardless of the option selected, a minimum of 6 pieces must be prepared in 5-digit package(s) placed on the merged pallet and a minimum of 6 remaining pieces prepared in 5-digit package(s) not placed on the merged pallet, with the total number of pieces not exceeding the 5% limit. The options are:

(1) Place either all automation rate pieces or all Presorted rate pieces for the 5-digit ZIP Code on the merged pallet.

(2) Place a portion of either the automation rate pieces or the Presorted rate pieces for the 5-digit ZIP Code on the merged pallet.

(3) Place either all the automation rate pieces plus a portion of the Presorted rate pieces or all the Presorted rate pieces plus a portion of the automation rate pieces for the 5-digit ZIP Code on the merged pallet.

* * * * *

2.0 STANDARD MAIL

[Revise the first sentence in 2.1 to refer to the co-packaging option in M950, as follows:]

2.1 Basic Standards

5-digit packages from an automation rate mailing and 5-digit packages from a Presorted rate mailing, including automation rate and Presorted rate pieces co-packaged under M950, may be placed on the same pallet (a merged 5-digit or 5-digit scheme pallet) as carrier route rate packages from a carrier route rate mailing under the following conditions:

* * * * *

[Revise the first sentence in 2.1d to refer to the co-packaging option in M950, as follows (the remainder of 2.1d is unchanged):]

d. Automation rate 5-digit packages and Presorted rate 5-digit packages, including automation and Presorted rate pieces co-packaged under M950, must be copalletized with carrier route packages only when the pieces in the 5-digit packages do not exceed the 5% limit in 2.3.* * *

* * * * *

[Revise the first sentence of 2.3, as follows:]

2.3-5% Threshold Standard

5-digit packages and carrier route packages may be placed on the same merged 5-digit pallet under 2.4 or on the same merged 5-digit or 5-digit scheme pallet under 2.5 if all of the following conditions are met:

* * * * *

[Revise the first sentence in 2.3c as follows; then delete the last four sentences beginning at the word ''Example'' (the remainder of 2.3c is unchanged):]

c. Except when packages are prepared under the co-packaging option in M950, all mail in a logical 5-digit package must be able to be placed on the logical pallet using the 5% limit.* * *

[Revise 2.3d by inserting the following clause at the beginning (the remainder of 2.3d is unchanged):]

d. Except for packages prepared under the co-packaging option in M950, * * *

[Insert new 2.3e to permit mailers using the co-packaging option in M950 to place a portion of a logical 5-digit package on a merged 5-digit scheme or merged 5-digit pallet with carrier route mail, as follows:]

e. For mailing jobs prepared using the co-packaging option in M950, if the total number of pieces prepared in a logical 5-digit package (containing automation rate and Presorted rate pieces) exceeds the 5% limit for a 5-digit ZIP Code in 2.3a, a mailer may, for each 5-digit ZIP Code, choose to place a portion of the pieces prepared in the logical 5-digit package on a merged 5-digit or 5-digit scheme pallet using one of the options below. Regardless of the option selected, a minimum of 10 pieces must be prepared in 5-digit package(s) placed on the merged pallet and a minimum of 10 remaining pieces prepared in 5-digit package(s) not placed on the merged pallet, with the total number of pieces not exceeding the 5% limit. The options are:

(1) Place either all automation rate pieces or all Presorted rate pieces for the 5-digit ZIP Code on the merged pallet.

(2) Place a portion of either the automation rate pieces or the Presorted rate pieces for the 5-digit ZIP Code on the merged pallet.

(3) Place either all the automation rate pieces plus a portion of the Presorted rate pieces or all the Presorted rate pieces plus a portion of the automation rate pieces for the 5-digit ZIP Code on the merged pallet.

* * * * *

M940 Merged Palletization of Packages Using the City State Product and a 5% Threshold

[Revise the summary in M940 to refer to the co-packaging option in M950 and 3.3, as follows:]

Summary

M940 describes the eligibility and preparation requirements for copalletizing 5-digit automation rate packages; 5-digit Presorted rate packages, including automation rate and Presorted rate pieces co-packaged under M950; and carrier route packages of Periodicals nonletter-size mailings and Standard Mail flat-size mailings in merged 5-digit scheme and merged 5-digit pallets using both the City State Product and a 5% threshold, as applicable.

[Revise the title of 1.0, as follows:]

1.0 PERIODICALS

[Revise the first sentence of 1.1 to refer to the co-packaging option in M950, as follows:]

1.1 Basic Standards

5-digit packages from an automation rate mailing and 5-digit packages from a Presorted rate mailing, including automation rate and Presorted rate pieces co-packaged under M950, may be placed on the same pallet (a merged 5-digit or 5-digit scheme pallet) as carrier route packages from a carrier route rate mailing under the following conditions:

* * * * *

[Revise the first sentence in 1.1e to refer to the co-packaging option in M950, as follows (the remainder of 1.1e is unchanged):]

e. Automation rate 5-digit packages and Presorted rate 5-digit packages, including automation rate and Presorted rate pieces co-packaged under M950, must be copalletized with carrier route packages on merged 5-digit and 5-digit scheme pallets as follows:

* * * * *

1.3 Low-Volume Packages on Pallets

[Revise 1.3 to refer to the co-packaging option by adding ''or M950'' after the reference to M820 in the first sentence (the remainder of 1.3 is unchanged).]

* * * * *

[Revise the first sentence of 1.4, as follows:]

1.4 5% Threshold Standard

5-digit packages and carrier route packages for 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the City State Product, may be placed on the same merged 5-digit or 5-digit scheme pallet under 1.5 if all of the following conditions are met:

* * * * *

[Revise the first sentence of 1.4c, as follows: then delete the last four sentences beginning at the word ''Example'' (the remainder of 1.4c is unchanged):]

c. Except when packages are prepared under the co-packaging option in M950, all mail in a logical 5-digit package for a 5-digit ZIP Code with a ''B'' or ''D'' indicator must be able to be placed on the logical pallet under the 5% limit.* * *

[Insert the following clause at the beginning of 1.4d (the remainder of 1.4d is unchanged):]

d. Except for packages prepared under the co-packaging option in M950, * * *

[Insert new 1.4e to permit mailers using the co-packaging option in M950 to place a portion of a logical 5-digit package on a merged 5-digit scheme or merged 5-digit pallet with carrier route mail; renumber current 1.4e and f as 1.4f and g, respectively; and change the references in renumbered 1.4f and g from ''1.4a through 1.4d'' to ''1.4a through 1.4e,'' as follows:]

e. For mailing jobs prepared using the co-packaging option in M950, if the total number of pieces prepared in a logical 5-digit package (containing automation rate and Presorted rate pieces) exceeds the 5% limit for a 5-digit ZIP Code in 1.4a, a mailer may, for each 5-digit ZIP Code, choose to place a portion of the pieces prepared in the logical 5-digit package on a merged 5-digit or 5-digit scheme pallet using one of the options below. Regardless of the option selected, a minimum of 6 pieces must be prepared in 5-digit package(s) placed on the merged pallet and a minimum of 6 remaining pieces prepared in 5-digit package(s) not placed on the merged pallet, with the total number of pieces not exceeding the 5% limit. The options are:

(1) Place either all automation rate pieces or all Presorted rate pieces for the 5-digit ZIP Code on the merged pallet.

(2) Place a portion of either the automation rate pieces or the Presorted rate pieces for the 5-digit ZIP Code on the merged pallet.

(3) Place either all the automation rate pieces plus a portion of the Presorted rate mail or all the Presorted rate pieces plus a portion of the automation rate pieces for the 5-digit ZIP Code on the merged pallet.

* * * * *

2.0 STANDARD MAIL

[Revise the first sentence in 2.1 to refer to the co-packaging option in M950, as follows:]

2.1 Basic Standards

5-digit packages from an automation rate mailing and 5-digit packages from a Presorted rate mailing, including automation and Presorted rate pieces co-packaged under M950, may be placed on the same pallet (a merged 5-digit or 5-digit scheme pallet) as carrier route packages from a carrier route rate mailing under the following conditions:

* * * * *

[Revise the first sentence of 2.1e to refer to the co-packaging option in M950, as follows (the remainder of 2.1e is unchanged):]

e. Automation rate 5-digit packages and Presorted rate 5-digit packages, including automation rate and Presorted rate pieces co-packaged under M950, must be copalletized with carrier route packages on merged 5-digit scheme and merged 5-digit pallets as follows:

* * * * *

[Revise the first sentence of 2.3, as follows:]

2.3 5% Threshold Standard

5-digit packages and carrier route packages for 5-digit ZIP Codes with a ''B'' or ''D'' indicator in the City State Product, may be placed on the same merged 5-digit pallet under 2.4 or on the same merged 5-digit or 5-digit scheme pallet under 2.5 if all of the following conditions are met:

* * * * *

[Revise the first sentence of 2.3c, as follows (the remainder of 2.3c is unchanged):]

c. Except when packages are prepared under the co-packaging option in M950, all mail in a logical 5-digit package must be able to be placed on the logical pallet using the 5% limit.* * *

[Insert the following clause at the beginning of 2.3d (the remainder of 2.3d is unchanged):]

d. Except for packages prepared under the co-packaging option in M950, * * *

[Insert new 2.3e to permit mailers using the co-packaging option in M950 to place a portion of a logical 5-digit package on a merged 5-digit scheme or merged 5-digit pallet with carrier route mail, as follows:]

e. For mailing jobs prepared using the co-packaging option in M950, if the total number of pieces prepared in a logical 5-digit package (containing automation rate and Presorted rate pieces) exceeds the 5% limit for a 5-digit ZIP Code in 2.3a, a mailer may, for each 5-digit ZIP Code, choose to place a portion of the pieces prepared in the logical 5-digit package on a merged 5-digit or 5-digit scheme pallet using one of the options below. Regardless of the option selected, a minimum of 10 pieces must be prepared in 5-digit package(s) placed on the merged pallet and a minimum of 10 remaining pieces prepared in 5-digit package(s) not placed on the merged pallet, with the total number of pieces not exceeding the 5% limit. The options are:

(1) Place either all automation rate pieces or all Presorted rate pieces for the 5-digit ZIP Code on the merged pallet.

(2) Place a portion of either the automation rate pieces or the Presorted rate pieces for the 5-digit ZIP Code on the merged pallet.

(3) Place either all the automation rate pieces plus a portion of the Presorted rate pieces or all the Presorted rate pieces plus a portion of the automation rate pieces for the 5-digit ZIP Code on the merged pallet.

* * * * *

[Add new section M950 to provide requirements for co-packaging of automation rate and Presorted rate First-Class Mail, Periodicals, and Standard Mail, to read as follows:]

M950 Co-Packaging Automation Rate and Presorted Rate Pieces

Summary

M950 describes the eligibility and preparation requirements for co-packaging flat-size automation rate and Presorted rate First-Class Mail, nonletter-size automation rate and Presorted rate Periodicals, and flat-size automation rate and Presorted rate Standard Mail.

1.0 FIRST-CLASS MAIL

1.1 Basic Standards

Effective March 31, 2002, mailers may choose to co-package (see M011) automation rate and Presorted rate pieces as an option to the basic packaging requirements in M910, subject to the following conditions:

a. The pieces in the automation rate mailing and the Presorted rate mailing must be part of the same mailing job and must be reported on the appropriate postage statement.

b. The pieces in the mailing job must be flat-size and meet any other size and mailpiece design requirements applicable to the rate category for which they are prepared.

c. The basic standards in M910 must be met.

d. A minimum of 500 automation rate pieces and 500 Presorted rate pieces are required. The total number of automation rate and Presorted rate pieces must be used to meet the minimum volume requirements for packages and containers to a presort destination.

e. Presorted rate pieces must contain a 5-digit barcode and be co-packaged with automation rate pieces for the same presort destination. If this optional preparation method is used, all automation rate and Presorted rate pieces in the same mailing job and reported on the same postage statement must be co-packaged.

f. Within a package, all pieces must meet the FSM 881 requirements or all pieces must meet the FSM 1000 requirements described in C820.

g. Mailers must sort automation rate pieces and Presorted rate pieces for each presort destination so that only one physical package for each logical presort destination (see M011) includes both automation rate pieces (containing a ZIP+4 or delivery point barcode) and Presorted rate pieces (containing a 5-digit barcode).

1.2 Package Preparation

Package size, preparation sequence, and labeling:

a. 5-digit: required (10-piece minimum, fewer not permitted); red Label D or optional endorsement line (OEL).

b. 3-digit: required (10-piece minimum, fewer not permitted); green Label 3 or OEL.

c. ADC: required (10-piece minimum, fewer not permitted); pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

2.0 PERIODICALS

2.1 Basic Standards

Effective March 31, 2002, mailers may choose to co-package (see M011) automation rate and Presorted rate pieces as an option to the basic packaging requirements in M210 and M820, subject to the following conditions:

a. The pieces in the automation rate mailing and the Presorted rate mailing must be part of the same mailing job and must be reported on the appropriate postage statement.

b. The pieces in the mailing job must be nonletter-size and meet any other size and mailpiece design requirements applicable to the rate category for which they are prepared.

c. Mailings prepared in sacks must meet the basic standards in M910 or M920.

d. Mailings prepared on pallets must meet the basic standards in M045, M920, M930, or M940.

e. The total number of automation rate and Presorted rate pieces must be used to meet the minimum volume requirements for packages and containers.

f. Presorted rate pieces must contain a 5-digit barcode and be co-packaged with automation rate pieces for the same presort destination. If this optional preparation method is used, all automation rate and Presorted rate pieces in the same mailing job and reported on the same postage statement must be co-packaged.

g. Within a package, all pieces must meet the FSM 881 requirements or all pieces must meet the FSM 1000 requirements described in C820.

h. Mailers must sort Presorted rate pieces and automation rate pieces for each presort destination so that only one physical package for each logical presort destination (see M011) includes both automation rate pieces (containing a ZIP+4 or delivery point barcode) and Presorted rate pieces (containing a 5-digit barcode).

2.2 Package Preparation

Package size, preparation sequence, and labeling:

a. Firm: optional (for Presorted rate pieces only under M210.1.4) (two-piece minimum); blue Label F or optional endorsement line (OEL).

b. 5-digit: required (six-piece minimum, fewer not permitted except under 2.3); red Label D or OEL.

c. 3-digit: required (six-piece minimum, fewer not permitted except under 2.3); green Label 3 or OEL.

d. ADC: required (six-piece minimum, fewer not permitted); pink Label A or OEL.

e. Mixed ADC: required (no minimum); tan Label MXD or OEL.

2.3 Low-Volume Packages in Sacks or on Pallets

Periodicals 5-digit and 3-digit packages prepared under 2.2, may contain fewer than six pieces when the publisher determines that such preparation improves service. These low-volume packages may be placed in merged 5-digit scheme, merged 5-digit, 5-digit, 3-digit, and SCF sacks or on merged 5-digit scheme, merged 5-digit, 5-digit, 3-digit, or SCF pallets. Presorted rate pieces in such low-volume packages must be claimed at the applicable basic Presorted rate. Automation rate pieces in such low-volume packages must be claimed at the applicable basic automation rate.

3.0 STANDARD MAIL

3.1 Basic Standards

Effective March 31, 2002, mailers may choose to co-package (see M011) automation rate and Presorted rate pieces as an option to the basic packaging requirements in M610 and M820, subject to the following conditions:

a. The pieces in the automation rate mailing and the Presorted rate mailing must be part of the same mailing job and must be reported on the appropriate postage statement.

b. The pieces in the mailing job must be flat-size and meet any other size and mailpiece design requirements applicable to the rate category for which they are prepared.

c. Mailings prepared in sacks must meet the basic standards in M910 or M920.

d. Mailings prepared on pallets must meet the basic standards in M045, M920, M930, or M940.

e. A minimum of 200 pieces or 50 pounds of automation rate pieces are required; the Presorted rate mailing may meet the residual volume requirements in E620. The total number of automation rate and Presorted rate pieces must be used to meet the minimum volume requirements for packages and containers.

f. Presorted rate pieces must contain a 5-digit barcode and be co-packaged with automation rate pieces for the same presort destination. If this optional preparation method is used, all automation rate and Presorted rate pieces in the same mailing job and reported on the same postage statement must be co-packaged.

g. Within a package, all pieces must meet the FSM 881 requirements or all pieces must meet the FSM 1000 requirements described in C820.

h. Mailers must sort Presorted rate pieces and automation rate pieces for each presort destination so that only one physical package for each logical presort destination (see M011) includes both Presorted rate pieces (containing a 5-digit barcode) and automation rate pieces (containing a ZIP+4 or delivery point barcode).

3.2 Package Preparation

Package size, preparation sequence, and labeling:

a. 5-digit: required (10-piece minimum, fewer not permitted); red Label D or optional endorsement line (OEL)

b. 3-digit: required (10-piece minimum, fewer not permitted); green Label 3 or OEL.

c. ADC: required (10-piece minimum, fewer not permitted); pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

* * * * *

An appropriate amendment to 39 CFR part 111 to reflect these changes will be published.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–29299 Filed 11–23–01; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[DC–T5–2001–01a; FRL–7107–2]

Clean Air Act Full Approval of Operating Permit Program; District of Columbia; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to an adverse comment, EPA is withdrawing the direct final rule fully approving the operating permit program of the District of Columbia. In the direct final rule published on October 16, 2001 (66 FR 52538), EPA stated that if adverse comments were received by November 15, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments. EPA will address the comments received in a subsequent final action based upon the proposed action also published on October 16, 2001 (66 FR 52561). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of November 26, 2001.

FOR FURTHER INFORMATION CONTACT: Paresh R. Pandya, Permits and Technical Assessment Branch at (215) 814–2167 or by e-mail at *pandya.perry@.epa.gov.*

List of Subjects in 40 CFR Part 70

Environmental protection, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 16, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

Accordingly, the addition of 40 CFR part 70, Appendix A, ''District of Columbia'', paragraph (b) is withdrawn as of November 26, 2001.

[FR Doc. 01–29367 Filed 11–23–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 92

Control of Air Pollution From Locomotives and Locomotive Engines

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 87 to 99, revised as of July 1, 2001, part 92 is corrected in § 92.120 by revising equations (1) and (2) in paragraph (c)(2)(v), in § 92.121 by revising paragraphs (b)(2)(vi), (b)(2)(ix), (b)(2)(xi)(A), and (b)(4)(iv), and by revising § 92.132 to read as follows:

§ 92.120 NDIR analyzer calibration and checks.

* * * * *

(c)* * *

(2)* * *

(v)* * *

$y = Ax^4 + Bx^3 + Cx^2 + Dx + E$ (1)

$y = x/(Ax^4 + Bx^3 + Cx^2 + Dx + E)$ (2)

where:

y = concentration.

x = chart deflection.

* * * * *

§ 92.121 Oxides of nitrogen analyzer calibration and check.

* * * * *

(b)* * *

(2)* * *

(vi) Turn on the NO_X generator O_2 (or air) supply and adjust the O_2 (or air) flow rate so that the NO indicated by the analyzer is about 10 percent less than indicated in step in paragraph (b)(2)(v) of this section. Record the concentration of NO in this NO + O_2 mixture.

* * * * *

(ix) Switch off the NO_X generation, but maintain gas flow through the system. The oxides of nitrogen analyzer will indicate the total NO_X in the NO + O_2 mixture. Record this value.

* * * * *

(xi)* * *

(A) Percent Efficiency=(1 + (a − b)/(c − d))(100)

where:

a=concentration obtained in paragraph (b)(2)(viii) of this section.

b=concentration obtained in paragraph (b)(2)(ix) of this section.

c=concentration obtained in paragraph (b)(2)(vi) of this section.

d=concentration obtained in paragraph (b)(2)(vii) of this section.

* * * * *

(4)* * *

(iv) Calculate the concentration of the converter checking gas using the results from step in paragraph (b)(4)(iii) of this section and the converter efficiency from paragraph (b)(2) of this section as follows:

Concentration=(((X–Y)(100))/Efficiency) + Y

* * * * *

§ 92.132 Calculations.

(a) *Duty-cycle emissions.* This section describes the calculation of duty-cycle emissions, in terms of grams per brake horsepower hour (g/bhp-hr). The calculation involves the weighted summing of the product of the throttle notch mass emission rates and dividing by the weighted sum of the brake horsepower. The final reported duty-cycle emission test results are calculated as follows:

(1)(i) $E_{idc}=(\Sigma(M_{ij})(F_j))/(\Sigma(BHP_j)(F_j))$

Where:

E_{idc}=Duty-cycle weighted, brake-specific mass emission rate of pollutant i (i.e., HC, CO, NO_X or PM and, if appropriate, THCE or NMHC) in grams per brake horsepower-hour;

M_{ij}=the mass emission rate pollutant i for mode j;

F_j=the applicable weighting factor listed in Table B132–1 for mode j;

BHP_j=the measured brake horsepower for mode j.

(ii) Table B132–1 follows:

TABLE B132–1—WEIGHTING FACTORS FOR CALCULATING EMISSION RATES

Throttle notch setting	Test mode	Locomotive not equipped with multiple idle notches		Locomotive equipped with multiple idle notches	
		Line-haul	Switch	Line-haul	Switch
Low Idle	1a	NA	NA	0.190	0.299
Normal Idle	1	0.380	0.598	0.190	0.299
Dynamic Brake	2	0.125	0.000	0.125	0.000
Notch 1	3	0.065	0.124	0.065	0.124
Notch 2	4	0.065	0.123	0.065	0.123
Notch 3	5	0.052	0.058	0.052	0.058
Notch 4	6	0.044	0.036	0.044	0.036
Notch 5	7	0.038	0.036	0.038	0.036
Notch 6	8	0.039	0.015	0.039	0.015
Notch 7	9	0.030	0.002	0.030	0.002
Notch 8	10	0.162	0.008	0.162	0.008

(2) Example: For the line-haul cycle, for locomotives equipped with normal and low idle, and with dynamic brake, the brake-specific emission rate for HC would be calculated as:

$E_{HCdc}=[(M_{HCla})\ (0.190) + (M_{HC1})\ (0.190) + (M_{HC2})\ (0.125) + (M_{HC3})\ (0.065) + (M_{HC4})\ (0.065) + (M_{HC5})\ (0.052) + (M_{HC6})\ (0.044) + (M_{HC7})\ (0.038) + (M_{HC8})\ (0.039) + (M_{HC9})\ (0.030) + (M_{HC10})\ (0.162)]/[(BHP_{1a})\ (0.190) + (BHP_1)\ (0.190) + (BHP_2)\ (0.125) + (BHP_3)\ (0.065) + (BHP_4)\ (0.065) + (BHP_5)\ (0.052) + (BHP_6)\ (0.044) + (BHP_7)\ (0.038) + (BHP_8)\ (0.039) + (BHP_9)\ (0.030) + (BHP_{10})\ (0.162)]$

(3) In each mode, brake horsepower output is the power that the engine delivers as output (normally at the flywheel), as defined in § 92.2.

(i) For locomotive testing (or engine testing using a locomotive alternator/generator instead of a dynamometer), brake horsepower is calculated as:

$BHP=HP_{out}/A_{eff} + HP_{acc}$

Where:

HP_{out}=Measured horsepower output of the alternator/generator.

A_{eff}=Efficiency of the alternator/generator.

HP_{acc}=Accessory horsepower.

(ii) For engine dynamometer testing, brake horsepower is determined from the engine speed and torque.

(4) For locomotive equipped with features that shut the engine off after prolonged periods of idle, the measured mass emission rate M_{i1} (and M_{i1a} as applicable) shall be multiplied by a factor equal to one minus the estimated fraction reduction in idling time that will result in use from the shutdown feature. Application of this adjustment

is subject to the Administrator's approval.

(b) *Throttle notch emissions.* This paragraph (b) describes the calculation of throttle notch emissions for all operating modes, including: idle (normal and low, as applicable); dynamic brake; and traction power points. The throttle notch (operating mode) emission test results, final reported values and values used in paragraph (a)(1) of this section are calculated as follows:

(1) Brake specific emissions (E_{ij}) in grams per brake horsepower-hour of each species i (i.e., HC, CO, NO_X or PM and, if appropriate, THCE or NMHC) for each mode j:

(i) $E_{HC\ mode}$=HC grams/BHP-hr=$M_{HC\ mode}$/Measured BHP in mode.

Where:

$M_{HC\ mode}$=Mass HC emissions (grams per hour) for each test mode.

(ii) $E_{THCE\ mode}$=THCE grams/BHP-hr=$M_{THCE\ mode}$/Measured BHP in mode.

Where:

$M_{THCE\ mode}$ (Total hydrocarbon equivalent mass emissions (grams per hour) for each test mode):

$=M_{HCj} + \Sigma\ (M_{ij})\ (MWC_p)/MWC_i$

M_{ij}=the mass emission rate oxygenated pollutant i for mode j.

MWC_i=the molecular weight of pollutant i divided by the number of carbon atoms per molecule of pollutant i.

MWC_p=the molecular weight of a typical petroleum fuel component divided by the number of carbon atoms per molecule of a typical petroleum fuel component=13.8756.

(iii) $E_{NMHC\ mode}$=NMHC grams/BHP-hr=$M_{NMHC\ mode}$/Measured BHP in mode.

Where:

$M_{NMHC\ mode}$=Mass NMHC emissions (grams per hour) for each test mode.

(iv) $E_{CO\ mode}$=CO grams/BHP-hr=$M_{CO\ mode}$/Measured BHP in mode.

Where:

$M_{CO\ mode}$=Mass CO emissions (grams per hour) for each test mode.

(v) $E_{NOx\ mode}$=NO_X grams/BHP–hr=$M_{NOx\ mode}$/Measured BHP in mode.

Where:

$M_{NOx\ mode}$=Mass NO_X emissions (grams per hour) for each test mode.

(vi) $E_{PM\ mode}$=PM grams/BHP–hr=$M_{PM\ mode}$/Measured BHP in mode.

Where:

$M_{PM\ mode}$=Mass PM emissions (grams per hour) for each test mode.

(vii) $E_{AL\ mode}$=Aldehydes grams/BHP–hr=$M_{AL\ mode}$/Measured BHP in mode.

(vii) $E_{AL\ mode}$=Aldehydes grams/BHP–hr=$M_{AL\ mode}$/Measured BHP in mode.

Where:

$M_{AL\ mode}$=Total aldehyde mass emissions (grams per hour) for each test mode.

(2) Mass Emissions—Raw exhaust measurements. For raw exhaust measurements mass emissions (grams per hour) of each species for each mode:

(i) General equations. (A) The mass emission rate, $M_{X\ mode}$ (g/hr), of each pollutant (HC, NO_X, CO_2, CO, CH_4 CH_3OH, CH_3CH_2OH, CH_2O, CH_3CH_2O) for each operating mode for raw measurements is determined based on one of the following equations:

$M_{X\ mode}=(DX/10^6)(DVol)(MW_X/V_m)$

$M_{X\ mode}=(WX/10^6)(WVol)(MW_X/V_m)$

Where:

X designates the pollutant (e.g., HC), DX is the concentration of pollutant X (ppm or ppmC) on a dry basis, MW_X is the molecular weight of the pollutant (g/mol), DVol is the total exhaust flow rate (ft^3/hr) on a dry basis, WX is the concentration of pollutant X (ppm or ppmC) on a wet basis, WVol is the total exhaust flow rate (ft^3/hr) on a wet basis, V_m is the volume of one mole of gas at standard temperature and pressure (ft^3/mol).

(B) All measured volumes and volumetric flow rates must be corrected to standard temperature and pressure prior to calculations.

(ii) The following abbreviations and equations apply to this paragraph (b)(2):

α=Atomic hydrogen/carbon ratio of the fuel.

β=Atomic oxygen/carbon ratio of the fuel.

CMW_f=Molecular weight of the fuel per carbon atom, or carbon molecular weight (g/moleC)=(12.011 + 1.008α + 16.000β).

DCO=CO concentration in exhaust, ppm (dry).

DCO_2=CO_2 concentration in exhaust, percent (dry).

DHC=HC carbon concentration in exhaust, ppm C (dry).

DNOX=NO_X concentration in exhaust, in ppm (dry).

DVol=Total exhaust flow rate (ft^3/hr) on a dry basis; or

$=(V_m)(W_f)/((CMW_f)\ (DHC/10^6 + DCO/10^6 + DCO2/100))$.

K=Water gas equilibrium constant=3.5.

K_w=Wet to dry correction factor.

M_F=Mass flow-rate of fuel used in the engine in lb/hr=W_f/453.59.

MW_C=Atomic weight of carbon=12.011.

MW_{CO}=Molecular weight of CO=28.011.

MW_H=Atomic weight of hydrogen=1.008.

MW_{NO2}=Molecular weight of nitrogen dioxide (NO_2)=46.008.

MW_O=Molecular weight of atomic oxygen=16.000.

T=Temperature of inlet air (°F).

V_m=Volume of one mole of gas at standard temperature and pressure (ft^3/mole).

W_f=Mass flow-rate of fuel used in the engine, in grams/hr=(453.59)×(M_f lbs/hr).

WCO_2=CO_2 concentration in exhaust, percent (wet).

WHC=HC concentration in exhaust, ppm C (wet).

WVol=Total exhaust flow rate (ft^3/hr) on a wet basis; or

$=(V_m)(W_f)/((CMW_f)(WHC/10^6 + WCO/10^6\ WCO2/100))$.

(iii) Calculation of individual pollutant masses. Calculations for mass emission are shown here in multiple forms. One set of equations is used when sample is analyzed dry (equations where the concentrations are expressed as DX), and the other set is used when the sample is analyzed wet (equations where the concentrations are expressed as WX). When samples are analyzed for some constituents dry and for some constituents wet, the wet concentrations must be converted to dry concentrations, and the equations for dry concentrations used. Also, the equations for HC, NMHC, CO, and NO_X have multiple forms that are algebraically equivalent: An explicit form that requires intermediate calculation of V_m and DVol or WVol; and an implicit form that uses only the concentrations (e.g., DCO) and the mass flow rate of the fuel. For these calculations, either form may be used.

(A) Hydrocarbons and nonmethane hydrocarbons.

(*1*) Hydrocarbons. (*i*) *For petroleum-fueled engines:*

$M_{HC\ mode}$
$=(DHC)CMW_f(DVol)(10^6)/V_m$
$=((DHC/10^6)(W_f)/((DCO/10^6) + (DCO_2/100) + (DHC/10^6) + (\Sigma DX/10^6)))$

$M_{HC\ mode}$
$=(WHC)CMW_f(WVol)(10^6)/V_m$
$=((WHC/10^6)(W_f)/((WCO/10^6) + (WCO_2/100) + (WHC/10^6) + (\Sigma(WX/10^6)))$

(*ii*) *For alcohol-fueled engines:*

$DHC=FID\ HC - \Sigma(r_x)(DX)$

$WHC=FID\ HC - \Sigma(r_x)(WX)$

Where:

FID HC=Concentration of ''hydrocarbon'' plus other organics such as methanol in exhaust as measured by the FID, ppm carbon equivalent.

r_x=FID response to oxygenated species×(methanol, ethanol, or acetaldehyde).

DX=Concentration of oxygenated species×(methanol, ethanol, or acetaldehyde) in exhaust as determined from the dry exhaust sample, ppm carbon (e.g., DCH3OH, 2(DCH3CH2OH)).

WX=Concentration of oxygenated species×(methanol, ethanol, or acetaldehyde) in exhaust as determined from the wet exhaust sample, ppm carbon.

ΣDX=The sum of concentrations DX for all oxygenated species.

ΣWX=The sum of concentrations WX for all oxygenated species.

(*2*) Nonmethane hydrocarbons:

$M_{NMHC\ mode}=(DNMHC)CMW_f(DVol)(10^6)/V_m$
$=((DNMHC/10^6)(W_f)/((DCO/10^6) + (DCO_2/100) + (DHC/10^6)))$

$M_{NMHC\ mode}=(WNMHC)CMW_f(WVol)(10^6)/V_m$

$=((WNMHC/10^6)(W_f)/((WCO/10^6) + (WCO_2/100) + (WHC/10^6)))$

Where:

DNMHC=FID HC − (r_{CH4})(DCH4)
WNMHC=FID HC − (r_{CH4})(WCH4)
FID HC=Concentration of ''hydrocarbon'' plus other organics such as methane in exhaust as measured by the FID, ppm carbon equivalent.
r_{CH4}=FID response to methane.
DCH4=Concentration of methane in exhaust as determined from the dry exhaust sample, ppm.
WCH4=Concentration of methane in exhaust as determined from the wet exhaust sample, ppm.

(B) Carbon monoxide:

$M_{CO\ mode}=(DCO)MW_{CO}(DVol)/10^6/V_m$
$=((MW_{CO}(DCO/10^6)(W_f)/((CMW_f)(DCO/10^6) + (DCO_2/100) + DHC/10^6) + (\Sigma DX/10^6)))$
$M_{CO\ mode}=(WCO)MW_{CO}(DVol)(10^6)/V_m + ((MW_{CO}(WCO/10^6)(W_f)/((CMW_f)(WCO/10^6) + (WCO_2/100) + WHC/10^6) + (\Sigma WX/10^6)))$

(C) Oxides of nitrogen:

$M_{NOx\ mode}=(DNOX)MW_{NO2}(DVol)(10^6)/V_m$
$=((MW_{NO2}(DNOX/10^6)(W_f)/((CMW_f)(DCO/10^6) + (DCO_2/100) + (DHC/10^6) + (\Sigma DX/10^6)))$
$M_{NOx\ mode}=(WNOX)MW_{NO2}(DVol)(10^6)/V_m$
$=((MW_{NO2}(WNOX/10^6)(W_f)/((CMW_f)(WCO/10^6) + (WCO_2/100) + (WHC/10^6) + (\Sigma WX/10^6)))$

(D) Methanol:

$M_{CH3OH\ mode}=(DCH3OH/10^6)32.042(DVol)/V_m$
$M_{CH3OH\ mode}=(WCH3OH/10^6)32.042(WVol)/V_m$

Where:

$DCH3OH=(V_m)(10^6)[(C_1\times AV_1) + (C_2\times AV_2)]/DVol_{MS}$.
$WCH3OH=(V_m)(10^6)[(C_1\times AV_1) + (C_2\times AV_2)]/WVol_{MS}$.
C_i=concentration of methanol in impinger i (1 or 2) in mol/ml.
AV_i=Volume of absorbing reagent in impinger i (1 or 2) in ml.
$DVol_{MS}$=Volume (standard ft^3) of exhaust sample drawn through methanol impingers (dry).
$WVol_{MS}$=Volume (standard ft^3) of exhaust sample drawn through methanol impingers (wet).

(E) Ethanol:

$M_{CH3CH2OH\ mode}=(DCH3CH2OH/10^6)23.035(DVol)/V_m$
$M_{CH3CH2OH\ mode}=(WCH3CH2OH/10^6)23.035(WVol)/V_m$

Where:

$DCH3CH2OH=(V_m)(10^6)[(C_1\times AV_1) + (C_2\times AV_2)]/DVol_{ES}$.
$WCH3CH2OH=(V_m)(10^6)[(C_1\times AV_1) + (C_2\times AV_2)]/WVol_{ES}$.
C_i=concentration of ethanol in impinger i (1 or 2) in mol/ml.
AV_i=Volume of absorbing reagent in impinger i (1 or 2) in ml.
$DVol_{ES}$=Volume (standard ft^3) of exhaust sample drawn through ethanol impingers (dry).
$WVol_{ES}$=Volume (standard ft^3) of exhaust sample drawn through ethanol impingers (wet).

(F) Formaldehyde:

$M_{CH2O\ mode}=(DCH2O/10^6)30.026(DVol)/V_m$
$M_{CH2O\ mode}=(WCH2O/10^6)30.026(WVol)/V_m$

(*1*) If aldehydes are measured using impingers:

$DCH2O=(V_m)(10^6)[(C_1\times AV_1) + (C_2\times AV_2)]/DVol_{FS}$
$WCH2O=(V_m)(10^6)[(C_1\times AV_1) + (C_2\times AV_2)]/WVol_{FS}$

(*2*) If aldehydes are measured using cartridges:

$DCH2O=(V_m)(10^6)(C_R\times AV_R)/DVol_{FS}$
$WCH2O=(V_m)(10^6)(C_R\times AV_R)/WVol_{FS}$

(*3*) The following definitions apply to this paragraph (b)(2)(iii)(F):

AV_i=Volume of absorbing reagent in impinger i (1 or 2) in ml.
AV_R=Volume of absorbing reagent use to rinse the cartridge in ml.
C_i=concentration of formaldehyde in impinger i (1 or 2) in mol/ml.
C_R=concentration of formaldehyde in solvent rinse in mol/ml.
$DVol_{FS}$=Volume (standard ft^3) of exhaust sample drawn through formaldehyde sampling system (dry).
$WVol_{FS}$=Volume (standard ft^3) of exhaust sample drawn through formaldehyde sampling system (wet).

(G) Acetaldehyde:

$M_{CH3CHO\ mode}=(DCH3CHO/10^6)27.027(DVol)/V_m$
$M_{CH3CHO\ mode}=(WCH3CHO/10^6)27.027(WVol)/V_m$

(*1*) If aldehydes are measured using impingers:

$DCH3CHO=(V_m)(10^6)[(C_1\times AV_1) + (C_2\times AV_2)]/DVol_{AS}$
$WCH3CHO=(V_m)(10^6)[(C_1\times AV_1) + C_2\times AV_2)]/WVol_{AS}$

(*2*) If aldehydes are measured using cartridges:

$DCH3CHO=(V_m)(10^6)(C_R\times AV_R)/DVol_{AS}$
$WCH3CHO=(V_m)(10^6)(C_R\times AV_R)/WVol_{AS}$

(*3*) The following definitions apply to this paragraph (b)(2)(iii)(G):

AV_i=Volume of absorbing reagent in impinger i (1 or 2) in ml.
AV_R=Volume of absorbing reagent use to rinse the cartridge in ml.
C_i=concentration of acetaldehyde in impinger i (1 or 2) in mol/ml.
C_R=concentration of acetaldehyde in solvent rinse in mol/ml.
$DVol_{AS}$=Volume (standard ft^3) of exhaust sample drawn through acetaldehyde sampling system (dry).
$WVol_{AS}$=Volume (standard ft^3) of exhaust sample drawn through acetaldehyde sampling system (wet).

(iv) Conversion of wet concentrations to dry concentrations. Wet concentrations are converted to dry concentrations using the following equation:

$DX=K_W\ WX$

Where:

WX is the concentration of species X on a wet basis.
DX is the concentration of species X on a dry basis.
K_W is a conversion factor=WVol/DVol=1 + DH2O.

(A) Iterative calculation of conversion factor. The conversion factor K_W is calculated from the fractional volume of water in the exhaust on a dry basis (DH2O=volume of water in exhaust/dry volume of exhaust). Precise calculation of the conversion factor K_W must be done by iteration, since it requires the dry concentration of HC, but HC emissions are measured wet.

(*1*) The conversion factor is calculated by first assuming DHC=WHC to calculate DVol:

$DVol=(V_m)(W_f)/((CMW_f)(DHC/10^6 + DCO/10^6 + DCO2/100))$

(*2*) This estimate is then used in the following equations to calculate $DVol_{air}$, then DH2O, then K_W, which allows DHC to be determined more accurately from WHC:

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

GEORGIA (SOUTHEAST)

CPI AREAS: COUNTIES
*Atlanta, GA: Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, Pickens, Rockdale, Spalding, Walton

METROPOLITAN COUNTIES
Bibb, Bryan, Catoosa, Chatham, Chattahoochee, Clarke, Columbia, Dade, Dougherty, Effingham, Harris, Houston, Jones, Lee, Madison, Mcduffie, Muscogee, Oconee, Peach, Richmond, Twiggs, Walker

NONMETROPOLITAN COUNTIES
Appling, Atkinson, Bacon, Baker, Baldwin, Banks, Ben Hill, Berrien, Bleckley, Brantley, Brooks, Bulloch, Burke, Butts, Calhoun, Camden, Candler, Charlton, Chattooga, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Dawson, Decatur, Dodge, Dooly, Early, Echols, Elbert, Emanuel, Evans, Fannin, Floyd, Franklin, Gilmer, Glascock, Glynn, Gordon, Grady, Greene, Habersham, Hall, Hancock, Haralson, Hart, Heard, Irwin, Jackson, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Lamar, Lanier, Laurens, Liberty, Lincoln, Long, Lowndes, Lumpkin, Macon, Marion, Mcintosh, Meriwether, Miller, Mitchell, Monroe, Montgomery, Morgan, Murray, Oglethorpe, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Rabun, Randolph, Schley, Screven, Seminole, Stephens, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Towns, Treutlen, Troup, Turner, Union, Upson, Ware, Warren, Washington, Wayne, Webster, Wheeler, White, Whitfield, Wilcox, Wilkes, Wilkinson, Worth

HAWAII (PACIFIC/HAWAII)

CPI AREAS: COUNTIES
STATE Hawaii: Hawaii, Honolulu, Kauai, Maui

IDAHO (NORTHWEST/ALASKA)

METROPOLITAN COUNTIES
Ada, Bannock, Canyon

NONMETROPOLITAN COUNTIES
Adams, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Bonneville, Boundary, Butte, Camas, Caribou, Cassia, Clark, Clearwater, Custer, Elmore, Franklin, Fremont, Gem, Gooding, Idaho, Jefferson, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Madison, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Teton, Twin Falls, Valley, Washington

ILLINOIS (MIDWEST)

CPI AREAS: COUNTIES
*Chicago, IL: Cook, Dupage, Kane, Lake, McHenry, Will
*COUNTY De Kalb, IL: Dekalb
*COUNTY Grundy, IL: Grundy
PMSA Kankakee, IL: Kankakee
*COUNTY Kendall, Il: Kendall
MSA St. Louis, MO-IL: Clinton, Jersey, Madison, Monroe, St. Clair

METROPOLITAN COUNTIES
Boone, Champaign, Henry, Macon, Mclean, Menard, Ogle, Peoria, Rock Island, Sangamon, Tazewell, Winnebago, Woodford

NONMETROPOLITAN COUNTIES
Adams, Alexander, Bond, Brown, Bureau, Calhoun, Carroll, Cass, Christian, Clark, Clay, Coles, Crawford, Cumberland, De Witt, Douglas, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Hamilton, Hancock, Hardin, Henderson, Iroquois, Jackson, Jasper, Jefferson, Jo Daviess, Johnson, Knox, La Salle, Lawrence, Lee, Livingston, Logan, Macoupin, Marion, Marshall, Mason, Massac, Mcdonough, Mercer, Montgomery, Morgan, Moultrie, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Saline, Schuyler, Scott, Shelby, Stark, Stephenson, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Williamson

Where: Y=Water volume concentration in intake air, volume fraction (dry). $DVol_{air}$=Air intake flow rate (ft^3/hr) on a dry basis, measured, or calculated as:

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

INDIANA (MIDWEST)

CPI AREAS: COUNTIES

*Cincinnati, OH-KY-IN:	Dearborn
PMSA Gary, IN:	Lake, Porter
*COUNTY Ohio, IN:	Ohio

METROPOLITAN COUNTIES

Adams, Allen, Boone, Clark, Clay, Clinton, De Kalb, Delaware, Elkhart, Floyd, Hamilton, Hancock, Harrison, Hendricks, Howard, Huntington, Johnson, Madison, Marion, Monroe, Morgan, Posey, Scott, Shelby, St. Joseph, Tippecanoe, Tipton, Vanderburgh, Vermillion, Vigo, Warrick, Wells, Whitley

NONMETROPOLITAN COUNTIES

Bartholomew, Benton, Blackford, Brown, Carroll, Cass, Crawford, Daviess, Decatur, Dubois, Fayette, Fountain, Franklin, Fulton, Gibson, Grant, Greene, Henry, Jackson, Jasper, Jay, Jefferson, Jennings, Knox, Kosciusko, La Porte, Lagrange, Lawrence, Marshall, Martin, Miami, Montgomery, Newton, Noble, Orange, Owen, Parke, Perry, Pike, Pulaski, Putnam, Randolph, Ripley, Rush, Spencer, Starke, Steuben, Sullivan, Switzerland, Union, Wabash, Warren, Washington, Wayne, White

IOWA (GREAT PLAINS)

METROPOLITAN COUNTIES

Black Hawk, Dallas, Dubuque, Johnson, Linn, Polk, Pottawattamie, Scott, Warren, Woodbury

NONMETROPOLITAN COUNTIES

Adair, Adams, Allamakee, Appanoose, Audubon, Benton, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Davis, Decatur, Delaware, Des Moines, Dickinson, Emmet, Fayette, Floyd, Franklin, Fremont,

IOWA (Cont.)

Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Jones, Keokuk, Kossuth, Lee, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Plymouth, Pocahontas, Poweshiek, Ringgold, Sac, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Washington, Wayne, Webster, Winnebago, Winneshiek, Worth, Wright

KANSAS (GREAT PLAINS)

CPI AREAS: COUNTIES

MSA Kansas City, MO-KS:	Johnson, Leavenworth, Miami, Wyandotte

METROPOLITAN COUNTIES

Butler, Douglas, Harvey, Sedgwick, Shawnee

NONMETROPOLITAN COUNTIES

Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche, Cowley, Crawford, Decatur, Dickinson, Doniphan, Edwards, Elk, Ellis, Ellsworth, Finney, Ford, Franklin, Geary, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Haskell, Hodgeman, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Linn, Logan, Lyon, Marion, Marshall, Mcpherson, Meade, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Ottawa, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Riley, Rooks, Rush, Russell, Saline, Scott, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wabaunsee, Wallace, Washington, Wichita, Wilson, Woodson

KENTUCKY (SOUTHEAST)

CPI AREAS: COUNTIES

*Cincinnati, OH-KY-IN:	Boone, Campbell, Kenton
*COUNTY Gallatin, KY:	Gallatin
*COUNTY Grant, KY:	Grant
*COUNTY Pendleton, KY:	Pendleton

(*3*) The calculations are repeated using this estimate of DHC. If the new estimate for K_W is not within one percent of the previous estimate, the iteration is repeated until the difference in K_W between iterations is less than one percent.

(B) Alternate calculation of DH2O (approximation). The following approximation may be used for DH2O instead of the calculation in paragraph (b)(2)(iv)(A) of this section:

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

KENTUCKY (cont'd)

METROPOLITAN COUNTIES

Bourbon, Boyd, Bullitt, Carter, Christian, Clark, Daviess, Fayette, Greenup, Henderson, Jefferson, Jessamine, Madison, Oldham, Scott, Woodford

NONMETROPOLITAN COUNTIES

Adair, Allen, Anderson, Ballard, Barren, Bath, Bell, Boyle, Bracken, Breathitt, Breckinridge, Butler, Caldwell, Calloway, Carlisle, Carroll, Casey, Clay, Clinton, Crittenden, Cumberland, Edmonson, Elliott, Estill, Fleming, Floyd, Franklin, Fulton, Garrard, Graves, Grayson, Green, Hancock, Hardin, Harlan, Harrison, Hart, Henry, Hickman, Hopkins, Jackson, Johnson, Knott, Knox, Larue, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, Livingston, Logan, Lyon, Magoffin, Marion, Marshall, Martin, Mason, Mccracken, Mccreary, Mclean, Meade, Menifee, Mercer, Metcalfe, Monroe, Montgomery, Morgan, Muhlenberg, Nelson, Nicholas, Ohio, Owen, Owsley, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Trimble, Union, Warren, Washington, Wayne, Webster, Whitley, Wolfe

LOUISIANA (SOUTHWEST)

METROPOLITAN COUNTIES

Acadia, Ascension, Bossier, Caddo, Calcasieu, East Baton Rouge, Jefferson, Lafayette, Lafourche, Livingston, Orleans, Ouachita, Plaquemines, Rapides, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Terrebonne, Webster, West Baton Rouge

NONMETROPOLITAN COUNTIES

Allen, Assumption, Avoyelles, Beauregard, Bienville, Caldwell, Cameron, Catahoula, Claiborne, Concordia, De Soto, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson Davis, La Salle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Red River, Richland, Sabine, St. Helena, St. Mary, Tangipahoa, Tensas, Union, Vermilion, Vernon, Washington, West Carroll, West Feliciana, Winn

MAINE (NEW ENGLAND)

CPI AREAS: COUNTIES

PMSA Portsmouth-Rochester, NH-ME

York County part: Berwick town, Eliot town, Kittery town, South Berwick town, York town

METROPOLITAN COUNTIES

Androscoggin County part: Auburn city, Greene town, Lewiston city, Lisbon town, Mechanic Falls town, Poland town, Sabattus town, Turner town, Wales town

Cumberland County part: Cape Elizabeth town, Casco town, Cumberland town, Falmouth town, Freeport town, Gorham town, Gray town, Long Island town, North Yarmouth town, Portland city, Raymond town, Scarborough town, South Portland city, Standish town, Westbrook city, Windham town, Yarmouth town

Penobscot County part: Bangor city, Brewer city, Eddington town, Glenburn town, Hampden town, Hermon town, Holden town, Kenduskeag town, Milford town, Old Town city, Orono town, Orrington town, Penobscot Indian Island, Veazie town

Waldo County part: Winterport town

York County part: Buxton town, Hollis town, Limington town, Old Orchard Beach

Where:

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

MAINE (cont'd)

NONMETROPOLITAN COUNTIES
Aroostook
Franklin
Hancock
Kennebec
Knox
Lincoln
Oxford
Piscataquis
Sagadahoc
Somerset
Washington
Androscoggin County part: Durham town, Leeds town, Livermore town, Livermore Falls town, Minot town
Cumberland County part: Harpswell town, Harrison town, Naples town, New Gloucester town, Pownal town, Sebago town
Penobscot County part: Alton town, Argyle unorg., Bradford town, Bradley town, Burlington town, Charleston town, Chester town, Clifton town, Corinna town, Corinth town, Dexter town, Dixmont town, Drew plantation, East Central Penob, East Millinocket town, Edinburg town, Enfield town, Etna town, Exeter town, Garland town, Greenbush town, Greenfield town, Howland town, Hudson town, Kingman unorg., Lagrange town, Lakeville town, Lee town, Levant town, Lincoln town, Lowell town, Mattawamkeag town, Maxfield town, Medway town, Millinocket town, Mount Chase town, Newburgh town, Penobscot unorg., Passadumkeag town, Patten town, Plymouth town, Prentiss plantation, Seboeis plantation, Springfield town, Stacyville town, Stetson town, Twombly unorg., Webster plantation, Whitney unorg., Winn town, Woodville town
Waldo County part: Belfast city, Belmont town, Brooks town, Burnham town, Frankfort town, Freedom town, Islesboro town, Jackson town, Knox town, Liberty town, Lincolnville town, Monroe town, Montville town, Morrill town, Northport town, Palermo town, Prospect town, Searsmont town, Searsport town, Stockton Springs, Swanville town, Thorndike town, Troy town, Unity town, Waldo town
York County part: Acton town, Alfred town, Arundel town, Biddeford city, Cornish town, Dayton town, Kennebunk town, Kennebunkport town, Lebanon town, Limerick town, Lyman town, Newfield town, North Berwick town, Ogunquit town, Parsonsfield town, Saco city, Sanford town, Shapleigh town, Waterboro town, Wells town

MARYLAND (MID-ATLANTIC)

CPI AREAS: COUNTIES
PMSA Baltimore, MD: Anne Arundel, Baltimore, Carroll, Harford, Howard, Queen Anne's, Baltimore city, Columbia city
PMSA Hagerstown, MD: Washington
*Washington, DC-MD-VA: Calvert, Charles, Frederick, Montgomery, Prince George's
PMSA Wilmington-Newark, DE-MD: Cecil

METROPOLITAN COUNTIES
Allegany

NONMETROPOLITAN COUNTIES
Caroline, Dorchester, Garrett, Kent, Somerset, St. Mary's, Talbot, Wicomico, Worcester

Y=Water volume concentration in intake air, volume fraction (dry).

(3) *Mass Emissions—Dilute exhaust measurements.* For dilute exhaust measurements mass emissions (grams per hour) of each species for each mode:

(i) *General equations.* The mass emission rate, $M_{x\ mode}$ (g/hr) of each pollutant (HC, NO_X, CO2, CO, CH4 CH3OH, CH3CH2OH, CH2O, CH3CH2O) for each operating mode for bag measurements and diesel continuously heated sampling system measurements is determined from the following equation:

$$M_{x\ mode}=(V_{mix})(Density_x)(X_{conc})/(V_f)$$

Where:

x designates the pollutant (e.g., HC), V_{mix} is the total diluted exhaust volumetric flow rate (ft^3/hr), $Density_x$ is the specified density of the pollutant in the gas phase (g/ft^3), X_{conc} is the fractional concentration of pollutant x (i.e., ppm/10^6, ppmC/10^6, or %/100), and V_f is the fraction of the raw exhaust that is diluted for analysis.

(ii) The following abbreviations and equations apply to paragraphs (b)(3)(i) through (b)(3)(iii)(J) of this section:

(A) DF=Dilution factor, which is the volumetric ratio of the dilution air to the raw exhaust sample for total dilution, calculated as:

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

MASSACHUSETTS (NEW ENGLAND)

CPI AREAS: COUNTIES

PMSA Boston, MA-NH

Bristol County part: Berkley town, Dighton town, Mansfield town, Norton town, Taunton city

Essex County part: Amesbury town, Beverly city, Danvers town, Essex town, Gloucester city, Hamilton town, Ipswich town, Lynn city, Lynnfield town, Manchester-by-the-Sea town, Marblehead town, Middleton town, Nahant town, Newbury town, Newburyport city, Peabody city, Rockport town, Rowley town, Salem city, Salisbury town, Saugus town, Swampscott town, Topsfield town, Wenham town

Middlesex County part: Acton town, Arlington town, Ashland town, Ayer town, Bedford town, Belmont town, Boxborough town, Burlington town, Cambridge city, Carlisle town, Concord town, Everett city, Framingham town, Holliston town, Hopkinton town, Hudson town, Lexington town, Lincoln town, Littleton town, Malden city, Marlborough city, Maynard town, Medford city, Melrose city, Natick town, Newton city, North Reading town, Reading town, Sherborn town, Shirley town, Somerville city, Stoneham town, Stow town, Sudbury town, Townsend town, Wakefield town, Waltham city, Watertown town, Wayland town, Weston town, Wilmington town, Winchester town, Woburn city

Norfolk County part: Bellingham town, Braintree town, Brookline town, Canton town, Cohasset town, Dedham town, Dover town, Foxborough town, Franklin town, Holbrook town, Medfield town, Medway town, Millis town, Milton town, Needham town, Norfolk town, Norwood town, Plainville town, Quincy city, Randolph town, Sharon town, Stoughton town, Walpole town, Wellesley town, Westwood town, Weymouth town, Wrentham town

Plymouth County part: Carver town, Duxbury town, Hanover town, Hingham town, Hull town, Kingston town, Marshfield town, Norwell town, Pembroke town, Plymouth town, Rockland town, Scituate town, Wareham town

Suffolk county part: Boston city, Chelsea city, Revere city, Winthrop town Worcester County part: Berlin town, Blackstone town, Bolton town, Harvard town, Hopedale town, Lancaster town, Mendon town, Milford town, Millville town, Southborough town, Upton town

PMSA Brockton, MA

Bristol County part: Easton town, Raynham town

Norfolk County part: Avon town

Plymouth County part: Abington town, Bridgewater town, Brockton city, East Bridgewater town, Halifax town, Hanson town, Lakeville town, Middleborough town, Plympton town, West Bridgewater town, Whitman town

PMSA Fitchburg-Leominster, MA

Middlesex County part: Ashby town

Worcester County part: Ashburnham town, Fitchburg city, Gardner city, Leominster city, Lunenburg town, Templeton town, Westminster town, Winchendon town

PMSA Lawrence, MA-NH

Essex County part: Andover town, Boxford town, Georgetown town, Groveland town, Haverhill city, Lawrence city, Merrimac town, Methuen town, North Andover town, West Newbury town

PMSA Lowell, MA-NH

Middlesex County part: Billerica town, Chelmsford town, Dracut town, Dunstable town, Groton town, Lowell city, Pepperell town, Tewksbury town, Tyngsborough town, Westford town

PMSA New Bedford, MA

Bristol County part: Acushnet town, Dartmouth town, Fairhaven town, Freetown town, New Bedford city

Plymouth County part: Marion town, Mattapoisett town, Rochester town

Where:

WCO2=Carbon dioxide concentration of the raw exhaust sample, in percent (wet).

$WCO2_e$=Carbon dioxide concentration of the dilute exhaust sample, in percent (wet).

$WCO2_d$=Carbon dioxide concentration of the dilution air, in percent (wet).

(B) V_{mix}=Diluted exhaust volumetric flow rate in cubic feet per hour corrected to standard conditions (528°R, and 760 mm Hg).

(C) V_f=Fraction of the total raw exhaust that is diluted for analysis.

$=((CO2_{conc}/10^2) + (CO_{conc}/10^6) + (HC_{conc}/10^6))(V_{mix})(CMW_f)/V_m/M_f$

(iii) Calculation of individual pollutants.

(A) $M_{HC\ mode}$=Hydrocarbon emissions, in grams per hour by mode, are calculated using the following equations:

$M_{HC\ mode}=(V_{mix})(Density_{HC})(HC_{conc}/10^6)/V_f$

$HC_{conc}=HC_e - (HC_d)(1 - (1/DF))$

HC_e=FID $HC_e - \Xi(r_x)(X_e)$

Where:

$Density_{HC}$=Density of hydrocarbons=16.42 g/ft³ (0.5800 kg/m_3) for #l petroleum diesel fuel, 16.27 g/ft³ (0.5746 kg/m_3) for #2 diesel, and 16.33 g/ft³ (0.5767 kg/m³) for other fuels, assuming an average carbon to hydrogen ratio of 1:1.93 for #1 petroleum diesel fuel, 1:1.80 for #2 petroleum diesel fuel, and 1:1.85 for hydrocarbons in other fuels at standard conditions.

HC_{conc}=Hydrocarbon concentration of the dilute exhaust sample corrected for background, in ppm carbon equivalent (i.e., equivalent propane×3).

HC_e=Hydrocarbon concentration of the dilute exhaust bag sample, or for diesel continuous heated sampling systems, average hydrocarbon concentration of the dilute exhaust sample as determined from the integrated HC traces, in ppm carbon equivalent. For petroleum-fueled engines, HC_e is the FID measurement. For methanol-fueled and ethanol-fueled engines:

FID HC_e=Concentration of hydrocarbon plus methanol, ethanol and acetaldehyde in dilute exhaust as measured by the FID, ppm carbon equivalent.

r_x=FID response to oxygenated species x (methanol, ethanol or acetaldehyde).

X_e=Concentration of species x (methanol, ethanol or acetaldehyde) in dilute exhaust as determined from the dilute exhaust sample, ppm carbon.

HC_d=Hydrocarbon concentration of the dilution air as measured, in ppm carbon equivalent.

(B) $M_{NOx\ mode}$ = Oxides of nitrogen emissions, in grams per hour by mode, are calculated using the following equations:

$$M_{NOx\ mode}=(V_{mix})\ (Density_{NO2})\ (NOx_{conc}/10^6)\ /V_f$$

$$NOx_{conc}=(NOx_e - NOx_d(1 - (1/DF)))$$

Where:

$Density_{NO2}$=Density of oxides of nitrogen is 54.16 g/ft³ (1.913 kg/m³), assuming they are in the form of nitrogen dioxide, at standard conditions.

NOx_{conc}=Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in ppm.

NOx_e=Oxides of nitrogen concentration of the dilute exhaust bag sample as measured, in ppm.

NOx_d=Oxides of nitrogen concentration of the dilution air as measured, in ppm.

(C) $M_{CO2\ mode}$=Carbon dioxide emissions, in grams per hour by mode, are calculated using the following equations:

$$M_{CO2\ mode}=(V_{mix})\ (Density_{CO2})\ (CO_{2conc}/10^2)\ /V_f$$

$$CO_{2conc}=CO_{2e} - CO_{2d}(1 - (1/DF))$$

Where:

Density CO_2=Density of carbon dioxide is 51.81 g/ft³ (1.830 kg/m³), at standard conditions.

CO_{2conc}=Carbon dioxide concentration of the dilute exhaust sample corrected for background, in percent.

CO_{2e}=Carbon dioxide concentration of the dilute exhaust bag sample, in percent.

CO_{2d}=Carbon dioxide concentration of the dilution air as measured, in percent.

(D)(*1*) $M_{CO\ mode}$=Carbon monoxide emissions, in grams per hour by mode, are calculated using the following equations:

$$M_{CO\ mode}=(V_{mix})(Density_{CO})(CO_{conc}/10^6)/V_f$$

$$CO_{conc}=CO_e - CO_d(1 - (1/DF))$$

$$CO_d=(1 - 0.000323R)CO_{dm}$$

Where:

$Density_{CO}$=Density of carbon monoxide is 32.97 g/ft³ (1.164 kg/m³), at standard conditions.

CO_{conc}=Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor, and CO_2 extraction, ppm.

CO_e=Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in ppm.

$CO_e=(1 - (0.01 + 0.005/\alpha)CO_{2e} - 0.000323RH)CO_{em}$, where α is the hydrogen to carbon ratio as measured for the fuel used.

CO_{em}=Carbon monoxide concentration of the dilute exhaust sample as measured, in ppm.

RH = Relative humidity of the dilution air, percent.

CO_d=Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in ppm.

CO_{dm}=Carbon monoxide concentration of the dilution air sample as measured, in ppm.

(*2*) If a CO instrument which meets the criteria specified in § 86.1311 of this chapter is used and the conditioning column has been deleted, CO_{em} must be substituted directly for CO_e, and CO_{dm} must be substituted directly for CO_d.

(E) $M_{CH4\ mode}$=Methane emissions corrected for background, in gram per hour by mode, are calculated using the following equations:

$$M_{CH4\ mode}=(V_{mix})\ (Density_{CH4})\ (CH_{4conc}/10^6)\ /V_f$$

$$CH_{4conc}=C_{CH4e} - C_{CH4d}(1 - (1/DF))$$

Where:

$Density_{CH4}$=Density of methane is 18.89 g/ft³ at 68 °F (20 °C) and 760 mm Hg (101.3kPa) pressure.

CH_{4conc}=Methane concentration of the dilute exhaust corrected for background, in ppm.

C_{CH4e}=Methane concentration in the dilute exhaust, in ppm.

C_{CH4d}=Methane concentration in the dilution air, in ppm.

(F) $M_{CH3OH\ mode}$=Methanol emissions corrected for background, in gram per hour by mode, are calculated using the following equations:

$$M_{CH3OH\ mode}=(V_{mix})(Density_{CH3OH})\ (CH_3OH_{conc}/10^6)/V_f$$

$$CH3OH_{conc}=C_{CH3OHe} - C_{CH3OHd}(1 - (1/DF))$$

$$C_{CH3OHe}=((3.817)(10^{-2})(T_{EM})\ (((C_{S1})(AV_{S1})) + (C_{S2})\ (AV_{S2})))/((P_B)(V_{EM}))$$

$$C_{CH3OHd}=((3.817)(10^{-2})(T_{DM})(((C_{D1})\ (AV_{D1})) + (C_{D2})\ (AV_{D2})))/((P_B)(V_{DM}))$$

Where:

$Density_{CH3OH}$=Density of methanol is 37.71 g/ft³ (1.332 kg/m³), at 68 °F (20 °C) and 760 mm Hg (101.3kPa) pressure.

$CH3OH_{conc}$=Methanol concentration of the dilute exhaust corrected for background, in ppm.

C_{CH3OHe}=Methanol concentration in the dilute exhaust, in ppm.

C^{CH3OHd}=Methanol concentration in the dilution air, in ppm.

T_{EM}=Temperature of methanol sample withdrawn from dilute exhaust, °R.

T_{DM}=Temperature of methanol sample withdrawn from dilution air, °R.

P_B=Barometric pressure during test, mm Hg.

V_{EM}=Volume of methanol sample withdrawn from dilute exhaust, ft³.

V_{DM}=Volume of methanol sample withdrawn from dilution air, ft³.

C_S=GC concentration of aqueous sample drawn from dilute exhaust, µg/ml.

C_D=GC concentration of aqueous sample drawn from dilution air, µg/ml.

A_{VS}=Volume of absorbing reagent (deionized water) in impinger through which methanol sample from dilute exhaust is drawn, ml.

A_{VD}=Volume of absorbing reagent (deionized water) in impinger through which methanol sample from dilution air is drawn, ml.

$_1$=first impinger.

$_2$=second impinger.

(G) $M_{C2H5OH\ mode}$=Ethanol emissions corrected for background, in gram per hour by mode, are calculated using the following equations:

$$M_{CH3CH2OH\ mode}=(V_{mix})(Density_{CH3CH2OH})\ ((CH_3CH_2OH_{conc}/10^6))/V_f$$

$$CH_3CH_2OH_{conc}=C_{CH3CH2OHe} - C_{CH3CH2OHd}(1 - (1/DF))$$

$$C_{CH3CH2OHd}=((2.654)(10^{-2})(T_{DM})(((C_{D1})(AV_{D1})) + (C_{D2})(AV_{D2})))/((P_B)(V_{DM}))$$

$$C_{CH3CH2OHe}=((2.654)(10^{-2})(T_{EM})(((C_{S1})(AV_{S1})) + (C_{S2})(AV_{S2})))/((P_B)(V_{EM}))$$

Where:

$Density_{C2H5OH}$=Density of ethanol is 54.23 g/ft³ (1.915 kg/m³), at 68 °F (20 °C) and 760 mm Hg (101.3kPa) pressure.

$CH_3CH_2OH_{conc}$=Ethanol concentration of the dilute exhaust corrected for background, in ppm.

$C_{CH3CH2OHe}$=Ethanol concentration in the dilute exhaust, in ppm.

$C_{CH3CH2OHd}$=Ethanol concentration in the dilution air, in ppm.

T_{EM}= Temperature of ethanol sample withdrawn from dilute exhaust, °R.

T_{DM}=Temperature of ethanol sample withdrawn from dilution air, °R.

P_B=Barometric pressure during test, mm Hg.

V_{EM}=Volume of ethanol sample withdrawn from dilute exhaust, ft³.

V_{DM}=Volume of ethanol sample withdrawn from dilution air, ft³.

C_S=GC concentration of aqueous sample drawn from dilute exhaust, µg/ml.

C_D=GC concentration of aqueous sample drawn from dilution air, µg/ml.

A_{VS}= Volume of absorbing reagent (deionized water) in impinger through which ethanol sample from dilute exhaust is drawn, ml.

A_{VD}=Volume of absorbing reagent (deionized water) in impinger through which ethanol sample from dilution air is drawn, ml.

$_1$=first impinger.

$_2$=second impinger.

(H) $M_{CH2O\ mode}$=Formaldehyde emissions corrected for background, in gram per hour by mode, are calculated using the following equations:

$M_{CH2O\ mode}=(V_{mix})(Density_{CH2O})((CH_2O_{conc}/10^6)/V_f$

$CH2O_{conc}=C_{CH2Oe} - C_{CH2Od}(1 - (1/DF))$

$C_{CH2Oe}=((4.069)(10^{-2})(C_{FDE})(V_{AE})(Q)(T_{EF}))/((V_{SE})(P_B)$

$C_{CH2Od}=((4.069)(10^{-2})(C_{FDA})(V_{AA})(Q)(T_{DF}))/(V_{SA})(P_B)$

Where:

$Density_{CH2O}$=Density of formaldehyde is 35.36 g/ft ^{3} (1.249 kg/m ^{3}), at 68 °F (20 °C) and 760 mmHg (101.3 kPa) pressure.

$CH2O_{conc}$=Formaldehyde concentration of the dilute exhaust corrected for background, ppm.

C_{CH2Oe}=Formaldehyde concentration in dilute exhaust, ppm.

C_{CH2Od}=Formaldehyde concentration in dilution air, ppm.

C_{FDE}=Concentration of DNPH derivative of formaldehyde from dilute exhaust sample in sampling solution, µg/ml.

V_{AE}=Volume of sampling solution for dilute exhaust formaldehyde sample, ml.

Q = Ratio of molecular weights of formaldehyde to its DNPH derivative = 0.1429.

T_{EF}=Temperature of formaldehyde sample withdrawn from dilute exhaust, °R.

V_{SE}=Volume of formaldehyde sample withdrawn from dilute exhaust, ft^3.

P_B=Barometric pressure during test, mm Hg.

C_{FDA}=Concentration of DNPH derivative of formaldehyde from dilution air sample in sampling solution, µg/ml.

V_{AA}=Volume of sampling solution for dilution air formaldehyde sample, ml.

T_{DF}=Temperature of formaldehyde sample withdrawn from dilution air, °R.

V_{SA}=Volume of formaldehyde sample withdrawn from dilution air, ft^3.

(I) $M_{CH3CHO\ mode}$=Acetaldehyde emissions corrected for background, in grams per hour by mode, are calculated using the following equations:

$M_{CH3CHO\ mode}=(V_{mix})(Density_{CH3CHO})((CH_3CHO_{conc}/10^6)/V_f$

$CH3CHO_{conc}=C_{CH3CHOe} - C_{CH3CHOd}(1—(1/DF))$

$C_{CH3CHOe}=((2.774)(10^{-2})(C_{ADE})(V_{AE})(Q)(T_{EF}))/((V_{SE})(P_B)$

$C_{CH3CHOd}=((2.774)(10^{-2})(C_{ADA})(V_{AA})(Q)(T_{DF}))/(V_{SA})(P_B)$

Where:

$Density_{CH3CHO}$=Density of acetaldehyde is 51.88 g/ft^3 (1.833 kg/m^3), at 68 °F (20 °C) and 760 mmHg (101.3 kPa) pressure.

$CH3CHO_{conc}$=Acetaldehyde concentration of the dilute exhaust corrected for background, ppm.

$C_{CH3CHOe}$=Acetaldehyde concentration in dilute exhaust, ppm.

$C_{CH3CHOd}$=Acetaldehyde concentration in dilution air, ppm.

C_{ADE}=Concentration of DNPH derivative of acetaldehyde from dilute exhaust sample in sampling solution, µg/ml.

V_{AE}=Volume of sampling solution for dilute exhaust acetaldehyde sample, ml.

Q=Ratio of molecular weights of acetaldehyde to its DNPH derivative =0.182

T_{EF}=Temperature of acetaldehyde sample withdrawn from dilute exhaust, °R.

V_{SE}=Volume of acetaldehyde sample withdrawn from dilute exhaust, ft^3.

P_B=Barometric pressure during test, mm Hg.

C_{ADA}Concentration of DNPH derivative of acetaldehyde from dilution air sample in sampling solution, µg/ml.

V_{AA}=Volume of sampling solution for dilution air acetaldehyde sample, ml.

T_{DF}=Temperature of acetaldehyde sample withdrawn from dilution air, °R.

V_{SA}=Volume of acetaldehyde sample withdrawn from dilution air, ft^3.

(J) $M_{NMHC\ mode}$=Nonmethane hydrocarbon emissions, in grams per hour by mode.

$M_{NMHC\ mode}=(V_{mix})(Density_{NMHC})((NMHCE_{conc}/10^6))/V_f$

$NMHC_{conc}=NMHC_e—(NMHC_d)(1 - (1/DF))$

$NMHC_e=FID\ HC_e - (r_m)(C_{CH4e})$

$NMHC_d=FID\ HC_d - (r_m)(C_{CH4d})$

Where:

$Density_{NMHC}$=Density of nonmethane hydrocarbons=16.42 g/ft^3 (0.5800 kg/m^3) for # 1 petroleum diesel fuel, 16.27 g/ft^3 (0.5746 kg/m^3) for #2 diesel, and 16.33 for other fuels, assuming an average carbon to hydrogen ratio of 1:1.93 for #1 petroleum diesel fuel, 1:1.80 for #2 petroleum diesel fuel, and 1:1.85 for nonmethane hydrocarbons in other fuels at standard conditions.

$NMHC_{conc}$=Nonmethane hydrocarbon concentration of the dilute exhaust sample corrected for background, in ppm carbon equivalent (i.e., equivalent propane × 3).

$NMHC_e$=Nonmethane hydrocarbon concentration of the dilute exhaust bag sample:

$FID\ HC_e$=Concentration of hydrocarbons in dilute exhaust as measured by the FID, ppm carbon equivalent.

rm=FID response to methane.

C_{CH4e}=Concentration of methane in dilute exhaust as determined from the dilute exhaust sample.

$NMHC_d$=Nonmethane hydrocarbon concentration of the dilution air:

$FID\ HC_d$=Concentration of hydrocarbons in dilute exhaust as measured by the FID, ppm carbon equivalent.

r_m=FID response to methane.

C_{CH4d}=Concentration of methane in dilute exhaust as determined from the dilute exhaust sample, ppm.

(4) *Particulate exhaust emissions.* The mass of particulate for a test mode determined from the following equations when a heat exchanger is used (i.e., no flow compensation), and when background filters are used to correct for background particulate levels:

$M_{PM\ mode}$=Particulate emissions, grams per hour by mode.

$M_{PM\ mode}=(WVol)(PM_{conc})(1 + DF)=(V_{mix})(PM_{conc})/V_f$

$PM_{conc}=PM_e - PM_d(1 - (1/DF))$

$PM_e=M_{PMe}/V_{sampe}/10^3$

$PM_d=M_{PMd}/V_{sampd}/10^3$

Where:

PM_{conc}=Particulate concentration of the diluted exhaust sample corrected for background, in g/ft ^{3}

M_{PMe}=Measured mass of particulate for the exhaust sample, in mg, which is the difference in filter mass before and after the test.

M_{PMd}=Measured mass of particulate for the dilution air sample, in mg, which is the difference in filter mass before and after the test.

V_{sampe}=Total wet volume of sample removed from the dilution tunnel for the exhaust particulate measurement, cubic feet at standard conditions.

V_{sampd}=Total wet volume of sample removed from the dilution tunnel for the dilution air particulate measurement, cubic feet at standard conditions.

DF=Dilution factor, which is the volumetric ratio of the dilution air to the raw exhaust sample, calculated as:

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

MASSACHUSETTS (cont'd)

CPI AREAS: COUNTIES

PMSA Worcester, MA-CT

Hampden County part:	Holland town
Worcester County part:	Auburn town, Barre town, Boylston town, Brookfield town, Charlton town, Clinton town, Douglas town, Dudley town, East Brookfield town, Grafton town, Holden town, Leicester town, Millbury town, Northborough town, Northbridge town, North Brookfield town, Oakham town, Oxford town, Paxton town, Princeton town, Rutland town, Shrewsbury town, Southbridge town, Spencer town, Sterling town, Sturbridge town, Sutton town, Uxbridge town, Webster town, Westborough town, West Boylston town, West Brookfield town, Worcester city

METROPOLITAN COUNTIES

Barnstable County part:	Barnstable town, Brewster town, Chatham town, Dennis town, Eastham town, Harwich town, Mashpee town, Orleans town, Sandwich town, Yarmouth town
Berkshire County part:	Adams town, Cheshire town, Dalton town, Hinsdale town, Lanesborough town, Lee town, Lenox town, Pittsfield city, Richmond town, Stockbridge town
Bristol County part:	Attleboro city, Fall River city, North Attleborough, Rehoboth town, Seekonk town,Somerset town, Swansea town, Westport town
Franklin County part:	Sunderland town
Hampden County part:	Agawam town, Chicopee city, East Longmeadow town, Hampden town, Holyoke city, Longmeadow town, Ludlow town, Monson town, Montgomery town, Palmer town, Russell town, Southwick town, Springfield city, Westfield city, West Springfield town, Wilbraham town
Hampshire County part:	Amherst town, Belchertown town, Easthampton town, Granby town, Hadley town, Hatfield town, Huntington town, Northampton city, Southampton town, South Hadley town, Ware town, Williamsburg town

NONMETROPOLITAN COUNTIES

Dukes	
Nantucket	
Barnstable County part:	Bourne town, Falmouth town, Provincetown town, Truro town, Wellfleet town
Berkshire County part:	Alford town, Becket town, Clarksburg town, Egremont town, Florida town, Great Barrington town, Hancock town, Monterey town, Mount Washington town, New Ashford town, New Marlborough town, North Adams city, Otis town, Peru town, Sandisfield town, Savoy town, Sheffield town, Tyringham town, Washington town, West Stockbridge town, Williamstown town, Windsor town
Franklin County part:	Ashfield town, Bernardston town, Buckland town, Charlemont town, Colrain town, Conway town, Deerfield town, Erving town, Gill town, Greenfield town, Hawley town, Heath town, Leverett town, Leyden town, Monroe town, Montague town, New Salem town, Northfield town, Orange town, Rowe town, Shelburne town, Shutesbury town, Warwick town, Wendell town, Whately town
Hampden County part:	Blandford town, Brimfield town, Chester town, Granville town, Tolland town, Wales town
Hampshire County part:	Chesterfield town, Cummington town, Goshen town, Middlefield town, Pelham town, Plainfield town, Westhampton town, Worthington town
Worcester County part:	Athol town, Hardwick town, Hubbardston town, New Braintree town, Petersham town, Phillipston town, Royalston town, Warren town

MICHIGAN (MIDWEST)

CPI AREAS: COUNTIES

PMSA Ann Arbor, MI:	Lenawee, Livingston, Washtenaw
PMSA Detroit, MI:	Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne
PMSA Flint, MI:	Genesee

METROPOLITAN COUNTIES

Allegan, Bay, Berrien, Calhoun, Clinton, Eaton, Ingham, Jackson, Kalamazoo, Kent, Midland, Muskegon, Ottawa, Saginaw, Van Buren

(c) *Humidity calculations.* (1) The following abbreviations (and units) apply to paragraph (b) of this section:

BARO=barometric pressure (Pa).
H=specific humidity, (g H_2O/g of dry air).
K_H=conversion factor=0.6220 g H_2O/g dry air.
M_{air}=Molecular weight of air=28.9645.
M_{H2O}=Molecular weight of water=18.01534.
P_{DB}=Saturation vapor pressure of water at the dry bulb temperature (Pa).
P_{DP}=Saturation vapor pressure of water at the dewpoint temperature (Pa).
P_v=Partial pressure of water vapor (Pa).
P_{WB}=Saturation vapor pressure of water at the wet bulb temperature (Pa).
T_{DB}=Dry bulb temperature (Kelvin).
T_{WB}=Wet bulb temperature (Kelvin).
Y=Water-vapor volume concentration.

(2) The specific humidity on a dry basis of the intake air (H) is defined as:

$H=((K_H)(P_v)/(BARO - P_v))$

(3) The partial pressure of water vapor may be determined using a dew point device. In that case:

$P_v=P_{DP}$

(4) The percent of relative humidity (RH) is defined as:

$RH=(P_v/P_{DB})100$

(5) The water-vapor volume concentration on a dry basis of the engine intake air (Y) is defined as:

$Y=((H)(M_{air})/(M_{H2O})=P_v/(BARO - P_v)$

(d) *NO_X correction factor.* (1) NO_X emission rates ($M_{NOx\ mode}$) shall be adjusted to account for the effects of humidity and temperature by multiplying each emission rate by K_{NOx}, which is calculated from the following equations:

$K_{NOx}=(K)(1 + (0.25(\log K)^2)^{1/2})$

$K=(K_H)(K_T)$

$K_H=[C_1 + C_2(\exp((-0.0143)(10.714))]/[C_1 + C_2(\exp((-0.0143)(1000H))]$

$C_1= - 8.7 + 164.5\exp(- 0.0218(A/F)_{wet})$

$C_2=130.7 + 3941\exp(- 0.0248(A/F)_{wet})$

Where:

$(A/F)_{wet}$=Mass of moist air intake divided by mass of fuel intake.

$K_T=1/[1-0.017(T_{30}-T_A)]$ for tests conducted at ambient temperatures below 30 °C.

K_T=1.00 for tests conducted at ambient temperatures at or above 30 °C.

T_{30}=The measured intake manifold air temperature in the locomotive when operated at 30 °C (or 100 °C, where intake manifold air temperature is not available).

T_A=The measured intake manifold air temperature in the locomotive as tested (or the ambient temperature (°C), where intake manifold air temperature is not available).

(e) *Other calculations.* Calculations other than those specified in this section may be used with the advance approval of the Administrator.

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BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[FRL–7092–1]

Utah: Final Authorization of State-Initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: During a review of Utah's regulations, EPA identified a variety of State-initiated changes to Utah's hazardous waste program under the Resource Conservation and Recovery Act (RCRA). We have determined that these changes are minor and satisfy all requirements needed to qualify for Final authorization and are authorizing the State-initiated changes through this Immediate Final action. In addition, today's document corrects technical errors made in the tables published in the May 23, 1991 **Federal Register** (as amended August 6, 1991), October 14, 1994, and January 13, 1999 authorization documents for Utah.

EPA uses the Section of the Code of Federal Regulations (CFR) entitled Approved State Hazardous Waste Management Programs to incorporate by reference those provisions of the State regulations that are part of the authorized State program. This document incorporates the newly authorized State program into the regulations entitled Approved State Hazardous Waste Management Programs and clarifies which of these provisions we have authorized and will enforce under sections 3008, 3013, and 7003 of RCRA.

DATES: This Final authorization for Utah and incorporation by reference of the Utah authorized hazardous waste program will become effective on January 25, 2002, unless EPA receives adverse written comment by December 26, 2001. The Director of the Federal Register approves the incorporation by reference of the Utah regulations contained in this rule as of January 25, 2002 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Send written comments to Kris Shurr, 8P–HW, U.S. EPA, Region VIII, 999 18th St., Suite 300, Denver, Colorado 80202–2466, phone number: (303) 312–6139. You can view and copy the materials used by EPA to make this determination during normal business hours at the following locations: Utah Department of Environmental Quality, Division of Solid and Hazardous Waste, 288 North 1460 West, Salt Lake City, Utah 84114–4880, phone (801) 538–6776 and EPA Region VIII, 999 18th St., Suite 300, Denver, Colorado 80202–2466, phone (303) 312–6139.

FOR FURTHER INFORMATION CONTACT: Kris Shurr, EPA Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, phone (303) 312–6139.

SUPPLEMENTARY INFORMATION:

I. Authorization of State-Initiated Changes

A. Why Are Revisions to State Programs Necessary?

States which have received Final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal program changes, the States must change their programs and ask EPA to authorize the changes. Changes to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 CFR parts 124, 260 through 266, 268, 270, 273 and 279. States can also initiate their own changes to their hazardous waste program and these changes must then be authorized.

B. What Authorization Decisions Have We Made in This Rule?

We conclude that Utah's revisions to its authorized program meet all of the statutory and regulatory requirements established by RCRA. We found that the State-initiated changes make Utah's rules more clear or conform more closely to the Federal equivalents and are so minor in nature that a formal application is unnecessary. Therefore, we grant Utah Final authorization to operate its hazardous waste program with the changes described in the table at item I.G. of this document. Utah has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out all authorized aspects of the RCRA program, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Utah, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Utah will continue to be subject to the authorized State requirements instead of the equivalent Federal requirements in order to comply

with RCRA. Utah has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to: do inspections, and require monitoring, tests, analyses or reports; enforce RCRA requirements and suspend or revoke permits; and take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Utah is being authorized by today's action are already effective and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes. If EPA receives comments which oppose this authorization or portion(s) thereof, that document will serve as a proposal to authorize such changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization or the incorporation by reference of the State program, we will withdraw this authorization and/or incorporation by reference of the State program decision by publishing a timely document in the **Federal Register** before the rule becomes effective. We will base any further decision on the authorization of the State program changes, or the incorporation by reference, on the proposed rule mentioned in paragraph I.D. of this document. We will then address all public comments in a later Final rule. If you want to comment on this authorization and incorporation by reference, you must do so at this time. You may not have another opportunity to comment.

If EPA receives comments that oppose only the authorization of a particular change to the State hazardous waste program or the incorporation by reference of the State program, we may withdraw only that part of this rule, but the authorization of the program changes or the incorporation by reference of the State program that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization or incorporation by reference of the State program will become effective and which part is being withdrawn.

F. What Has Utah Previously Been Authorized For?

Utah initially received Final authorization for its RCRA hazardous waste base program on 10/10/84, effective 10/24/84 (49 FR 39683). Utah received authorization for revisions to its program on 2/21/89, effective 03/07/89 (54 FR 7417); on 5/23/91 and 8/6/91, effective 07/22/91 (56 FR 23648 as corrected by 56 FR 37291); on 5/15/92, effective 7/14/92 (57 FR 20770); on 2/12/93 and 5/5/93, effective 4/13/93 (58 FR 8232 as corrected by 58 FR 26689); on 10/14/94 and 11/10/94, effective 12/13/94 (59 FR 52084 as corrected by 59 FR 56114); on 5/20/97, effective 7/21/97 (62 FR 27501); on 1/13/99, effective 3/15/99 (64 FR 2144), and on 10/16/00, effective 1/16/01 (65 FR 61109).

G. What Changes Are We Authorizing With Today's Action?

Utah has made conforming changes to its regulations for internal consistency relative to the changes made for the authorizations listed in Section I.F. Utah has also changed its regulations to make them more consistent with the Federal requirements.

We are granting Utah Final authorization to carry out the following provisions of the State's program in lieu of the Federal program. These provisions are analogous to the indicated RCRA statutory provisions or RCRA regulations found at 40 CFR as of July 1, 1995 unless otherwise noted. The Utah provisions are from the Utah Administrative Code (UAC) effective as indicated.

State requirement	Federal requirement
Utah Administrative Code (UAC) R315–1–1(c) & (g), effective February 15, 1996.	40 CFR 261.1(c), 279.1
UAC R315–2–4(a)(6) & (7), effective February 15, 1996	40 CFR 261.4(a)(6) & (7)
UAC R315–2–9(c)(3), effective February 15, 1996	40 CFR 261.11(c)
UAC R315–2–9(f)(1)(viii), effective February 15, 1996	40 CFR 261.23(a)(8)
UAC R315–2–11 (introductory paragraph), (a),&(b), effective February 15, 1996.	40 CFR 261.33 (introductory paragraph), (a) & (b)
UAC R315–2–11(d), effective February 15, 1996	40 CFR 261.33(d)
UAC R315–2–15, effective February 15, 1996	40 CFR 260.21
UAC R315–2–22, effective February 15, 1996	40 CFR 260.40
UAC R315–2–23, effective February 15, 1996	40 CFR 260.41
UAC R315–3–3(i)(3), effective February 15, 1996	40 CFR 124.3(d)
UAC R315–3–3(n) (introductory paragraph) through (n)(7) except (n)(2), effective February 15, 1996.	40 CFR 270.1(c)(2) (introductory paragraph) through (c)(2)(vii), except (ii)
UAC R315–3–5(b)(13)–(17), effective February 15, 1996	40 CFR 270.14(b)(13)–(17)
UAC R315–3–5(b)(21), effective February 15, 1996	40 CFR 270.14(b)(21)
UAC R315–3–6.2, effective February 15, 1996	40 CFR 270.16
UAC R315–3–6.4(b), effective February 15, 1996	40 CFR 270.18(b)
UAC R315–3–6.6 except (i), effective February 15, 1996	40 CFR 270.20 except (i)
UAC R315–3–6.8, effective February 15, 1996	40 CFR 270.23
UAC R315–3–7(a)(4)(ii), effective February 15, 1996	40 CFR 270.14(c)(4)(ii)
UAC R315–3–8(d), effective February 15, 1996	40 CFR 270.11(d)
UAC R315–3–10(d), effective February 15, 1996	40 CFR 270.30(d)
UAC R315–3–10(l)(6)(iii), effective February 15, 1996	40 CFR 270.30(l)(6)(iii)
UAC R315–3–11(g), effective February 15, 1996	40 CFR 270.51(d)

State requirement	Federal requirement
UAC R315–3–19(a), effective February 15, 1996	40 CFR 270.61(a)
UAC R315–3–23(b)(1), effective February 15, 1996	40 CFR 270.32(b)(1)
UAC R315–3–23(c) & (d), effective February 15, 1996	40 CFR 270.32(d) & (e)
UAC R315–3–26(c)(2), effective February 15, 1996	40 CFR 124.10(c)(2)
UAC R315–3–33(a)&(b), effective February 15, 1996	40 CFR 270.70(a)&(b)
UAC R315–3–35, effective February 15, 1996	RCRA § 3010(a)
UAC R315–4–2(a), effective February 15, 1996	40 CFR 262.20(a)
UAC R315–4–3(i) & (j), effective February 15, 1996	40 CFR 263.21(a) & (b)
UAC R315–4–4(c), effective February 15, 1996	40 CFR 264.72
UAC R315–5–5, effective February 15, 1996	40 CFR 262.40
UAC R315–5–6(a)(1) & (2), effective February 15, 1996	40 CFR 262.41(a)(1) & (2)
UAC R315–5–6(b), effective February 15, 1996	40 CFR 262.41(b)
UAC R315–5–14, effective February 15, 1996	40 CFR 262.60
UAC R315–7–8.1(c)(9), effective February 15, 1996	40 CFR 265.1(c)(11)
UAC R315–7–10.3(c), effective February 15, 1996	40 CFR 265.32(c)
UAC R315–7–11.3(e), effective February 15, 1996	40 CFR 265.52(e)
UAC R315–7–12.4, effective February 15, 1996	40 CFR 265.73
UAC R315–7–12.5(c), effective February 15, 1996	40 CFR 265.74(c)
UAC R315–7–12.7, effective February 15, 1996	40 CFR 265.76
UAC R315–7–12.8(c), effective February 15, 1996	40 CFR 265.77(c)
UAC R315–7–13.1(a) & (d), effective February 15, 1996	40 CFR 265.90(a) & (d)
UAC R315–7–13.1(e), effective February 15, 1996	40 CFR 265.90(e)
UAC R315–7–13.3(b)(1), effective February 15, 1996	40 CFR 265.92(b)(1)
UAC R315–7–13.4(a), effective February 15, 1996	40 CFR 265.93(a)
UAC R315–7–13.5(a)(2)(i)–(a)(2)(iii) & (b)(2), effective February 15, 1996	40 CFR 265.94(a)(2)(i)– (a)(2)(iii) & (b)(2)
UAC R315–7–16.7(b), effective February 15, 1996	40 CFR 265.177(b)
UAC R315–7–18.4, effective February 15, 1996	40 CFR 265.225
UAC R315–7–18.5(a), effective February 15, 1996	40 CFR 265.226(a)
UAC R315–7–18.8, effective February 15, 1996	40 CFR 265.230
UAC R315–7–19.5(1) & (2), effective February 15, 1996	40 CFR 265.256(a)(1) & (2)
UAC R315–7–19.6(a)(1) & (2), effective February 15, 1996	40 CFR 265.256(a)(1) & (2)
UAC R315–7–19.7, effective February 15, 1996	40 CFR 265.257
UAC R315–7–20.3(c) (including undesignated paragraph), effective February 15, 1996.	40 CFR 265.273(c)
UAC R315–7–20.4(a), effective February 15, 1996	40 CFR 265.276(a)
UAC R315–7–20.4(c)(2)(iv), effective February 15, 1996	40 CFR 265.276(c)(2)(iv)
UAC R315–7–20.6, effective February 15, 1996	40 CFR 265.279
UAC R315–7–20.7(a),(d),(e) & (f), effective February 15, 1996	40 CFR 265.280(a),(d),(e) & (f)
UAC R315–7–20.9, effective February 15, 1996	40 CFR 265.282
UAC R315–7–21.3, effective February 15, 1996	40 CFR 265.309
UAC R315–7–21.4(b) (introductory paragraph), effective February 15, 1996	40 CFR 265.310(b) (introductory paragraph)
UAC R315–7–21.6, effective February 15, 1996	40 CFR 265.313
UAC R315–7–22.1(b), effective February 15, 1996	40 CFR 265.340(b)
UAC R315–7–22.3, effective February 15, 1996	40 CFR 265.341
UAC R315–7–23.3, effective February 15, 1996	40 CFR 265.375
UAC R315–7–24.1, effective February 15, 1996	40 CFR 265.400
UAC R315–7–24.3, effective February 15, 1996	40 CFR 265.402
UAC R315–7–24.7, effective February 15, 1996	40 CFR 265.406
UAC R315–7–25, effective February 15, 1996	40 CFR 265.430
UAC R315–7–26, effective February 15, 1996	40 CFR 265.1030 through 265.1035
UAC R315–8–1(f), effective February 15, 1996	40 CFR 264.1(h)
UAC R315–8–2.1(a) & (b), effective February 15, 1996	40 CFR 264.10(a) & (b)
UAC R315–8–2.5, effective February 15, 1996	40 CFR 264.14
UAC R315–8–2.7, effective February 15, 1996	40 CFR 264.16
UAC R315–8–2.8, effective February 15, 1996	40 CFR 264.17
UAC R315–8–3, effective February 15, 1996	40 CFR 264.30 through 264.37
UAC R315–8–4, except 4.3(a), 4.5(e), and 4.7(d)(2), effective February 15, 1996.	40 CFR 264.50 through 264.56, except 264.52(a)&(b), 264.54(e), & 264.56(d)(2)
UAC R315–8–4.3(a) and 8–4.7(d)(2), effective February 15, 1996	40 CFR 264.52(a) & (b) and 264.56(d)(2)
UAC R315–8–5.1, effective February 15, 1996	40 CFR 264.70
UAC R315–8–5.3, effective February 15, 1996	40 CFR 264.73
UAC R315–8–5.4, effective February 15, 1996	40 CFR 264.72
UAC R315–8–5.5, effective February 15, 1996	40 CFR 264.74
UAC R315–8–5.6 (introductory paragraph), effective February 15, 1996	40 CFR 264.75 (introductory paragraph)
UAC R315–8–5.6(f), effective February 15, 1996	40 CFR 264.75(g)
UAC R315–8–5.7 (introductory paragraph), effective February 15, 1996	40 CFR 264.76 (introductory paragraph)
UAC R315–8–6.1(b)–(d), effective February 15, 1996	40 CFR 264.90(b)–(d)
UAC R315–8–6.4(a), effective February 15, 1996	40 CFR 264.93(a)
UAC R315–8–9.8, effective February 15, 1996	40 CFR 264.177
UAC R315–8–11.5, except (b)(2) through (b)(4), effective February 15, 1996.	40 CFR 264.228, except (b)(2) through (b)(4)
UAC R315–8–11.7, effective February 15, 1996	40 CFR 264.230

State requirement	Federal requirement
UAC R315–8–12.6, effective February 15, 1996	40 CFR 264.258
UAC R315–8–13.1 through 13.8, effective February 15, 1996	40 CFR 264.270 through 264.280
UAC R315–8–13.10, effective February 15, 1996	40 CFR 264.282
UAC R315–8–14.4, effective February 15, 1996	40 CFR 264.309
UAC R315–8–14.5(b) (introductory paragraph), effective February 15, 1996	40 CFR 264.310(b) (introductory paragraph)
UAC R315–8–15.1(b) & (c), effective February 15, 1996	40 CFR 264.340(b) & (c)
UAC R315–8–15.3, effective February 15, 1996	40 CFR 264.342
UAC R315–8–15.7, effective February 15, 1996	40 CFR 264.347
UAC R315–8–16, effective February 15, 1996	40 CFR 264.600 through 264.603
UAC R315–8–17, effective February 15, 1996	40 CFR 264.1030 through 264.1036
UAC R315–14–5, effective February 15, 1996	40 CFR 266.70
UAC R315–50–1, effective February 15, 1996	40 CFR Part 262, Appendix
UAC R315–50–3, effective February 15, 1996	40 CFR Part 265, Appendix III
UAC R315–50–4, effective February 15, 1996	40 CFR Parts 264 and 265, Appendix IV
UAC R315–50–5, effective February 15, 1996	40 CFR Parts 264 and 265, Appendix V
UAC R315–50–6, effective February 15, 1996	40 CFR Part 261, Appendix I

In addition to the above listed changes, EPA is authorizing changes to the following State provisions. These provisions do not have a direct analog in the Federal RCRA regulations; however, none are considered broader-in-scope than the Federal program. This is because these provisions were either previously authorized as part of Utah's base authorization or have been added to make the State's regulations internally consistent with changes made for the other authorizations listed in Section F of this document. We have reviewed these provisions and have determined that they are consistent with and no less stringent than the Federal requirements.

STATE REQUIREMENT

Utah Code Annotated, Volume 3A, 1998 Replacement and 1999 Supplement: 19–6–102(9), 19–6–102(11), 19–6–102(14), 19–6–102.1, 19–6–103, 19–6–104(1) introductory paragraph, 19–6–105(1)(a), 19–6–106, 19–6–107, 19–6–112, 19–6–113(1), 19–6–113(3)&(4), and 19–6–113(6).
Utah Code Annotated, Volume 6D, 1997 Replacement and 1999 Supplement: 63–2–403, and 63–2–404.
Utah Administrative Code (UAC) R315–1–1(a), effective February 20, 1998.
UAC R315–1–1(e), effective February 15, 1996.
UAC R315–1–2(b), effective February 15, 1996.
UAC R315–2–13(b), effective February 15, 1996.
UAC R315–2–14, effective February 15, 1996.
UAC R315–3–2, effective February 15, 1996.
UAC R315–3–7(a)(9), effective February 15, 1996.
UAC R315–4–1, effective February 15, 1996.
UAC R315–8–5.8(b), effective February 15, 1996.
UAC R315–9–1(b) (introductory paragraph) and (b)(1), effective February 15, 1996.
UAC R315–9–3, effective February 15, 1996.
UAC R315–9–4, effective February 15, 1996.
UAC R315–15–1.3(d)&(e), effective May 15, 1996.

Since the base program, Utah has removed certain provisions from the base regulations that had no Federal analog and which clarified the State's program. These provisions have been reviewed and we have determined that it is appropriate for the State to remove them and that their removal has no impact on the equivalency or consistency with the Federal program. The provisions removed were section 2.1.10, section 2.2, section 3.3.2(b)(3)(iii), section 3.3.2(b)(4)(iv), and the undesignated paragraph after section 7.20.2(d).

H. Who Handles Permits After the Authorization Takes Effect?

This authorization does not affect the status of State permits and those permits issued by EPA because no new substantive requirements are a part of these revisions.

I. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Utah?

This program revision does not extend to ''Indian Country'' as defined in 18 U.S.C. 1151. Indian Country includes lands within the exterior boundaries of the following Indian reservations located within or abutting the State of Utah:

1. Goshute Indian Reservation.

2. Navajo Indian Reservation.

3. Northwestern Band of Shoshoni Nation of Utah (Washakie) Indian Reservation.

4. Paiute Indian Tribe of Utah Indian Reservation.

5. Skull Valley Band of Goshute Indians of Utah Indian Reservation.

6. Uintah and Ouray Indian Reservation (see below).

7. Ute Mountain Indian Reservation.

With respect to the Uintah & Ouray Indian Reservation, Federal courts have determined that certain lands within the exterior boundaries of the Reservation do not constitute Indian Country. This State program revision approval will extend to those lands which the courts have determined are not Indian Country.

In excluding Indian Country from the scope of this program revision, EPA is not making a determination that the State either has adequate jurisdiction or lacks jurisdiction over sources in Indian Country. Should the State of Utah choose to seek program authorization

within Indian Country, it may do so without prejudice. Before EPA would approve the State's program for any portion of Indian Country, EPA would have to be satisfied that the State has authority, either pursuant to explicit Congressional authorization or applicable principles of Federal Indian law, to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval and that such approval would constitute sound administrative practice.

II. Corrections

A. Corrections to May 23, 1991 (56 FR 23648) as Amended August 6, 1991 (56 FR 37291), Authorization Document

There were omissions in the table published as part of the May 23, 1991 (56 *FR* 23648), as amended August 6, 1991 (56 *FR* 37291), authorization notice for Utah. The affected entries for that table are shown in the table below. The corrections have been bolded and italicized.

Federal Register reference	State equivalent [1]
* * * * * * *	
6. Generators of 100–1,000 kg hazardous waste, 51 FR 10146–10176, 3/24/86.	R450–1, R450–2–1.4, ***R450–2–1.9(f),*** R450–4–2, R450–5–9, R450–5–11, R450–4–3, R450–3–3.2.
* * * * * * *	
11. Standards for hazardous waste storage and treatment tank systems, 51 FR 25422–25486, 7/14/86 as amended on 8/15/86, 51 FR 29430–29431.	R450–1, R450–2–1, R450–5–9, R450–8–2.6, R450–8–5.3, R450–8–7, R450–8–8, R450–8–10, R450–7–9.4, R450–7–9.4, R450–7–9.6, R450–7–12.4, ***R450–7–14,*** R450–7–15, R450–7–17, R450–3–3.2, R450–3–20.
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B. Corrections to October 14, 1994 (59 FR 52085) Authorization Document

There were omissions in the table published as part of the October 14, 1994 (59 FR 52085), as amended November 10, 1994 (59 FR 56114), authorization notice for Utah. The affected entries for that table are shown in the table below. The corrections have been bolded and italicized.

HSWA or FR reference	State equivalent [1]
* * * * * * *	
12. Mining Waste Exclusion II, 55 FR 2322, 1/23/90	R315–1–1, R315–2–4, ***R315–4–2(m)***.
* * * * * * *	
15. Toxicity Characteristic Revision, 55 FR 11798, 3/29/90 and 55 FR 26986, 6/29/90.	R315–2–4, R315–2–8, R315–2–9, R315–2–10, R315–50–7, R315–8–14, R315–7–16, ***R315–7–20.3(a), R315–50–12.***
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C. Corrections to January 13, 1999 (64 FR 2144) Authorization Document

There were omissions in the table published as part of the January 13, 1999 (64 *FR* 2144) authorization notice for Utah. The affected entries for that table are shown in the table below. The corrections have been bolded and italicized.

Federal citation	State analog [1]	Effective date [1]
* *	* * * * *	*
Recycled Used Oil Management Standards (HSWA/Non-HSWA) [57 FR 41566, 09/10/92] (Checklist 112).	R315–1–1(b); R315–2–3(a)(2)(v); R315–2–3(a)(2)(v)(A)&(B); R315–2–5; R315–2–6; R315–14–4; R315–14–7; R315–15–1.1; 1.1(a)–(b)(2)(iii); R315–15–1.1(b)(3)–1.1(i); R315–15–1.2(a); R315–15–1.2, Table 1; R315–15–1.3(a)–(c)(2)(iii); R315–15–2.1(a)–(b)(5); R315–15–2.2(a)&(b); R315–15–2.3; R315–15–2.3(a)–(d)(4); R315–15–2.4; R315–15–2.4(a)–(c); R315–15–2.5; R315–15–2.5(a)–(c)(3); R315–15–3.1(a)–(b)(2); R315–15–3.3(a)&(b); R315–15–4.1(a)–(d)(5); R315–15–4.2(a)–(b)(2)(vii); R315–15–4.4(a)–(c)(5); R315–15–4.5(a)–(d); R315–15–4.6; R315–15–4.6(a)–(f)(4); R315–15–4.7(a)–(d); R315–15–4.8; R315–15–5.1(a)–(b)(5); R315–15–5.2(a)–(b)(2)(vi); R315–15–5.3(a)–(b)(6)(ix)(G); R315–15–5.4(a)–(c)(2); R315–15–5.5; R315–15–5.5(a)–(h)(2)(ii); R315–15–5.6; R315–15–5.6(a)–(b)(3); R315–15–5.7(a)–(c); R315–15–5.8(a)–(b); R315–15–5.9; R315–15–10; R315–15–6.1(a)–(c); R315–15–6.2(a)–(b)(2); R315–15–6.3(a)–(b)(2)(vi); R315–15–6.4(a)–(d); R315–15–6.5; R315–15–6.5(a)–(g)(4); R315–15–6.6(a)&(b); R315–15–6.7(a)&(b); R315–15–6.8; R315–15–7.1(a)–(c)(4); R315–15–7.2; R315–15–7.2(a)&(b); R315–15–7.3(a)&(b); R315–15–7.4(a)–(b)(2)(v); R315–15–7.5(a)–(c); R315–15–7.6(a)&(b); R315–15–8.1; R315–15–8.2(a)&(b); R315–15–8.3.	02/10/94
	R315–15–1.4; R315–15–1.5, R315–15–1.6; R315–15–1.7; R315–15–3.2(b) introductory paragraph through (b)(2); R315–15–4.3(a); R315–15–4.3(b) introductory paragraph; R315–15–4.3(b)(1); R315–15–4.3(b)(2) through (b)(2)(vii); and R315–15–9.	***5/15/96***

Federal citation	State analog [1]	Effective date [1]
	R315–15–3.2(a)	***10/16/97***
* *	* * * * *	*
Universal Waste Rule (Non-HSWA) [60 FR 25492, 05/11/95] (Checklist 142A–E).	R315–2–5; R315–2–6; R315–2–17; R315–2–17(b); R315–2–25 ***introductory paragraph; R315–2–25(a)–(c);*** R315–2–25(a)–(c); R315–3–3(n) (8); R315–3–3(n)(8)(i)–(iii); R315–7–8.1(c)(12); R315–7–8.1 *(c)(12)(i)–(iii); R315–8–1(e)(10)* ***introductory paragraph; R315–8–1(e)(10)(i)–(iii); R315–13–1; R315–14–6; R315–16–1.1(a) introductory paragraph through (a)(3); R315–16–1.1(b); R315–16–1.2 through 1.5; R315–16–1.7 (a)&(b); R315–16–1.7(d), (e) and (f); R315–16–1.7(h), (i), (j) and (k); R315–16–1.7(l) introductory paragraph through (l)(3); R315–16–1.7(m) through (o); R315–16–2.1 through 2.3; R315–16–2.4(a)–(c); R315–16–2.5 introductory paragraph through 2.5(d); R315–16–2.6 through 2.11; R315–16–3.1 through 3.3; R315–16–3.4(a) through (c); R315–16–3.5 introductory paragraph through (d); R315–16–3.6 through 3.11, except for references to ―lamp― R315–16–4; R315–16–5.1(a); R315–16–5.1(b) through R315–16–6(c), except for references to ―lamp― R315–16–7.1 and 7.2***.	02/15/96
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The 1/13/99 **Federal Register** article (64 *FR* 2147, column 1) also contains a list of items which are more stringent and broader-in-scope. Errors in the list are corrected as follows: (1) R315–15–6.5(g) is corrected to R315–15–6.5(e) in the list of more stringent provisions, (2) R315–16–1.1(a)(4) is removed from the list of more stringent provisions, (3) R315–15–7.1(d) is added to the list of broader-in-scope provisions and (4) R315–16–1.1(a) is removed from the list of broader-in-scope provisions.

III. Incorporation by Reference

A. What Is Codification?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA uses 40 CFR part 272 for codification of the decision to authorize Utah's program and for incorporation by reference of those regulatory provisions that EPA will enforce under sections 3008, 3013, and 7003 of RCRA. This effort provides clearer notice to the public of the scope of the authorized programs. The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority.

B. What Codification Decisions Have We Made in this Rule?

The purpose of today's **Federal Register** document is to codify Utah's base hazardous waste management program and seven (7) revisions to that program. EPA is not incorporating by reference, at this time, any of the changes authorized on 10/16/00, effective 1/16/01 at 65 FR 61109. This rule incorporates by reference provisions of State hazardous waste regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program.

EPA intends to add subpart TT to 40 CFR part 272 to incorporate by reference the Utah authorized hazardous waste program. The State regulations are incorporated by reference at 40 CFR 272.2251(b)(1) and the Memorandum of Agreement, the Attorney General's Statement and the Program Description are referenced at 40 CFR 272.2251(b)(5), (6), and (7), respectively.

C. What Is the Effect of Utah's Codification on Enforcement?

The Agency retains the authority under sections 3007, 3008, 3013 and 7003 of RCRA to undertake enforcement actions in authorized States, regardless of whether the State program is codified. With respect to such an enforcement action, the Agency relies on Federal sanctions, Federal inspection authorities, and the Federal Administrative Procedure Act rather than the authorized State analogs to these requirements. Therefore, the Agency does not intend to incorporate by reference, for purposes of enforcement, authorized Utah enforcement authorities. Section 272.2251(b)(2) of 40 CFR lists those procedural and enforcement authorities that are part of the authorized program but are not incorporated by reference.

D. What State Provisions Are Not Part of the Codification?

The public needs to be aware that some provisions of a State's hazardous waste management program are not part of the Federally authorized State program. These unauthorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are ''broader-in-scope'' than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal provisions which the State incorporated into its regulations when the State adopted Federal regulations by reference, but for which the State is not authorized;

(3) Unauthorized amendments to authorized State provisions.

State provisions that are ''broader-in-scope'' than the Federal program are not part of the RCRA authorized program and EPA will not enforce them. Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, § 272.2251(b)(3) of 40 CFR lists the Utah statutory and regulatory provisions which are ''broader-in-scope'' than the Federal program. Although EPA will not enforce these provisions, the State may enforce them under State law.

Utah is not authorized for the following Federal rules: November 8, 1988 (53 FR 45089, Revision Checklist 58); June 29, 1995 (60 FR 33912, Revision Checklist 144); April 8, 1996, April 30, 1996, June 28, 1996, July 10, 1996, August 26, 1996, February 19, 1997 (61 FR 15566, 61 FR 15660, 61 FR 19117, 61 FR 33680, 61 FR 36419, 61 FR 43924, 62 FR 7502, Revision Checklist 151); December 6, 1994 (59 FR 62896, Revision Checklist 154); January 14, 1997 (62 FR 1992 Revision Checklist 155); May 12, 1997 (62 FR 25998, Revision Checklist 157); June 13, 1997 (62 FR 32452, Revision Checklist 158); and June 17 , 1997 (62 FR 32974, Revision Checklist 159).

In addition to Federal rules for which the State is not yet authorized, Utah's hazardous waste regulations include amendments which have not been authorized by EPA. Since EPA cannot enforce a State's requirements which

have not been reviewed and authorized in accordance with RCRA section 3006 and 40 CFR part 271, it is important to clarify any limitations on the scope of a State's approved hazardous waste program. Thus, in those instances where a State has made unauthorized amendments to previously authorized sections of State code, EPA will provide clarification by identifying in § 272.2251(b)(4) any requirements which, while adopted, are not authorized by EPA and therefore are not Federally enforceable. Thus, notwithstanding the language in the Utah hazardous waste regulations incorporated by reference at § 272.2251(b)(1), EPA will only enforce the State provisions that are actually authorized by EPA. For the convenience of the regulated community, the actual State regulatory text authorized by EPA for the citations listed at § 272.2251(b)(1) is compiled as a separate document, Addendum to the EPA-Approved Utah Regulatory Requirements Applicable to the Hazardous Waste Management Program, March 1999. This document is available from EPA Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, phone (303) 312–6139. With respect to HSWA requirements for which the State has not yet been authorized, EPA will continue to enforce the Federal HSWA standards until the State receives specific HSWA authorization from EPA.

In addition, EPA has authorized but is not incorporating by reference, at this time, any of the State hazardous waste program changes authorized on 10/16/00, effective 1/16/01 at 65 FR 61109. These changes were not part of Utah's authorized program at the time of EPA's review for this codification action and will be incorporated by reference at a later date.

E. What Will Be the Effect of Federal HSWA Requirements on the Codification?

The Agency is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are implemented by EPA. Section 3006(g) of RCRA provides that any HSWA requirement or prohibition (including implementing regulations) take effect in authorized and unauthorized States at the same time. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985). EPA has the authority to implement HSWA requirements in all States, including authorized States, until the States become authorized for such requirement or prohibition. Authorized States are required to revise their programs to adopt the HSWA requirements and prohibitions and then to seek authorization for those revisions pursuant to 40 CFR part 271.

Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR part 272 incorporation by reference. Until then, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Some existing State requirements may be similar to the HSWA requirement implemented by EPA. However, until EPA authorizes those State requirements, EPA can only enforce the HSWA requirements and not the State analogs. EPA will not codify those State requirements until the State receives authorization for those requirements.

IV. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and, therefore, this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Authorization and codification will not impose new burdens on small entities. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because implementing this action would authorize pre-existing requirements under State law and would not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action also does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This action will not have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress

and to the Comptroller General of the United States. EPA will submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective January 25, 2002.

List of Subjects in 40 CFR Part 272

Environmental protection, Hazardous materials transportation, Hazardous waste, Incorporation by reference, , Intergovernmental relations, Water pollution control, Water supply.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 18, 2001.

Patricia D. Hull,

Acting Regional Administrator, Region VIII.

For the reasons set forth in the preamble, 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for part 272 continues to read as follows:

Authority: Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Subpart TT is amended by adding § 272.2251 to read as follows:

§ 272.2251 Utah State-Administered program: Final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Utah has Final authorization for the following elements as submitted to EPA in Utah's base program application for Final authorization which was approved by EPA effective on October 24, 1984. Subsequent program revision applications were approved effective on March 7, 1989; July 22, 1991; July 14, 1992; April 13, 1993; December 13, 1994; July 21, 1997; and March 15, 1999.

(b) *State statutes and regulations.* (1) The Utah regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* 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 of the Utah regulations that are incorporated by reference in this paragraph are available from the Utah Department of Environmental Quality, 288 North 1460 West, Salt Lake City, Utah 84114–4880, Phone (801) 538–6776.

(i) The EPA Approved Utah Regulatory Requirements Applicable to the Hazardous Waste Management Program, dated March 1999.

(ii) [Reserved]

(2) The following statutes and regulations concerning State procedures and enforcement, although not incorporated by reference, are part of the authorized State program:

(i) Utah Code Annotated, Volume 3A, 1998 Replacement and 1999 Supplement, Title 19: Sections 19–1–306(2), 19–1–306(3), 19–6–102 introductory paragraph, 19–6–102(1) & (2), 19–6–102(6)–(9), 19–6–102(11), 19–6–102(13)–(21), 19–6–102.1, 19–6–103, 19–6–104(1) except (1)(j), 19–6–105(1) introductory paragraph, 19–6–105(1)(a)–(f), 19–6–105(1)(i) & (j), 19–6–105(2), 19–6–106, 19–6–107, 19–6–109, 19–6–111, 19–6–112, 19–6–113(1) through (4), 19–6–113(6), 19–6–114, 19–6–115, and 19–6–116.

(ii) Utah Code Annotated, Volume 6D, 1997 Replacement and 1999 Supplement, Title 63: Sections 63–2–103 through 63–2–105, 63–2–201 through 63–2–203 (except 63–2–203(10)), 63–2–204, 63–2–205, 63–2–301 through 63–2–308, 63–2–401 through 63–2–405, and 63–2–802.

(iii) Utah Code Annotated, Volume 3, 1953 as amended 1987, Title 26, Chapter 14: Section 26–14–8.

(iv) Utah Administrative Code revised as of January 3, 1989: R450–3.1.1(b) & (c) and R450–3–2.4(b).

(v) Utah Administrative Code revised as of February 15, 1996: Sections R315–2–14, R315–3–3(i)(1)&(3), R315–3–11(a), (b) & (f), R315–3–16(b), R315–3–23(b)(1) & (2), R315–3–23(c) & (d), R315–3–24(a) through R315–3–29, and R315–3–34.

(vi) Utah Administrative Code revised as of May 15, 1996: Section R315–15–1.1(j) & (k).

(3) The following statutory and regulatory provisions are broader-in-scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) Utah Code Annotated, Volume 3A, 1998 Replacement and 1999 Supplement, Title 19: Sections 19–6–105(3), 19–6–113(5), 19–6–118, 19–6–120, and 19–6–121.

(ii) Utah Administrative Code revised as of February 15, 1996. EPA considers Utah's listing of all P999 and some F999 wastes (specifically: nerve, military, and chemical agents) as more stringent than the Federal rule. To the extent that unused chemical agents, as produced, exhibit a hazardous waste reactivity characteristic, they are considered hazardous waste and, thus, are regulated under Federal rule. Utah's listing of these wastes enhances the degree of regulatory control regarding these wastes. EPA also considers Utah's rule as broader-in-scope than the federal rule for those F999 process wastes which do not exhibit a characteristic for hazardous waste and would not be regulated under Federal rule. R315–2–10(e)(1), 315–2–11(e) introductory paragraph and R315–2–11(e)(1) are broader-in-scope regarding these wastes.

(iii) Utah Administrative Code, as of May 15, 1996: R315–15–7.1(d), R315–15–10, R315–15–11 with respect to used oil transfer and off-specification used oil burning facilities, and R315–15–12 through R315–15–15 except R315–15–13.5(d).

(4) *Unauthorized State provisions:* (i) Although the Federal rules listed in the following table have been adopted by the State and have been included in the materials incorporated by reference in paragraph (b)(1) of this Section, EPA has not authorized the State for these rules at this time. While they may be enforceable under State law, they are not enforceable under RCRA:

Federal requirement	Federal Register reference	Publication date
Standards for Generators of Hazardous Waste; Manifest Renewal (Revision Checklist 58)	53 FR 45089	11/8/88
Removal of Legally Obsolete Rules (Non-HSWA provisions) (Revision Checklist 144)	60 FR 33912	6/29/95
Testing and Monitoring Activities Amendment III (Revision Checklist 158)	62 FR 32452	6/13/97

(ii) Additionally Utah has adopted but is not authorized to implement the HSWA rules that are listed below in lieu of EPA. EPA will continue to implement the Federal HSWA requirements for which Utah is not authorized until the State receives specific authorization for those requirements.

Federal requirement	Federal Register reference	Publication date
Removal of Legally Obsolete Rules (HSWA provisions) (Revision Checklist 144)	60 FR 33912	6/29/95
Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners (Revision Checklist 151).	61 FR 15566; 61 FR 15660; 61 FR 19117; 61 FR 33680; 61 FR 36419; 61 FR 43924; 62 FR 7502	4/8/96; 4/8/96; 4/30/96; 6/28/96; 7/10/96; 8/26/96; 2/19/97
Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers—formerly Revision Checklist 138 (Rule 154.1).	59 FR 62896	12/6/94
Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance (Revision Checklist 155).	62 FR 1992	1/14/97
Land Disposal Restrictions—Phase IV (Revision Checklist 157)	62 FR 25998	5/12/97
Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions (Conformance With the Carbamate Vacatur) (Revision Checklist 159).	62 FR 32974	6/17/97

(5) *Unauthorized State amendments.* The following authorized provisions of the Utah regulations include amendments published in the *Utah State Bulletin* that are not approved by EPA. Such unauthorized amendments are not part of the State's authorized program and are, therefore, not Federally enforceable. Thus, notwithstanding the language in the Utah hazardous waste regulations incorporated by reference at § 272.2251(b)(1), EPA will only enforce the authorized State provisions with the effective dates indicated in the table below. The actual State regulatory text authorized by EPA for the listed provisions is available as a separate document, Addendum to the EPA-Approved Utah Regulatory Requirements Applicable to the Hazardous Waste Management Program, March 1999. Copies of the document can be obtained from U.S. EPA Region VIII, 999 18th St., Suite 500, Denver, Colorado 80202–2466, phone (303) 312–6139.

State provision	State reference	Unauthorized State amendments	
		State reference	Effective date
R315–2–1(b)(2)(ii)	9/24/86	DAR 12647	5/29/92
R315–7–11.3(b)	1/3/89	DAR 12652	5/29/92
R315–7–12.6(g)	Base	DAR 09632	1/3/89

At R315–3–23(f)(3)(iv), Utah's analog to 40 CFR 270.33(b)(3)(iv), the State has a printing error in its regulations. The State will fix this error in its next rule making. For the codification, the authorized version of the provision will also be included in the Addendum to the EPA-Approved Utah Regulatory Requirements Applicable to the Hazardous Waste Management Program, March 1999.

(6) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region VIII and the Utah Department of Environmental Quality, signed by the EPA Regional Administrator on October 4, 1994, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Statement of legal authority.* ''Attorney General's Statement for Final Authorization'', signed by the Attorney General of Utah on January 16, 1984, and revisions, supplements and addenda to that Statement dated October 29, 1986, March 6, 1991, September 17, 1991, September 223, 1992, November 19, 1993, March 16, 1994, March 20, 1995, November 13, 1997, and March 2, 1999, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(8) *Program description.* The Program description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

3. Appendix A to Part 272—State Requirements, is amended by adding in alphabetical order, ''Utah'' and its listing to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Utah

The regulatory provisions include:

Utah Administrative Code effective February 15, 1996: Sections R315–1 except R315–1–1(a), R315–1–1(f)&(h) and R315–1–2(a); R315–2 except R315–2–3(d)(2), R315–2–5, R315–2–6, R315–2–10(e)&(f), R315–2–11(e)&(f), R315–2–17, and R315–2–25(d); R315–3 except R315–3–1(b)&(c), R315–3–3(b)(3), R315–3–3(i)(1)–(3), R315–3–3(n)(8)(iv), R315–3–11(a)&(b), R315–3–11(f), R315–3–13(a)(4),R 315–3–16(b), R315–3–23(b)(1)&(2), R315–3–23(c)&(d), R315–3–24 through R315–3–29, R315–3–34 and R315–3–36; R315–4 through R315–7, except R315–7–8.1(c)(12)(iv), R315–7–18.9(d)(2)(i)(A) phrase ''given the specific site conditions and the nature and extent of contamination''; R315–8 except R315–8–1(e)(10)(iv), R315–8–6.1(a)(3), R315–8–6.12(b), R315–8–11.2(e) phrase ''given the specific site conditions and the nature and extent of contamination'', R315–8–14.10(b); R315–9; R315–14 except R315–14–3, R315–14–4, and R315–14–7; R315–16 except R315–16–1.1(a)(4), R315–16–1.6, R 315–16–1.7(c), R315–16–1.7(g), R315–16–1.7(l)(4), R315–16–2.4(d), R315–16–2.5(e), R315–16–2.12, R315–16–3.4(d), R351–16–3.5(e), R315–16–3.6(c)(2) word ''lamp'', R315–16–3.10(a)(2) word ''lamp'', R315–16–3.10(b)(2) word ''lamp'', R315–16–3.12, R315–16–5.1(a); R315–50 except R315–50–9, R315–50–10, R315–50–12, and R315–50–13.

Utah Administrative Code revised as of May 15, 1996: Section R315–15, except R315–15–1.1(j)&(k), R315–15–1.3(b), R315–15–2.1(a)(1)&(4), R315–15–2.3(c)(1), R315–15.2.3(d), R315–15–2.4(a), R315–15–2.4(d)&(e), R315–15–3.1(b), R315–15–3.2(a), R315–15–4.6(f), R315–15–5.1(c), R315–15–5.5(e), R315–15–6.5(e), R315–15–7.1(d), R315–15–8.3, R315–15–9, R315–15–10, R315–15–11 with respect to used oil transfer

and off-specification used oil burning facilities, R315–15–12, R315–15–13.5(a)–(c) &(e), R315–15–14, and R315–15–15.

Utah Administrative Code revised as of October 16, 1997: R315–2–3(d)(2), R315–2–10(e), R315–8–6.12(b), R315–8–14.10(b), R315–15–1.3(b), R315–15–2.1(a)(1)&(4), R315–15–2.3(c)(1), R315–15.2.3(d), R315–15–2.4(a), R315–15–2.4(d)&(e), R315–15–3.1(b), R315–15–3.2(a), R315–15–4.6(f), R315–15–5.5(e), R315–15–6.5(e), R315–15–8.3, and R315–15–9.

Utah Administrative Code revised as of February 20, 1998: R315–1–1(a), R315–1–2(a), R315–2–5, R315–2–6, R315–2–10(f), R315–2–11(e), R315–2–11(f), R315–2–17, R315–3–3(b)(3), R315–13–1, R315–14–7, R315–16–5.1(a), R315–50–9, R315–50–10, and R315–50–12.

Copies of the Utah regulations that are incorporated by reference are available from the Utah Department of Environmental Quality, 288 North 1460 West, Salt Lake City, Utah 84114–4880, Phone (801) 538–6776.

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[FR Doc. 01–28852 Filed 11–23–01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–203; FCC 01–306]

The Ancillary or Supplementary Use of Digital Television Capacity by Noncommercial Licensees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's rules to require that noncommercial educational (''NCE'') television licensees primarily provide a nonprofit, noncommercial educational service over their entire digital bitstream, including ancillary or supplementary services; clarify that they may provide subscription TV service as an ancillary or supplementary service; and apply to them the same program to assess and collect fees as that established for commercial DTV licensees' use of DTV capacity for the provision of ancillary or supplementary services. This document also determines that the Communications Act of 1934 prohibition against the provision of advertising by NCE licensees does not apply to nonbroadcast services, such as subscription services provided on their digital television (''DTV'') channels. The intended effect of these actions is to clarify the manner in which NCE licensees may use their excess DTV capacity for remunerative purposes.

DATES: Effective on the later of either December 26, 2001, or upon receipt by Congress of a report in compliance with Contract with America Advancement Act of 1996, Public Law 104–121, except for § 73.624(g)(2)(i), which contains information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish documents in the **Federal Register** announcing the effective date of these rule and § 73.624(g)(2)(i).

FOR FURTHER INFORMATION CONTACT: Jane Gross; Policy and Rules Division, Mass Media Bureau, at (202) 418–2130, TTY (202) 418–2989.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (R&O) in MM Docket No. 98–203, FCC 01–306, adopted on October 11, 2001, and released on October 17, 2001. The full text of the Commission's R&O is available for inspection and copying during regular business hours in the FCC Reference Center, 445 Twelfth Street, SW., Room CY–A257, Washington DC, and also may be purchased from the Commission's copy contractor, Qualex International, (202) 863–2893, 445 Twelfth Street, SW., Room CY–B402, Washington, DC. The complete text is also available under the file name fcc01306.pdf on the Commission's Internet site at *www.fcc.gov.*

Paperwork Reduction Act

This document contains new or modified information collection requirements. The fee program established herein will require NCE TV licensees annually to file a new reporting form. Licensees will be required to report whether they provided ancillary or supplementary services, what ancillary or supplementary services they provided, which of those services are subject to a fee, and the gross revenues received from all feeable ancillary or ancillary services. NCE licensees providing service subject to a fee additionally will be required annually to file FCC Form 159 in remittance of the fee. So that the Commission may audit NCE licensees records supporting the calculation of the fees due, each NCE licensee will be required to retain such records for three years from the date of remittance of fees. In addition, each NCE TV licensee will be required to maintain documentation sufficient to show compliance at renewal time and in response to any complaint with the requirement to use their entire bitstream primarily for nonprofit, noncommercial, educational broadcast services on a weekly basis. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget as prescribed by the Paperwork Reduction Act of 1995.

Synopsis of Report and Order

Introduction

1. With this *Report and Order*, we clarify the manner in which noncommercial educational (''NCE'') television licensees may use their excess digital television (''DTV'') capacity for remunerative purposes. Among other things, we amend § 73.621 of our rules to apply to the entire digital bitstream, including ancillary or supplementary services, thereby requiring NCE licensees to use their digital capacity primarily for a noncommercial, nonprofit, educational broadcast service. We also amend §§ 73.642 and 73.644 of our rules to clarify that NCE licenses may offer subscription services on their excess digital capacity. We determine that section 399B of the Communications Act of 1934, as amended, the provision restricting advertising by NCE licensees, continues to apply to all broadcasting by NCE licensees, but does not apply to nonbroadcast services, such as subscription services provided on their DTV channels. Finally, we amend § 73.624(g) of our rules to apply to NCE licensees the program for assessing and collecting fees upon feeable ancillary or supplementary services provided on their DTV capacity that we have established for commercial licensees, as required by the Telecommunications Act of 1996 (''1996 Act''), Public Law 104–104, 110 Stat. 56 sec. 201 (1996), codified at 47 U.S.C. 336.

Background

2. The 1996 Act provided that initial eligibility for any advanced television licenses that we issue should be limited to existing broadcasters, conditioned upon the requirement that ''either the additional license or the original license held by the licensee be surrendered to the Commission for reallocation or reassignment (or both) pursuant to Commission regulation.'' In our *Fifth Report and Order* in the DTV proceeding, we adopted rules to implement the statute, providing a specific transition process to digital technology for all existing television broadcasters. 62 FR 26996, May 16, 1997. Among other things, we established standards for license eligibility, a transition and construction schedule, and a requirement that broadcasters continue to provide one free over-the-air video programming service. We also adopted rules

permitting DTV licensees, without distinguishing between commercial and noncommercial licensees, to use their DTV capacity to provide ancillary or supplementary services, provided that these services do not derogate the free digital television service.

3. In their Petition for Reconsideration of the *Fifth Report and Order,* the Association of America's Public Television Stations and the Public Broadcasting Service (''AAPTS/PBS'') requested clarification of public television stations authority to use excess capacity on DTV channels for commercial purposes. As neither section 336 nor our DTV rules distinguishes between commercial and noncommercial stations, AAPTS/PBS argued that both are intended to allow public stations to offer ancillary or supplementary services for revenue-generating purposes. In opposing this request in part, Media Access Project and other public interest parties (''MAP''), jointly argued that, while public television stations should be able to provide some revenue-generating ancillary or supplementary services, these services must be consistent with the noncommercial nature of public television as set forth in section 399B of the Communications Act, the provision restricting advertising by these stations.

4. This request for clarification made by AAPTS/PBS raised significant issues regarding the service and funding opportunities made available to NCE stations as a result of the transition to digital transmission. In recognition of the importance of this issue to the future of public television as it enters the digital age, in the *Notice of Proposed Rulemaking* (''*NPRM*'') in this proceeding, we sought further comment on the AAPTS/PBS petition in order to establish a more complete record on the issues it raised. 63 FR 68722, December 14, 1998.

5. In their Petition AAPTS/PBS also requested that we exempt public television licensees from any fee assessed in connection with use of digital spectrum for ancillary or supplementary services to the extent revenues from those service are used to support the licensee's mission-related activities. Section 336(e) of the 1996 Act, which requires DTV licensees receiving fees or certain other compensation for ancillary or supplementary services provided on the DTV spectrum to return a portion of that revenue to the public, charged us with establishing a means of assessing and collecting fees for those ancillary or supplementary services.

6. In a *Notice of Proposed Rule Making* in MM Docket No. 97–247 (''*DTV Fees Proceeding*''), we sought comment on AAPTS/PBS's request for such an exemption and subsequently determined that AAPTS/PBS's request should be considered in this proceeding. 63 FR 460, January 6, 1998. In the *DTV Fees Report and Order,* we established a program for assessing and collecting fees for certain ancillary or supplementary services provided by commercial licensees on their DTV capacity. 63 FR 69208, December 16, 1998. In the *NPRM* in this proceeding, MM Docket No. 98–203, we sought additional comment regarding an exemption for noncommercial licensees in light of the comments received on this issue in the *DTV Fees Proceeding.* 63 FR 68722, December 14, 1998. We also sought comment on tentative proposals set forth in the *NPRM.*

Issue Analysis

A. Application of § 73.621 of the Commission's Rules to Entire Digital Bitstream of NCE Licensees

7. *Background.* The Communications Act defines a ''noncommercial educational broadcast station'' and ''public broadcast station'' as a television or radio broadcast station that is eligible under the FCC's rules to be licensed as ''a noncommercial educational radio or television broadcast station which is owned and operated by a public agency or nonprofit private foundation, cooperation, or association'' or ''is owned and operated by a municipality and which transmits only noncommercial programs for educational purposes,'' 47 U.S.C. 397(6). In 1981, Congress amended the Communications Act to give public broadcasters more flexibility to generate funds for their operations. Omnibus Budget Reconciliation Act of 1981, Public Law 97–35, sec. 1231, 95 Stat. 357, 731 (codified at 47 U.S.C. 399B). *See also* H.R. Rep. No. 97–82, at 13–14. As amended, section 399B of the Act permits public stations to provide facilities and services in exchange for remuneration as long as those uses do not interfere with the stations' provision of public telecommunications services. Section 399B, however, does not permit public broadcast stations to make their facilities ''available to any person for the broadcasting of any advertisement.'' In addition, under § 73.621 of our rules, public television stations are required to furnish primarily an educational as well as a nonprofit and noncommercial broadcast service.

8. In the *Fifth Report and Order,* we implemented section 336 of the 1996 Act, which sets forth the DTV licensing provisions of the 1996 Act, by adopting § 73.624 of our rules. 62 FR 26996, May 16, 1997. Section 73.624(g) allows broadcasters the flexibility to respond to the demands of their audience by providing ancillary or supplementary services, including subscription television, provided that these services do not derogate the mandated free, over-the-air program service. In the *NPRM* in this proceeding, we invited comment on AAPTS/PBS's request that we clarify that § 73.621 of our rules, which requires public stations to provide a primarily nonprofit, noncommercial, educational broadcast service, is not applicable to ancillary or supplementary services provided on DTV capacity, and on whether such a clarification is consistent with the nonderogation of services provisions of section 399B.

9. In particular, we sought comment on a number of options with respect to whether and how we should amend § 73.621 of our rules. For example, we sought comment on whether we should extend the requirement to provide an educational nonprofit service to ancillary or supplementary services provided by noncommercial licensees on their DTV capacity, or whether we should clarify that the requirement applies only to the single, free-over-the-air broadcast service it is required to provide.

10. We also sought comment on whether and how we can permit NCE stations to provide remunerative ancillary or supplementary services in a manner that does ''not interfere with the provision of public telecommunications services'' by such stations as required by section 399B of the Act. In particular, we asked whether NCE DTV stations will have the capacity to provide ancillary or supplementary services without interfering with their ability to provide a primarily educational NCE broadcast service, and whether such ancillary or supplementary services can provide an important funding source that could facilitate the transition to DTV for NCE stations, and, more generally, enhance their primary mission of providing a robust noncommercial, educational broadcasting service.

11. *Comments.* In its comments, AAPTS modifies its original request, presented in its Petition for Reconsideration of the Fifth Report and Order, which would have exempted remunerative ancillary or supplementary services from § 73.621 of our rules. AAPTS now agrees that, with respect to provision of remunerative ancillary or supplementary service, a public television station must be used primarily to provide a noncommercial educational broadcast service, and the

offering of such service must not interfere with the provision of public telecommunications services. AAPTS also contends that its proposed standards are consistent with those we have applied in the analog environment in approving the offer by public television stations of a variety of ancillary services. AAPTS suggests that we only need clarify that § 73.621 of our rules applies, without change, to the digital channel. It states that the requirement that the primary use of public television stations is to provide an educational and nonprofit, noncommercial broadcast service would still allow ancillary or supplementary service to be provided on NCE's excess digital capacity. AAPTS also requests that, since we concluded in the *Fifth Report and Order* that DTV broadcasters may offer subscription television as an ancillary or supplementary service, that we amend §§ 73.642 and 73.644 of our rules to clarify that public television stations may provide subscription television services.

12. AAPTS denies that provision of remunerative ancillary or supplementary services would change the essential nature of public television. It contends that digital technology will provide sufficient capacity for public television stations to offer a range of services while preserving their primary use for a noncommercial educational broadcast service. In addition, it argues that section 336 provides, via its prohibition against derogation of services, separate assurance that any ancillary or supplementary service will not interfere with a public television station's basic broadcast service. AAPTS submits that other limitations on the extent to which public televisions stations can engage in commercial ventures include their nonprofit educational mission upon which their tax exempt status is based, the need to preserve viewer and government support, the requirement to pay taxes on income unrelated to the exempt purpose of the organization, and the oversight of stations by responsible bodies. AAPTS also notes that although section 336 itself does not impose special restrictions on public television stations, two limitations must be applied to the provision of ancillary or supplementary service by these stations: first, a public television station must be used primarily to provide a noncommercial educational broadcast service under the Commission's rules; second, the offering of these services must not interfere with the provision of public telecommunications services under section 399B of the Communications Act.

13. AAPTS states that, at this point, public television stations do not have firm plans for the use of their digital spectrum, and it is impossible to predict what opportunities may be available to them or to what extent individual stations will take advantage of such opportunities. It urges us not to impose restrictions now on the activities of public television stations, but to wait until the scheduled biennial examination of digital regulations, set forth in the *Fifth Report and Order*, to determine whether changes are needed. The Office of the United Church of Christ and other public interest parties (''UCC *et al.*''), however, contend that AAPTS is unclear about its members'' plans to engage in advertiser supported ancillary or supplementary services and how much of their digital capacity they plan to commit to subscription and other remunerative services. UCC *et al.* urges us to draw a bright line and find that an NCE broadcaster ''primarily'' serves the educational needs of a community when it provides free, not-for-profit over-the-air services over 50 percent or more of its digital capacity at any one time.

14. National Datacast, Inc. (''National Datacast'') is a for-profit subsidiary of the Public Broadcasting Service that provides data services using the vertical blanking interval (VBI) on the analog signal of public television stations. It argues that the Commission imposed no restrictions on the commercial operation of data services using the VBI, including advertiser-supported services, by public television stations or entities affiliated with public television; that the force of this ruling remains unaltered by section 336; and that no restrictions should be applied to National Datacast's data transmission in the digital spectrum of public television stations. The analog spectrum requires the use of most of an NCE licensee's channel to carry their video broadcast signal, leaving only a very small portion, the VBI and the Visual Signal, available to be used for ancillary or supplementary services. The digital spectrum, however, allows NCE licensees to offer a number of ancillary or supplementary services on their excess digital capacity in addition to mandated free, over-the-air program service. National Datacast points to its service as a ''precursor to the successful use of digital spectrum'' for generating revenues to help support public television.

15. *Decision.* We will amend § 73.621 of our rules to clarify that the section's requirements apply to the entire digital bitstream of NCE licensees, including the provision of ancillary or supplementary services. We will require that NCE licensees use their entire digital capacity primarily for a nonprofit, noncommercial, educational broadcast service. This amendment will adapt § 73.621 of our rules to the digital environment. Although we decline to quantify the term ''primarily,'' we will consider it to mean a ''substantial majority'' of their entire digital capacity.

16. We decline to adopt the suggestion of UCC *et al.* that we draw a bright line to require that NCE broadcasters provide free, not-for-profit over-the-air services over 50 percent or more of their digital capacity at any one time. Such a decision would provide substantially less flexibility to NCE licensees in developing their digital services. For example, an NCE licensee might want to use most of its digital capacity for High Definition Television (''HDTV'') programming during certain times of the day and, at other times, various amounts of capacity for Standard Definition Television (''SDTV'') programming and remunerative ancillary or supplementary services. UCC *et al.*'s suggestion, by specifying 50 percent or more at all times, would seem to restrict their flexibility in this regard. We see no persuasive reason to impose such a limitation. While we believe that a ''minute by minute'' approach, such as that suggested by UCC *et al.*, above, would restrict the flexibility of NCE licensees to too great an extent, we believe that some time period limitation is appropriate. Because stations typically schedule their programming on a weekly basis, we believe that requiring them to use their entire bitstream primarily for nonprofit, noncommercial, educational broadcast services on a weekly basis will provide them with sufficient flexibility. We will require NCE licensees to maintain documentation sufficient to show compliance with this requirement at renewal time and in response to any complaints.

17. Our decision to apply § 73.621 of our rules to the entire digital bitstream also is consistent with the 1996 Act, as well as our *Fifth Report and Order*, in which we stated that our overarching goal is to promote the success of a free, local television service using digital technology. We believe that this action will help to preserve the noncommercial educational nature of public broadcasting, while allowing NCE licensees some flexibility in remunerative use of their spectrum and indicating the boundaries that we will apply to such use. We agree with AAPTS that digital technology will

allow sufficient capacity for public television stations to offer a range of services while preserving their primary use for a nonprofit, noncommercial, educational broadcast service. We also note that section 336 provides, via its prohibition against derogation of services, separate assurance that any ancillary or supplementary service will not interfere with a public television station's basic broadcast service. Moreover, NCE licensees are, of course, subject to the general requirement to provide one free over-the-air video programming service. In light of the other limitations on the extent to which public televisions stations can engage in commercial ventures, we will not, at this time, impose additional restrictions on an NCE licensee's ability to provide ancillary or supplementary services on its excess digital capacity. We will address any problems that might arise in the periodic reviews of our digital regulations set forth in the *Fifth Report and Order*, or on a case-by-case basis.

18. We will amend §§ 73.642 and 73.644 of our rules to clarify that NCE licenses may offer subscription services on their excess digital capacity. We included such services in our definition of ancillary or supplementary services in the *Fifth Report and Order.* Given our goal of providing NCE licensees with flexibility in the use of their digital spectrum, within certain boundaries, we see no reason to prohibit them from providing subscription services.

B. Advertising

19. *Background.* In its Petition for Reconsideration of the *Fifth Report and Order*, AAPTS/PBS requested that we clarify that public television stations may use their excess capacity on DTV channels for commercial purposes. In opposing this request in part, MAP argued that, while public television stations should be able to provide some revenue-generating ancillary or supplementary services, these services must be consistent with the noncommercial nature of public television as set forth in section 399B, which restricts advertising by these stations. In reply, AAPTS/PBS argued for an interpretation in which the advertising ban of section 399B would continue to apply to the primary noncommercial broadcast service, while any ancillary or supplementary use of DTV channels would be free from the restrictions of this section. It also argued that even if the section 399B advertising restrictions are found to apply to these services, we have discretion under section 336(a)(2) to allow public TV licensees to offer advertiser-supported services if we find these services to be in the public interest.

20. In the *NPRM* we sought comment on how the advertising ban set forth in section 399B of the Communications Act implicates the provision of remunerative services by public DTV stations. Section 399B prohibits a public station from ''making its facilities available to any person for the broadcasting of any advertisement.'' By its plain language, we noted that this section would appear to prohibit advertisements on any service that would constitute broadcasting, while permitting a public DTV station to air advertisements on any nonbroadcast service.

21. We sought comment on our tentative conclusion that while section 399B continues to apply to all video broadcast programming streams provided by public DTV stations, it does not apply to any subscription services they provide on their DTV channels since such services do not constitute ''broadcasting.'' We also sought comment on the extent to which section 399B applies to advertising carried on any other non-subscription ancillary or supplementary services carried by a public TV station. In addition, we asked parties to address AAPTS/PBS's argument that even if section 399B's advertising restrictions apply to some ancillary or supplementary services, we have discretion under section 336(a)(2) of the Act to allow public TV licensees to include advertiser-supported services if we find these services to be in the public interest.

22. *Comments.* UCC *et al.* contends that the plain language of 399B, its legislative history, and subsequent actions by Congress demonstrate that Congress as recently as the 1996 Act did not intend that NCE licensees carry commercial advertisements, including on any ancillary or supplementary services provided on their DTV capacity. An advertisement is defined in section 399B(b) as ''any message or other programming material which is broadcast or otherwise transmitted in exchange for any remuneration.'' UCC *et al.* contends that this definition is incorporated by reference in section 399B(b)(2), so that when the statute prohibits broadcasting of ''advertisements,'' it prohibits any message that is either broadcast or otherwise transmitted. Moreover, although section 399B expressly prohibits only the ''broadcasting'' of advertisements, UCC *et al.* notes that in 1981 that was the only way NCE stations could carry advertising. UCC *et al.* urges us to not extend the *Subscription Video* decision to allow NCEs to provide advertiser-supported subscription services over public broadcast stations. It particularly would object to advertisements on NCE licensees' free over-the-air services. UCC *et al.* contends that NCE licensees did not, and still do not, have the authority to provide advertiser-supported subscription services.

23. UCC *et al.* also contends that section 336(a)(2) does not explicitly permit NCE licensees to carry commercial advertising based on the Commission's finding that it is in the public interest, nor does section 336(a)(2) explicitly repeal the ban on advertising in section 399B(b)(2). It argues that to interpret section 336 in that manner would directly conflict with section 399B. UCC *et al.* submits that these sections can be harmonized by permitting NCE licensees only to provide non-advertiser-supported ancillary or supplementary services.

24. AAPTS and Family Stations of New Jersey, Inc. (''Family NJ'') contend that the section 399B ban on advertising by NCE stations applies only to the basic broadcast service, not to any ancillary or supplementary services. AAPTS acknowledges that the 399B definition of advertisement is broader, referring to material that is ''broadcast or otherwise transmitted,'' than the language of the prohibition. But AAPTS contends that it is the language of the prohibition, which only forbids ''broadcasting'' of an advertisement, not ''broadcasting or otherwise transmitting,'' that is relevant. AAPTS reasons that Congress adopted section 399B in the context of analog broadcasting, where a station carries only a single broadcast service, and was concerned with insulating public television program control and content from the influence of special interests. AAPTS argues that digital technology would allow a station to offer advertiser-supported broadcast service on its ancillary or supplementary capacity that is completely unrelated to and has no influence over the station's primary noncommercial broadcast service.

25. AAPTS, Family NJ, and National Datacast also contend that our previous decisions have allowed NCEs to provide subsidiary communications services on the VBI without regard to whether they include advertisements. National Datacast argues that we authorized the use of the VBI for commercial services, including advertising, in Teletext Transmission. The only pertinent restriction was that any offering of services for remuneration ''shall not interfere with the provision of public telecommunications services''.

26. UCC *et al.*, however, argues that our 1980 decisions allowing NCE licensees to use their analog VBI for remunerative services do not support commenters' assertions that we have allowed advertiser-supported ancillary services on noncommercial stations. UCC *et al.* contends that we never squarely addressed in those decisions whether section 399B prohibits advertiser-supported services on the VBI, but always specified that the activity must be consistent with section 399B. UCC *et al.* also contends that it would be arbitrary and capricious for us to apply decisions that affect a minuscule slice of analog capacity used only for text to digital services that could use as much as 80% of the bitstream at any one time for services that would include text, data, broadband and, most importantly, video services. UCC *et al.* cautions that providing advertiser-supported services would harm NCE licensees more than it would help them, leading to a loss of public and Congressional support. AAPTS, however, urges us to allow public television stations the flexibility to develop and implement remunerative ancillary or supplementary uses of the digital spectrum and avoid premature promulgation of rules that may be overbroad and unnecessary, addressing any concerns arising under section 399B in a ''concrete context.''

27. *Decision.* We conclude that the section 399B ban on advertising applies to all broadcast programming streams provided by NCE licensees, but does not apply to ancillary or supplementary services on their DTV channels, such as subscription services or data transmission services, to the extent that such services do not constitute ''broadcasting.''

28. While the definition of ''advertisement'' in section 399B refers to material that is ''broadcast or otherwise transmitted,'' the plain language of the specific prohibition only forbids the ''broadcasting'' of any advertisement. UCC *et al.* argues that limiting the prohibition on advertisements to ''broadcasting'' renders the ''otherwise transmitted'' language in the definition of ''advertisement'' meaningless and, thus, UCC *et al.* would read the prohibition as applying to all transmissions. Although UCC *et al.*'s argument is one way to read the statute, we believe that UCC *et al.*'s reading is problematic because, as noted, the prohibition in section 399B(b)(2) refers to the ''broadcasting of any advertisement,'' whereas the definition in (a)(1) treats broadcasting as only one means of transmitting advertising. We believe the better way to reconcile this disparity is the following: By defining an ''advertisement'' as ''any message or other programming material which is broadcast or otherwise transmitted in exchange for any remuneration,'' Congress was arguably acknowledging that noncommercial stations were technologically capable of transmitting advertisements on a broadcast or nonbroadcast basis. AAPTS argues that (t)he phrase 'otherwise transmitted' also has clear meaning, given the technologies available in 1981 when the legislation was under consideration. At the time the statute was being deliberated, several forms of 'non-broadcast' transmission services were being used or had been used by television stations. It is therefore reasonable to suppose that Congress was fully aware of these developments and intentionally considered them when legislating. *Ex parte* letter of AAPTS, October 8, 1999, at 2; *see id.* at 2–7 (describing such nonbroadcast services as use of the vertical blanking interval, teletext, the instructional television fixed service, and the broadcast auxiliary service). When Congress set out the prohibition in section 399B(b)(2), however, it expressly limited it to those advertisements provided on a *broadcast* basis. We thus believe that the better reading is the literal one: that section 399B only prohibits public broadcast stations from making their facilities ''available to any person for the *broadcasting* of any advertisement.''

29. The term ''broadcasting'' is defined in the Communications Act as ''the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations,'' 47 U.S.C. 153(6). In 1986, we addressed this definition in our *Subscription Video* proceeding. *Subscription Video,* 52 FR 6152, March 2, 1987, *aff'd sub nom. National Association for Better Broadcasting* v. *FCC,* 849 F.2d 665 (D.C. Cir. 1988). We recognize that section 399B was enacted before *Subscription Video.* Congress gave no indication in section 399B, however, that it intended to lock in the Commission's prior interpretation of the statutory definition of the term ''broadcasting.'' *See Lukhard* v. *Reed,* 481 U.S. 368, 379 (1987) (''It is of course not true that whenever Congress enacts legislation using a word that has a given administrative interpretation it means to freeze that administrative interpretation in place.''). In *Subscription Video* we determined that the term ''broadcasting'' as defined by the Communications Act ''refers only to those signals which the sender intends to be received by the indeterminate public.'' We therefore found that ''a necessary condition for the classification of a service as broadcasting is that the licensee's programming is available to all members of the public, without any special arrangements or equipment.'' Based on these criteria, we ruled that subscription television does not constitute broadcasting. Applying these same criteria to the digital spectrum, we find that subscription television provided by NCE licensees on their excess digital spectrum does not constitute ''broadcasting.'' We conclude therefore that NCE licensees may include advertising in their subscription television offerings, as the section 399B ban on advertising applies only to broadcast streams. We also conclude that these same criteria continue to apply to any DTV capacity that NCE licensee might lease to other parties. For example, a public television station would not be permitted to enter into an agreement that would allow ''Network A'' to *broadcast* its advertiser-supported ''Popular Program B'' over the public television station's excess digital capacity, while an agreement that would allow ''Network A'' to transmit its ''Popular Program B'' on a *subscription basis* would be permitted.

30. With respect to the extent to which section 399B applies to advertising carried on any other ancillary or supplementary services carried by a public TV station, we turn to the rules that we adopted in the *Fifth Report and Order.* These rules list examples of the kinds of services that may be offered as ancillary or supplementary services. They include, but are not limited to, ''computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, subscription video, and any other services that do not derogate DTV broadcast stations' obligations'' to ''transmit at least one over-the-air video broadcast signal provided at no direct charge to viewers.'' We stated that such services may be provided on a broadcast, point-to-point or point-to-multipoint basis, provided, however, that ''no video broadcast signal provided at no direct charge to viewers shall be considered ancillary or supplementary.''

31. This definition and illustrative list of ancillary or supplementary services makes clear, first, that over-the-air video programming provided at no charge to viewers is not ancillary or supplementary service, and, conversely, that services other than a free video broadcast signal are, by definition,

ancillary or supplementary services. Although we received very little comment on the types of non-subscription ancillary or supplementary services parties contemplate providing, it is possible that NCE licensees may provide without a fee to viewers data, audio or other services. For example, an NCE licensee might provide data services that could be accessed by the general public using a personal computer or provide, through interactive DTV programming, sports scores that could be accessed by the public viewing a broadcast sports event. Such services, although ancillary or supplementary, if constituting ''the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations,'' would fall under the definition of ''broadcasting'' as defined in the Communications Act, and would be subject to the section 399B advertising ban. To the extent that ancillary or supplementary services offered by DTV licensees are not broadcasting services, NCE licensees may include advertising in their ancillary or supplementary services on their excess DTV capacity, as the section 399B prohibition of advertising applies only to broadcast programming. Section 399B also requires that public stations engaged in revenue generating activities comply with accounting procedures designed to separately identify these commercial revenues and costs, and it prohibits Corporation for Public Broadcasting funds from being used to defray any costs associated with these activities. Until we gain more experience in determining whether an ancillary or supplementary service is a broadcasting service, we will simply be guided by the statutory criteria as questions arise.

32. Finally, in the NPRM, we asked parties to address AAPTS/PBS's argument that even if section 399B's advertising restrictions apply to some ancillary or supplementary services, we have discretion under section 336(a)(2) of the Act to allow public TV licensees to include advertiser-supported services if we find these services to be in the public interest. Section 336(a)(2) states that if we issue additional licenses for DTV, we shall ''adopt such regulations that allow the holders of such licensees to offer such ancillary or supplementary services on designated frequencies as may be consistent with the public interest, convenience or necessity.'' Given our statutory interpretation of section 399B, which allows NCE licensees considerable flexibility to offer advertiser-supported subscription services and other ancillary or supplementary services, there is no need to interpret section 336(a)(2) as AAPTS/PBS suggests. More importantly, we conclude that the plain language of section 336(a)(2) does not support the result AAPTS/PBS suggests.

33. As we stated in the *NPRM,* we are sympathetic to the relief requested in the AAPTS/PBS petition, which described a range of revenue-generating ancillary or supplementary services that could help NCE stations flourish in a digital age. We noted that the costs of converting to digital service will be considerable, and that many NCE stations rely on public funds for the digital build-out. Our decision regarding the provision of advertising on NCE licensees' ancillary or supplementary services will permit NCE stations flexibility in providing such services as well as enhancing their ability to raise revenue for their support and the transition to digital television. We are mindful, however, of UCC *et al.*'s concern that allowing NCE licensees to provide advertiser-supported services will denigrate the noncommercial nature of the public television system. We emphasize that NCE licensees will continue to be prohibited from providing advertising on their free over-the-air service. Moreover, although we are allowing NCE licensees considerable flexibility in providing remunerative ancillary or supplementary services, they are, of course, required by our amendment of § 73.621 in this Report and Order to use their entire digital capacity primarily for a nonprofit, noncommercial, educational broadcast service and to provide at least one free over-the-air video program signal. Although we decline to quantify the term ''primarily,'' we will consider it to mean a ''substantial majority'' of their entire digital capacity. As noted above, NCE licensees are further constrained by such limitations as the nonprofit educational mission upon which their tax exempt status is based, the need to preserve viewer and government support, the requirement to pay taxes on income unrelated to the exempt purpose of the organization, and the oversight of stations by responsible bodies. If we find that these requirements are not sufficient to ensure the integrity of the noncommercial educational broadcast service, we will revisit our decision to allow NCE licensees to provide advertiser-supported ancillary or supplementary services.

C. Payment of Fees

34. *Background.* Section 336(e) of the 1996 Act requires DTV licensees receiving fees or certain other compensation for ancillary or supplementary services provided on the DTV spectrum to return a portion of that revenue to the public. In the *DTV Fees Report and Order* in MM Docket No. 97–247, we established a program for assessing and collecting fees for the provision of ancillary or supplementary services by commercial DTV licensees as required by the 1996 Act. 63 FR 69208, December 16, 1998. We defined as ''feeable ancillary or supplementary service'' any ancillary or supplementary services for which the payment of a subscription fee is required to receive such services or for which the licensee receives any compensation from a third party other than commercial advertisements used to support non-subscription broadcasting.

35. In its Petition for Reconsideration of the *Fifth Report and Order,* AAPTS/PBS requested that we exempt public television licensees from any fee assessed in connection with revenue-generating use of the ancillary or supplementary services on their DTV spectrum ''to the extent that revenues from those service are used to support the licensee's mission-related activities.'' We sought comment in the *DTV Fees Proceeding* on whether noncommercial television licensees should be exempt from such fees or subject to a nominal fee when they offer ancillary or supplementary services as a source of funding for public television. 63 FR 460, January 6, 1998. In the *DTV Fees Report and Order,* we decided to consider the request for exempting NCE licensees from DTV fees in this proceeding, which focuses specifically on questions related to the remunerative use by NCE licensees of their excess digital capacity.

36. In the *NPRM* in this proceeding, we sought additional comment on this issue in light of the comments received in the *DTV Fees Proceeding* and the tentative proposals outlined in the *NPRM.* We sought comment on whether NCE licensees should be exempt from DTV fees when they offer remunerative ancillary or supplementary services as a source of funding for their mission-related activities. We sought comment generally on AAPTS/PBS's arguments in the *DTV Fees Proceeding* to exempt noncommercial licensees from fees for remunerative ancillary or supplementary services offered on their excess digital capacity. We particularly sought comment on whether such an exemption is consistent with section 336, which does not distinguish between commercial and noncommercial licensees. We also sought comment on whether, if such an exemption is inconsistent with the

statute, a nominal or reduced fee would be consistent with the statute. We also asked parties to address MAP's argument that if we allow noncommercial licensees to include advertising in any ancillary or supplementary services, these licensees should pay a fee comparable to that imposed on commercial broadcasters.

37. *Comments.* All NCE licensees that responded to this issue support granting NCE licensees an exemption from any assessment of fees on revenues earned by use of their digital spectrum for ancillary or supplementary services when those revenues are used to fund mission-related activities. AAPTS argues that although section 336 requires us to collect a fee when a licensee uses its digital spectrum for ancillary or supplementary service, when the revenue is used to support noncommercial services that are in the public interest, there is no need to ''recover'' anything for the public, as the revenue is already devoted to that purpose. AAPTS also argues that because these revenues help to support noncommercial activities, the provision of ancillary or supplementary services would not result in any ''unjust enrichment'' of the stations. AAPTS asserts that the provision in section 336 governing the amount to be recovered through any fee, i.e., the amount that would have been received if the excess digital spectrum had been subject to competitive bidding, makes no sense in the context of public television, as our competitive bidding authority does not apply to licenses issued to public television. In addition, the Curators of the University of Missouri (''Curators''), the licensee of commercial VHF station KOMU-TV, an NBC affiliate, urge us to make clear that governmental licensees are exempt from paying fees for ancillary or supplementary DTV services.

38. Go, Inc., Goodlife Broadcasting, Inc. and Central Florida Educational Foundation (filing collectively as ''Hardy & Carey Clients'') and AAPTS contend that such an exemption would be consistent with Congressional policy to provide support to public television. AAPTS notes that Congress has exempted public television from fees on various occasions, and it would be counterproductive to detract from the federal financial assistance for public broadcasting and place additional pressure on that support by imposing a DTV fee. Hardy & Carey Clients and Family Stations of New Jersey, Inc. (''Family NJ'') also contend that imposing such fees could slow the transition to DTV and undermine the ability of noncommercial stations to sustain their operations.

39. UCC *et al.,* however, supports exempting NCE licensees from DTV fees only if the licensees are not permitted to provide advertiser-supported ancillary or supplementary services. It contends that the plain language of section 336(e) requires that fees be paid to recover a portion of the public spectrum resource made available for commercial use, and that AAPTS is inconsistent in arguing that section 336 makes no distinction between noncommercial and commercial broadcasters for the purpose of offering ancillary or supplementary services, but then reading into the statute a distinction to exempt NCEs from paying fees for providing such services.

40. *Decision.* We conclude that NCE licensees are not exempt from the requirement to pay fees on revenues generated by the remunerative use of their excess digital capacity, even when those revenues are used to support their mission-related activities. Section 336(e)(1) of the 1996 Act does not support exempting NCE licensees from DTV fees or charging them nominal fees when they offer feeable ancillary or supplementary services as a source of funding for their mission-related activities. It draws no distinction between commercial and noncommercial stations, stating that the Commission ''shall establish a program to assess and collect. * * * an annual fee'' from DTV licensees offering subscription-based ancillary or supplementary services. The statute requires that a fee be assessed upon any ancillary or supplementary services on DTV spectrum ''for which the payment of a subscription fee is required in order to receive such services'' or ''for which the licensee directly or indirectly receives compensation from a third party in return for transmitting materials furnished by such third party.''

41. As noted above, section 336 requires, among other things, that the amount of the fee be designed to recover for the public an amount that would have been received had feeable ancillary or supplementary services been licensed pursuant to competitive bidding. We are not persuaded by AAPTS's argument that this provision makes no sense in the context of public television licensees because they are not subject to competitive bidding. The Commission was not directed to take into account the amount of money that would have been recovered had broadcasters purchased this spectrum through competitive bidding. Rather, the provision refers to the amount of money that would have been recovered if spectrum had been made available for these kinds of ancillary or supplementary services and had been licensed pursuant to auction. Indeed, existing commercial broadcasters were also statutorily exempt from competitive bidding for initial digital television licenses. Thus, under AAPTS's reading, all existing commercial broadcasters that received initial DTV licenses under section 336(a) would also be exempt from the fee, making the fee provision almost meaningless. We therefore reject AAPTS's argument.

42. Consequently, we will amend § 73.624(g) of our rules to apply to NCE licensees the same program for assessing and collecting fees upon feeable ancillary or supplementary services provided on their DTV capacity that we established for commercial licensees in the *DTV Fees Proceeding,* as required by the 1996 Act. NCE licensees will be required to report to us annually on December 1 on their use of their digital bitstreams, and remit fees of five percent of their gross revenues received for feeable ancillary or supplementary services provided on their digital bitstreams. For the first report filed on December 1, 2002, NCE licensees are to report only on services provided from the effective date of this *Report and Order* through September 30, 2002. We will amend form FCC 317, which currently is used to collect information on DTV ancillary or supplementary use by commercial TV licensees, to include NCE licenses. We will release a Public Notice with a copy of the revised form once it is approved by the Office of Management and Budget.

43. Finally, we also conclude that the Curators of the University of Missouri, the licensee of commercial VHF station KOMU-TV, an NBC affiliate, is not exempt from the requirement to pay fees on revenues generated by the remunerative use of its excess digital capacity, even when those revenues are used to support noncommercial services that are in the public interest. Although Curators is a not-for-profit governmental entity that we have exempted from paying certain application and regulatory fees, section 336(e)(1) does not distinguish between governmental and nongovernmental licensees with respect to the requirement to pay DTV fees. Curators are therefore subject to the program for assessing and collecting fees upon feeable ancillary or supplementary services provided on their DTV capacity that we established for commercial licensees in the *DTV Fees Report and Order* in MM Docket No. 97–247, and apply to NCE licenses in this proceeding.

44.We are sensitive to NCE licensees' need to provide funding to support their programming and operations and their transition to DTV. As described above, NCE licensees will be able to use their ancillary or supplementary services for remunerative purposes, and earn advertising revenue, as well, on ancillary or supplementary services.

45. We also note that we have previously recognized the financial difficulties often faced by NCE licensees. For example, the construction timetable we adopted in the *Fifth Report and Order* provides noncommercial stations a six-year period within which to construct their DTV facilities, the longest construction period allotted to any category of DTV applicant. In the *Fifth Report and Order,* we also stated that special relief measures may eventually be warranted to assist public television stations to make the transition to DTV, but we concluded that it was premature to determine what those specific measures should be. We stated then, and we continue to believe, that determining the specific nature of whatever special relief may be needed for noncommercial educational broadcasters is best considered during our periodic reviews.

D. Administrative Matters

46. *Paperwork Reduction Act of 1995 Analysis.* The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget as prescribed by the Act.

47. Accordingly, *it is ordered* that, pursuant to authority contained in sections 4(i), 303, 336 and 399B of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, 307, 336 and 399B, part 73 of the Commission's rules *is amended* as set forth.

48. A Final Regulatory Flexibility Analysis (''FRFA''), *see* 5 U.S.C. 604, is included in this *Report and Order. It is further ordered* that the Commission's Compliance and Information Bureau, Reference Information Center, *shall send* a copy of this *Report and Order,* including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

49. *It is further ordered* that, pursuant to the Contract with America Advancement Act of 1996, the rule amendments set forth *shall be effective* on the later of either December 26, 2001, or upon receipt by Congress of a report in compliance with the Contract with America Advancement Act of 1996, Public Law 104–121.

50. *It is further ordered* that implementation of the new or modified reporting and recordkeeping requirements imposed by this action *shall be effective* upon approval by the Office of Management and Budget as prescribed by the Paperwork Reduction Act of 1995.

51. *It is further ordered* that this proceeding *is terminated*.

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA), was incorporated in the *Notice of Proposed Rule Making (NPRM)* in this proceeding. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Report and Order: With this *Report and Order*, the Commission clarifies the manner in which noncommercial educational (NCE) television licensees may use their excess digital television (DTV) capacity for remunerative purposes. The objectives of *this Report* and Order are to: (1) Require NCE licensees to use their entire digital capacity primarily for a nonprofit, noncommercial, educational broadcast service; (2) clarify that NCE licensees may provide subscription television services; (3) determine that although NCE licensees are prohibited form including advertising on their broadcasting services, they may include advertising on nonbroadcast services, such as subscription services, provided on their DTV channels; and (4) require NCE licensees to pay fees on revenues generated by the remunerative use of their excess digital capacity.

The action taken with respect to the first objective amends § 73.621 of the Commission's rules to require NCE licensees to use their entire digital capacity primarily for a nonprofit, noncommercial, educational broadcast service. Although the *Report and Order* declined to quantify the term ''primarily,'' it states that it considers it to mean a ''substantial majority'' of NCE licensees' entire digital capacity. Because stations typically schedule their programming on a weekly basis, it requires NCE TV licensees to use their entire bitstream primarily for nonprofit, noncommercial, educational broadcast services on a weekly basis. This action adapts § 73.621 of the Commission's rules to the digital environment.

The action taken with respect to the second objective amends §§ 73.642 and 73.644 of the Commission's rules to allow NCE licensees to provide subscription television services. It is taken because the Commission included subscription services in its definition of ancillary and supplementary services in the *Fifth Report and Order* that may be provided by DTV licensees, and because such action advances the Commission's goal of providing NCE licensees with flexibility in the use of their digital spectrum, within certain boundaries.

The action taken with respect to the third objective determines that section 399B, the provision of the Communications Act restricting advertising by NCE licensees, continues to apply to all broadcasting by NCE licensees, but does not apply to nonbroadcast services, such as subscription services, provided on their DTV channels. This action maintains the integrity of NCE licensees' nonprofit, noncommercial, educational service on their free over-the-air video programming, while allowing NCE licensees some flexibility to use their ancillary and supplementary services for remunerative purposes.

The action taken with respect to the fourth objective amends § 73.624(g) of the Commission's rules to apply to NCE licensees the program for assessing and collecting fees upon feeable ancillary or supplementary services provided on their DTV capacity that the Commission established for commercial DTV licensees. This action is taken because section 336(e) of the Telecommunications Act of 1996 requires the Commission, without distinguishing between commercial and NCE DTV licensees, to return to the public a portion of the fees or certain other compensation earned by DTV licensees for ancillary and supplementary services provided on their DTV spectrum.

B. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA:* No comments were received specifically in response to the IRFA attached to the NPRM. No small business issues were raised specifically in the comments responsive to the *NPRM.*

C. *Description and Estimate of the Number of Small Entities to Which the Rules Would Apply:* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 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). The RFA generally defines the term ''small organization'' to mean ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''

The rules and policies adopted in this Report and Order will apply to noncommercial educational (NCE) television licensees, particularly those television stations licensed to operate on channels reserved as ''noncommercial educational.'' For RFA purposes, television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational, and other television stations. Also included are establishments primarily engaged in television broadcasting and that produce taped television program materials. There were 1,678 operating television broadcasting stations in the nation as of June 30, 2001, of which 374 were noncommercial educational stations. FCC News Release ''Broadcast Station Totals as of June 30, 2001,'' issued July 19, 2001. The SBA has determined that television broadcasters are considered small when they have $10.5 million or less in annual revenue. 13 CFR 121, NAICS Code 51312.

NCE TV licensees, by virtue of their nonprofit, noncommercial, educational broadcasting operations, generate less revenue than commercial TV licensees and are more likely than commercial TV broadcasters to experience financial difficulties in constructing their DTV facilities and making the transition to DTV broadcasting. NCE TV licensees depend partially on fundraising activities and grants from the Corporation for Public Broadcasting to support their programming and operations and their transition to DTV. Based on such differences between typical commercial TV licensees and typical NCE TV licensees, and based on the concern that NCE TV licensees may be differently impacted by the rule amendments and other actions taken in this Report and Order, we choose to separate out NCE TV licensees as smaller entities in the context established herein by the RFA. Therefore, of the 1,678 television stations previously noted, we will consider the 374 NCE TV stations to be smaller entities in the context established herein by the RFA.

At this time, the Commission does not have access to information about the annual revenues of NCE stations. The Commission is therefore unable to distinguish between NCE broadcasters based on their annual revenues. However, based on the differences between typical commercial TV licensees and typical NCR TV licensees, and based on the concern that NCE TV licensees may be differently impacted by the rule amendments and other actions taken in this *Report and Order,* we choose to separate out NCE TV licensees as smaller entities in the context established herein by the RFA.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements: The *Report and Order* adopts modifications to existing reporting and recordkeeping requirements. The fee program established herein will require NCE TV licensees annually to file a new reporting form. Licensees will be required to report whether they provided ancillary or supplementary services, what ancillary or supplementary services they provided, which of those services are subject to a fee, and the gross revenues received from all feeable ancillary or ancillary services. NCE licensees providing service subject to a fee additionally will be required annually to file FCC Form 159 in remittance of the fee. So that we may audit NCE licensees records supporting the calculation of the fees due, each NCE licensee will be required to retain such records for three years from the date of remittance of fees. In addition, each NCE TV licensee will be required to maintain documentation sufficient to show compliance at renewal time and in response to any complaint with the requirement to use their entire bitstream primarily for nonprofit, noncommercial, educational broadcast services on a weekly basis.

All these new recordkeeping and reporting requirements will apply to all NCE TV licensees in the same way. Therefore, the action taken here imposes no separate or greater compliance burdens on smaller commercial or non-commercial TV stations within the group of all stations hereby affected.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered: With respect to steps taken to minimize significant economic impact on small entities, the actions taken herein will enhance NCE TV licensees' ability to provide funding to support their programming and operations and their transition to DTV. As described above, NCE licensees will be able to use a portion of their digital capacity for remunerative purposes, including the provision of advertising on their non-broadcast ancillary and supplementary services. We also note that the Commission has previously recognized the financial difficulties often faced by NCE licensees. For example, the construction timetable adopted in the *Fifth Report and Order* provides noncommercial stations a six-year period within which to construct their DTV facilities, the longest construction period allotted to any category of DTV applicant. The *Fifth Report and Order* also stated that special relief measures may eventually be warranted to assist public television stations to make the transition to DTV, but concluded that it was premature to determine what those specific measures should be. The Commission stated then, and continues to believe, that determining the specific nature of whatever special relief may be needed for noncommercial educational broadcasters is best considered during the Commission's periodic reviews. Lastly, the Commission is considering all NCE broadcasters to be small for the purposes of this RFA analysis.

With respect to significant alternatives considered with respect to the first objective, the Commission considered applying § 73.621 of the Commission's rules to only the one free-over-the-air video broadcast required of all DTV licensees, allowing NCE TV licensees commercial use on their remaining digital capacity. This alternative was not adopted because the Commission believed that it would conflict with § 73.621, which requires that public television stations furnish primarily an educational as well as a nonprofit and noncommercial broadcast service.

Another significant alternative to the first objective considered requiring NCE TV licensees to provide free, not-for-profit over-the-air services over 50 percent or more of their digital capacity at any one time. This alternative was not adopted as such a decision would provide substantially less flexibility to NCE licensees in developing their digital services. For example, an NCE licensee might want to use most of its digital capacity for High Definition Television (''HDTV'') programming during certain times of the day and, at

other times, various amounts of capacity for Standard Definition Television (''SDTV'') programming and remunerative ancillary or supplementary services.

With respect to the second objective, a significant alternative considered prohibiting NCE TV licensees from providing subscription services on their excess digital capacity. This alternative was not adopted because the Commission had included such services in the definition of ancillary or supplementary services in the *Fifth Report and Order.* Moreover, given the Commission's goal of providing NCE licensees with flexibility in the use of their digital spectrum, within certain boundaries, there seemed to be no reason to prohibit them from providing subscription services. Moreover, the ability to provide such a remunerative service is positive.

With respect to significant alternatives considered to the third objective, the Commission considered interpreting section 399B of the Communications Act as prohibiting all advertising on all of NCE TV licensees' digital capacity. This alternative was not adopted because the Commission decided that the better interpretation of the statute was that the broadcasting of advertising is prohibited to NCE TV licensees, but that they may include advertising on their non-broadcast ancillary and supplementary services. Moreover, as the action allows all stations affected to earn money from the provision of advertising, the effect is positive.

With respect to significant alternatives to the fourth action taken, the Commission considered collecting a reduced fee or no fee on the gross revenues earned by NCE TV licenses from all feeable ancillary and supplementary services. The Commission did not adopt either of these alternatives because the Telecommunications Act of 1996, without distinguishing between commercial TV licensees and NCE TV licensees, requires it to collect fees from such revenues from DTV licensees. The Commission will apply to NCE TV licensees the program for assessing and collecting such fees that it established for commercial DTV licensees. Although all NCE TV licensees, including small entity licensees, will be required to pay these fees, they will be allowed to retain 95 percent of such revenues, which is a positive, impact.

Report to Congress: The Commission will send a copy of this *Report and Order,* including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of this *Report and Order,* including this FRFA, to the Chief Counsel or Advocacy of the SBA. A copy of this *Report and Order,* including this FRFA, will also be published in the **Federal Register**.

List of Subjects in 47 CFR Part 73

Radio Broadcast Services.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 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.

2. Section 73.621 is amended by adding paragraph (i) to read as follows:

§ 73.621 Noncommercial educational TV stations.

* * * * *

(i) With respect to the provision of advanced television services, the requirements of this section will apply to the entire digital bitstream of noncommercial educational television stations, including the provision of ancillary or supplementary services.

3. Section 73.624 is amended by revising paragraph (g) introductory text, and the first sentence in paragraphs (g)(2)(i) and (g)(2)(ii) to read as follows:

§ 73.624 Digital television broadcast stations.

* * * * *

(g) Commercial and noncommercial DTV licensees must annually remit a fee of five percent of the gross revenues derived from all ancillary or supplementary services, as defined by paragraph (b) of this section, which are *feeable,* as defined in paragraphs (g)(2)(i) through (ii) of this section.

* * * * *

(2) *Payment of fees.* Each December 1, all commercial and noncommercial DTV licensees will electronically report whether they provided ancillary or supplementary services in the twelve-month period ending on the preceding September 30. * * *

(ii) If a commercial or noncommercial DTV licensee has provided feeable ancillary or supplementary services at any point during a twelve-month period ending on September 30, the licensee must additionally file the FCC's standard remittance form (Form 159) on the subsequent December 1. * * *

* * * * *

4. Section 73.642 is amended by revising paragraph (a)(1), the first sentence in paragraph (b) and paragraph (e) introductory text, to read as follows:

§ 73.642 Subscription TV service.

(a) * * *

(1) Licensees and permittees of commercial and noncommercial TV stations, and

* * * * *

(b) A licensee or permittee of a commercial or noncommercial TV station or a low power TV station may begin subscription TV service upon installation of encoding equipment having advance FCC approval. * * *

* * * * *

(e) A licensee or permittee of a commercial or noncommercial TV broadcast or low power TV station may not transmit a subscription service if it has a contract, arrangement, or understanding expressed or implied, that:

* * * * *

5. Section 73.644 is amended by revising the first sentence in paragraph (a) to read as follows:

§ 73.644 Subscription TV transmission systems.

(a) Licensees and permittees of commercial and noncommercial TV broadcast and low power TV stations may conduct subscription operations only by using an encoding system that has been approved in advance by the FCC. * * *

* * * * *

[FR Doc. 01–29232 Filed 11–23–01; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 66, No. 227
Monday, November 26, 2001

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–13–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Model C90 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Raytheon Aircraft Company (Raytheon) Beech Model C90 airplanes. This proposed AD would require you to inspect the left-hand (LH) and right-hand (RH) nacelle and spar assembly for the existence of rivets and would require you to install rivets if they do not exist or are the wrong size or type. This proposed AD is the result of Raytheon identifying several instances where rivets were either missing or were wrong size or type on these airplanes. The actions specified by this proposed AD are intended to correct the installation of rivets in the LH and RH nacelle and spar assembly. These rivets must be present and have the correct dimension in order to prevent reduced structural integrity, which could result in structural failure and possible loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before January 22, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–13–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may get service information that applies to this proposed AD from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 429–5372 or (316) 676–3140. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Steve Potter, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4124; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of This Proposed AD I Should Pay Attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2001–CE–13–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

Raytheon has identified several instances of rivets not being installed and/or the wrong size or type installed during the manufacturing process on the nacelles and spar assembly of the Model C90A airplanes. This conclusion is the result of a quality control problem.

At least 20 airplanes have been found with this condition. The number and location of the missing rivets and incorrectly installed rivets may vary from airplane to airplane.

What Are the Consequences if the Condition Is Not Corrected?

This condition, if not detected and corrected, could result in reduced structural integrity. This could lead to critical structural failure with consequent loss of airplane control.

Is There Service Information That Applies to This Subject?

Raytheon has issued Mandatory Service Bulletin SB 54–3308, Issued: October, 2000.

What Are the Provisions of This Service Information?

The service bulletin includes procedures for:

—Inspecting the left-hand and right-hand nacelle and spar assembly for the existence of rivets and installed rivets that are the wrong size and/or type; and

—Installing rivets when they don't exist and replacing installed rivets that are the wrong size and/or type with the correct rivet.

The FAA's Determination and an Explanation of the Provisions of This Proposed AD

What Has FAA Decided?

After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

—The unsafe condition referenced in this document exists or could develop on other Raytheon Beech Model C90 airplanes of the same type design;

—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What Would This Proposed AD Require?

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

Cost Impact

How Many Airplanes Would This Proposed AD Impact?

We estimate that this proposed AD affects 381 airplanes in the U.S. registry.

What Would Be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
35 workhours × $60 per hour = $2,100	No parts required for the inspection	$2,100	$2,100 × 381 = $800,100.

We estimate the following costs to accomplish any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need such replacements:

Labor cost	Parts cost	Total cost per airplane
40 workhours × $60 per hour = $2,400	$50	$2,400 + $50=$2,450.

The manufacturer will provide warranty credit for labor and parts to the extent noted under MANPOWER and MATERIAL in Raytheon Mandatory Service Bulletin SB 54–3308, Issued: October, 2000.

Compliance Time of This Proposed AD

Why Is the Compliance Time of This Proposed AD Presented in Both Hours Time-in-Service (TIS) and Calendar Time?

The unsafe condition on these airplanes is not a result of the number of times the airplane is operated. Airplane operation varies among operators. For example, one operator may operate the airplane 50 hours TIS in 3 months while it may take another 12 months or more to accumulate 50 hours TIS. For this reason, the FAA has determined that the compliance time of the proposed AD should be specified in both hours time-in-service (TIS) and calendar time in order to assure this condition is not allowed to go undetected over time.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

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

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed 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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Raytheon Aircraft Company: Docket No. 2001–CE–13–AD

(a) *What airplanes are affected by this AD?* This AD affects the following Beech Model C90A airplanes that are certificated in any category:

Serial Numbers

LJ–1157 through LJ–1276, LJ–1278 through LJ–1537; and LJ-1540.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to correct the installation of rivets in the left-hand and right-hand nacelle and spar assembly. These rivets must be present and have correct dimensions in order to prevent reduced structural integrity, which could result in structural failure and possible loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Insert Raytheon Temporary Changes TC3 (Log of Temporary Changes) into the Limitations Section of the Pilot's Operating Handbook (POH).	Within the next 10 hours time-in-service (TIS) after the effective date of this AD until compliance with paragraphs (d)(2) and (d)(3) of this AD.	Anyone who holds at least a private pilot certificate, as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), may incorporate the pilot's operating handbook (POH) revision required by this AD. You must make an entry into the aircraft records that shows compliance with this AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(2) Inspect the left-hand (LH) and right-hand (RH) nacelle and spar assembly for the existence of rivets and installed rivets that are the wrong size and/or type.	Within the next 400 hours time-in-service (TIS) or within 12 calendar months after the effective date of this AD, whichever occurs first.	In accordance with the Accomplishment Instructions section of Raytheon Mandatory Service Bulletin SB 54–3308, Issued: October, 2000, and the applicable maintenance manual.
(3) Install rivets where rivets are missing and replace rivets that are the wrong size and/or type with the correct rivet.	Prior to further flight after the inspection required in paragraph (d)(2) of this AD.	In accordance with the Accomplishment Instructions section of Raytheon Mandatory Service Bulletin SB 54–3308, Issued: October, 2000, and the applicable maintenance manual.

Note 1: Although not required by this AD, Raytheon Mandatory Service Bulletin SB 54–3308, Issued: October, 2000, recommends inspecting the airplane in accordance with the Hard Landing Inspection procedure, Chapter 5–50–00, Beech King Air 90 Maintenance Manual, if the airplane should experience a hard landing prior to the repair required by this AD. If serious structural damage occurred, contact Raytheon Technical Support for assistance.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, 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 (e) 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 you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Steve Potter, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4124; facsimile: (316) 946–4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on November 15, 2001.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–29222 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[FRL–7091–9]

Utah: Final Authorization of State-Initiated Changes and Incorporation by Reference of Approved State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: During a review of Utah's regulations, EPA identified a variety of State-initiated changes to Utah's hazardous waste program under the Resource Conservation and Recovery Act (RCRA). We propose to grant Final authorization to Utah for these changes. In addition, EPA is proposing to codify, in the section of the Code of Federal Regulation (CFR) entitled Approved State Hazardous Waste Management Programs, Utah's authorized hazardous waste program. We will incorporate by reference those provisions of the State regulations that are authorized and federally enforceable. In the ''Rules and Regulations'' section of this **Federal Register**, we are authorizing the changes to the Utah program and codifying and incorporating by reference the State's hazardous waste program as an Immediate Final Rule. We did not make a proposal prior to the Immediate Final Rule because we believe this action is noncontroversial and do not expect comments that oppose it. We have explained the reasons for this authorization and incorporation by reference in the preamble to the Immediate Final Rule. Unless we get written comments which oppose this authorization and incorporation by reference during the comment period, the Immediate Final Rule will become effective on the date established in the Final rule and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the Immediate Final Rule and it will not take effect. We will then respond to public comments in a later Final rule based on this proposal. If you want to comment on this action, you must do so at this time, since you may not have another opportunity for comment.

DATES: Written comments must be received on or before December 26, 2001.

ADDRESSES: Mail written comments to Kris Shurr, 8P–HW, U.S. EPA, Region VIII, 999 18th St., Suite 300, Denver, Colorado 80202–2466, phone (303) 312–6139. You can examine copies of the

materials used buy EPA to make this determination during normal business hours at the following locations: Utah Department of Environmental Quality, Division of Solid and Hazardous Waste, 288 North 1460 West, Salt Lake City, Utah 84114–4880, phone (801) 538–6776 and EPA Region VIII, 999 18th St., Suite 300, Denver, Colorado 80202–2466, phone (303) 312–6139.

FOR FURTHER INFORMATION CONTACT: Kris Shurr at EPA Region VIII, 999 18th St., Suite 300, Denver, Colorado 80202–2466, phone (303) 312–6139.

SUPPLEMENTARY INFORMATION: For additional information, please see the Immediate Final Rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: October 18, 2001.

Patricia D. Hull,

Acting Regional Administrator, Region VIII.

[FR Doc. 01–28851 Filed 11–23–01; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1639

Welfare Reform

AGENCY: Legal Services Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rulemaking sets forth a proposed change to the Legal Services Corporation's rule relating to limitations on grantee activities challenging or seeking reform of a welfare system. The proposed change, to delete the prohibition on the representation of an individual seeking welfare benefits if any such representation involves an effort to amend or otherwise challenge existing law, is necessitated to conform the regulation to the U.S. Supreme Court's decision *Legal Services Corporation* v. *Velazquez, et al.*

DATES: Comments on this NPRM are due on January 25, 2002.

ADDRESSES: Written comments may be submitted by mail, fax, or e-mail to Mattie C. Condray, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 750 First Street, NE., Washington, DC 20002–4250; 202–336–8817; *mcondray@lsc.gov.*

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, 202–336–8817.

SUPPLEMENTARY INFORMATION: On February 28, 2001, the United States Supreme Court issued a decision in *Legal Services Corporation* v. *Velazquez, et al.,* Nos. 99–603 and 99–960, 121 S. Ct. 1043, 2001 WL 193738 (U.S.), striking down as unconstitutional the restriction prohibiting LSC grantees from challenging welfare reform laws when representing clients seeking specific relief from a welfare agency. The stricken restriction was first imposed by Congress in § 504(a)(16) of the FY 1996 Legal Services Corporation appropriations legislation (the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104–134, 110 stat. 1321–53 (1996)) and has been retained in each subsequent annual LSC appropriation. The relevant portion of § 504(a)(16) prohibits funding of any organization:

> that initiates legal representation or participates in any other way, in litigation, lobbying, or rulemaking, involving an effort to reform a Federal or State welfare system, except that this paragraph shall not be construed to preclude a recipient from representing an individual eligible client who is seeking specific relief from a welfare agency if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation.

This restriction was incorporated into LSC's regulations at 45 CFR part 1639. Specifically, 45 CFR 1639.3, Prohibition, provides that:

> Except as provided in §§ 1639.4 and 1639.5, recipients may not initiate legal representation, or participate in any other way in litigation, lobbying or rulemaking, involving an effort to reform a Federal or State welfare system. Prohibited activities include participation in:
>
> (a) Litigation challenging laws or regulations enacted as part of an effort to reform a Federal or State welfare system.
>
> (b) Rulemaking involving proposals that are being considered to implement an effort to reform a Federal or State welfare system.
>
> (c) Lobbying before legislative or administrative bodies undertaken directly or through grassroots efforts involving pending or proposed legislation that is part of an effort to reform a Federal or State welfare system.

45 CFR 1639.4 Permissible representation of eligible clients, provides that:

> Recipients may represent an individual eligible client who is seeking specific relief from a welfare agency, if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation.[1]

The Supreme Court in *Velazquez,* upholding the decision of the Court of Appeals, invalidated that portion of the statute which provides that representation of an individual eligible client seeking specific relief from a welfare agency may not involve an effort to amend or otherwise challenge existing law. The Court held that such a qualification constitutes impermissible viewpoint discrimination under the First Amendment because it ''clearly seeks to discourage challenges to the status quo.'' 121 S. Ct. 1043, 1047 (2001).

In determining specifically which language in the 1996 Act to strike as invalid, the Supreme Court noted that the Court of Appeals had concluded that congressional intent regarding severability was unclear. Since that ''determination was not discussed in the briefs of either party or otherwise contested'' in the appeal to the Supreme Court, the majority opinion noted that it was exercising its ''discretion and prudential judgement'' by declining to address the issue. Id. at 1053. Instead, the Supreme Court opted to simply affirm the decision of the Court of Appeals to ''invalidate the smallest possible portion of the statute, excising only the viewpoint-based proviso rather than the entire exception of which it is a part.'' Id. at 1052.

The effect of the *Velazquez* decision has been to render the stricken language null and void. This means that the limitation on representation of an individual eligible client seeking specific relief from a welfare agency which prohibits any such representation from involving an effort to amend or otherwise challenge existing law is not valid and may not be enforced or given effect. An individual eligible client seeking relief from a welfare agency may be represented by a recipient without regard to whether the relief involves an effort to amend or otherwise challenge existing welfare reform law.

In light of foregoing, at it June 2001 meeting the LSC Board of Directors identified Part 1639 as an appropriate subject for rulemaking for the purpose of amending the regulation to make it conform to the decision in *Velazquez.*

For reasons set forth above, LSC proposes to amend 45 CFR Part 1639 as follows:

PART 1639—WELFARE REFORM

1. The authority citation continues to read as follows: 42 U.S.C. 2996g(e); Pub. L. 104–208, 110 Stat. 3009; Pub. L. 104–134, 110 Stat. 1321.

Section 1639.4 Permissible representation of eligible clients

2. Section 1639.4 would be amended by deleting the words ''if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation'' and by changing the

[1] The exception at § 1639.5 regarding public rulemaking and responding to requests with non-LSC funds is not at issue here.

comma after the word ''agency'' to a period.

Victor M. Fortuno,

General Counsel and Vice President for Legal Affairs.

[FR Doc. 01–29301 Filed 11–23–01; 8:45 am]

BILLING CODE 7050–01–P

Notices

Federal Register
Vol. 66, No. 227
Monday, November 26, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Provincial Advisory Committee (PAC) will meet on December 5 and 6, 2001, at the Konocti Harbor Resort in Kelseyville, California. The purpose of the meeting is to discuss issues relating to implementing the Northwest Forest Plan.

DATES: The meeting will be held December 5 and 6, 2001. A field tour of post Fork Fire burned area rehabilitation will be held on December 5, 2001, from 10 a.m. until 4 p.m. The business meeting will be held from 8:30 a.m. to 4 p.m. on December 6, 2001.

ADDRESSES: The December 5 field tour will begin at the Upper Lake Ranger Station, Mendocino National Forest, located at 10025 Elk Mountain Road in Upper Lake, CA. The December 6 business meeting will be held at the Konocti Harbor Resort, Pomo and Lanai Conference Rooms, 8727 Soda Bay Road, Kelseyville, CA.

FOR FURTHER INFORMATION CONTACT: Phebe Brown, Committee Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA, 95988, (530) 934–3316; EMAIL *pybrown@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Distribute and discuss Province watershed summaries/fish map; (2) Regional Ecosystem Office (REO) update; (3) Discuss REO executive director remarks at joint PAC meeting; (4) Presentation on the Mendocino National Forest implementation of the northern spotted owl Baseline Study management recommendations; (5) Report on State northern California watershed planning activities and opportunities for PAC coordination; (6) Next year's meeting dates; and (7) Public comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: November 14, 2001.

James D. Fenwood,

Forest Supervisor.

[FR Doc. 01–29330 Filed 11–23–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Counties Payments Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Forest Counties Payments Committee has scheduled a meeting on December 11, 2001, to discuss how it will provide Congress with the information specified in section 320 of the Fiscal Year 2001 Interior and Related Agencies Appropriations Act. In order to develop its recommendations to Congress, the Committee would like to hear from both elected officials and the general public. The meeting will consist of a public input session from 9 a.m. until 12 noon.

DATES: The meeting will be held on December 11, 2001.

ADDRESSES: The meeting will be held at the Farm Bureau Building, 6310 I55 North, Jackson, Mississippi 39236.

Those who cannot be present may submit written responses to the questions listed under **SUPPLEMENTARY INFORMATION** in this notice to Randle G. Phillips, Executive Director, Forest Counties Payments Committee, P.O. Box 34718, Washington, D.C. 20043–4713, (202) 208–6574 or electronically to *rphillips01@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Randle G. Phillips, Executive Director, Forest Counties Payments Committee, (202) 208–6574; or via e-mail at *rphillips01@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Section 320 of the 2001 Interior and Related Agencies Appropriations Act (Pub L. 106–389) authorizes the payments to States and counties from monies derived from receipts collected on Federal lands. These payments are to be used for the benefit of public education and other public purposes. The Act also created a Forest Counties Payments Committee to gather input from the public and elected officials to help develop recommendations to Congress on a long-term solution for making payments to eligible States and counties in which Federal lands are situated. The Committee will evaluate the methods and use of these payments. The Committee will also consider the impact on eligible States and counties of revenues from the historic multiple use of Federal lands; evaluate the economic, environmental, and social benefits which accrue to counties containing Federal lands; evaluate the expenditures by counties on activities occurring on Federal lands which are Federal responsibilities; and monitor payments and implementation of the Act.

At the December 11 meeting in Jackson, the Committee asks that respondents provide information that is responsive to the following questions:

1. Do counties receive their fair share of federal revenue-sharing payments made to eligible States?

2. What difficulties exist in complying with, and managing all of the federal revenue-sharing payments programs? Are some more difficult than others?

3. What economic, social, and environmental costs do counties incur as a result of the presence of public lands within their boundaries?

4. What economic, social, and environmental benefits do counties realize as a result of public lands within their boundaries?

5. What are the economic and social effects from changes in revenues generated from public lands over the past 15 years, as a result of changes in management on public lands in your State or county?

6. What actions has your State or county taken to mitigate any impacts associated with declining economic conditions, or revenue-sharing payments?

7. What effects, both positive and negative, have taken place with education and highway programs that are attributable to the management of public lands within your State or county?

8. What relationship, if any, should exist between federal revenue-sharing

programs, and management activities on public lands?

9. What alternatives exist to provide equitable revenue-sharing to States and counties and promote ''sustainable forestry''?

10. What has been your experience regarding implementation of Pub L. 106–291, The Secure Rural Schools and Community Self-Determination Act?

Dated: November 19, 2001.

Timothy DeCoster,

Acting Deputy Chief, Programs and Legislation.

[FR Doc. 01–29363 Filed 11–23–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Counties Payments Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Forest Counties Payments Committee has scheduled a meeting on December 12, 2001, to discuss how it will provide Congress with the information specified in section 320 of the Fiscal Year 2001 Interior and Related Agencies Appropriations Act. In order to develop its recommendations to Congress, the Committee would like to hear from both elected officials and the general public. The meeting will consist of a public input session from 9 a.m. until 12 noon.

DATES: The meeting will be held on December 12, 2001.

ADDRESSES: The meeting will be held at the Leon County Courthouse, 301 South Monroe Street, Commission Meeting Room, 5th Floor, Tallahassee, Florida 32301.

Those who cannot be present may submit written responses to the questions listed under **SUPPLEMENTARY INFORMATION** in this notice to Randle G. Phillips, Executive Director, Forest Counties Payments Committee, P.O. Box 34718, Washington, DC 20043–4713, (202) 208–6574 or electronically to *rphillips01@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Randle G. Phillips, Executive Director, Forest Counties Payments Committee, (202) 208–6574; or via e-mail at *rphillips01@fs.fed.us.*

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At the December 12 meeting in Tallahassee, the Committee asks that respondents provide information that is responsive to the following questions:

1. Do counties receive their fair share of federal revenue-sharing payments made to eligible States?

2. What difficulties exist in complying with, and managing all of the federal revenue-sharing payments programs? Are some more difficult than others?

3. What economic, social, and environmental costs do counties incur as a result of the presence of public lands within their boundaries?

4. What economic, social, and environmental benefits do counties realize as a result of public lands within their boundaries?

5. What are the economic and social effects from changes in revenues generated from public lands over the past 15 years, as a result of changes in management on public lands in your State or county?

6. What actions has your State or county taken to mitigate any impacts associated with declining economic conditions, or revenue-sharing payments?

7. What effects, both positive and negative, have taken place with education and highway programs that are attributable to the management of public lands within your State or county?

8. What relationship, if any, should exist between federal revenue-sharing programs, and management activities on public lands?

9. What alternatives exist to provide equitable revenue-sharing to States and counties and promote ''sustainable forestry''?

10. What has been your experience regarding implementation of Pub L. 106–291, The Secure Rural Schools and Community Self-Determination Act?

Dated: November 19, 2001.

Timothy DeCoster,

Acting Deputy Chief, Programs and Legislation.

[FR Doc. 01–29364 Filed 11–23–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Trinity County Resources Advisory Committee (RAC)

AGENCY: Forest Service, USDA Forest Service.

ACTION: Notice of meeting.

SUMMARY: The Trinity County Resource Advisory Committee (RAC) will meet on November 26 and December 17, 2001 in Weaverville, California. The purpose of the meeting is to discuss the selection of Title II projects under Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the ''Payments to States'' Act.

DATES: The meeting will be held on November 26 and December 17, 2001 from 6:30 to 8:30 p.m.

ADDRESSES: The November 26th meeting will be held at the Trinity County P.U.D., 26 Ponderosa Lane, Weaverville, CA. The December 17th meeting will be held in the conference room of the Trinity County Superintendent of Schools Office, 201 Memorial Drive, Weaverville, CA.

FOR FURTHER INFORMATION CONTACT: Duane Lyon, Committee Coordinator, USDA, Shasta Trinity National Forests, 2400 Washington Ave., Redding, CA 96001. Phone (530) 242 2207. Email: *dlyon@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The November 26th meeting of the committee will focus on orienting the committee members to the Federal Advisory Committee Act (FACA) regulations and the RAC Charter. The December 17th meeting will focus on development of committee operating norms. The meetings are open to the public. Public input opportunity will be provided at each meeting and individuals will have the opportunity to address the committee at that time.

Dated: November 16, 2001.

Sharon Heywood,

Forest Supervisor.

[FR Doc. 01–29302 Filed 11–23–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Withdrawal of the Regional Guide for the South

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The intended effect of this action is to comply with 36 CFR part 219 section 219.35(e) which directs that within 1 year of November 9, 2000, the Regional Forester must withdraw the Regional Guide. When a Regional Guide is withdrawn, the Regional Forester must identify the decisions in the Regional Guide that are to be transferred to a regional supplement of the Forest Service directive system (36 CFR 200.4) or to one or more plans and give notice in the **Federal Register** of these actions.

EFFECTIVE DATE: This action becomes effective on November 26, 2001.

FOR FURTHER INFORMATION CONTACT: R. Gary Pierson, Director of Planning; Southern Region; 1720 Peachtree Rd., NW; Atlanta, Georgia 30309. Phone: (404) 347–3183.

SUPPLEMENTARY INFORMATION: This action accomplishes the withdrawal of the Regional Guide for the South. An analysis of the direction contained in the Regional Guide shows that all its applicable direction has either (1) Already been incorporated into the Forest Plans; (2) been incorporated into other regional environmental impact statements (such as the Final Environmental Impact Statements for Vegetation Management in the Coastal Plain/Piedmont, Appalachian Mountains, or Ozark/Ouachita Mountains); (3) already been incorporated or addressed in existing Forest Service directives; or (4) contained procedural guidance that does not need to be brought forward as Forest Plan direction or as a Forest Service directive.

The planning rule at 36 CFR 219.35(e) allows for the transfer of direction from a regional guide to a regional supplement of the Forest Service directive system or to one or more Forest Plans through this notification in the **Federal Register**, however, no further action is needed to complete the withdrawal of the Regional guide for the South.

Dated: November 19, 2001.

R. Gary Pierson,

Acting Regional Forester.

[FR Doc. 01–29333 Filed 11–23–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Withdrawal of the Northern Regional Guide and the Transfer of Decisions Therein to the Regional Supplement to the Forest Service Directive System

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The intended effect of this action is to comply with 36 CFR part 219 section 219.35(e) which directs that within 1 year of November 9, 2000, the Regional Forester must withdraw the Regional Guide. When a Regional Guide is withdrawn, the Regional Forester must identify the decisions in the Regional Guide that are to be transferred to a regional supplement of the Forest Service directive system (36 CFR 200.4) or to one or more plans and give notice in the **Federal Register** of these actions.

DATES: This action will be effective November 5, 2001.

FOR FURTHER INFORMATION CONTACT: Richard Anderson; Land Management Planner; Northern Region; P.O. Box 7669; Missoula, Montana 59807. Phone: (406) 329–3647.

SUPPLEMENTARY INFORMATION: This action accomplishes withdrawal of the Northern Regional Guide and the transfer of decisions therein to the regional supplement to the Forest Service Directive System. This action revises FSM 2400 Region 1 Supplement No. 2400–96–3 to address the size of harvest openings, which is required by the National Forest Management Act. This continues the limitation, currently contained in the Regional Guide, on the size of harvest openings to 40-acres or less without Regional Forester approval and 60-day public review.

This action also adds a correction into the Region 1 Planning Supplement Chapter 1920 from the Regional Guide two RARE II inventoried roadless areas which were inadvertently omitted from the Guide (the Big Snowies and Middle Fork Judith on the Lewis and Clark National Forest) for further study in the Forest Planning process. Additionally, this action moves direction regarding Natural Areas from the Regional Guide to the regional supplement of the Forest Service manual. This is accomplished by: (1) Incorporating into the Region 1 Planning Supplement Chapter 1920 formal approval by the Regional Forester of the revised Research Natural Area targets, as outlined in the Research Natural Areas of the Northern Region: Status and Needs Assessment which in 1996 updated the Regional Guide direction for Research Natural Areas; and (2) incorporating the process currently contained in the Regional Guide for the identification and designation of Regional Research Natural Area's.

Dated: October 31, 2001.

Kathleen A. McAllister,

Acting Regional Forester.

[FR Doc. 01–29334 Filed 11–23–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Docket No. 000724218–1270–03]

RIN 0640–ZA09

Solicitation of Applications for the Native American Business Development Center (NABDC) Program

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: Subject to the availability of fiscal year 2002 funds, the Minority Business Development Agency (MBDA) is soliciting competitive applications, under its Native American Business Development Center (NABDC) Program, from organizations to operate a NABDC in the State of New Mexico. After reviewing the performance of the current operator of the New Mexico NABDC, MBDA has elected not to continue funding in 2002 for the operator and to re-compete this geographic service area.

DATES: The closing date for applications for the NABDC project is December 26, 2001. Anticipated time for processing of applications is 120 days. MBDA anticipates that the award for the NABDC program will be made with a start date of January 1, 2002. Completed applications for the NABDC program must be (1) mailed (USPS postmark) to the NABDC Program Office (see: **ADDRESSES**); or (2) received by MBDA (see: **ADDRESSES**) no later than 5 p.m. Eastern Standard Time.

ADDRESSES: If the applicant or its representative mails the application, it must be mailed to: Native American Business Development Center Program Office, Office of Executive Secretariat, HCHB, Room 5063, Minority Business Development Agency, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

If the application is hand-delivered by the applicant or its representative, the application must be delivered to Room

1874, which is located at Entrance #10, 15th Street, NW, between Pennsylvania and Constitution Avenues.

To submit an application electronically (see: **SUPPLEMENTARY INFORMATION**), you must go to *www.mbda.gov/egrants.*

FOR FURTHER INFORMATION CONTACT: For further information, contact the MBDA Regional Office for the geographic service area in which the project will be located.

PRE-APPLICATION CONFERENCE: Contact Mr. Bobby Jefferson of the MBDA Dallas Regional Office at (214) 767–8001 for date, time and location. Proper identification is required for entrance into any Federal building.

SUPPLEMENTARY INFORMATION: Applications postmarked later than the closing date or received after the closing date and time will not be considered.

Applicants must submit one signed original plus two (2) copies of the application.

Applicants are encouraged to submit their proposal electronically via the World Wide Web. However, the following paper forms must be submitted with original signatures in conjunction with any electronic submissions by the closing date and time stated above: (1) SF–424, Application for Federal Assistance; (2) the SF–424B, Assurances-Non-Construction Programs; (3) the SF-LLL (Rev. 7–97) (if applicable), Disclosure of Lobbying Activities; (4) Department of Commerce Form CD–346 (if applicable), Applicant for Funding Assistance; and (5) the CD–511, Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying. MBDA's web site address to submit an application on-line is *www.mbda.gov/egrants.* All required forms are located at this web address.

Failure to submit a signed, original SF–424 with the application, or separately in conjunction with submitting a proposal electronically, by the deadline will result in the application being rejected and returned to the applicant. Failure to sign and submit with the application, or separately in conjunction with submitting a proposal electronically, the other forms identified above by the deadline will automatically cause an application to lose two (2) points. Failure to submit other documents or information may adversely affect an applicant's overall score. MBDA shall not accept any changes, additions, revisions or deletions to competitive applications after the closing date for receiving applications, except through a formal negotiation process.

Authority: Executive Order 11625 and 15 U.S.C. § 1512.

Catalog of Federal Domestic Assistance (CFDA)

11.801 Native American Business Development Center Program.

Program Description

The new and enhanced NABDC Program is the successor to MBDA's Native American Business Development Center (NABDC) Program, for providing general business assistance to Native American-owned companies in various markets throughout the United States.

In order for the proposals to receive consideration, applicants must comply with all information and requirements contained in this Notice.

The NABDC Program represents a significant programmatic and administrative enhancement of MBDA's traditional NABDC Program. In operation since 1982, the NABDCs provide generalized management and technical assistance and business development services to Native American business enterprises within their designated geographic service areas. The new and enhanced NABDC program described in this Notice updates the traditional NABDC model by leveraging the full benefit of telecommunications technology, including the Internet, and a variety of online computer resources to dramatically increase the level of service which the NABDCs can provide to their Native American business clients.

In addition, the NABDC Program guidelines further increase the impact of the NABDC projects by requiring that project operators not only deploy their business assistance services to the Native American business public directly, but that they also develop a network of strategic partnerships with third-party organizations located within the geographic service area. These strategic partnerships will be used to expand the reach of the NABDC project into communities and market segments that the project would have limited resources to cover otherwise, and are a key component of this program modification.

Individuals eligible for assistance under the NABDC Program are Native Americans, African Americans, Puerto Ricans, Spanish-speaking Americans, Aleuts, Asian Pacific Americans, Asian Indians, Eskimos and Hasidic Jews. References throughout this Notice to providing assistance to Native Americans also include eligible non-Native Americans listed in the preceding sentence. No service will be denied to any member of the eligible groups listed above.

For the past 18 years, MBDA has operated the NABDC Program as its approach for providing general business assistance and counseling to Native American business enterprises. MBDA established NABDCs in numerous cities throughout the country to assist in the development of local Native American firms. The NABDC Program was developed to address the needs of the majority of Native American-owned firms throughout the country at a basic level, and thus the traditional NABDCs are not designed to provide specialized expertise in any specific industry.

Through its new and enhanced NABDC Program, MBDA is now providing major enhancements to the traditional NABDC Program, by leveraging the full benefit of telecommunications technology, including the Internet, and a variety of online computer-based resources to dramatically increase the level of service, which the new Centers can provide to their clients.

This enhanced approach also increases the reach of the Centers by requiring project operators to develop strategic alliances with public and private sector partners, as a means of reaching out to Native American firms within the project's geographic service area.

Background

Under the original NABDC Program, MBDA traditionally operated as many as 10 Centers in strategic locations throughout the country, for the benefit of Native American entrepreneurs. MBDA selected locations for the establishment of these Centers based on the size of the population in those markets, and the number of Native American-owned companies, as established by U.S. Census Bureau data.

In addition, like the original NABDC Program, the new and enhanced NABDC Program is a mainstay of MBDA's overall business development efforts. The new and enhanced NABDC Program is at the core of the Agency's comprehensive strategy for addressing the needs of growing Native American firms. Under this strategy, MBDA has identified the following four types of services which an NABDC will generally be expected to provide:

1. Access to Markets—This involves assisting Minority Business Entrepreneurs (MBE) to identify and exploit opportunities for increased sales and revenue. Activities include conducting market analysis, identifying

sales leads, bid preparation assistance, creating market promotions, and assistance in developing joint ventures and strategic alliances.

2. Access to Capital—This involves assisting MBEs to secure the financial capital necessary to start-up, and thereafter to fuel growth and expansion of their businesses. Undercapitalization has been a major contributor to the failure of business ventures in the Native American community over the years. Hence the goal of this activity is to help Native American entrepreneurs obtain the amount of financing appropriate to the scope of the proposed business and, thereby, to help ensure the greatest likelihood of success for the Native American venture in the marketplace.

3. Management and Technical Assistance—This component of MBDA's approach involves assisting Native American firms in establishing, improving and/or successfully maintaining their business and/or to resolve key operational issues within the business. Such issues might include the need for a recruitment and hiring strategy, evaluating a capital equipment purchase, or developing internal operating procedures.

4. Education and Training—This involves providing basic education and training to Native American entrepreneurs on important business topics. Training should be hands-on, practical, and streamlined in order to reflect the time constraints of the typical small business owner. In addition, given the proliferation of online resources from MBDA as well as others, this training should be designed to educate MBEs in the use of the Agency's electronic business assistance tools and in the use of electronic commerce generally to better access suppliers, customers and information.

Like the original NABDCs, the new and enhanced NABDCs will operate through the use of trained professional business counselors who will assist Native American entrepreneurs through direct client engagements. To date, MBDA has served more than 20,000 Native American businesses through its Centers, enabling these companies to grow and expand, creating new jobs, increasing tax revenues, and contributing to the health of the overall economy.

Enhancing the NABDCs through Technology

Over the past three years, MBDA has developed a variety of new technology tools designed to leverage the benefits of information technology to assist the Native American business community. In addition, the Agency has developed a high-speed network strategy capable of linking all of its Centers into a single virtual organization. The goal of MBDA's new and enhanced NABDC Program strategy is to deploy these technology enhancements to all of the NABDCs, and create a state-of-the-art environment for bringing Native American businesses continuously-updated information, access to resources anywhere in the country, and the best available assistance in any given subject area at any time. The implementation of this strategy is the Minority Business Internet Portal (MBIP).

MBDA's technology tools that will be made available to the NABDCs through MBDA's MBIP site include:

- Phoenix/Opportunity—an electronic bid-matching system that alerts participating minority companies of contract and teaming opportunities directly via e-mail. Procurement leads are transmitted to minority firms on a targeted basis according to the company's industry classification and geographic market. Firms seeking to participate in this program need only to transmit their company profile to MBDA online via the Agency's Phoenix database.
- Resource Locator—a new and unique software application that allows Native American business enterprises to search for business resources and locate them on a map '' interactively on the Internet. Resource Locator can help Native American firms identify trade associations representing their industries, government licensing and permit offices, management and technical assistance providers, and a host of other resources quickly and efficiently, through Geographic Information Systems technology.
- Online Commercial Loan Identifier—an Internet-based tool that allows Native American enterprises to shop for commercial loans online, and identify the best available financing terms. The Commercial Loan Identifier is designed to give Native American firms the benefit of a nationwide market for commercial loan products.
- Business and Market Planning Software—software packages to streamline and enhance the development of business plans, marketing plans and other strategic business documents.

The MBIP will serve as a very effective vehicle for enhancing the scope and service capability of the NABDC network. Through the portal site, each NABDC will receive a standardized electronic toolkit of business development tools and applications. This ''electronic toolkit'' will provide important programmatic benefits for the NABDCs.

Specifically:

- These electronic tools will help to streamline the process of delivering client assistance to Native American business enterprises, giving the Centers the ability to service greater numbers of clients with existing resources.
- In addition, MBDA expects that these electronic tools will be in high demand because of the significant added value that they are able to create for business enterprises. Demand for these tools will further enhance the position of the NABDCs as important resources within their local markets.
- Finally, by participating in MBDA's nationwide high-speed network, each NABDC will be able to access the latest information regarding best practices, emerging market trends, success strategies, and other activities in the Native American business development arena.

Current trends in technology, procurement streamlining, globalization, and a host of other market factors have had a dramatic impact on the Native American business community. Native American-owned businesses, regardless of their industry, now find themselves subject to rapidly changing market conditions. To ensure their continued growth, these firms will need access to the best available information and expertise on a continuously updated basis. The new NABDC Program, combined with the MBIP site, directly respond to this need, by leveraging MBDA's traditional business development infrastructure through state-of-the-art technology and communications.

Work Requirements

The work requirements specify the duties and responsibilities of each recipient operating an NABDC.

Although it is not necessary for the applicant to have an office in the geographic service area, the NABDC office must be strategically located in the geographic service area to ensure that it is close to the available public and private sector resources, within a reasonable commuting distance to the minority business community, and accessible to public transportation. The NABDC must be opened and be fully operational within 30 days after receipt of the award. Fully operational means that all staff are hired, all signs are up, all items of furniture and equipment are in place and operational, and the NABDC's doors have been fully opened to the public for service.

An NABDC operator must provide services to all eligible clients within its specified geographic service area. In addition, each operator must contribute its efforts to help support MBDA's online business assistance network as established by Agency policies.

NABDCs are required to perform work in four basic areas:

1. *Market Building*—To identify, develop and leverage public and private sector resources and business opportunities for their clients;

(a) *Market Research and Development* which systematically investigates the service area market to see what business and capital opportunities exist for Native American business enterprise development; search for sources of capital, sales opportunities, business buy-outs and new start possibilities; bring the research to a practical level of utility to fit the capability and needs of specific MBE client firms of the area. As market research is conducted, the NABDC will make optimum use of the MBDA network to ensure that the information is made available to fellow operators, and to MBEs throughout the country.

(b) *Market Promotion* which promotes Native American business development in the local business community by obtaining support from the community as a whole, leverages resources for minority businesses and informs potential and current minority businesses of the availability of business development services through the NABDC.

The NABDC will promote individual firms to the public and private sectors to make the market aware of the capability, talent and capacity of the local MBE firms. The NABDC may utilize public service announcements and paid advertising. The NABDC promotes MBEs at local Chambers of Commerce, business and trade associations, corporate and company trade fairs and meetings, state and local government agency purchasing departments, economic development and planning offices and MBE development events. In addition, the NABDC shall promote and participate in MED Week activities involving the full participation of the private and public sectors. MED Week is a major annual event of MBDA on both the local and national levels.

Under this function, the NABDC shall carry out a plan-of-action that may include, but is not limited to, the following actions: (1) Publicize the NABDC and its services throughout the geographic service area; (2) Organize press briefings or distribute press releases for area newspapers; (3) Deliver speeches before key Native American audiences in the NABDC service area; (4) Secure a list of service area Native American vendors who are listed in MBDA's Phoenix System and use them in market promotion activities; (5) Interface with Native American Chambers of Commerce and trade associations for access to their mailing lists; (6) Communicate with bankers and other officers of financial institutions for possible referrals of Native American entrepreneurs as existing prospective Native American clients to the NABDC; (7) Identify existing lists of successful Native American managers, professionals, technical experts and skilled crafts-people, who may have an interest in or exhibit qualifications for business ownership; (8) Develop an NABDC brochure for mail-out and distribution to the public, as well as for inclusion on the MBDA web site; and (9) E-mail information and/or newsletters to existing and prospective local Native American entrepreneurs.

c. *Resource and Inventory Development* which identifies local opportunities and resources as well as local Native American businesses, qualified to take advantage of them. This requirement will enable the NABDC to support the maintenance of content for the Phoenix/Opportunity databases and other online systems as well as to track local market trends and market demand for goods and services. Under this function, the NABDC must (1) Develop and maintain inventories of area opportunities and resources, which should include: *Electronic Commerce*—information technology affecting the marketability of its clients, *i.e.,* access to new markets, access to capital and business opportunities and other resources; *Market Opportunities*—both in the public sector (Federal, state and local) and in the private sector (foreign and domestic); *Capital Opportunities—e.g.,* loans, bonds, trade credits, and equity investments; *Business Ownership Opportunities—e.g.,* franchises, licensing arrangements, mergers and buy-outs; *Education and Training Opportunities—e.g.,* educational institution programs and other training resources; (2) Register eligible local Native American firms in MBDA's Phoenix database, which is a national inventory of Native American vendor firms capable of selling their goods and services to the public and private sector.

(d) *Match Opportunities and Close Transactions* which matches eligible Native American entrepreneurs with specific viable businesses, market and/or capital opportunities. This function contributes to an NABDC's financial packaging and/or procurement performance goals, and is the *only* market development function outside of the standard client business assistance in which a portion of an NABDC's time can be directly associated to *individual* Native American business clients and resource customers. This client specific time, no matter how small, is considered client assistance and may be subject to client fees. Under this function, the NABDC shall match qualified Native American entrepreneurs with identified opportunities and resources by: (1) Accessing vendor information systems, including the Phoenix/Opportunity databases; (2) Maintaining a constant awareness of the Native American firms that operate within the geographic service area and their capabilities; (3) Maintaining direct contact with purchasing executives, government procurement officials, banking officials and others so that representatives of the NABDC are in a position to learn about available business opportunities, both formally and informally; (4) Engaging in relationship brokering between purchasing organization and individual Native American firms capable of fulfilling their requirements; and (5) Assisting in direct negotiations between purchasing organization and individual Native American firms, in appropriate cases, in order to help resolve issues, serve as an advocate for the Native American firm, or otherwise assist in bringing the transaction to closure.

2. *Client Services*—To provide direct client assistance to Native American business enterprise on the basis of individualized professional engagements. Under these duties, the NABDC shall assist Native American firms and individuals, which have agreed in writing to become clients, in establishing, improving and/or successfully maintaining their businesses. All new clients shall be entered into the Performance database and registered in the Phoenix System. It is required that clients and their service hours should be entered in the Performance database on a regular basis, preferably weekly.

This assistance is defined as the function by which the NABDC provides direct services to its clients. It may range from general counseling to the identification, analysis and resolution of specific business problems. Clients assisted more than once during the funding period may only be counted once in that funding period. Group sessions are one method an NABDC can use to provide business development services to Native American clients. This function may be subject to client

fees and directly contributes to an NABDC's performance goals.

Under this function, the NABDC shall provide assistance to eligible Native American firms and individuals (as referenced in Executive Orders 11625 and 12432) seeking assistance from the NABDC, including 8(a) certified and graduate firms. However, the NABDC shall not perform or engage in the operation of a firm. Client services include, but are not limited to, the following types of assistance: (1) *Marketing, e.g.,* market research, promotion, advertising and sales, sales forecasting, market feasibility studies, pricing, procurement assistance, product and customer service, brochure design (excludes mass printing), and general counseling; (2) *Finance and Accounting, e.g.,* capital budgeting, general accounting, break-even analysis, cost accounting, financial planning and analysis budgeting, tax planning, financial packaging, general counseling, and mergers and acquisitions (excludes bookkeeping, tax preparation, and audits); (3) *Manufacturing, e.g.,* plant location and site selection, plant management, materials handling and distribution, total quality management, metrication for world market, and general counseling; (4) *Construction and Assistance, e.g.,* estimating, bid preparation, bonding, take-offs, and general counseling; (5) *International Trade Assistance, e.g.,* exporting, importing, letters of credit, bank draft, dealerships, agencies, distributorship, exporting trading companies, joint ventures, general counseling, and freight forwarding and handling; (6) *Administration, e.g.,* office management, procedures and systems, inventory control, purchasing, total quality management, awareness of metric system, and general counseling; (7) *Personnel, e.g.,* human resource management, job evaluation and rating system, training, and general counseling; (8) *General Management, e.g.,* organization and structure, formulating corporate policy, feasibility studies, reports and controls, public relations, staff scheduling, legal services (excludes litigation), business planning, organizational development, bid preparation, and general counseling.

In order to stay competitive in the increasingly global economy, Native American business owners should consider ISO 9000 or other quality assurance standards. The NABDC must have knowledge of what these standards are, how to properly implement the standards, and how to obtain ISO 9000 Quality System certification for its clients.

The one-on-one assistance to any client shall be limited to no more than 250 hours per funding period unless prior approval is requested from the appropriate MBDA Regional Director, and approved by the Grants Officer of the Department of Commerce.

3. *Operational Quality*—To maintain the efficiency and effectiveness of its overall operations as well as the quality of its client services. These duties are the means by which an NABDC maintains the efficiency and effectiveness of its overall operations as well as the quality of its client services. The function directly contributes to an NABDC's overall qualitative evaluation and rating as well as the successful completion of all work requirements. Under this function, the NABDC shall: (1) Execute signed work plan agreements and engagement letters with clients; (2) Formally describe the methodology that will be used in achieving the work plan objectives for each client; (3) Input progress/results to the performance database in a timely manner. (4) Establish procedures for collecting and accounting for all fees charged to clients; (5) Maintain records/files for all work charged to the program and clients; (6) Obtain *written* acceptance and verification (with client signatures) of services provided to its clients. For services reported, documentation must be in the NABDC's client files within 30 days after the end of every quarter in which a client receives services; (7) Comply with all reporting requirements provided upon award; (8) Cooperate with MBDA in maintaining content for the Phoenix/Opportunity databases, Resource Locator, and other online tools located at *www.mbda.gov;* and (9) Promote and utilize the services and resources of other MBDA programs, sponsored efforts and/or voluntary activities. The NABDC shall identify MBDA as the funding sponsor by providing signs worded as follows:

_____
(geographic area)
Native American Business Development Center™
Operated by—— _____
Funded By: Minority Business Development Agency (MBDA), U.S. Department of Commerce

These signs should be highly visible to the NABDC clients and general public. They should be prominently displayed on entrances and doors. Include the name of MBDA on all stationery, letterhead, brochures, etc. The NABDC is *not* authorized to use either the Department's official seal or the MBDA logo in any of its publications, documents or materials without specific written approval from the U.S. Department of Commerce. Identify the NABDC immediately when answering the telephone. If the recipient also requires that its organization's name be given, it should be provided only *after* the NABDC has been verbally identified to a caller. Refer to MBDA in all advocacy and outreach efforts such as speaking engagements, news conferences, etc.

The term Native American Business Development Center (NABDC) is a trademark of the Federal Government, and the Government reserves exclusive rights in the term. Permission to use the term is granted to the award recipient for the sole purpose of representing the activities of the award recipient in the fulfillment of the terms of the financial assistance award. The Minority Business Development Agency reserves the right to control the quality of the use of the term by the award recipient. Whenever possible, for example in promotional literature and stationery, use the ™ designation as in Native American Business Development Center™.

4. *Developing and Maintaining a Network of Strategic Partners.* The work requirements for an award recipient under the NABDC Program include the development of a network of 3 alliances between the NABDC and key strategic partners selected by the recipient. The NABDC is required to establish the network of 3 Strategic Partners within 120 days after the award. The NABDC is required to maintain these alliances throughout the duration of the award. The NABDC must replace a Strategic Partner within 45 days after termination of a previously established alliance. The Strategic Partners shall be public or private sector organizations located within the project's geographic service area that are positioned to assist the project to achieve its goals for assisting the minority business community established under the terms of the award. Strategic Partners may include:

- Minority Business Enterprise (MBE) programs operated by state, county or city governments;
- Chambers of Commerce or trade associations focused on the needs of the Native American business community;
- Small Business Development Centers, or other college and university entrepreneurial development programs;
- Community Development Corporations (CDCs);
- Banks and financial institutions; and
- Faith organizations having economic development components, whose activities are *not* used for

purposes the essential thrust of which is sectarian.

Each Strategic Partner shall be evidenced by a written Memorandum of Understanding (MOU) that expressly sets forth the conditions under which the partners agree to operate. Specifically, the Strategic Partners must agree to serve as a local resource for Native American-owned businesses seeking to obtain NABDC services. The Strategic Partner must at a minimum:

• Provide effective guidance to Native American entrepreneurs in accessing MBDA's computer-based business assistance tools which are available on-site at the Strategic Partner's location;

Examples of other kinds of activities that might be required of the Strategic Partner include, but are not limited to:

• Designate appropriate office space within their facilities for providing NABDC services;

• Establish a library of training materials, how-to guides, business publications and other information, both in print and electronic format, to be made available to Native American entrepreneurs on a walk-in basis;

• Provide high-quality business counseling to Native American business enterprises if the Strategic Partner is one that offers direct client counseling;

• Provide intake services for the NABDC with respect to Native American firms who approach the Strategic Partner for assistance but require counseling by the NABDC;

• Provide Native American firms with high-quality referrals to outside resources where the firm has a need for specialized assistance which is outside the scope of the NABDC Program;

• Support the NABDC project in coordinating MED Week activities within the geographic service area;

In selecting Strategic Partners, award recipient should consider establishing a diverse group that appropriately reflects the needs of the Native American business community within the service area. The skills, abilities and areas of concentration on the part of the Strategic Partners should be complementary, and collectively the skills and abilities of the Strategic Partners should complement those of the NABDC project operator.

In exchange for its compliance with the foregoing terms, and such other terms as the parties may seek to establish, the Strategic Partner will be eligible to serve as a host for the MBDA suite of business development tools described in the Enhancing the NABDCs Through Technology subsection of this Notice. The Strategic Partner will also be authorized to make public its relationship with MBDA through the NABDC project, and to refer to the partnership in brochures, advertisements, press releases and other media. Through the MOU relationship, the Strategic Partner will also be entitled to receive direct access to MBDA's information base of case studies, best practices, market research, and statistical data.

Computer Requirements

MBDA requires that all award recipients meet certain requirements related to the acquisition, installation, configuration, maintenance and security of information technology (IT) assets in order to ensure seamless and productive interface between and among all grant recipients, Native American-owned businesses, the MBDA federal IT system and the public. These required assets and their configuration are hereinafter referred to as the ''enterprise.'' The basic components of the enterprise are the desktop workstations, the server, local area network (LAN) components and a connection to the Internet.

At a minimum, the grantee shall provide one (1) desktop computer for the exclusive use of each employee delivering Native American business assistance to the public under an award from MBDA. All desktop computers shall be inter-connected with a Server computer using an Ethernet protocol enabling communication with all workstations on the network. The Server shall have a constant, active connection to the Internet during all business hours. The recipient shall ensure that each of his/her employees, to include management, administrative personnel, contractors, full-time, part-time, and non-paid (volunteer) staff have a unique electronic mail (email) address available to the public. Award recipient shall design, develop and maintain, in accordance with the computer requirements, a presence on the Internet's World Wide Web and shall maintain appropriate computer and network security precautions during all periods of funding by MBDA. All IT requirements, as described herein, shall be met within 30 calendar days after the award.

1. *Network Design:* At all locations where services are delivered to the eligible public as defined by Executive Order 11625, the recipient shall operate a ''Client-Server'' configured local area network (LAN) enabling each staff person delivering services to the eligible public exclusive access to a personal computer workstation during all business hours. MBDA shall, from time to time, designate certain configurations of the enterprise hardware and software to meet interface requirements. Currently, MBDA recommends servers use an operating system that is fully compatible with Microsoft Windows NT 4.0 with a service pack five (5) update. Primary Domain Control (PDC) servers or any server providing principal service to the desktops shall contain 18 or more gigabytes (GB) of hard drive space using two or more 9 GB+ disks configured appropriately to ensure data retention should one disk fail. At least one (1) Pentium III processor (CPU), or a CPU ensuring similar speed, shall be used in the PDC server or any other server providing principal service to the desktops. Web servers, mail servers and/or servers maintained by a third party such as an Internet Service Provider (ISP) shall meet the minimum server specifications as stated herein. A ''trusted'' relationship, as appropriate, shall be established and maintained between the MBDA PDC server and those operated by, or operated for, the recipient to ensure access by MBDA system administration personnel during normal business hours. (In a network that consists of two or more domains, each domain acts as a separate network with its own accounts database. Even in the most rigidly stratified organizations, some users in one domain will need to use some or all of the resources in another domain. The usual solution to confirming user access levels among domains is what's called a trust relationship.) From time to time, MBDA will require access to servers and desktop workstations after business hours and on holidays and weekends. For this purpose, the recipient shall ensure appropriate communications links are active and appropriate personnel on station, upon 24-hour notice from MBDA.

2. *Desktop Workstations:* All desktop systems shall be not less than two (2) calendar years old at time of award and shall contain a processor (CPU) operating at speeds not less than 400 Megahertz (Mhz). Each desktop system shall contain a hard drive with a storage capacity of at least 5 GB. All desktop systems shall have installed an operating system fully compatible with Microsoft Windows NT with MS Office 97 Professional Edition or higher, Microsoft Internet Explorer 4.x. Since workstations may be linked to a live, two-way conference connection with potential clients, at least 50% of all employee workstations shall be fully operational with a qualified staff person positioned at the keyboard during all business hours to include lunch and break periods.

3. *Maintenance and Security:* A network map (''as-built'') reflecting adherence to the computer and

networking requirements set forth herein shall be maintained by the recipient for review by MBDA at any time. Each recipient shall designate and train one administrative person competent in the operation of an operations system fully compatible with Windows NT 4.0 network and local area network (LAN) technology as described herein. If a firewall, proxy server or similar security component is used, MBDA's server shall be ''trusted'' for full access to all files relevant for network and administrative operations. From time to time, MBDA shall require certain software be loaded on servers and desktops. In any given year, the cost of this additional software should not exceed $200.00 per workstation and $500.00 per server. Every employee of the Center shall be assigned a unique username and password to access the system. Every employee shall be required to sign a written computer security agreement. (A suggested format for the computer security agreement will be provided at the time of award.) Every manager, employee, and contractor and any other person given access to the computer system shall sign the security agreement and an original copy of the signed agreement shall be kept in the Center's files. A photocopy of the agreement shall be sent by fax to MBDA at: (202) 482–2696 no later than 30 days after the award. All subsequent new hires and associations requiring access to Center or MBDA systems shall read, understand and sign the security agreement prior to issuance of a password. No employee shall have access to the MBDA system without a signed security agreement on file at MBDA.

4. *Web site:* Each recipient shall create and maintain a public web site using a unique address (*e.g., www.center-name.com*). The first page (Index page) of the web site shall clearly identify the recipient as a Native American Business Development Center funded by the U.S. Department of Commerce's Minority Business Development Agency. The Index page of the web site shall load on software fully compatible with Windows Internet Explorer 4.x browser software using a normal home computer with 56Kb/s analog phone line connection in less than ten (10) seconds. The web site shall contain the names of all managers and employees, the business and mailing address of the Center, business phone and fax numbers and email addresses of the Center and employees, a statement referencing the services available at the Center, the hours under which the Center operates and a link to the MBDA homepage (*www.mbda.gov*). For purpose of electronically directing clients to the appropriate Center staff, the web site shall also contain a short biographical statement for each employee of the Center including management, contractors, part-time, full time, and non-paid (volunteer) personnel, providing services directly to the eligible public under an award from MBDA. This biographical statement shall contain: the full name of the employee, and a brief description of the expertise of the employee to include academic degrees, certifications and any other pertinent information with respect to that employee's qualifications to deliver Native American business assistance services to eligible members of the public.

No third party advertising of commercial goods and services shall be permitted on the site. All links from the site to other than federal, state or local government agencies and non-profit educational institutions must be requested, in advance and in writing, through the Chief Information Officer, MBDA Office of Information Technology Services to the Grants Office for written approval. Such approval shall not be unreasonably withheld but approval is subject to withdrawal if MBDA determines the linked site unsuitable. No employee of the Center, nor any other person, shall use the Center web site for any purpose other than that approved under the terms of the agreement between the recipient and MBDA. Every page of the web site shall be reviewed by the recipient for accuracy, currency, and appropriateness every three (3) months. Appropriate privacy notices and handicapped accessibility will be predominately featured. From time to time, MBDA shall audit the recipient's web site and recommend changes in accordance with the guidelines set forth herein.

5. *Time for Compliance:* Within 30 days after the award, the recipient shall report via email to the Chief Information Officer, MBDA Office of Information Technology Services and the Grants Officer that he/she has complied with all technical requirements as specified herein. Within 30 days after the award, the recipient shall report the name, contact telephone numbers and email addresses of the Project Director, Network or System Administrator. As appropriate, the recipient shall also provide the telephone number and email address for the Technical Contact at the Internet Service Provider (ISP) providing Internet access for the grantee, the IP number of the Domain Name Server (DNS) and/or Primary Domain Control (PDC) server, and any other technical information as specified in the Technology Requirements.

6. *Performance System:* All required performance reporting to MBDA shall be conducted via the Internet using the Performance system to be found at a secure web site (*partner.mbda.gov*). Within 30 days after the award, each business development specialist (BDS) and/or anyone providing business assistance to the public under the award shall have satisfactorily completed the Performance System Training Course (PSTC). This course is available on-line from the Performance web site *(partner.mbda.gov).* Only those persons giving direct assistance to the eligible public shall be given passwords and access to enter Performance data into the system. Only trained staff shall enter data into the Performance system. The person giving service to the client should enter performance data, not by administrative personnel. There shall be no ''sharing'' of passwords on the Performance system. Although not required, MBDA encourages input of information on a daily basis.

7. *Data Integrity:* The recipient shall take the necessary steps to ensure that all data entered into MBDA systems, and systems operated by the recipient in support of the award, or by any employee of the recipient is accurate and timely.

Performance Measures

In accordance with 15 CFR parts 14 and 24, applicants selected will be responsible for the effective management of all functions and activities supported by the financial assistance award. Recipients will be required to use program performance measures in a performance report due thirty (30) days after the end of the second quarter and to provide an end-of-year assessment of the accomplishments of the project using these measures. The end-of-year or final performance report is due 90 days after the end of the budget year. Once the project is awarded, the evaluation criteria, along with the assigned weight value, to be used for measuring the project performance on an ongoing basis are:

1. The number of completed work products (20);

2. The dollar value of transactions (40);

3. The number of Strategic Partners (20);

4. Operational Quality (20);

- Number of new clients (5);
- Number of Client Service Hours (5);
- Client Satisfaction (5);
- Management Score (5).

The minimum performance goals required for the above listed performance measures for the solicited geographic service area is outlined under the Funding Availability sub-heading for the geographic service area. The minimum performance goals are listed on an annual basis and will be broken out into quarterly increments by recipients, within 30 days after the award, for actual evaluation purposes.

Definitions

Completed Work Product—Completed work product consists of work assignments which the project performs under a professional engagement of an eligible client firm. For a task to constitute completed work product it is necessary that the task:

(1) Be one requiring the business expertise of the project staff;

(2) Be agreed to by the client;

(3) Be fully completed and delivered to the client; and

(4) Be performed in a high quality and professional manner.

Dollar Value of Transactions—The dollar value of completed financial transactions represents the total principal value of executed contracts, approved loans, equity financing, acquisitions, mergers, or other binding financial agreements secured by clients of the project, with the assistance of project staff. For purposes of this performance element, eligible financial transactions are those which have a specific dollar value, and which increase the revenues of the client firm, expand its capital base, or produce some other direct commercial benefit for client firms. In order to be deemed complete, a financial transaction must be documented by an executed and binding agreement between the client firm and a party capable of performing its obligations under the terms of the agreement.

MBDA recognizes that the financial obligations evidenced by these transactions may be long-term, and require performance over an extended period. Consequently, it is not necessary that the funds or other financial value specified under the agreements have actually changed hands for the project to receive credit under this performance element, so long as the agreement of the parties is documented and binding.

Operational Quality—Operational quality refers to the quality and effectiveness of the project operator's delivery of client services, as evidenced by the following performance elements relating to the day-to-day management of the project:

(1) Number of new clients;

(2) Number of client service hours;

(3) Client satisfaction; and

(4) Management assessment.

Client satisfaction will be determined through a consultation process with clients of the individual NABDC. The consultation will be used to rate the level of quality for client satisfaction.

The management assessment reflects MBDA's own evaluation of the overall management of the project, based on the Agency's internal review of the project's operations. The management assessment reflects such areas as the development of written engagement letters and work plans, proper staffing, adherence to scheduled work hours, recordkeeping, and any other areas which MBDA may deem to be relevant to determining the overall quality of the project's operations.

Strategic Partners—Strategic partners are those organizations with whom the recipient enters into specific agreements for mutual support. Strategic partners may be either public or private sector institutions, must have a clear mission, and must have a permanent organizational structure. Individuals or organizations that have a loosely defined structure or that operate on an ad hoc basis will not be considered as strategic partners for purposes of this performance element. MBDA will have no relationship with or responsibility to strategic partners.

In order to get credit for obtaining a strategic partner, a project operator must prepare a written agreement identifying:

(1) The responsibilities and duties which the project and the strategic partner each agree to undertake;

(2) The resources which each party agrees to commit to the partnership;

(3) The goals which the project and the strategic partner each seek to achieve by entering into the partnership; and

(4) The point of contact within the strategic partner organization for issues involving the partnership.

That strategic partners will not be allowed to charge and collect fees for services related to the project.

Performance Standards

The year-to-date performance of an NABDC will be based on the following rating system:

Minimum required percent of goals needed for each rating category	Minimum required points needed for each rating category	Rating categories
100% and above*	Above 100**	Excellent
At least 90%	90–100	Commendable
At least 80%	80–90	Good
At least 75%	75–79	Satisfactory
At least 70%	70–74	Marginal
Below 70%	Below 70.0	Unsatisfactory

*Not to exceed 110%
**Not to exceed 110 points

Performance Incentives

MBDA recognizes and rewards those NABDCs that have maintained high performance throughout their award (three funding periods). NABDCs can earn additional 2 bonus funding periods without competition based upon their overall actual year-to-date performance for the duration of the award. The NABDC Performance Standards outlined above allow each NABDC with an overall ''excellent'' rating for its performance during the initial competitive funding period to qualify for up to 2 additional funding periods without further competition. A year-to-date excellent rating for the first two funding periods and part of the third funding period of an award will result in ''bonus funding periods'' as follows:

• Performance of at least 25% above the minimum goal in each performance element for at least 28 months will allow an NABDC to receive one bonus funding period. Therefore, the award can total up to four funding periods prior to a required competition.

• Performance of at least 25% above the minimum goal in each performance element for at least 6 months of the first bonus funding period will allow an NABDC to receive a second bonus funding period. Therefore, the award can total up to five funding periods prior to a required competition.

No award may be longer than five funding periods without competition no

matter what an NABDC's performance happens to be.

Funding Availability: MBDA anticipates that a total of approximately $188 thousand will be available in FY 2002 for Federal assistance under this program, based upon Native American population, the size of the market and its need for MBDA resources. MBDA issues this notice subject to appropriations made available under the current continuing resolution H.J. Res.74 Continuing Appropriation FY2002 signed by the President, November 17, 2001, P.L. 107–70. MBDA anticipates making this award provided that funding for the NABDC Program is continued beyond December 7, 2001, the expiration of the current continuing resolution. Issuance of this award, however, is subject to the future availability of fiscal year 2002 funds. In no event will MBDA or the Department of Commerce be responsible for proposal preparation costs if this program fails to receive funding or is canceled because of other agency priorities.

Geographic Service Areas: An operator must provide services to eligible clients within its specified geographic service area. MBDA has defined the service area for the award below. To determine its geographic service areas, MBDA uses states, counties, Metropolitan Areas (MA), which comprise metropolitan statistical areas (MSA), consolidated metropolitan statistical areas (CMSA) and primary metropolitan statistical areas (PMSA) as defined by the OMB Committee on MAs (See: attachment to OMB Bulletin 99–04, Revised Statistical Definitions of Metropolitan Areas (MAs) and Guidance on Uses of MA Definitions found at *http://www.whitehouse.gov/ OMB/ bulletins/index.html*) and other demographic boundaries as specified herein. Services to eligible clients outside of an operator's specified service area may be requested, on a case-by-case basis, through the appropriate MBDA Regional Director and granted by the Grants Officer.

Application: New Mexico Statewide.

Geographic Service Area: State of New Mexico.

Award Number: 06–10–02001–01.

The recipient is required to maintain its NABDC in Albuquerque, New Mexico. Contingent upon the availability of Federal funds, the cost of performance for each of the three 12-month funding periods from January 1, 2002 to December 31, 2004, is estimated at $188,000. The total Federal amount is $188,000. The minimum cost share of 15% is not required.

The minimum goals for the NABDC are:

Completed Work Products: 124.

Dollar Value of Transactions: $13,976,471.

Number of New Clients: 146.

Number of Client Service Hours: 2,475.

Pre-Application Conference: For the exact date, time and place, contact the Dallas Regional Office at (214) 767–8001.

For Further Information and a copy of the application kit, contact John Iglehart, Regional Director.

Matching Requirements: It is not required that an applicant for an award to operate an NABDC propose a cost-share contribution. Cost sharing is the portion of the project cost not borne by the Federal Government. However, an applicant may propose a cost-share contribution in any of the following four means or a combination thereof: (1) Cash contributions, (2) non-cash applicant contributions, (3) third party in-kind contributions, and (4) client fees for services rendered.

If the NABDC chooses to contribute a cost-share amount by charging fees, there are policy restrictions with which it must comply:

First, client fees charged for one-on-one assistance must be based on a rate of $100 per hour. Second, the NABDC must set fee rates based on the following chart:

Gross receipts of base client	Base rate for services rendered	Percent of cost borne by client	Client fee per hour
$0–99,999	$100.00	10%	$10.00
$100,000–299,999	$100.00	20%	$20.00
$300,000–999,999	$100.00	30%	$30.00
$1 Million–2,999,999	$100.00	40%	$40.00
$3 Million–4,999,999	$100.00	50%	$50.00
$5 Million and Above	$100.00	60%	$60.00

Third, the NABDC must contribute cash for uncollected fees that were included as part of the cost sharing contribution committed for this award. Fourth, client fees applied directly to the award's cost sharing requirement must be used in furtherance of the program objectives. Fifth, if the NABDC elects to charge fees, they must be charged to all eligible clients, regardless of minority group identification.

Funding Instrument: Financial assistance awards will be in the form of a cooperative agreement. MBDA's substantial involvement with recipients will include performing the following duties to further the NABDC's objectives:

a. *Post-Award Conference*—MBDA shall conduct a post-award conference for the NABDC award recipient to insure that each NABDC has a clear understanding of the program and its components. The conference will: (1) Provide an MBDA Directory for NABDCs and orient NABDC program officers; (2) Explain program reporting requirements and procedures; (3) Identify available resources that can enhance the capabilities of the NABDC; and (4) Provide detailed information about MBDA's business and other information systems.

b. *Networking, Promotion and Information Exchange*—MBDA shall provide the following: (1) Access to business information systems, which support the work of the NABDC, as described in the Enhancing the NABDCs Through Technology section. This information will be provided by MBDA's Office of Information Technology. The specific information systems and access to them will be provided at the time of the award; (2) Sponsor one national and at least one regional conference; (3) Expand the Phoenix data bank of Native American-owned firms by requiring other MBDA-funded programs to provide additional entries; (4) Promote the exchange of business opportunity information within the MBDA funded system using the Phoenix and Opportunity databases located at *www.mbda.gov;* (5) Work closely with the NABDC to establish a system in which procurement and contract opportunities can be shared with the network of NABDCs. This system will include opportunities identified throughout the MBDA network using the Phoenix and Opportunity databases located at

www.mbda.gov; (6) Help promote special events to be scheduled at the local community, state and national levels in celebration of MED Week, which occurs annually; and (7) Identify Federal, state and local governments, and private sector market opportunities to the NABDCs using the Phoenix and Opportunity databases located at *www.mbda.gov.*

c. *Project Monitoring*—MBDA will systematically monitor the performance of the NABDC. This monitoring includes regular review of data input to the performance database system, assessment of the end of the second quarter progress report, and an on-site review, when deemed necessary and appropriate by the regional office, of the center's client files to verify NABDC performance, reported assistance and interviews with clients assisted. In consultation with clients of the individual NABDC, MBDA will assess the Center's effectiveness in providing business development services to their respective Native American business communities. MBDA will then provide a report of findings and recommendations for improvement as a result of evaluations and monitoring visits. MBDA will approve qualifications of key NABDC staff and respond in a timely manner to correspondence requesting MBDA action.

Eligibility Criteria: For-profit and non-profit organizations (including sole-proprietorships), state and local government entities, American Indian Tribes, and educational institutions are eligible to operate NABDCs.

Award Period: The total award period is three (3) years. Applicants must submit project plans and budgets for three years. The annual awards must have Scopes of Work that are clearly severable and can be easily separated into annual increments of meaningful work that will produce measurable programmatic objectives. Maintaining the severability of each annual funding request is necessary to ensure the orderly management and closure of a project in the event funding is not available for the second or third year continuation of the project. Projects will be funded for no more than one year at a time. Funding for subsequent years will be at the sole discretion of the Department of Commerce (DoC) and will depend on satisfactory performance by the recipient and the availability of funds to support the continuation of the project. Project proposals accepted for funding will not compete for funding in subsequent funding periods within the approved award period. Publication of this notice does not obligate MBDA or DoC to award any specific cooperative agreement or to obligate all or any part of available funds.

Proposal Format Requirements: The structure of the proposal should contain the following headings, in the following order:

I. Table of Contents

II. Program Narrative

1. Applicant Capability
2. Resources
3. Techniques and Methodologies
4. Costs

III. Forms

Pages of the proposal should be numbered consecutively.

Evaluation Criteria: Proposals will be evaluated and applicants will be selected based on the following criteria.

1. Applicant Capability (45 points).

The applicant's proposal will be evaluated with respect to the applicant firm's experience and expertise in providing the work requirements listed. Specifically, the proposals will be evaluated as follows:

- Level of experience in and knowledge of the Native American business sector and strategies for enhancing its growth and profitability (10 points);
- Extent of resources and professional relationships within the corporate, banking and investment community that may be beneficial to Native American-owned firms (10 points);
- Level of experience and expertise in advocating on behalf of Native American businesses, both as to specific transactions in which a Native American business seeks to engage, and as to broad market advocacy for the benefit of the Native American community at large (10 points); and
- Assessment of the qualifications, experience and proposed role of staff who will operate the project, including possessing the expertise in utilizing information systems as contemplated under the Computer Requirements section of this Notice. (15 points).

Qualifications of the project director of the NABDC are of particular importance and must be included as part of the application, along with an original copy of his/her college transcript and a letter committing to one (1) year's service. Position descriptions and qualification standards for all staff should be included as part of the application. Applicants must provide a copy of their Articles of Incorporation, by-laws and IRS 501(c)(3) non-profit letter or other evidence of non-profit status.

2. Resources (25 points).

The applicant's proposal will be evaluated according to the following sub-criteria:

- Adequacy of the plan to recruit, establish and maintain the network of 3 Strategic Partners (10 points).
- Adequacy of your plan to accomplish the computer hardware and software requirements (5 points).
- Likelihood of obtaining resources (not included as part of the cost-sharing arrangement) that will be used. Include commitment letters from those resources listed and indicate their willingness to work with the applicant. These resources can include such items as computer facilities, voluntary staff time and space, and financial resources. Three to five letters of support (with telephone numbers) from business or community organizations should be included from those resources willing to work with the applicant (10 points).

3. Techniques and Methodologies (20 points).

The applicant's proposal will be evaluated with respect to the proposed action plans and operation techniques. Specifically, the proposals will be evaluated as follows:

- The applicant's specific plan-of-action detailing *how* each work requirement, except for Strategic Partners which is addressed under Resources, will be met and *how* the techniques to be used will be implemented. The applicant will be evaluated on the effectiveness and efficiency of use of all staff time to achieve the work requirements (10 points).
- Fulfillment of performance measures will be evaluated by relating each one to the financial, information and market resources available in the geographic service area to the applicant and how the goals will be met (10 points).

4. Proposed Budget (10 points).

The applicant's proposal will be evaluated on the following sub-criteria:

- Reasonableness, allowability and allocability of costs (10 points).

Bonus Points: Proposed cost sharing, although not a requirement for NABDC application, will be awarded bonus points on the following scale: more than 0–5%—1 point; 6–10%—2 points; 11–15%—3 points; 16–20%—4 points; and over 20%—5 points.

An application must receive an average of at least 70% of the total points available for all four evaluation criterion, in order for the application to be considered for funding.

Project Funding Priorities: MBDA is especially interested in receiving innovative proposals that focus on the following: (1) Identifying and working

to eliminate barriers which limit the access of Native American businesses to markets and capital; (2) identifying and working to meet the special needs of Native American businesses seeking to obtain large-scale contracts (in excess of $500,000) with institutional customers; and (3) promoting the understanding and use of Electronic Commerce by the Native American business community.

• Management Fee

For-profit as well as not-for-profit organizations may negotiate their management fees, but they shall not exceed 7% of total estimated direct costs (Federal plus non-Federal) for the proposed award.

• Program Income

Many of MBDA's business development services programs allow their awardees to charge a fee for services rendered to clients. Where applicable, fees are considered program income and shall be accounted for and may be used to finance the non-Federal cost-share of the project. Any excess fee income shall be used to further the program purpose in accordance with the terms and conditions of the award.

Selection Procedures

Prior to the formal paneling process, each application will receive an initial screening to ensure that all required forms, signatures and documentation are present. Each application will receive an independent, objective review by a panel qualified to evaluate the applications submitted. MBDA anticipates that the review panel will be made up of at least three independent reviewers who review all applications based on the above criteria. The review panel will evaluate and rank the proposals. The Director of MBDA makes the final recommendation to the Department of Commerce Grants Officer regarding the funding of applications, taking into account the following selection criteria:

1. The evaluations and rankings of the independent review panel;

2. The degree to which applications address MBDA priorities as established under the project funding priorities;

3. The availability of funding.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Application Forms and Package: Standard Forms 424, Application for Federal Assistance; 424A, Budget Information-Non-Construction Programs; and 424B, Assurances-Non-Construction Programs, SF-LLL (Rev. 7–97); Department of Commerce forms, CD–346, Applicant for Funding Assistance, CD–511, Certifications Regarding Debarment, Suspension and Other Responsibility matters: Drug-Free Workplace Requirements and Lobbying, CD–512, Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying shall be used in applying for financial assistance. These forms may be obtained by (1) contacting MBDA as described in the ''CONTACT'' section above; (2) by downloading Standard forms at *www.whitehouse.gov/OMB/grants/index.html;* (3) and Department of Commerce forms may be downloaded at *www.doc.gov/forms;* or (4) by applying on-line via the World Wide Web at MBDA's web site located at *www.mbda.gov/egrants.*

Unsuccessful Competition

On occasion, competitive solicitations or competitive panels may produce less than optimum results, such as competition resulting in the receipt of no applications or competition resulting in all unresponsive applications received. If the competition results in the receipt of only one application, it may or may not require additional action from MBDA depending upon the competitive history of the area, the quality of the application received, and the time and cost limits involved. In the event that any or all of these conditions arise, MBDA shall take the most time and cost-effective approach available that is in the best interest of the Government. This includes, but is not limited to: (1) Re-competition or (2) Re-Paneling or (3) Negotiation.

Disposition of Unsuccessful Applications: Upon the execution of an award by the Department of Commerce, MBDA will notify the unsuccessful applicants, in writing, indicating the winner of the award and indicating a 30-day timeframe in which to request return of the unsuccessful application. Once this 30-day notice has lapsed, MBDA will destroy all unsuccessful applications.

Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements: The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** Notice of October 1, 2001 (66 FR 49917), are applicable to this solicitation.

Paperwork Reduction Act: This Notice involves collections of information subject to the Paperwork Reduction Act, which have been approved by OMB under OMB control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection displays a current valid OMB Control Number.

Executive Order 12866: This Notice was determined to be not significant for purposes of Executive Order 12866.

Dated: November 20, 2001.

Edith Jett McCloud,

Associate Director for Management, Minority Business Development Agency.

Juanita E. Berry,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 01–29360 Filed 11–23–01; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110701A]

Marine Mammals; Notice of Intent to Prepare an Environmental Assessment for Issuing a Gray Whale Subsistence Quota to the Makah Indian Tribe for the years 2003 through 2007

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

ACTION: Notice of intent to prepare an Environmental Assessment(EA); request for written comments.

SUMMARY: NMFS announces its intention to prepare an EA, in accordance with the National Environmental Policy Act, to assess the impacts of issuing a subsistence quota for gray whales to the Makah Tribe for the years 2003 through 2007. NMFS solicits comments and information to facilitate this analysis.

DATES: Comments and information must be postmarked by January 15, 2002.

ADDRESSES: Written comments should be sent to Chief, Marine Mammal Division (F/PR2), Office of Protected Resources, National Marine Fisheries Service, 13th Floor, 1315 East-West Hwy, Silver Spring, MD 20910. Please mark the outside of the envelope with ''Comments on Gray Whale Analysis.'' Comments will not be accepted if submitted via e-mail or internet.

FOR FURTHER INFORMATION CONTACT: Chris Yates, 301–713–2322.

SUPPLEMENTARY INFORMATION: At its 1997 annual meeting, the International

Whaling Commission (IWC) approved a quota of 620 gray whales for an aboriginal subsistence harvest for the years 1998 through 2002. The basis for the quota was a joint request by the Russian Federation (for a total of 600 whales) and the United States (for a total of 20 whales). The subsistence and ceremonial needs of the Makah Indian Tribe were the foundation of the United States' request to the IWC. On July 12, 2001, NMFS published an EA on issuing a quota to the Makah Indian Tribe for a subsistence hunt on gray whales for the years 2001 and 2002(66 FR 37641, July 19, 2001.) The EA is posted on NMFS website at: http://www.nmfs.noaa.gov/prot—res/prot—res.html under ''New Arrivals''.

The IWC's 54th annual meeting is scheduled for May of 2002. NMFS is preparing an EA on issuance of a quota to the Makah Indian Tribe for a subsistence hunt on gray whales for the years 2003 through 2007 in the event that the IWC renews a 5-year aboriginal subsistence quota for gray whales. NMFS is evaluating the following four alternatives: Alternative 1 - Grant the Makah Tribe a quota of 5 whales per year over 5 years with restrictions that would allow a limited hunt on the gray whale summer feeding aggregation.

Alternative 2–Grant the Makah Tribe a quota of 5 whales per year over 5 years with restrictions to target the hunt on migrating whales.

Alternative 3–Grant the Makah Tribe a quota of 5 whales per year over 5 years without time or area restrictions.

Alternative 4–(No Action)–Do not grant the Makah Tribe a quota.

Information Solicited

To ensure that the review is comprehensive and based on the best available information, NMFS is soliciting information and comments from any interested party concerning the issuance of a gray whale quota of 5 whales per year over 5 years to the Makah Tribe for the years 2003 through 2007. NMFS is particularly interested in any new information on the affected environment or environmental consequences that has become available since the last analysis was completed. It is requested that data, information, and comments be accompanied by (1) supporting documentation, and (2) the name, address, and affiliation of person submitting data. Following the issuance of the draft EA NMFS will solicit additional public input.

Dated: November 16, 2001.

William T. Hogarth,

Assistant Administration for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–29390 Filed 11–23–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110801C]

Small Takes of Marine Mammals Incidental to Specified Activities; Construction of the East Span of the San Francisco-Oakland Bay Bridge

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

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the California Department of Transportation (CALTRANS) for an authorization to take small numbers of marine mammals by harassment incidental to construction of a replacement bridge for the East Span of the San Francisco-Oakland Bay Bridge (SF-OBB). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize CALTRANS to incidentally take, by harassment, small numbers of California sea lions, Pacific harbor seals, and possibly gray whales in San Francisco Bay.

DATES: Comments and information must be received no later than December 26, 2001.

ADDRESSES: Comments on the application should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225. A copy of the application, and a list of references used in this document may be obtained by writing to this address or by telephoning one of the contacts listed here. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Simona Perry Roberts, (301) 713–2322, ext 106; or Tina Fahy, (562) 980–4023.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as:

> ...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA defines ''harassment'' as:

> ...any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild (''Level A harassment''); or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (''Level B harassment'').

Subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On September 14, 2001, NMFS received a request from CALTRANS requesting an Incidental Harassment Authorization (IHA) for the possible harassment of small numbers of California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina richardsii*), and gray whales (*Eschrichtius robustus*) incidental to construction of a replacement bridge for the East Span of the SF-OBB.

Project Description

The East Span Project will provide a seismically upgraded vehicular crossing for current and future users. The existing East Span must be replaced or retrofitted because it is not expected to withstand a maximum credible earthquake on the San Andreas (Richter 8) or Hayward (Richter 7.25) faults, it does not meet lifeline criteria for providing emergency relief access following a maximum credible earthquake, and it does not meet current operational and safety design standards.

The new bridge will be constructed north of the existing East Span and will be approximately 3,514 meters (m) (2.18 mi) long and approximately 70 m (230 ft) wide, including a 15.3 m (50 ft) minimum space between the east and westbound bridge decks. The bridge decks will be side-by-side, except for the double deck portion between the existing Yerba Buena Island (YBI) tunnel and the transition structures where the double deck structure becomes two parallel structures. Each deck will consist of five traffic lanes and inside and outside shoulders. The traffic lanes will be 3.6 m (12 ft) wide with 3 m (10 ft) wide shoulders. A bicycle/pedestrian path will be constructed on the south side of the eastbound structure and will be 4.7 m (15.5 ft) wide. The East Span Project would also replace the eastbound on-ramp on YBI. The existing ramp needs to be dismantled to construct the new bridge. The ramp would be rebuilt and would meet current design and safety standards.

The foundations for the piers of the replacement East Span will consist of large diameter steel pipe piles that will be driven into the Bay floor. Current plans anticipate driving a total of 189 2.5 m (8.2 ft) diameter piles and 70 1.8 m (5.9 ft) diameter steel pipe piles. Each pile is expected to consist of two or more segments; the first segment will be driven to an established depth, then the next segment(s) will be welded on and driven in succession until the pile is driven to its final or ''tip'' depth (or elevation). However, the contractor could choose to drive the piles in one piece. Some piles will be battered, meaning that they will be driven in at an angle, essentially splaying out from the pier to provide additional stability. The rest would be vertical piles. The larger piles will support the skyway and main span sections of the replacement bridge; they will be driven to depths ranging from about -66 m to about -108 m (-256 ft to -358 ft), with most being driven to about -95 m (-312 ft). The smaller diameter piles will support the Oakland Touchdown structures; they will be driven to ''tip'' depth ranging from about -41 m to about -65 m (-135 ft to -213 ft).

Due to the untested nature of large hammers and piles in San Francisco Bay, a pile installation demonstration was conducted in October through December of 2000. This Pile Installation Demonstration Project (PIDP) was an investigation that provided an opportunity to gather information on construction activities and potential impacts to marine life. CALTRANS obtained an IHA from NMFS for the PIDP, which established a safety zone around each pile driving site where underwater sound pressure levels (SPLs) were anticipated to equal or exceed 190 decibels (dB) re 1 micro-Pascal (micro-Pa) with a maximum root mean square sound pressure level averaged over a 31 millisecond time frame (RMS (impulse)). This IHA also included several other stipulations about pile driving operations and requirements for marine mammal monitoring and reporting. During the PIDP, 3 large steel piles each required approximately 5 hours total driving time to reach the specified ''tip'' depth.

Based on the PIDP experience, it is expected that the 259 in-Bay piles could require about 1,300 hours of total pile driving time. However, the contractor will be allowed to drive simultaneously at multiple locations. Furthermore, it is possible that piles necessary for the YBI portion, the skyway, and the Oakland approach structures would be driven simultaneously. Pile driving will be allowed only from 7 AM to 7 PM, 7 days a week.

In addition to in-Bay pile driving, the East Span Project will include pile driving on YBI for construction of the YBI transition structures on the northeastern side of the island. The piles will be steel driven piles, which are conventionally used in building construction. Unlike in-Bay pile driving which may require hammer energy levels up to 1,700 kiloJoules (kJ), pile driving activity on YBI will require hammer energy levels less than 100 kJ. A total of approximately 2,950 piles will be needed to support the YBI transition structures. Each pile will require about 30 minutes of driving time; therefore, it is estimated that the East Span Project will include a total of about 1,500 hours of driving time for piles on YBI.

To construct all permanent structures, contractors will install piles to found temporary structures, supports, falsework, a barge dock and trestles. These temporary structures are required to facilitate construction and support the permanent structures until they are self-supporting. Since the temporary structures will be contractor designed, their exact nature (size, type, quantity, etc.) will not be known until the contractors submit their plans to CALTRANS. While the number of piles placed to found the structures will be large, it is expected that they will be of a smaller size than the permanent structures since they are temporary and are not designed for traffic or seismic loading. There may be 1,000 to 2,000 temporary piles. These piles are expected to be 0.5 m (18 in) to 0.9 m (36 in) in diameter and 12 m (40 ft) to 30 m (100 ft) long. Driving time for each pile is likely to be 3 to 5 hours.

The East Span Project would take 7 years to complete, plus 2 years to remove the existing East Span. Seismic safety and lifeline criteria would be achieved for westbound traffic 4 years after the start of construction and, for eastbound traffic, 5 years after the start of construction. Construction is scheduled to begin in early 2002. For more detailed description on the work proposed by CALTRANS, please refer to the CALTRANS application and/or the Final Environmental Impact Statement (FEIS) prepared by the Federal Highway Administration (FHWA).

Description of the Marine Mammals Potentially Affected by the Activity

General information on California sea lions, Pacific harbor seals, gray whales and other marine mammal species found in California waters can be found in Forney et al. (2000) and Barlow *et al.* (1998). The marine mammals most likely to be found in the SF-OBB area are the California sea lion and Pacific harbor seal. From December through May gray whales may also be present in the SF-OBB area.

California Sea Lions

While there is evidence that California sea lions historically used the Bay, they are rarely observed hauled out in the Bay (Bauer, 1999). However, since at least 1987, sea lions have been observed occupying the docks near Pier 39 in San Francisco, approximately 5.7 km (3.5 mi) from the project site. Pier 39 has now become a regular haul-out site for California sea lions. Currently, no other California sea lion haul-out sites have been identified in the Bay. Approximately 85 percent of the animals hauled out at the Pier 39 site are males, and no pupping has been observed at this site or any other site in the Bay (Lander pers. comm. to CALTRANS, 1999).

The number of California sea lions hauled out at Pier 39 ranged from 63 to 737 in 1998 and from 5 to 906 in 1997

(Marine Mammal Center, Sausalito data). For both years, the lows occurred in June and the highs occurred in August. Most recently, 831 sea lions were observed on K dock at Pier 39 in October 1999. The trend in annual movement is for sea lions to first appear at the site after returning from the Channel Islands breeding area (over 483 km or 300 mi to the southwest) at the beginning of August (Bauer, 1999). Around late winter, the sea lions travel south to the breeding grounds, and numbers at the Bay haul-out site decline. The lowest numbers of sea lions at the Pier 39 haul-out are usually observed from May through July. However, the number of sea lions at the haul-out site fluctuates quite a bit throughout the year and even from one week to the next. For example, in June of 1998, a maximum of 574 sea lions was observed on June 7th while a low count of 63 was observed on June 25th (Lander pers. comm. to CALTRANS, 1999).

While little information is available on the foraging patterns of California sea lions in the Bay, individual sea lions have been observed feeding in the shipping channel to the south of YBI on a fairly regular basis (Grigg pers. comm. to CALTRANS, 1999). Foraging by sea lions that utilize the Pier 39 haul-out site primarily occurs in the Bay, where they feed on prey items such as Pacific herring, northern anchovy and sardines (Hanni, 1995).

Pacific Harbor Seals

Pacific harbor seals are the only species of marine mammal that breed and bear young in the Bay (Howorth and Abbott, 1999). There are 12 haul-out sites and rookeries in the Bay and of those, only eight are used by more than a few animals at a time. Only three sites in the Bay are regularly used by more than 40 harbor seals at any one time; these are Mowry Slough, located in the South Bay, YBI, and Castro Rocks, located in the Central Bay (Spencer, 1997). The three closest haul-out sites to the project location are at YBI, Angel Island, and Castro Rocks. The most recent aerial harbor seal count, conducted by D. Hanan of the California Department of Fish and Game, found 477 individuals in the Bay (Greene, pers. comm. to CALTRANS, 1999). It is important to note that not all harbor seals were counted, as some may have been under water during the survey.

Harbor seals are present in the Bay year-round and use it for foraging, resting and reproduction. Peak numbers of hauled-out harbor seals vary by haul-out site depending on the season. Results of a study of 39 radio-tagged harbor seals in the Bay found that most active diving occurred at night and a majority of the diving time was spent in seven feeding areas in the Bay. The two feeding areas located closest to the project site are just to the south of YBI and north of Treasure Island. This study also found that the seals dove for a mean time of 0.50 minutes to 3.33 minutes. Mean surface intervals or the mean time the seals spent at the surface between dives ranged from 0.33 minutes to 1.04 minutes. Mean haul-out periods ranged from 80 minutes to 24 hours (Harvey and Torok, 1994).

Pupping season in the Bay begins in mid-March and continues until about mid-May. Pups nurse for only 4 weeks and mating begins after pups are weaned. In the Bay, mating occurs from April to July and molting season is from June until August (Schoenherr, 1995; Kopec and Harvey, 1995).

Pacific Harbor Seal Haul-Out Sites in the Vicinity of the East Span Project

YBI is located in the Central Bay, adjacent to man-made Treasure Island. The SF-OBB passes through a tunnel on YBI. An important harbor seal haul-out is located on a rocky beach on the southwest side of YBI (Kopec and Harvey, 1995). Harbor seal re-sightings at the YBI haul-out site indicate long-term usage of the site (Spencer, 1997). Pile driving activity for the East Span Project will be performed on the northwest side of YBI and in the San Francisco Bay, between the northwest side of the island to the Oakland Touchdown area. The harbor seal haul-out site is located about 450 m (1,476 ft) from the closest planned pile driving activity on land and about 950 m (3,117 ft) from the closest planned pile driving activity in the Bay.

Harbor seals haul out year-round on YBI, but it is not considered a pupping site as no births have been observed there. Occasionally, pups have been seen at an average of 1 pup per year, though more recently, 7 pups were observed at one time in May, 1999 (San Francisco State University unpublished records, 1998-9). In a study of the haul-out site conducted between 1989 and 1992, males comprised 83.1 percent of the seals whose gender could be determined (Spencer, 1997). Peak numbers of harbor seals at this haul-out site have been observed from November to February. The maximum reported number of seals hauled out at one time is 344, counted in January 1992 (Kopec and Harvey, 1995). More recently, the number of seals counted at YBI ranged from 0 to 296 for the period May 1998 to January 1999. Mean monthly counts for the same period range from approximately 15 in September 1998 to 107 in June 1999 (San Francisco State University, unpublished records 1998-1999). The abundance of harbor seals at this site during the winter months likely coincides with the presence of spawning Pacific herring near the island.

Angel Island is a small haul-out site located approximately 7.4 km (4.6 mi) from the project site. A maximum count of 15 seals was observed in the 1980s and most recently, six harbor seals were seen in 1989. No pupping has been observed at the site.

The next closest haul-out site in the Bay is approximately 14 km (8.7 mi) away at Castro Rocks, near the Richmond end of the Richmond-San Rafael Bridge. The Castro Rocks haul-out site is a recognized pupping site. A maximum of 176 harbor seals were observed at Castro Rocks in October 1999 (San Francisco State University unpublished records, 1998-99).

Gray Whales

The vast majority of all gray whales are found in the Pacific Ocean along the western coastline of North America. Here, they spend their winters in the waters off Baja California and migrate more than 9,000 kilometers (5,600 miles) north to spend their summers north of Alaska. They are typically seen off the California coastline from December through May as they migrate northward to the Bering and Chukchi Seas, and again in the return trip to Baja California.

Gray whales have been sighted more frequently in recent years in San Francisco Bay. Reduced food supply in the Bering Sea has been suspected as the most probable cause. Gray whales have been sighted in the Bay in areas off Sausalito in Richardson Bay and the tip of the Tiburon Peninsula (approximately 11 km or 7 mi northwest of the project area) and as far south as the San Bruno Shoals area (approximately 23 km or 14 mi southwest of the project area). Gray whales have been observed foraging in these areas. Sightings in the Bay have typically been made from December through May, during the whales' coastal migration. Calves may be expected during the migration north with mothers in March and May. Most recently, in February 2001, a pod of gray whales was observed near the Dumbarton Bridge in the South Bay.

Gray whales heading to the San Bruno Shoals area would pass beneath the SF-OBB. It is likely that some of the whales that enter the Bay would swim through the two deep-water shipping channels beneath the West Spans of the bridge.

Though the number of sightings of gray whales to the east of YBI and in the immediate vicinity of the SF-OBB are low, they are not precluded from swimming there to reach the San Bruno Shoals area or foraging near or in these areas in the future.

Potential Effects on Marine Mammals and Their Habitat

At this time, NMFS considers that underwater SPLs above 190 dB re 1 micro-Pa RMS (impulse) could cause temporary hearing impairment (Level B harassment) in harbor seals and sea lions and SPLs above 180 dB re 1 micro-Pa RMS (impulse) could cause temporary hearing impairment (Level B harassment) in whales (Fahy, personal communication 2001). The effects of elevated SPLs on marine mammals may include avoidance of an area, tissue rupture, hearing loss, disruption of echolocation, masking, habitat abandonment, aggression, pup/calf abandonment, and annoyance. Therefore, CALTRANS has determined that the pile driving outlined in the project description has the potential to harass California sea lions, Pacific harbor seals, and gray whales that may be swimming, foraging, or resting in the project vicinity.

During the 2-month PIDP construction period, sound measurements were taken during pile driving of three piles, and marine mammals were monitored at the project site and at the harbor seal haul-out site on YBI. Results of observable effects of the PIDP on marine mammals is summarized in the Marine Mammal Impact Assessment Report prepared by CALTRANS in August 2001 (CALTRANS 2001). More specifically, the demonstration provided CALTRANS an opportunity to measure resulting SPLs both in air and under water, record impacts to marine mammals and experiment with measures to reduce harm to marine mammals. Sixty-eight pinnipeds (55 harbor seals and 13 sea lions) were sighted during monitoring activities. Of this total, 57 pinnipeds (47 harbor seals and 10 sea lions) were seen during non-pile driving activities. Only eight harbor seals and three sea lions were observed near the PIDP site during actual pile driving, which totaled 12 hours and 51 minutes. In addition, up to 85 harbor seals per monitoring period hauled out at the semi-protected cove on the southwestern side of YBI, approximately 1,500 m (4,920 ft) from the pile-driving area. No gray whales were observed.

The East Span Project is not expected to result in any significant impacts to marine mammal habitat. Short-term impacts will include the minimal disturbance of the sediment where the channels are dredged for barge access and where individual bridge piers are constructed. Long-term impacts to marine mammal habitat will be limited to the footprint of the piles and the obstruction they will create following installation. However, this impact is not considered significant as the marine mammals can easily swim around the piles of the new bridge, as they currently swim around the existing bridge piers.

California Sea Lions

Of the 13 total sea lions observed during the PIDP construction period, three individual sea lions were observed in the PIDP construction site within and beyond the 500-m (1,640-ft) safety zone during the actual driving of piles. The three sea lions rapidly swam and porpoised out of the area when pile driving began, indicating possibly: (1) increased sensitivity to the pile driving noise in air and/or water, (2) less conditioning to anthropogenic noise, or (3) a difference of the level of sound received by the sea lions resulting from varying human, environmental (ambient) and hammer magnitude or conditions at the time of pile driving. Alternatively, since the three sea lions were present at the start of pile driving, their response could indicate that they were startled by the noise (SRS Technologies, 2001). The frequency and duration of the noise and whether underwater or airborne sounds start suddenly or gradually, creating a ramping effect (as usually performed for the PIDP), may also influence the behavior of these mammals. However, none of these factors could be explored in detail within the scope of the demonstration project.

Noise levels from the East Span project within and beyond a 500-m (1,640-ft) safety zone are not expected to result in harassment of the sea lions hauled out at Pier 39 as SPLs would attenuate to below harassment levels by the time they reach the haul-out site, 5.7 kilometers (3.5 miles) from the project site.

Pacific Harbor Seals

The Richmond Bridge Harbor Seal Survey is currently gathering data on harbor seals at the Castro Rocks and YBI haul-out sites as part of the San Rafael-Richmond Bridge Seismic Retrofit Project monitoring program (see 66 FR 49165, September 26, 2001). A total of 55 harbor seals were observed in the vicinity of the PIDP site during the 2½-month construction period. Of this total, 47 were observed during non-pile driving activities and eight harbor seals were observed during actual pile driving. The eight harbor seals, which were sighted within the 500 m (1,640 ft) safety zone, seemed to observe the activities around the barge during pile driving while swimming in and out of the safety zone, but did not show any avoidance response during pile driving. Additional observations during the PIDP showed that harbor seals at YBI increased in number during low tide, and responded to activities unrelated to pile driving activities such as helicopter noise, boat traffic and kayakers, with head alerts or flushing of the site when startled or disturbed.

Pile driving could potentially harass those harbor seals that are in the water closer to the project site, whether their heads are above or below the surface. Since no response was observed from harbor seals in the water at YBI during the PIDP project except for initial reaction from airborne noise during driving of unattenuated Pile 1A, it is likely that underwater SPLs resulting from pile driving activity at a distance of about 1,500 m (4,920 ft) or greater would be sufficiently attenuated at the haul-out site. It is unknown whether piles driven closer to YBI would result in underwater SPLs that would disturb harbor seals at the haul-out site. It is estimated that a fraction of the seals hauled out at YBI would potentially be in the water and close to the project site during pile driving activities. Potential harassment would only occur during those times when piles are being hammered, which will include a total of approximately 1,300 hours of in-Bay pile driving and approximately 1,500 hours of pile driving on YBI over the 9-year construction period. The number of harbor seals that could potentially be harassed during the East Span Project would vary based on the location of pile driving activity and the proximity of the seals to the pile driving site.

Harbor seals on the YBI haul-out site are commonly subjected to high levels of disturbance, primarily from watercraft. This is particularly true during the summer, when the numbers of small boats, jet skis, kayaks, etc., in San Francisco Bay increase (San Francisco State University, 1999b). Abandonment of the haul-out site is not anticipated as sound levels from pile driving, both in water and in air, are expected to attenuate sufficiently by the time they reach the site. Although harbor seal pups have been observed at the YBI haul-out site, it is not a recognized pupping site. Therefore, no significant impacts on species recruitment are anticipated.

Gray Whales

No gray whales were observed during the PIDP. However, gray whales can be expected in the Bay in increasing numbers from December through May during their winter migration to and from Alaska. Noise from the pile driving activities therefore may affect gray whales swimming toward the southern San Bruno Shoals region.

Behavioral responses of gray whales to noise can include avoidance, startle response, and complete abandonment of an area. Noise may elicit short-term disruptions of normal activities similar to seals, such as startle response, agitation, stress, and cessation of foraging activities. Most evidence suggests that whales will avoid loud noises, which may result in a temporary displacement of the animal from typical foraging or traveling areas. Although it is uncertain whether gray whales will be affected by SPLs generated by pile driving during the East Span Project, observations and research from the past 3 years (1999-2001) indicate that fewer than 10 gray whales have been sighted in the Bay on any particular day (Oliver personal communication, 2001). The number of gray whales present in the Bay may increase in the future, since in recent years there have been more frequent sightings of gray whales in the Bay during their migration period. Whether these whales will be in close proximity to the construction area for any period of time is unknown at this time. The primary concern is for whales passing by YBI on the west or east sides while traveling to San Bruno Shoals.

Mitigation

Establishment of Safety/Buffer Zones

Prior to commencement of any pile driving, a preliminary 500-m (1,640-ft) radius safety zone for pinnipeds (California sea lions and Pacific harbor seals) will be established around the pile driving site, as it was for the PIDP. The safety zone is intended to include all areas where the underwater SPLs are anticipated to equal or exceed 190 dB re 1 mPa RMS (impulse). Once pile driving begins, SPLs will be recorded at the 500-m (1,640-ft) contour. The safety zone radius for pinnipeds will then be enlarged or reduced, depending on the actual recorded SPLs. A 180-dB re 1 mPa RMS (impulse) safety zone for gray whales will be established for pile driving occurring during the gray whale migration season from December through May.

Observers on boats will survey the safety zone to ensure that no marine mammals are seen within the zone before pile driving of a pile segment begins. If marine mammals are found within the safety zone, pile driving of the segment will be delayed until they move out of the area. If a marine mammal is seen above water and then dives below, the contractor will wait 15 minutes and if no marine mammals are observed in that time it will be assumed that the animal has moved beyond the safety zone. This 15-minute criterion is based on scientific evidence that harbor seals in San Francisco Bay dive for a mean time of 0.50 minutes to 3.33 minutes (Harvey and Torok, 1994). Due to the limitations of monitoring from a boat, there can be no assurance that the zone will be devoid of all marine mammals.

Once the pile driving of a segment begins it cannot be stopped until that segment has reached its predetermined depth due to the nature of the sediments underlying San Francisco Bay. If pile driving stops and then resumes, it would potentially have to occur for a longer time and at increased energy levels. In sum, this would simply amplify impacts to marine mammals, as they would endure potentially higher SPLs for longer periods of time. Pile segment lengths and wall thickness have been specially designed so that when work is stopped between segments (but not during a single segment), the pile tip is never resting in highly resistant sediment layers. Therefore, because of this operational situation, if marine mammals enter the safety zone after pile driving of a segment has begun, pile driving will continue and marine mammal observers will monitor and record their numbers and behavior.

A 500-m (1,640-ft) no-entry buffer zone will be established around the haul-out site on YBI to minimize the impact of project-related vessel traffic during the East Span Project on marine mammals. This buffer zone will be established in coordination with the U.S. Coast Guard (USCG). The buffer zone will be delineated with USCG-compliant brightly colored temporary buoys. CALTRANS will establish strict standards on vessel speed for all project-related crafts traveling in the Bay.

Compliance with Equipment Noise Standards

To mitigate noise levels and, therefore, impacts to California sea lions, Pacific harbor seals, and gray whales, all construction equipment will comply as much as possible with applicable equipment noise standards of the U.S. Environmental Protection Agency, and all construction equipment will have noise control devices no less effective than those provided on the original equipment.

Barrier Systems

CALTRANS proposes to utilize a ''marine pile-driving energy attenuator'' during all pile driving activities in an attempt to reduce overall sound levels (Mara Melandry, personal communication 2001). This attenuator system would consist of an air bubble curtain, similar to the system tested during the PIDP. The PIDP air bubble attenuator system consisted of a piping system ring that was submerged to the Bay floor where it encircled the pile template and was supplied air from a compressor at the surface. Wursig *et al.* (2000) used a similar system for attenuating noise received by dolphins during pile driving activities for an airport expansion.

Monitoring

Before issuance of an IHA, a mammal monitoring plan must be prepared and approved by NMFS prior to the start of the East Span Project. The complete monitoring plan must include: (1) a description of the proposed survey techniques that would be used to determine the movement and activity of marine mammals near the construction areas; and (2) scientific rigor that will allow NMFS to verify that any impacts on marine mammal populations from this specific activity are small in number and negligible.

Visual Observations

NMFS will require safety zone monitoring during all active pile driving and for a period of time (yet to be established) before the entire East Span Project begins. Monitoring of the pinniped and cetacean safety zones will be conducted by a minimum of three qualified NMFS-approved observers for each safety zone. The observers will begin monitoring at least 30 minutes prior to startup of the pile driving. Observers will likely conduct the monitoring from small boats, as observations from a higher vantage point (such as the SF-OBB) may not be practical. Pile driving will not begin until the safety zone is clear of marine mammals. But, as described in the Mitigation section, once pile driving of a segment begins, operations will continue uninterrupted until the segment has reached its predetermined depth.

Biological observations will be made using binoculars during daylight hours. In addition to monitoring from boats, monitoring of the YBI haul-out may be conducted during pile driving activity, in coordination with the Richmond

Bridge Harbor Seal survey team. NMFS will also require one or more control sites (harbor seal haul-out sites and the waters surrounding such sites not impacted by the East Span Project's pile driving activities, i.e. Mowry Slough) be designated and monitored for comparison. All observations will be recorded and will include items such as species, numbers, behavior, details of any observed disturbances, time of observation, location, and weather.

Acoustical Observations

Both airborne and underwater environmental noise levels will be measured as part of the East Span Project.

The purpose of the underwater sound monitoring is to establish the safety zone of 190 dB re 1 micro-Pa RMS (impulse) for pinnipeds and the safety zone of 180 dB re 1 micro-Pa RMS (impulse) for gray whales. Monitoring will be conducted during the driving of the last half (deepest pile segment) for any given pile. One pile in every other pair of pier groups will be monitored. One reference location will be established at a depth of 100 m (328 ft). Sound levels will be measured during the entire driving session at the reference location. Additional spot measurements will be conducted at appropriate depths (near mid water column) 500 m (1,640 ft) distance at two locations west and north. Measurements will be made at other locations either nearer or farther as necessary to establish the approximate distance for the safety zones. Each measuring system shall consist of a hydrophone with an appropriate signal conditioning connected to a sound level meter and an instrument grade digital audiotape recorder (DAT). Overall SPLs shall be measured and reported in the field in dB re 1 micro-Pa RMS (impulse). An infrared range finder will be used to determine distance from the monitoring location to the pile. The recorded data will be analyzed to determine the amplitude, time history and frequency content of the impulse.

Airborne sound levels will be measured at times and locations that are coincidental to the underwater measurement sights. Each system will consist of a type 1 integrating sound level meter connected to a DAT. In addition, airborne sound will also be measured at the YBI haul-out site. Real time amplitude measurement of airborne sound levels will be reported. Linear Peak and RMS impulse SPLs will be reported. Microphones will be fitted with windscreens and calibration will be verified before and after each measurement session. The recorded data will be analyzed to determine the amplitude, time history and frequency content of the impulse.

Reporting

NMFS' Southwest Regional Administrator will be notified prior to the initiation of the East Span Project, and coordination with NMFS will occur on a weekly basis, or more often as necessary. NMFS will be informed of the initial SPL measurements taken at the 500-m (1,640-ft) contour and the final safety-zone radius established. Monitoring reports will be faxed to NMFS on a monthly basis during pile driving activity. The monthly report will include a summary of the previous month's monitoring activities and an estimate of the number of seals and sea lions that may have been disturbed as a result of pile driving activities.

Because the East Span Project is expected to continue beyond the date of expiration of this IHA (under a new IHA or under regulations pursuant to section 101(a)(5)(A) of the MMPA), CALTRANS will provide NMFS' Southwest Regional Administrator with a draft final report before 90 days after expiration of this IHA. This report should detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed due to pile driving. If comments are received from the Regional Administrator on the draft final report, a final report must be submitted to NMFS within 30 days. If no comments are received from NMFS, the draft final report will be considered to be the final report.

Preliminary Conclusions

NMFS has determined that the short-term impact of pile driving and other activities associated with the East Span Project, as described in this document, should result, at worst, in the temporary modification in behavior of California sea lions and Pacific harbor seals, and potentially gray whales. While behavioral modifications, including temporarily vacating haul-out sites and other areas, may be made by these species to avoid the resultant visual and acoustic disturbance, the availability of alternate haul-out sites (including pupping sites) and feeding areas within the Bay has led NMFS to the preliminary conclusion that this action will have a negligible impact on California sea lion, Pacific harbor seal, and gray whale populations along the California coast.

In addition, no take by injury or death is anticipated and harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

Proposed Authorization

NMFS proposes to issue an IHA to CALTRANS for the potential harassment of small numbers of California sea lions, Pacific harbor seals, and gray whales incidental to construction of a replacement bridge for the East Span of the SF-OBB provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this proposed authorization to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3225.

Dated: November 19, 2001.

David Cottingham,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–29391 Filed 11–23–01; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Short Supply Request Under the African Growth and Opportunity Act (AGOA) and the United States-Caribbean Basin Trade Partnership Act (CBTPA)

November 21, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a request for a determination that cuprammonium rayon filament yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA and CBTPA.

FOR FURTHER INFORMATION CONTACT: For Further Information Contact: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 112(b)(5)(B) of the AGOA; Section 213(b)(2)(A)(v)(II) of the CBTPA, as added by Section 211(a) of the CBTPA; Section 1 and 6 of Executive Order No. 13191 ofJanuary 17, 2001.

SUMMARY:

On November 20, 2001 the Chairman of CITA received a petition from Itochu International, Inc. on behalf of Symphony Fabrics and Unifi Inc., alleging that cuprammonium rayon filament yarn, classified in subheading 5403.39 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requests that apparel articles of U.S. formed fabric of such yarn be eligible for preferential treatment under the AGOA and CBTPA. CITA hereby solicits public comments on this request, in particular with regard to whether cuprammonium rayon filament yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by December 11, 2001 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

BACKGROUND: The AGOA and the CBTPA provide for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States or a beneficiary country. The AGOA and the CBTPA also provide for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more AGOA or CBTPA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner and the President has proclaimed such treatment. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA and the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On November 20, 2001 the Chairman of CITA received a petition from Itochu International, Inc. on behalf of Symphony Fabrics and Unifi Inc., alleging that cuprammonium rayon filament yarn, classified in HTSUS subheading 5403.39 cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting quota- and duty-free treatment under the AGOA and CBTPA for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more AGOA or CBTPA beneficiary countries from U.S. formed fabric of such yarn.

CITA is soliciting public comments regarding this request, particularly with respect to whether this yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other yarns that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for the yarn for purposes of the intended use. Comments must be received no later than December 11, 2001. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that cuprammonium rayon filament yarn can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the yarn stating that it produces the yarn that is in the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–29502 Filed 11–21–01; 3:14 pm]

BILLING CODE 3510–DR–S

DEPARTMENT OF ENERGY

[Docket No. EA–98–H]

Application for Electricity Export Authorization; Western Systems Power Pool

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Western Systems Power Pool (WSPP) has filed an application on behalf of certain of its members to renew the electricity export authorization issued September 5, 1996, in Order EA–98–C.

DATES: Comments, protests or requests to intervene must be submitted on or before December 11, 2001.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Import/Export; (FE–27), Office of Coal & Power, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Steven Mintz (Program Office) 202–586–9506 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On September 5, 1996, in Docket EA–98–C, the Office of Fossil Energy (FE) of the Department of Energy (DOE) authorized 42 members of the WSPP to export electric energy to Canada. In several later proceedings in the EA–98 docket, the list of authorized member-exporters was modified to add, delete, or reflect corporate name changes. The most recent order in the docket, EA–98–G, authorized 49 member companies to transmit electric energy to Canada. The international transmission facilities utilized for these exports are the owned and operated by the Bonneville Power Administration, also a WSPP member. The facilities consist of two 500-kV transmission lines at Blaine, Washington, and one 230-kV transmission line at Nelway, British Columbia, that interconnect with facilities of BC Hydro, and one 230-kV line, also at Nelway, connecting to West Kootenay Power, Limited. The construction and operation of these international transmission facilities was previously authorized by Presidential Permits PP–10, PP–46, and PP–36, respectively. The WSPP authorization to

export electric energy to Canada expired on September 5, 2001.

On August 8, 2001, WSPP submitted, on behalf of certain member companies, an application to renew the electricity export authorization contained in Order EA–98–C. That application was further supplemented on August 17, 2001. The following 21 WSPP member companies now seek authorization to export electric energy to Canada: Aquila Power Corporation; Avista Corporation; Avista Energy, Inc.; Candela Energy Corporation; Edison Mission Marketing and Trading, Inc.; El Paso Electric Company; El Paso Merchant Energy, L.P.; Enron Power Marketing, Inc.; Idaho Power Company; Kansas City Power & Light; Pacific Gas and Electric Company; PacifiCorp; PanCanadian Energy Services, Inc.; Powerex Corporation; Pacific Northwest Generating Cooperative; Puget Sound Energy; Southern California Edison Company; TransAlta Energy Marketing (U.S.) Inc.; TransCanada Energy Ltd.; Tucson Electric Power Company; and UtiliCorp United, Inc.

Procedural Matters

Any persons desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with 385.211 or 385.214 of the FERC's rules of practice and procedures (18 CFR 385.211, 385.214). Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies are to be filed directly with: Michael E. Small, General Counsel to the WSPP, Wright & Talisman, P.C., 1200 G Street, Suite 600, Washington, DC 20005–3802.

At the time this notice is being published, delivery of both regular and overnight mail to the Department of Energy headquarters building has been disrupted. DOE will consider facsimile transmissions to 202–287–5736, received before the closing date, as timely. Commenters should also submit original documents using traditional mail systems.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC, on November 19, 2001.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Import/Export, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 01–29353 Filed 11–23–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–612–001]

ANR Pipeline Company; Notice of Compliance Filing

November 19, 2001.

Take notice that on November 15, 2001, ANR Pipeline Company (ANR), tendered for filing an explanatory statement to address concerns raised by Indicated Shippers and Substitute Second Revised Sheet No. 86A. ANR requests that the substitute revised tariff sheet be made effective October 31, 2001.

ANR states that the tariff sheet and explanatory statement are being filed in compliance with the Commission's October 26, 2001 order accepting and suspending the tariff sheets subject to ANR providing additional information to address the issues raised by the Indicated Shippers regarding ANR's proposed Associated Liquefiables *pro forma Agreement*.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–29315 Filed 11–23–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02–3–000]

Bay Gas Storage Company, Ltd.; Notice of Petition for Rate Approval

November 19, 2001.

Take notice that on November 6, 2001, Bay Gas Storage Company, Ltd. (Bay Gas) filed, pursuant to section 284.123(b)(2) of the Commission's Regulations, a petition for rate approval requesting that the Commission approve: a firm transportation-only service rate of $1.0123 per MMBtu and an interruptible transportation-only service rate of $0.03328 per MMBtu for service on Bay Gas system. These rates will be applicable to the transportation of natural gas under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions must be filed with the Secretary of the Commission on or before December 4, 2001. This petition for rate approval is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18

CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–29312 Filed 11–23–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–20–000]

Iroquois Gas Transmission System, L.P.; Notice of Application

November 19, 2001.

Take notice that on November 8, 2001, Iroquois Gas Transmission System, L.P. (Iroquois), One Corporate Drive, Suite 600, Shelton, Connecticut 06484 filed in Docket No. CP02–20–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to construct and operate its Athens Expansion Project, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

Specifically, Iroquois proposes to construct and operate a second compressor unit, with 10,000 horsepower, at the Athens, New York compressor station in order to provide up to 70,000 dekatherms per day of firm transportation service to Athens Generating Company, L.P. (Athens Generating). Iroquois states that Athens Generating is currently in the process of developing a natural gas -fired electric generating facility in the Town of Athens, New York. Further, Iroquois states that it has executed a Precedent Agreement with Athens Generating for a primary term of 15 years commencing September 1, 2003.

Iroquois estimates the cost of the Athens Project to be $16,484,000. Iroquois states that the transportation service to be made available by the construction of the proposed Athens Project will be performed pursuant to Iroquois' RTS Rate Schedule and associated General Terms and Conditions of Iroquois' FERC Gas Tariff, First Revised Volume No. 1. Iroquois further states that it proposes to charge its part 284 open-access RTS rates for the new service and to roll the costs and billing determinants associated with construction and operation of the compressor unit and associated facilities into the first section 4 rate proceeding which becomes effective after the in-service date of the proposed facilities.

Questions regarding the details of this proposed project should be directed to Jeffrey A. Bruner, Vice President, General Counsel and Secretary for Iroquois, One Corporate Drive, Suite 600, Shelton, Connecticut 06484 at (203) 925–7200 or Donald F. Santa, Jr., attorney for Iroquois, Troutman Saunders, LLP, 401 Ninth Street, NW., Suite 1000, Washington, DC 20004 at (202) 274–2815.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before December 10, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–29309 Filed 11–23–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–395–002, and RP96–348–010 (Not Consolidated)]

Panhandle Eastern Pipe Line Company; Notice of Compliance Filing

November 19, 2001.

Take notice that on November 13, 2001, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the pro forma tariff sheets listed on Appendix A attached to the filing.

Panhandle asserts that the purpose of this filing is to comply with Ordering Paragraph (B) of the Commission's October 12, 2001 Order on Panhandle's Order No. 637 Settlement issued in the above-referenced proceedings. 97 FERC ¶ 61,046 (2001).

Panhandle states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–29313 Filed 11–23–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–479–002 and RP00–624–002]

Trailblazer Pipeline Company; Notice of Compliance Filing

November 19, 2001.

Take notice that on November 14, 2001, Trailblazer Pipeline Company (Trailblazer) tendered for filing to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets listed on Appendix A to the filing, to be effective January 1, 2002 and certain pro forma tariff sheets with no requested effective date.

Trailblazer states that these tariff sheets were filed in compliance with the Commission's ''Order on Compliance with Order Nos. 637, 587–G and 587–L'', issued in on October 15, 2001, which approved, subject to a number of modifications, Trailblazer's plan for compliance with Order Nos. 537, *et seq.*, submitted on August 15, 2000, Docket Nos. RP00–499–000 and RP00–624–000.

Trailblazer states that copies of the filing have been mailed to all parties set out on the Commission's official service list in Docket Nos. RP00–499–000 and RP00–624–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–29314 Filed 11–23–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–5–001]

TransColorado Gas Transmission Company; Notice of Compliance Filing

November 19, 2001.

Take notice that on November 13, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 11, Second Revised Sheet No. 115 and Substitute Original Sheet Nos. 121, 124, 125, 423 and 424, to be effective November 1, 2001.

TransColorado states that the filing is being made in compliance with the Commission's October 26, 2001, order in Docket No. RP02–5–000. On October 26, 2001, the Commission issued an order in Docket No. RP02–5–000 (the October 26th order) approving TransColorado's October 1, 2001, proposal to implement a park and loan tariff provision. The October 26th order accepted TransColorado's proposed tariff sheets to be effective November 1, 2001, subject to TransColorado filing, within 15 days, revised tariff sheets to: (1) Remove the proposed exit fee and (2) clarify Section 6.1(a)(iii)(2). TransColorado's filing addresses these two issues on Sheet Nos. 121, 124, 125, 423 and 424 and corrects a pagination error on Sheet No. 115.

TransColorado stated that a copy of this filing has been served upon TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–29316 Filed 11–23–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–324–000, et al.]

Entergy Services, Inc., et al.; Electric Rate and Corporate Regulation Filings

November 19, 2001.

Take notice that the following filings have been made with the Commission:

1. Entergy Services, Inc.

[Docket No. ER02–324–000]

Take notice that on November 14, 2001, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing with the Federal Energy Regulatory Commission (Commission) an unexecuted Interconnection and Operating Agreement with Amelia Energy Center, LP (Calpine), and a Generator Imbalance Agreement with Calpine. Calpine objects to the fact that the Calpine Interconnection Agreement does not provide transmission credits in return for Calpine's payments for the interconnection facilities necessary for the physical interconnection of the Calpine Facility to Entergy's transmission system.

Comment date: December 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Midwest Independent Transmission System Operator Inc.

[Docket No. ER02–325–000]

Take notice that on November 14, 2001, the Midwest Independent Transmission System Operator, Inc. filed with the Federal Energy Regulatory Commission (Commission) an executed Coordination Agreement By and Between Midwest Independent Transmission System Operator Inc. and Manitoba Hydro.

Comment date: December 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Indianapolis Power & Light Company

[Docket No. ER02–326–000]

Take notice that on November 14, 2001, Indianapolis Power & Light Company filed with the Federal Energy Regulatory Commission (Commission) a Service Agreement for Firm Point-to-Point Transmission Service between Indianapolis Power & Light Company and Exelon Generation Company, LLC, under its open access transmission tariff in the above-captioned proceeding.

Comment date: December 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Indianapolis Power & Light Company

[Docket No.ER02–327–000]

Take notice that on November 14, 2001, Indianapolis Power & Light Company filed with the Federal Energy Regulatory Commission (Commission) a Service Agreement for Firm Point-to-Point Transmission Service between Indianapolis Power & Light Company and Calpine Energy Services, L.P., under its open access transmission tariff in the above-captioned proceeding.

Comment date: December 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Indianapolis Power & Light Company

[Docket No. ER02–328–000]

Take notice that on November 14, 2001, Indianapolis Power & Light Company filed with the Federal Energy Regulatory Commission (Commission) a Service Agreement for Non-Firm Point-to-Point Transmission Service between Indianapolis Power & Light Company and Calpine Energy Services, L.P., under its open access transmission tariff in the above-captioned proceeding.

Comment date: December 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Indianapolis Power & Light Company

[Docket No. ER02–329–000]

Take notice that on November 14, 2001, Indianapolis Power & Light Company filed with the Federal Energy Regulatory Commission (Commission) a Service Agreement for Non-Firm Point-to-Point Transmission Service between Indianapolis Power & Light Company and Exelon Generation Company, LLC, under its open access transmission tariff in the above-captioned proceeding.

Comment date: December 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Alliant Energy Corporate Services, Inc.

[Docket No. ER02–330–000]

Take notice that on November 14, 2001, the Alliant Energy Corporate Services, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) a proposed Notice of Cancellation with Narrative Statement and revisions to Alliant Energy Corporate Services, Inc.'s Open Access Transmission Tariff (OATT), FERC Electric Tariff, First Revised Volume No. 1.

Alliant Energy Corporate Services, Inc. states that its proposed revisions are intended to cancel the Forms of Service Agreement for Firm Point-to-Point Transmission Service, Non-Firm Point-to-Point Transmission Service and Network Transmission Service as well as certain transmission-related services with respect thereto, which will no longer be necessary once the Midwest Independent Transmission System Operator, Inc. commences operations on December 15, 2001.

Alliant Energy Corporate Services, Inc. states that it has served copies of its filing by placing a copy of same in the United States mail, first-class postage prepaid.

Comment date: December 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. American Transmission Company LLC

[Docket No. ER02–331–000]

Take notice that on November 15, 2001, American Transmission Company LLC (ATCLLC) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Distribution-Transmission Interconnection Agreement between ATCLLC and Adams-Columbia Electric Cooperative.

ATCLLC requests an effective date of June 29, 2001.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Mountain View Power Partners, LLC

[Docket No. ER02–332–000]

Take notice that on November 15, 2001, Mountain View Power Partners, LLC (Mountain View) filed with the Federal Energy Regulatory Commission (Commission) a Master Agreement (the Master Agreement) and a Confirmation entered into thereunder (collectively, the Agreement) for power sales with its affiliate, PG&E Energy Trading-Power, L.P. (PGET) as required by the Commission in its letter Order of February 9, 2001. See Mountain View Power Partners, LLC, Docket No. ER01–1336–000 (delegated letter order issued February 9, 2001) (section 205 Letter Order). The Agreement commits Mountain View to sell capacity, energy and ancillary services to PGET at market-based rates according to its FERC Electric Tariff No. 1. Mountain View also submits for filing a notice of cancellation of the Confirmation pursuant to section 35.15(c) of the Commission's regulations.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER02–333–000]

Take notice that on November 15, 2001, the California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) a notice concerning the termination of the Meter Service Agreement for Scheduling Coordinators between the ISO and Illinova Energy Partners, Inc. The ISO states that it has served copies of this filing on all entities that are on the official service list for Docket No. ER98–1855.

The ISO requests that the agreement be terminated as of April 30, 2001.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator Corporation

[Docket No. ER02–334–000]

Take notice that the California Independent System Operator Corporation, (ISO) on November 15, 2001, tendered for filing with the Federal Energy Regulatory Commission (Commission) a Meter Service Agreement for ISO Metered Entities between the ISO and Jefferson Smurfit Corporation for acceptance by the Commission. The ISO states that this filing has been served on Jefferson Smurfit Corporation the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective October 30, 2001.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. California Independent System Operator Corporation

[Docket No. ER02–335–000]

Take notice that on November 15, 2001, the California Independent System Operator Corporation, (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Participating Generator Agreement between the ISO and Jefferson Smurfit Corporation for acceptance by the Commission. The ISO states that this filing has been served on Jefferson Smurfit Corporation and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective October 30, 2001.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Combined Locks Energy Center, LLC

[Docket No. ER02–336–000]

Take notice that on November 15, 2001, Combined Locks Energy Center, L.L.C. (CLEC), filed with the Federal Energy Regulatory Commission (Commission) a non-redacted, confidential copy and a redacted, non-confidential copy of a long-term power purchase agreement (PPA) with Consolidated Water Power Company. CLEC requests that the PPA become effective November 1, 2001, the commercial operation date of the facility.

Copies of the filing were served upon the public utility's jurisdictional customers, and the Public Service Commission of Wisconsin.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Minnesota Power

[Docket No. ER02–337–000]

Take notice that on November 14, 2001, the Minnesota Power (MP) tendered for filing with the Federal Energy Regulatory Commission (Commission) a proposed Notice of Cancellation with Narrative Statement and revisions to Minnesota Power's Open Access Transmission Tariff (OATT), FERC Electric Tariff, First Revised Volume No. 6.

Minnesota Power states that its proposed revisions are intended to cancel the Forms of Service Agreement for Firm Point-to-Point Transmission Service, Non-Firm Point-to-Point Transmission Service and Network Transmission Service as well as certain transmission-related services with respect to thereto, which will no longer be necessary once the Midwest Independent Transmission System Operator, Inc. commences operations on December 15, 2001.

Minnesota Power states that it has served copies of its filing by placing a copy of same in the United States mail, first-class postage or via electronic service.

Comment date: December 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Portland General Electric Company

[Docket No. ER02–338–000]

Take notice that on November 14, 2001, Portland General Electric Company (PGE) filed revised tariff sheets to its Open Access Transmission Tariff. The revised sheets are intended to revise PGE's Energy Imbalance provisions to require payments for imbalances based on the market price of energy.

PGE requests that the Commission make the revised tariff sheets effective as of January 15, 2002.

Comment date: December 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER02–339–000]

Take notice that on November 15, 2001, Deseret Generation & Transmission Co-operative, Inc. (Deseret) tendered for filing the Second and Third Amendments to existing First Revised Service Agreement No. 5 to Deseret's FERC Market Based Rate Tariff Volume No. 3, a long-term Power Sales Agreement between Deseret and Constellation Power Source (CPS).

Deseret respectfully requests that the Commission accept the Second and Third Amendments with an effective date of November 1, 2000 (Second Amendment) and August 1, 2001 (Third Amendment).

CPS has been provided a copy of the filing.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. California Independent System Operator Corporation

[Docket No. ER02–340–000]

Take notice that on November 15, 2001, the California Independent System Operator Corporation (ISO) tendered for filing First Revised Service Agreement No. 412 Under ISO Rate Schedule No. 1, which is a Participating Generator Agreement (PGA) between the ISO and GWF Energy LLC. The ISO has revised the PGA to update the list of generating units listed in Schedule 1 of the PGA.

The ISO requests that the agreement be made effective as of August 29, 2001.

The ISO states that this filing has been served on all entities that are on the official service list for Docket No. ER01–2958–000.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Duquesne Light Company

[Docket No. ER02–341–000]

Take notice that November 15, 2001, Duquesne Light Company (DLC) filed a Service Agreement dated November 14, 2001 with Dominion Nuclear Marketing

II, Inc. under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds Dominion Nuclear Marketing II, Inc. as a customer under the Tariff.

DLC requests an effective date of November 14, 2001 for the Service Agreement.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Virginia Electric and Power Company

[Docket No. ER02–342–000]

Take notice that on November 15, 2001, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing an executed Generator Interconnection and Operating Agreement (Interconnection Agreement) with Industrial Power Generating Corporation (Ingenco). The Interconnection Agreement sets forth the terms and conditions governing the interconnection between Ingenco's generating facility and Dominion Virginia Power's transmission system.

Dominion Virginia Power requests that the Commission waive its notice of filing requirements and accept this filing to make the Interconnection Agreement effective on November 15, 2001.

Copies of the filing were served upon Ingenco and the Virginia State Corporation Commission.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Commonwealth Edison Company

[Docket No. ER02–343–000]

Take notice that on November 15, 2001 Commonwealth Edison Company (ComEd) submitted for filing with the Federal Energy Regulatory Commission (Commission) one Form of Service Agreement for Short-Term Firm Point-To-Point Transmission Service and one Form of Service Agreement for Non-Firm Point-To-Point Transmission Service (Service Agreements) between ComEd and Rainy River Energy Corporation (Rainy) under the terms of ComEd's Open Access Transmission Tariff (OATT). Copies of this filing were served on Rainy.

ComEd requests an effective date of November 1, 2001, and accordingly seeks waiver of the Commission's notice requirements.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. American Electric Power Service Corporation

[Docket No. ER02–344–000]

Take notice that on November 15, 2001, the American Electric Power Service Corporation (AEPSC), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Revised Firm Point-to-Point Transmission (PTP) Service Agreement for Virginia Power Company for a long-term PTP reservation. All of these agreements are pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Second Revised Volume No. 6.

AEPSC requests waiver of notice to permit the Revised Service Agreement to be made effective on and after September 30, 2001.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Duquesne Light Company

[Docket No.ER02–345–000]

Take notice that on November 15, 2001, Duquesne Light Company (DLC) filed with the Federal Energy Regulatory Commission (Commission) a Service Agreement dated November 14, 2001 with Dominion Nuclear Marketing II, Inc. under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds Dominion Nuclear Marketing II, Inc. as a customer under the Tariff.

DLC requests an effective date of November 14, 2001 for the Service Agreement.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Combined Locks Energy Center, LLC

[Docket No. ER02–346–000]

Take notice that on November 15, 2001, Combined Locks Energy Center, L.L.C. (CLEC), filed with the Federal Energy Regulatory Commission (Commission) an executed service agreement with WPS Energy Services, Inc. (WPS–ESI) under CLEC's market-based rate tariff, FERC Electric Tariff, Original Volume No. 1. CLEC requests that the Commission allow the service agreement to become effective on October 17, 2001.

Copies of the filing were served upon WPS–ESI and the Public Service Commission of Wisconsin.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Consumers Energy Company

[Docket No. ER02–347–000]

Take notice that on November 15, 2001 Consumers Energy Company (Consumers) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement with Entergy-Koch Trading, LP, (Customer) under Consumers' FERC Electric Tariff No. 9 for Market Based Sales. Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Consumers requested that the Agreement be allowed to become effective as of October 15, 2001.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. Arizona Independent Scheduling Administrator Association

[Docket No. ER02–348–000]

Take notice that on November 15, 2001, Arizona Independent Scheduling Administrator Association submitted a revision to its Protocols Manual to extend the commitment of the Standard Offer Scheduling Coordinators to a mechanism whereby Standard Offer Scheduling Coordinators exchange an amount, in MW, of Allocated Retail Network Transmission to Scheduling Coordinators serving competitive retail access customers.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. Split Rock Energy LLC

[Docket No. ER02–349–000]

Take notice that on November 15, 2001, Split Rock Energy LLC submitted revised Exhibit B Pricing Methodology, Energy Transfer Pricing and Capacity Cost-Sharing Principles for Split Rock Energy LLC Between its Members: ALLETE, Inc., d/b/a Minnesota Power, and Great River Energy.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. Central Vermont Public Service Corporation

[Docket No. ER02–350–000]

Take notice that on November 16, 2001, Central Vermont Public Service Corporation (CVPS), tendered for filing with the Federal Energy Regulatory Commission (Commission) the Forecast

2002 Cost Report required under Paragraph Q–2 on Original Sheet No. 19 of the Rate Schedule FERC No. 135 under which CVPS sells electric power to Connecticut Valley Electric Company, Inc. (Customer). CVPS states that the Cost Report reflects changes to the RS–2 rate schedule which were approved by the Commission's June 6, 1989 Order in Docket No. ER88–456–000. The Forecast 2002 Cost Report supports rates that represent a decrease of $1,983,384 for estimated non-energy costs in 2002.

Copies of the filing were served upon the Customer, the New Hampshire Public Utilities Commission, and the Vermont Public Service Board.

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

28. Avista Corporation, The Montana Power Company, Nevada Power Company, Portland General Electric Company, and Sierra Pacific Power Company, TransConnect, LLC

[Docket Nos. RT01–15–002 and ER02–323–000]

Take notice that on November 13, 2001, the above-captioned applicants filed with the Federal Energy Regulatory Commission (Commission) an ''Application of TransConnect, LLC For Approval of Transmission Rates, Including Innovative Transmission Rate Treatment; Planning and Expansion Protocol; Compliance Filing; and Modified Governance Proposal'' pursuant to section 205 of the Federal Power Act Company and part 35 of the Commission's regulations. Avista Corporation and The Montana Power Company are joining in only the planning protocol, modified governance, and compliance filing sections of the filing.

TransConnect, LLC requests preliminary approval of transmission rates that reflect the underlying transmission assets that will be transferred to TransConnect, subject to the additional approvals that must still be obtained. These rates also reflect innovative and incentive features consistent with section 35.24(e) of the Commission's regulations and the Commission's requirements under Order Nos. 2000 and 2000–A. TransConnect proposes a detailed planning and expansion protocol and has filed modifications to its governance documents to comply with the Commission's April 26, 2001 order in this proceeding. TransConnect further proposed to modify its governance to provide greater membership flexibility than currently exists.

Comment date: December 13, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–29350 Filed 11–23–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–22–000, et al.]

UtiliCorp United Inc., et al.; Electric Rate and Corporate Regulation Filings

November 16, 2001.

Take notice that the following filings have been made with the Commission:

1. UtiliCorp United Inc.

[Docket No. EC02–22–000]

Take notice that on November 13, 2001, UtiliCorp United Inc. filed with the Federal Energy Regulatory Commission (Commission) an application for approval pursuant to section 203 of the Federal Power Act and section 33 of the Commission's regulations for authorization to reacquire the approximately 20 percent of the shares of Aquila, Inc. held by the public.

Comment date: December 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Mirant New England, LLC, Mirant Kendall, LLC, Mirant Canal, LLC

[Docket Nos. ER01–1274–002, ER01–1271–002, ER01–1268–002]

Take notice that on November 13, 2001, Mirant New England, LLC, Mirant Kendall, LLC and Mirant Canal, LLC (together, the Mirant New England Companies) tendered for filing with the Federal Energy Regulatory Commission (Commission) an updated market-power analysis in compliance with the requirement of the order granting them authority to make power sales at market-based rates.

Comment date: December 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Trans-Elect, Inc., Michigan Transco Holdings, Limited Partnership, Consumers Energy Company, Michigan Electric Transmission Company

[Docket Nos. EC02–23–000 and ER02–320–000]

Take notice that on November 13, 2001, Consumers Energy Company (Consumer) and Michigan Electric Transmission Company (METC), and Trans-Elect, Inc. (Trans-Elect) and Michigan Transco Holdings, Limited Partnership (Michigan Transco Holdings LP) (collectively, Applicants) filed with the Federal Energy Regulatory Commission (FERC) a joint application pursuant to section 203 of the Federal Power Act (FPA) for authorization of a disposition of jurisdictional facilities whereby (1) Consumers will merge METC with and into Michigan Transco LLC, a limited liability company; and (2) Consumers will sell and transfer and Michigan Transco Holdings LP will purchase and accept all of Consumers' membership interests in Michigan Transco LLC. As a result of this transaction, Michigan Transco Holdings LP will acquire all of Consumers' membership interests in Michigan Transco LLC, including all interests in the transmission assets and related tariffs, contracts, books and records previously acquired by METC from Consumers pursuant to Commission authorization, and all other interests acquired by or assigned to METC and/or Michigan Transco LLC prior to the closing date.

Trans-Elect and Michigan Transco Holdings LP also seek approval pursuant to FPA section 205 for Michigan Transco LLC to provide open access transmission service pursuant to the rates, terms and conditions as set forth in the application.

Comment date: December 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. FPL Energy Main Hydro, Inc.,FPL Energy Mason, LLC FPL Energy Wyman, LLC FPL Energy Wyman IV, LLC FPL Energy Power Marketing, Inc.

[Docket Nos. ER98–3511–005, ER98–3562–005, ER98–3563–005, ER98–3564–005, and ER98–3566–005]

Take notice that on November 9, 2001, FPL Energy Maine Hydro, Inc. (Maine Hydro), FPL Energy Mason, LLC (Mason), FPL Energy Wyman, LLC (Wyman), FPL Energy Wyman IV, LLC (Wyman IV), and FPL Energy Power Marketing Inc. (collectively, FPL Maine) filed with the Federal Energy Regulatory Commission (Commission), an updated market power study in accordance with the order issued November 12, 1998 in Docket Nos. ER98–3511, et. al., accepting for filing FPL Maine's market-based rate tariffs.

Comment date: November 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Carolina Power & Light Company and Florida Power Corporation

[Docket No. ER01–1807–006]

Take notice that on November 14, 2001, Carolina Power & Light Company (CP&L), tendered for filing with the Federal Energy Regulatory Commission (Commission) revised tariff sheets under its FERC Electric Tariff, Third Revised Volume No. 3, in compliance with the Commission's order issued on October 15, 2001, in Carolina Power & Light Co. and Florida Power Corp., 97 FERC ¶ 61,048.

Copies of the filing were served on the parties listed in the Commission's official service list in these proceedings as well as the appropriate state commissions. CP&L will post the revised Tariffs on its OASIS.

Comment date: December 5, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Duke Electric Transmission

[Docket No. ER01–2469–001]

Take notice that on November 13, 2001, Duke Energy Corporation filed with the Federal Energy Regulatory Commission (Commission) its revised rate schedule in accordance with the Commission Order dated August 28, 2001.

Comment date: December 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Alcoa Power Generating, Inc.

[Docket No. ER01–2501–007]

Take notice that, on November 13, 2001, Alcoa Power Generating, Inc. (APGI) tendered for filing with the Federal Energy Regulatory Commission (Commission) a revised rate schedule for the 1964 Pacific Northwest Coordination Agreement (PNCA). APGI is revising its PNCA Rate Schedule to comply with Order No. 614 formatting requirements and to include updated 2000–2001 PNCA Operating Procedures pursuant to the Commission's October 1, 2001 order in Docket No. ER01–2501–000.

Comment date: December 4, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Energy Group of America, Inc.

[Docket No. ER01–2694–000]

Take notice that on November 9, 2001, the Energy Group of America, Inc. resubmitted for filing with the Federal Energy Regulatory Commission (Commission) a Substitute First Revised Rate Schedule FERC No. 1 which has been modified to incorporate the designation information required by Order No. 614.

The Energy Group of America, Inc. states that a copy of this filing has been served on each person designated on the official service list for the above proceeding.

Comment date: November 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Company

[Docket No. ER02–4–000]

Take notice that on November 15, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing a Request for Deferral of Consideration of its October 1, 2001 filing, Notice of Cancellation of PG&E First Revised Rate Schedule FERC No. 215, Must-Run Service Agreement between PG&E and the California Independent System Operator Corporation for the FMC Synchronous Condenser/ Emergency Gas Turbine, in Docket No. ER02–4–000.

Copies of this filing have been served upon the California Public Utilities Commission and all parties designated on the official service list in this proceeding.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Public Service Corporation

[Docket No. ER02–291–001]

Take notice that on November 15, 2001, Wisconsin Public Service Corporation (WPSC) tendered for filing four revised rate schedule sheets (Revised Sheets) which provide the American Transmission Company, LLC (ATCLLC) Site Representative information for WPSC's Rate Schedule FERC Nos. 64, 65, 66, and 67 filed in this docket on November 8, 2001.

WPSC respectfully requests that the Revised Sheets become effective as of December 15, 2001, the same effective date WPSC requested in its November 8, 2001 filing.

Copies of the filing were served upon ATCLLC and the Public Service Commission of Wisconsin.

Comment date: December 6, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. FPL Energy Upton Wind II, LP

[Docket No. QF02–8–000]

Take notice that on November 13, 2001, FPL Energy Upton Wind II, LP, 11760 US Highway One, Juno Beach, FL 33408 filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to 292.207(b) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Facility is a wind-powered generation facility consisting of 61 wind turbine generators located in Upton County, Texas.

It is expected that electricity from the Facility will be sold to Reliant Energy Renewables, Inc. of Houston, Texas. The Facility will be interconnected with the West Texas Utilities Company transmission system, and West Texas Utilities Company will provide backup power to the Facility.

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. FPL Energy Pecos Wind I, LP

[Docket No. QF02–9–000]

Take notice that on November 13, 2001, FPL Energy Pecos Wind I, LP, 11760 US Highway One, Juno Beach, FL 33408 filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to 292.207(b) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Facility is a wind-powered generation facility consisting of 121 wind turbine generators located in Pecos County, Texas.

It is expected that electricity from the Facility will be sold to TXU Electric Company of Dallas, Texas. The Facility will be interconnected with the West Texas Utilities Company transmission system, and West Texas Utilities Company will provide backup power to the Facility.

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. The Dow Chemical Company

[Docket No. QF02–10–000]

Take notice that on November 13, 2001, The Dow Chemical Company (Dow) filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to section 292.207(b) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be an approximately 897 megawatt combined cycle cogeneration facility, primarily fired by natural gas (the Facility) and will be located in Plaquemine, Louisiana, at the site of Dow's chemical manufacturing plant. The Facility will be leased to, and operated by, Dow. Thermal energy from the Facility will be used by Dow. The Facility will be interconnected with the Entergy Louisiana, Inc. transmission system.

Comment date: December 7, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–29308 Filed 11–23–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2634]

Great Northern Paper, Inc.; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

November 19, 2001.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission is consulting with the Maine State Historic Preservation Officer (hereinafter, SHPO) and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR part 800, implementing section 106 of the National Historic Preservation Act, as amended, (16 U.S.C. section 470f), to prepare a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Storage Project (FERC No. P–2634).

The programmatic agreement, when executed by the Commission, the SHPO, and the Council, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.14). The Commission's responsibilities pursuant to section 106 for the above project would be fulfilled through the programmatic agreement, which the Commission proposes to draft in consultation with certain parties listed below. The executed programmatic agreement would be incorporated into any Order issuing a license.

Great Northern Paper, Inc. as prospective licensee for Project No. P–2634, and the Passamaquoddy Indian Tribe, Penobscot Indian Nation, and U.S. Bureau of Indian Affairs have interest in this proceeding are invited to participate in consultations to develop the programmatic agreement and to sign as a concurring party to the programmatic agreement.

For purposes of commenting on the programmatic agreement, we propose to restrict the service list for Project No. P–2634 as follows:

Dr. Laura Henley Dean, Advisory Council on Historic Preservation, The Old Post Office Building, Suite 803, 1100 Pennsylvania Avenue, NW, Washington, DC. 20004

Earle G. Shettleworth, Jr., State Historic Preservation Officer, Maine Historic Preservation Commission, 55 Capitol Street, 65 State House Station, Augusta, Maine 04333

Brian R. Stetson, Manager of Environmental Affairs, Great Northern Paper, Inc., Engineering and Research Building, 1 Katahdin Ave., Millinocket, Maine 04462–1373

Richard H. Hamilton, Chief, Penobscot Indian Nation, 6 River Road; Indian Island, Old Town, Maine 04468

Gregory W. Sample, Drummond Woodsum & MacMahon, 245 Commercial Street, P.O. Box 9781, Portland, Maine 04104–5081

Jim Harriman, U.S. Bureau of Indian Affairs, Eastern Area Office, M.S. 260-VASQ, 3701 Fairfax Drive, Arlington, Virginia 22203–1700

Any person on the official service list for the above-captioned proceedings may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date.

An original and 8 copies of any such motion must be filed with the Secretary of the Commission (888 First Street, NE., Washington, DC 20426) and must be served on each person whose name appears on the official service list. If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on the motion.

David P. Boergers,

Secretary.

[FR Doc. 01–29310 Filed 11–23–01; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.2010.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11811–001]

Wisconsin Logs, Inc.; Notice of Surrender of Preliminary Permit

November 19, 2001.

Take notice that Wisconsin Logs, Inc., permittee for the proposed Merrill Paper Mill Project, has requested that its preliminary permit be terminated. The permit was issued on January 4, 2001, and would have expired on December 31, 2003. The project would have been located on the Prairie River in Lincoln County, Wisconsin. The permittee states that due to present economic and political conditions the project has become unviable.

The permittee filed the request on November 1, 2001, and the preliminary permit for Project No. 11811 shall remain in effect through the thirtieth day after issuance of this notice unless that day is Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under18 CFR part 4, may be filed on the next business day.

David P. Boergers,

Secretary.

[FR Doc. 01–29311 Filed 11–23–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7107–3]

Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collections as described below.

DATES: Comments must be submitted on or before January 25, 2002.

ADDRESSES: U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Mail Code 2225A, OECA/OC/AgD, Washington, DC 20460. A copy of this ICR may be obtained from Stephen Howie tel: (202) 564–4146; e-mail: *howie.stephen@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen Howie, tel: (202) 564–4146; FAX: (202) 564–0085; e-mail: *howie.stephen@.epa.gov.*

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which produce pesticides.

Title: Application for Registration of Pesticide Producing Establishment (EPA Form 3540–8) and Pesticides Report for Pesticide Producing Establishments (EPA Form 3540–16). OMB Control Number 2070–0078. Expires 5/31/2002.

Abstract: The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 7(a) requires that any person who produces pesticides or active ingredients subject to the Act must register with the Administrator of EPA the establishment in which the pesticide is produced. This section further requires that the application for registration of any establishment shall include the name and address of the establishment and of the producer who operates such an establishment. EPA Form 3540–8, Application for Registration of Pesticide-Producing Establishments, is used to collect the establishment registration information required by this section.

FIFRA section 7(c) requires that any producer operating an establishment registered under section 7 report to the Administrator within 30 days after it is registered, and annually thereafter by March 1st for certain pesticide/device production and sales/distribution information. The producers must report which types and amounts of pesticides, active ingredients, or devices are currently being produced, were produced during the past year, sold or distributed in the past year. The supporting regulations at 40 CFR part 167 provide the requirements and time schedules for submitting production information. EPA Form 3540–16, Pesticide Reports for Pesticide-Producing Establishments, is used to collect the pesticide production information required by section 7(c) of FIFRA.

Establishment registration is a one-time requirement for all pesticide-producing establishments. Pesticide production information, is required to be submitted within 30 days of receipt of the Notification of Registration of Pesticide-Producing Establishments and annually thereafter on or before March 1.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Burden: The average annual burden to the industry over the next three years is estimated to be 2 person hours per response.

Respondents/affected entities: 12,412.

Estimated number of respondents: 12,412.

Frequency of responses: 1.

Estimated total annual hour burden: 24,824.

There are no capital/startup costs or operating and maintenance (O&M) costs associated with this ICR since all equipment associated with this ICR is present as part of ordinary business practices.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: November 7, 2001.

Kate M. Perry,

Acting Director, Agriculture Division.

[FR Doc. 01–29384 Filed 11–23–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7107–5]

Trichloroethylene Health Risk Assessment

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of public comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is extending by 60 days the public comment period on the draft report, ''Trichloroethylene Health Risk Assessment: Synthesis and Characterization,'' External Review Draft, (EPA/600/P–01/002A). An initial 60-day public comment period had been announced in the Notice of Availability published on September 19 (66 FR 48257–48258). Extensions were requested by the Air Force, the Halogenated Solvents Industry Alliance, ARCADIS G&M, the Chlorine Chemistry Council, and the General Electric Company. EPA has decided to grant an extension of the comment period until January 18, 2002.

EPA's Science Advisory Board (SAB) will convene an external peer-review panel to review the draft assessment. The SAB will publish a subsequent **Federal Register** notice to announce the time and place of the peer-review meeting, including information on how the public can participate. After the peer-review meeting, NCEA will address the panel's comments and the public's comments and issue a final assessment. At that time, a summary of the final assessment will be included on EPA's Integrated Risk Information System (IRIS).

DATES: Comments should be in writing and must be received (not postmarked) by January 18, 2002.

ADDRESSES: The draft assessment is available on the Internet at *http://www.epa.gov/ncea.* A limited number of paper copies are available from the National Center for Environmental Assessment's Technical Information Staff, telephone: 202–564–3261; facsimile: 202–565–0050. If you request a paper copy, please provide your name, mailing address, and the report title, Trichloroethylene Health Risk Assessment.

Comments may be mailed to the Technical Information Staff at the mailroom address: Technical Information Staff (8623–D), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Comments should be in writing and must be received by January 18, 2002. Comments may also be delivered to the Technical Information Staff at the office address: 808 17th Street NW., 5th Floor, Washington, DC 20006; telephone: 202–564–3261; facsimile: 202–565–0050. Electronic comments may be e-mailed to: *nceadc.comment@epa.gov.* While not a requirement, commenters are encouraged to provide both a hard copy of their comments and electronic files of their comments in a common word-processing format.

FOR FURTHER INFORMATION CONTACT: Dr. Jim Cogliano, National Center for Environmental Assessment, telephone: 202–564–3288; facsimile: 202–565–0079; e-mail: *cogliano.jim@epa.gov.*

Dated: November 16, 2001.

George W. Alapas,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 01–29385 Filed 11–23–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

November 16, 2001.

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 currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 26, 2001. 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 Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to *jboley@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0216.

Title: Section 73.3538, Application to make changes in an existing station.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit; not for profit institutions.

Number of Respondents: 50.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 50 hours.

Total Annual Cost: $0.

Needs and Uses: On February 14, 2001, the Commission adopted a Report and Order in MM Docket No. 93–77 in the matter of An Inquiry Into the Commission's Policies and Rules Regarding AM Radio Service Directional Antenna Performance Verification. This Report and Order relaxed the technical requirements for AM stations using directional antennae. Among other things, this Report and Order eliminated the need to file an informal application to specify new AM station directional antenna field monitoring points. Revised section 73.3538(b) requires a broadcast station to file an informal application to modify or discontinue the obstruction marking or lighting of an antenna supporting structure. The requirement to file an informal application to relocate the main studio outside the principal community contour has approval under section 73.1125 (3060–0171). The data are used by FCC staff to ensure that the modification or discontinuance of the obstruction marking or lighting will not cause a menace to air navigation.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–29304 Filed 11–23–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sixth Meeting of the Advisory Committee for the 2003 World Radiocommunication Conference (WRC–03 Advisory Committee)

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the next meeting of the WRC–03 Advisory Committee will be held on December 19, 2001, at the Federal Communications Commission. The purpose of the meeting is to continue preparations for the 2003 World Radiocommunication Conference. The Advisory Committee will consider any preliminary views and/or proposals introduced by the Advisory Committee's Informal Working Groups.

DATES: December 19, 2001; 10 a.m.–12 noon.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–C305, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alexander Roytblat, FCC International Bureau, Planning and Negotiations Division, at (202) 418–7501.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission (FCC) established the WRC–03 Advisory Committee to provide advice, technical support and recommendations relating to the preparation of United States proposals and positions for the 2003 World Radiocommunication Conference (WRC–03). In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the sixth meeting of the WRC–03 Advisory Committee. The WRC–03 Advisory Committee has an open membership. All interested parties are invited to participate in the Advisory Committee and to attend its meetings. The proposed agenda for the sixth meeting is as follows:

Agenda

Sixth Meeting of the WRC–03 Advisory Committee, Federal Communications Commission, 445 12th Street, SW., Room TW–C305, Washington, DC 20554—December 19, 2001; 10 a.m.–12 noon.

1. Opening Remarks.
2. Approval of Agenda.
3. Approval of the Minutes of the Fifth Meeting.
4. IWG Reports and Documents relating to:
   a. Consensus Views and Issue Papers.
   b. Draft Proposals.
5. Future Meetings.
6. Other Business.

Federal Communications Commission.

Don Abelson,

Chief, International Bureau.

[FR Doc. 01–29303 Filed 11–23–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, 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 information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning information required by FEMA to amend National Flood Insurance Program Maps to remove certain single-lot property from the one-percent annual chance floodplain.

SUPPLEMENTARY INFORMATION: With the passage of the Flood Disaster Protection Act of 1973, an owner of a structure, with a federally backed mortgage, located in the one-percent annual chance (base) floodplain, was required to purchase federal flood insurance. This was in response to the escalating damage caused by flooding and the unavailability of flood insurance from commercial insurance companies. As part of this effort, FEMA mapped the one-percent annual chance floodplain in communities. However, due to scale limitations, individual structures that may be above the base flood cannot be shown as being out of the one-percent annual chance floodplain. FEMA will issue a single-lot Letter of Map Amendment (LOMA) to waive the Federal requirement for flood insurance when data is submitted to show that the single-lot structure is above the base flood.

Collection of Information

Title: Application Form For Single Residential Lot or Structure Amendments to National Flood Insurance Program Maps.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 3067–0257.

Form Numbers: FEMA Forms 81–92, Application Form for Single Residential Lot or Structure Amendments to National Flood Insurance Program Maps and FEMA Form 81–92A (Spanish Version).

Abstract: FEMA Form 81–92 is designed to assist requesters in gathering information that FEMA needs to determine whether a certain single-lot property or structure is likely to be flooded during the flood event that has a one-percent annual chance of being equaled or exceeded in any given year (base flood). FEMA Form 81–92A is a Spanish version of FEMA Form 81–92 and, as such, only one of the two forms would be required for any one application.

Estimated Total Annual Burden Hours:

FEMA forms	Number of respondents (A)	Frequency of response (B)	Hours per response (C)	Annual Burden hours (A × B × C)
81–92	7,875	Annual	2.4	18,900
81–92A	1,125	Annual	2.4	2,700
Total	9,000		2.4	21,600

Estimated Cost: Cost to respondents is estimated at $50.00 per hour, per respondent for a total of $1,080,000 annually. The cost to the Federal Government is estimated to be $2,500,000 annually.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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. Submit comments by January 25, 2002.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, Chief, Records Management Section, Program Services and Systems Branch, Facilities Management and Division, Administration and Resource Planning Directorate, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472. We encourage you to submit comments either by fax—(202) 646–3347—or by e-mail—*muriel.anderson@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Cecelia Lynch, Program Specialist, Federal Insurance and Mitigation Administration at (202) 646–7045 for additional information about this proposed collection of information. Contact Ms. Anderson at (202) 646–2625 for copies of the proposed OMB clearance package.

Dated: November 15, 2001.

Muriel B. Anderson,

Acting Branch Chief, Program Services and Systems Branch, Facilities Management and Services Division, Administration and Resource Planning Directorate.

[FR Doc. 01–29320 Filed 11–23–01; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 19, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Spector Properties, Inc., Chicago, Illinois; to become a bank holding company by retaining 23.8 percent of the voting shares of Andalusia Community Bank, Andalusia, Illinois.

B. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Valley View Bancshares, Inc., Overland Park, Kansas; to acquire 100 percent of the voting shares of Guaranty Bancshares Corporation, Kansas City, Kansas, and thereby acquire Guaranty Bank and Trust, Kansas City, Kansas.

Board of Governors of the Federal Reserve System, November 19, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–29319 Filed 11–23–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–10]

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) 639–7090.

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 Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

National Assessment of Health Care Services Provided in Homeless Shelters/Soup Kitchens—New—Centers for Disease Control and Prevention (CDC), National Center for Infectious Diseases (NCID). This Proposed study will collect information for determining, on a national basis, what facilities homeless shelters or soup kitchens currently have and what services are currently offered that might be used to integrate hepatitis prevention activities.

There is one phase of data collection anticipated. This would occur in the Spring of 2002, and will consist of surveys of 200 centers of varying types. Telephone follow-up of initial respondents in the event clarification of responses is needed will be conducted. Respondents will be managers or designees of homeless shelters or soup kitchens. The total time involved to the

respondent is 60 minutes. There is no cost to respondents.

Respondents	No. of respondents	No. of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Homeless Shelters	100	30	1	3000
Soup Kitchens	100	30	1	3000
Total				6000

Dated: November 19, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–29335 Filed 11–23–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–09]

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) 639–7090.

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 Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Radiation Dose Reconstruction—NEW—The National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS). On October 30, 2000, the Energy Employees Occupational Illness Compensation Program Act of 2000 (Public Law 106–398) was enacted. This Act established a federal compensation program for employees of the Department of Energy (DOE) or certain of its contractors, subcontractors and vendors, who have suffered cancers and other designated illnesses as a result of exposures sustained in the production and testing of nuclear weapons.

Executive Order 13179 was issued on December 7, 2000; it delegated authorities assigned to ''the President'' under the Act to the Departments of Labor, Health and Human Services, Energy, and Justice. The Department of Health and Human Services (DHHS) was delegated the responsibility of establishing methods for estimating radiation doses received by eligible claimants with cancer applying for compensation. NIOSH is to apply these methods to estimate the radiation doses of such individuals applying for compensation.

In performance of its dose reconstruction responsibilities under the Act, NIOSH will interview claimants (or their survivors) individually and provide them with the opportunity, through a structured interview, to assist NIOSH in documenting the work history of the employee (characterizing the actual work tasks performed), identifying incidents that may have resulted in undocumented radiation exposures, characterizing radiologic protection and monitoring practices, and identifying co-workers and other witnesses as may be necessary to confirm undocumented information. In this process, NIOSH will use a computer assisted telephone interview (CATI) system, which will allow interviews to be conducted more efficiently and quickly than would be the case with a paper-based interview instrument.

NIOSH will use the data collected in this process to complete an individual dose reconstruction that accounts as fully as possible for all possible radiation dose incurred by the employee in the line of duty for DOE nuclear weapons production programs. After dose reconstruction, NIOSH will also perform a brief final interview with the claimant, to explain the results and to allow the claimant to confirm or question the record NIOSH has compiled. This will also be the final opportunity for the claimant to supplement the dose reconstruction record.

At the conclusion of the dose reconstruction process, the claimant will need to submit a form (OCAS–1) to confirm that all information available to the claimant has been provided. The form will notify the claimant that signing the form allows NIOSH to forward a dose reconstruction report to DOL and to the claimant, and closes the record on data used for the dose reconstruction. The dose reconstruction results will be supplied to the claimant and to the DOL, which will factor them into its determination whether the claimant is eligible for compensation under the Act.

On October 31, 2001, the Office of Management and Budget approved DHHS' request for emergency Paperwork Reduction Act clearance, so that NIOSH could begin its dose reconstruction duties under the Act. That emergency clearance expires on April 30, 2002. This notice pertains to DHHS' request for normal Paperwork Reduction Act clearance to permit NIOSH to continue conducting dose reconstruction activities after April 30, 2002. There is no cost to respondents.

Respondents	Number of respondents	Number of responses	Average burden per response (in hrs)	Total burden (in hrs)
Initial interview	22,500	1	1	22,500
Conclusion form	22,500	1	5/60	1,875
Total				24,375

Dated: November 16, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–29336 Filed 11–23–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–04–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Youth Risk Behavior Survey (YRBS) Methodological Study—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention, (CDC). The purpose of this request is to obtain OMB clearance to conduct a methodological study in the Spring of 2002 to assess the contributions of question wording, questionnaire context, and appeals for honesty on prevalence and, thereby, to provide methodological guidance for future surveys, especially surveys of adolescents. In 2000, the Office of the Assistant Secretary for Planning and Evaluation (ASPE) commissioned five expert papers written on the topic ''Examining Substance Abuse Data Collection Methodologies.'' The papers focused on the YRBS, the National Household Survey of Drug Abuse (NHSDA), and Monitoring the Future (MTF). A consensus among the authors was that disparate results across the studies are most likely a product of methodological differences across the surveys. This YRBS Methodological Study is designed to measure the effect of several critical aspects of the data collection protocol: (1) Question wording, (2) questionnaire context, (3) appeals for honesty, and (4) students' perception of their honesty and accuracy. Approximately 100 students in 40 high schools will be given one of four questionnaires. Elucidation of the impact of these factors on prevalence will assist in reducing response effects and improving the quality of the YRBS data. The total annualized burden for this data collection is 3,040 hours.

Respondents	Number of respondents	Number of responses per respondents	Burden per response (in hrs.)
High school student	4,000	1	45/60
School administrators	80	1	30/60

Dated: November 16, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–29337 Filed 11–23–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Infectious Diseases: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID).

Time and Date: 8:30 a.m.–3:30 p.m., December 6, 2001.

Place: CDC, Auditorium B, Building 1, Clifton Road, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, NCID, provides advice and guidance to the Director, CDC, and Director, NCID, in the following areas: program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters to be Discussed: Agenda items will include:

1. Opening Session: NCID Update
   a. Institute of Medicine
   b. Global Strategy
   c. Budget
2. Program Update:
   a. West Nile
   b. Dengue
   c. Influenza
   d. Malaria
   e. Creutzfeldt-Jakob Disease
3. Bioterrorism Updates and Discussion
   a. Organizational Approach/Structure
   b. Anthrax Investigations
   c. Smallpox Activities
   d. Other issues, e.g., antimicrobial resistance/widespread use of antibiotics
4. Board meets with Director, CDC
5. Discussions and Recommendations

Other agenda items include announcements/introductions; follow-up on actions recommended by the Board May 2001; consideration of future directions, goals, and recommendations.

Agenda items are subject to change as priorities dictate.

An unavoidable administrative delay prevented meeting the 15-day publication requirement.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person For More Information: Diane S. Holley, Office of the Director, NCID, CDC, Mailstop C–19, 1600 Clifton Road, NE, Atlanta, Georgia 30333, email *dsy1@cdc.gov;* telephone 404/639–0078.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: November 15, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–29338 Filed 11–23–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Interagency Committee on Smoking and Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub L. 92–463), the National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) of the Centers for Disease Control and Prevention (CDC) announces the following:

Name: Interagency Committee on Smoking and Health.

Date and Time: 9 a.m.-5 p.m., December 13, 2001.

Place: Room 800, Hubert H. Humphrey Building, 200 Independence Avenue, SW, 6th Floor, Washington, DC 20201.

Status: Open to the public, limited only by the space available. Those who wish to attend are encouraged to register with the contact person listed below. If you will require a sign language interpreter, or have other special needs, please notify the contact person by 4:30 E.S.T. on December 6, 2001.

Purpose: The Interagency Committee on Smoking and Health advises the Secretary, Department of Health and Human Services, and the Assistant Secretary for Health in the: (a) Coordination of all research and education programs and other activities within the Department and with other federal, state, local and private agencies, and (b) establishment and maintenance of liaison with appropriate private entities, federal agencies, and state and local public health agencies with respect to smoking and health activities.

Matters to be Discussed: The agenda will focus on new and changing tobacco and nicotine delivery products.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of committee members may be obtained from the Internet *www.cdc.gov/tobacco* in mid-January 2002, or from Ms. Monica L. Swann, Interagency Committee on Smoking and Health, Office on Smoking and Health, NCCDPHP, CDC, 200 Independence Avenue, SW, Room 317B, Washington, DC, 20201, telephone (202) 205–8500.

All agenda items are subject to change as priorities dictate.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: November 16, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–29339 Filed 11–23–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; AA–6649–A2]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act, as amended by the Alaska National Interest Lands Conservation Act, will be issued to the Atxam Corporation for lands in T. 52 S., R. 72 W., Tps. 75 & 76 S., R. 121 W., and T. 93 S., R. 179 W., Seward Meridian, located within the vicinity of Atka, Alaska, containing approximately 10,137 acres. Notice of the decision will also be published four times in the *Anchorage Daily News.*

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until December 26, 2001 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sherri Belenski, (907) 271–3333.

Sherri D. Belenski,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 01–29348 Filed 11–23–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–912–02–1120–PG–24–1A]

Utah Statewide Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice of Utah Resource Advisory Council Meeting.

SUMMARY: The Bureau of Land Management's Utah Statewide Resource Advisory Council will conduct a meeting December 18, 2001, from 8 a.m. until 5 p.m, at the Salt Lake Plaza Hotel, 122 West South Temple, Salt Lake City, Utah.

Primary agenda items for this meeting will include an orientation for new members and an overview of management strategies to increase consistency and clarity regarding the management of raptors and associated habitats on BLM lands within the state. A panel, whose members represent the state, industry, wildlife interests, and BLM, will also speak on their perspectives of raptor issues and the complexity in dealing with development on public lands.

A public comment period is scheduled from 4:15 p.m.–4:45 p.m. where members of the public may address the Council. Written comments may be mailed to the Bureau of Land Management at the address listed below. All meetings are open to the public; however, transportation, lodging, and meals are the responsibility of the participating public.

FOR FURTHER INFORMATION CONTACT: Sherry Foot, Special Programs Coordinator, Utah State Office, Bureau of Land Management, 324 South State Street, Salt Lake City, 84111; phone (801) 539–4195.

Dated: November 6, 2001.

Robert A. Bennett,

Associate State Director.

[FR Doc. 01–29380 Filed 11–23–01; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension and revision of a currently approved information collection (OMB Control Number 1010–0114).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the regulations under 30 CFR 250, subpart A, General.

DATES: Submit written comments by January 25, 2002.

ADDRESSES: Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. If you wish to e-mail comments, the e-mail address is: *rules.comments@mms.gov.* Reference ''Information Collection 1010–0114'' in your e-mail subject line. Include your name and return address in your e-mail message and mark your message for return receipt.

FOR FURTHER INFORMATION CONTACT: Alexis London, Rules Processing Team, telephone (703) 787–1600. You may also contact Alexis London to obtain a copy at no cost of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, Subpart A, General.

OMB Control Number: 1010–0114.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended, 43 U.S.C. 1331 *et seq.*, requires the Secretary of the Interior to preserve, protect, and develop oil and gas resources in the OCS in a manner which is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resource development with protection of human, marine, and coastal environments; ensure the public a fair and equitable return on resources of the OCS; and preserve and maintain free enterprise competition. Section 1332(6) of the OCS Lands Act requires that ''operations in the [O]uter Continental Shelf should be conducted in a safe manner by well trained personnel using technology, precautions, and other techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstructions to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property or endanger life or health.'' This authority and responsibility are among those delegated to MMS. To carry out these responsibilities, MMS has issued regulations for leasing and operations on the OCS. The ICR to be submitted to OMB for review and approval concerns the reporting and recordkeeping elements of the 30 CFR 250, subpart A, General regulations and related forms and Notices to Lessees and Operators (NTLs).

Federal policy and statutes require us to recover the cost of services that confer special benefits to identifiable non-Federal recipients. Section 250.165 requires a State lessee to pay a fee when applying for a right-of-use and easement on the OCS. The Independent Offices Appropriation Act (31 U.S.C. 9701), OMB Circular A–25, and the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996) authorize agencies to collect these fees to reimburse us for the cost to process applications or assessments. This fee is the same as that required for filing pipeline right-of-way applications as specified in § 250.1010(a).

The MMS OCS Regions use the information collected under subpart A to ensure that operations on the OCS are carried out in a safe and pollution-free manner, do not interfere with the rights of other users on the OCS, and balance the development of OCS resources with the protection of the environment. Responses are mandatory. No questions of a ''sensitive'' nature are asked. MMS will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2), 30 CFR 250.196 (Data and information to be made available to the public) and 30 CFR part 252 (OCS Oil and Gas Information Program).

Frequency: The frequency varies by section, but is generally ''on occasion.''

Estimated Number and Description of Respondents: Approximately 1 State and 130 Federal OCS oil and gas or sulphur lessees.

Estimated Reporting and Recordkeeping ''Hour'' Burdens: The following chart details the individual reporting and recordkeeping requirements and respective hour burden estimates of the ICR we will submit to OMB. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden. We welcome your comments on our estimates of the burden hours for these requirements.

Citation 30 CFR 250 subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Hour burden per response/record
	Reporting Requirements	
104	Appeal orders or decisions—burden included with 30 CFR 290 (1010–0121)	
109(a); 110	Submit welding, burning, and hot tapping plans	2
115; 116	Request determination of well producibility; submit data & information; notify MMS of test	3
118; 119; 121; 124	Apply for injection or subsurface storage of gas	8
133	Request reimbursement for food, quarters, and transportation provided to MMS representatives (OCS Lands Act specifies reimbursement; no requests received in many years; minimal burden).	1
135 (MMS internal process)	Submit performance improvement plan under MMS implementing procedures for enforcement actions.	20
140	Request various oral approvals not specifically covered elsewhere in regulatory requirements.	¼

Citation 30 CFR 250 subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Hour burden per response/record
141	Request approval to use new or alternative procedures, including BAST, not specifically covered elsewhere in regulatory requirements.	7
142	Request approval of departure from operating requirements not specifically covered elsewhere in regulatory requirements.	2
143; 144; 145; Form MMS–1123.	Submit designation of operator & report change of address or notice of termination; submit designation of local agent.	¼
150; 151; 152; 154(a)	Name and identify facilities, etc., with signs	2
150; 154(b)	Identify wells with paint or signs	1
160; 161	OCS lessees: Apply for right of use and easement to construct and maintain off-lease platforms, artificial islands, and installations and other devices.	5
165	State lessees: Apply for right-of-use and easement to construct and maintain off-lease platforms, artificial islands, and installations and other devices.	5
166	State lessees: Furnish surety bond—burden included with 30 CFR 256 (1010–0006)	
168; 170; 171; 172; 174; 175; 177; 180(b), (d).	Request suspension of operations (SOO) or production (SOP); submit schedule of work leading to commencement.	10
Condition of approval of	Submit progress reports on SOO or SOP	2
177(a)	Conduct site-specific study; submit results. No instances requiring this study in several years—could be necessary if a situation occurred such as severe damage to a platform or structure caused by a hurricane or a vessel collision.	80
177(b), (c), (d); 182; 183, 185; 194.	Various references to submitting new, revised, or modified exploration plan, development/production plan, or development operations coordination document, and related surveys/reports—burden included with 30 CFR 250, subpart B (1010–0049).	
180(a), (f), (g), (h), (i), (j)	Notify and submit report on various leaseholding operations and lease production activities	½
180(e)	Request more than 180 days to resume operations	3
181(d); 182(b), 183(b)(2)	Request termination of suspension and cancellation of lease (no requests in recent years for termination/cancellation of a lease; minimal burden).	30
184	Request compensation for lease cancellation. OCS Lands Act specifies compensation (no qualified lease cancellations in many years; minimal burden compared to benefit).	50
190	Submit requests, applications, and notices under various regulations—burden included with applicable requirement.	
191	Report accidents, deaths, serious injuries, fires, explosions and blowouts	7
191(a)	Report spills of oil—burden included with 30 CFR 254 (1010–0091)	
192; Form MMS–132	Daily report of evacuation statistics for natural occurrence/hurricane (form MMS–132 used in Gulf of Mexico OCS Region (GOMR)).	1
193	Report apparent violations or non-compliance	1
194 exception requests; NTL ..	Request departures from conducting archaeological resources surveys and/or submitting reports in GOMR.	1
194(c)	Report archaeological discoveries (only one instance in many years; minimal burden)	1
195	Submit data/information for post-lease geological and geophysical activity and request reimbursement—burden included with 30 CFR 251 (1010–0048).	
Recordkeeping Requirements		
108(a)	Retain records of crane inspection, testing, and maintenance for 2 years; crane operator qualifications 4 years.	2
109(b)	Retain welding, burning, and hot tapping plan and approval for the life of the facility	½
132(b)(3)	Make available all records related to inspection not specifically covered elsewhere in regulatory requirements.	1

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: The application filing fee required in § 250.165 is the only paperwork cost burden identified for the subpart A regulations. This filing fee is currently set at $2,350.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *''. Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the ''non-hour cost'' burdens to respondents or recordkeepers resulting from the collection of information. The application fee discussed previously is the only identified non-hour cost burdens for the information collection aspects of 30 CFR 250, subpart A. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare

for collecting information, monitoring, and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

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

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: November 7, 2001.

E. P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 01–29382 Filed 11–23–01; 8:45 am]

BILLING CODE 4310–MR–W

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Meeting of the Yakima River Basin Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, WA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: As required by the Federal Advisory Committee Act, notice is hereby given that the Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, Washington, established by the Secretary of the Interior, will hold a public meeting. The purpose of the Conservation Advisory Group is to provide technical advice and counsel to the Secretary and the State on the structure, implementation, and oversight of the Yakima River Basin Water Conservation Program.

DATES: Monday, December 17, 2001, 9 a.m.–4 p.m.

ADDRESSES: Bureau of Reclamation Office, 1917 Marsh Road, Yakima, Washington.

FOR FURTHER INFORMATION CONTACT: James Esget, Manager, Yakima River Basin Water Enhancement Project, 1917 Marsh Road, Yakima, Washington, 98901; (509) 575–5848, extension 267.

SUPPLEMENTARY INFORMATION: The purpose of the meeting will be to review water marketing opportunities in the Yakima River Basin and develop recommendations.

Dated: November 6, 2001.

James A. Esget,

Program Manager.

[FR Doc. 01–29211 Filed 11–23–01; 8:45 am]

BILLING CODE 4310–MN–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–402 (Final) and 731–TA–892–893 (Final)]

Honey From Argentina and China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act), and section 735(b) of the Act (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured by reason of imports from Argentina and China of honey, provided for in subheadings 0409.00.00, 1702.90.00, and 2106.90.99 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be subsidized by the Government of Argentina and sold in the United States at less than fair value (LTFV). The Commission also makes an affirmative determination that critical circumstances exist with respect to subject imports from China for which Commerce made affirmative critical circumstances determinations.[2]

Background

The Commission instituted these investigations effective September 29, 2000, following receipt of a petition filed with the Commission and Commerce by the American Honey Producers Association, Bruce, South Dakota, and the Sioux Honey Association, Sioux City, Iowa. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of honey from Argentina were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and that imports of honey from Argentina and China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 13, 2001 (66 FR 31948). The hearing was held in Washington, DC, on October 3, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on November 19, 2001. The views of the Commission are contained in USITC Publication 3470 (November 2001), entitled Honey from Argentina and China: Investigations Nos. 701–TA–402 and 731–TA–892–893 (Final).

Issued: November 19, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–29306 Filed 11–23–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–736 and 737 (Reviews)]

Large Newspaper Printing Presses From Germany and Japan

AGENCY: United States International Trade Commission.

[1] The record is defined in sec. 207.2(f) of the Commission's rules of practice and procedure (19 CFR 207.2(f)).

[2] Commissioners Bragg, Miller, and Devaney make affirmative critical circumstances finding with respect to subject imports from China for which Commerce made an affirmative critical circumstances determinations. Chairman Koplan, Vice Chairman Okun, and Commissioner Hillman make a negative critical circumstances finding with respect to those imports.

ACTION: Notice of Commission determinations to conduct full five-year reviews concerning the antidumping duty orders on large newspaper printing presses from Germany and Japan.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty orders on large newspaper printing presses from Germany and Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: November 5, 2001.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), 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*).

SUPPLEMENTARY INFORMATION: On November 5, 2001, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (66 FR 39770, August 1, 2001) was adequate with respect to both reviews, and that the respondent interested party group response was adequate with respect to Germany but inadequate with respect to Japan. The Commission also found that other circumstances warranted conducting a full review with respect to Japan.

A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: November 19, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–29305 Filed 11–23–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–414 (Final) and 731–TA–928 (Final)]

Softwood Lumber From Canada

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–414 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731–TA–928 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from Canada of softwood lumber, provided for in subheadings 4407.10.00, 4409.10.10, 4409.10.20, and 4409.10.90 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult 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).

EFFECTIVE DATE: November 6, 2001.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), 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 this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION:

Background

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Canada of softwood lumber, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigations were requested in a petition filed on April 2, 2001, by the Coalition for Fair Lumber Imports Executive Committee, Washington, DC; the United Brotherhood of Carpenters and Joiners, Portland, OR; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Nashville, TN.

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

[1] See the Department of Commerce's Notice of Preliminary Determination of Sales at Less Than Fair Value (66 FR 56062, November 6, 2001) for a complete description of the scope of the investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on March 12, 2002, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on March 26, 2002, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 18, 2002. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 21, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is March 19, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is April 2, 2002; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before April 2, 2002. On April 19, 2002, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 23, 2002, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: November 20, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–29362 Filed 11–23–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Application for advance permission to enter as nonimmigrant (Pursuant to 212(d)(3) of the Immigration and Nationality Act.)

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on August 16, 2001 at 66 FR 43028, allowing for a 60-day public comment period. No public comment was received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 26, 2001. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Advance Permission to Enter as Nonimmigrant (Pursuant to 212(d)(3) of the Immigration and Nationality Act.)

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–192, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information provided on this form allows the Service to determine if the applicant is eligible to enter the U.S. temporarily under the provision of section 212(d)(3) of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 12,000 responses at 15 minutes (0.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Ste. 1600, Washington, DC 20530.

Dated: November 16, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–29317 Filed 11–23–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Request for cancellation of public charge bond.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on July 27, 2001 at 66 FR 39206, allowing for a 60-day public comment period. No public comment was received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 26, 2001. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, 725—17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Request for Cancellation of Public Charge Bond.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–356, Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The form is used by the Immigration and Naturalization Service to determine if the bond posted on behalf of an alien in the United States should be canceled.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 2,000 responses at 15 minutes (0.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 500 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Patrick Henry Building, 601 D Street, NW., Ste. 1600, Washington, DC 20530.

Dated: November 16, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–29318 Filed 11–23–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Bureau of Justice Statistics

[OJP(BJS)–1338]

2002 Census of Tribal Justice Agencies in American Indian and Alaska Native Tribal Jurisdictions

AGENCY: Bureau of Justice Statistics, Office of Justice Programs, Justice.

ACTION: Notice of solicitation.

SUMMARY: The purpose of this notice is to announce a public solicitation to obtain a data collection agent for the 2002 Census of Tribal Justice Agencies in American Indian and Alaska Native Jurisdictions.

DATES: Proposals must be received at the Bureau of Justice Statistics (BJS) on or before 5:00 p.m. EST, January 7, 2002 or be postmarked on or before January 7, 2002.

ADDRESSES: Proposals should be mailed to Application Coordinator, Bureau of Justice Statistics, 810 Seventh Street, NW, Washington, DC 20531; (202) 616–3497.

FOR FURTHER INFORMATION CONTACT: Marika Litras, Statistician, Bureau of Justice Statistics, 810 Seventh Street, NW, Washington, DC 20531; Phone (202) 514–4272 (This is not a toll free number); E-mail: *Marika.Litras@usdoj.gov.*

SUPPLEMENTARY INFORMATION

Statutory Authority

The awards made pursuant to this solicitation will be funded by the Bureau of Justice Statistics consistent with the provisions of 42 U.S.C. § 3732.

Program Goals

The purpose of this award is to provide funding to administer the 2002 Census of Tribal Justice Agencies in American Indian and Alaska Native Tribal Jurisdictions. The survey will obtain baseline information about tribal justice agencies in Federally recognized American Indian tribes and Alaska Native villages. Special emphasis will be made to identify the tribal justice forums used for resolving disputes, tribal court services and personnel, law enforcement agencies, record keeping, and crime reporting practices. The initial survey instrument and respondent list will be provided by BJS. A draft of the initial survey instrument currently is available on the BJS website for public review and comment at <*www.ojp.usdoj.gov/bjs/stssent.htm#ctjaic*>.

BJS anticipates making one award for a 12-month period under this solicitation. A total of up to $210,000 will be made available to complete the project pending OMB clearance.

Background

The implementation of the 2002 Census of Tribal Justice Agencies in American Indian and Alaska Native Tribal Jurisdictions is part of a multifaceted effort by BJS to expand statistical activities related to American Indian and Alaska Native crime and justice issues. The program is a component of the U.S. Department of Justice's Indian Country Law Enforcement Initiative appropriated to address the need for improved law enforcement and tribal justice systems in Indian Country. To date, there is no comprehensive documentation of tribal justice agencies operating in Indian Country, the services they provide, and the capacity of American Indian tribes and Alaska Native villages to collect and report information about crime in their jurisdiction. Findings from the Census are designed to provide a systematic understanding of the administration of justice in Indian Country.

Though baseline information about detention facilities is available through BJS'' *Survey of Jails in Indian Country,* and selected information about tribal law enforcement agencies is available through BJS'' *Census of State and Local Law Enforcement Agencies,* sparse data are available in the areas of tribal courts, tribal prosecution, tribal public defense, the use of traditional methods of dispute resolution, justice system personnel, and whether and to what extent crime incidents and civil disputes are recorded.

The goal of this survey is to provide baseline information upon which to build a tribal criminal justice statistics infrastructure that not only will improve the Nation's understanding of crime and the administration of justice in American Indian tribes and Alaska Native villages, but may provide important information in the development or expansion of their own tribal justice systems. The information, moreover, may be useful by tribes in their application for various national crime prevention programs, such as the Local Law Enforcement Block Grants administered by the Bureau of Justice Assistance (BJA) and the Juvenile Accountability Incentive Block Grant Program of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), both of which provide for the distribution of funds based upon formulas utilizing crime information.

Eligibility Requirements

Both profit making and nonprofit organizations may apply for funds. Consistent with OJP fiscal requirements, however, no fees may be charged against the project by profit-making organizations.

Scope of Work

The objective of this project is to complete data collection for the 2002 Census of Tribal Justice Agencies in American Indian and Alaska Native Tribal Jurisdictions. This includes extensive follow up, data verification, coding and data entry, and delivery of a final data set and documentation. The initial survey instrument and respondent list will be provided by BJS. Specifically, the recipient of funds will:

1. Develop a detailed timetable for each task in the project. Data collection should begin within three months of the project start and be completed within twelve months. After the BJS project manager has agreed to the timetable, all work must be completed as scheduled.

2. Provide a final review of the survey instrument drafted by BJS for form and content.

3. Verify the names, addresses, and appropriate contact from the respondent list provided by BJS. The most current BIA Tribal Leaders list will comprise the respondent list for this project.

4. Conduct a pre-test of the survey instrument in a minimum of two sites to assure that survey items are perceived by respondents as intended and can be provided in a timely manner.

5. Mail surveys to respondents and provide extensive follow up to respondents that require help, clarification, or encouragement to complete the survey. This may involve multiple follow up telephone calls, re-mailing or re-faxing surveys, email correspondence, and site visits where necessary. In some cases, survey translation into the Native language may be necessary.

6. Implement and maintain an automated system to provide ongoing status of each survey respondent, complete documentation, and an inventory of follow up communication and procedures for each case. This automated tracking system should be remain current and be accessible to the BJS project monitor at all times.

7. Identify techniques necessary to achieve a 100% survey item response rate. The data collection agent will have routine contact with the tribes and must be knowledgeable about the salient issues and tribal relations among various levels of government.

8. Deliver to BJS electronic versions of the survey data, and documentation on

diskette and in ASCII file format. Survey documentation should include, but is not limited to, a comprehensive codebook detailing variable positions, data coding, variable and value labels, any recoding implemented during the data cleaning process, methods used for dealing with missing data, any data allocations, imputation, or non-response adjustment, and copies of all program code used to generate data or published statistics. All data and documentation from this survey may be posted on the BJS website, and data archived at the Inter-University Consortium for Political and Social Research (ICPSR).

Award Procedures and Evaluation Criteria

Proposals should describe the plan and implementation strategies outlined in the Scope of Work. Information on staffing levels and qualifications should be included for each task and descriptions of experience relevant to the project. Resumes of the proposed project director and key staff should be enclosed with the proposal.

Applications will be reviewed competitively with the final award decision made by the Director of BJS. The applicant will be evaluated on the basis of:

1. Demonstrated knowledge of applied survey research, including survey construction, interview techniques, data collection, data coding, entry and verification, and the production of public use data files. This includes availability of an adequate computing environment, knowledge of standard social science data processing software, and demonstrated ability to produce SPSS readable data files for analysis and report production.

2. Demonstrated ability and experience in collecting data in American Indian tribes and Alaska Native villages.

3. Knowledge of the tribal justice issues and logistical impediments to implementing surveys on American Indian reservations, tribal lands, tribal communities, or native villages. Applicants must demonstrate the ability to coordinate and facilitate trust and cooperation among tribal members participating in the survey. In addition, applicants must detail their strategy for obtaining participation from tribal respondents in remote areas with limited phone and/or postal access.

4. Demonstrated fiscal, management, staff, and organizational capacity to provide sound management for this project. Applicant should include detailed staff resources and other costs by project tasks.

Application and Award Process

- An original and two (2) copies of the full proposal must be submitted including:
- Standard Form 424, Application for Federal Assistance
- OJP Form 7150/1, Budget Detail Worksheet
- OJP Form 4000/3, Program Narrative and Assurances
- OJP Form 4061/6, Certification regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters; Drug Free Workplace requirements
- OJP Form 7120–1, Accounting System and Financial Capability Questionnaire (to be submitted by applicants who have not previously received Federal Funds from the Office of Justice Programs).

These forms can be obtained online from *www.ojp.usdoj.gov/forms.htm.*

In addition, fund recipients are required to comply with regulations designed to protect human subjects and ensure confidentiality of data. In accordance with 28 CFR part 22, a Privacy Certificate must be submitted to BJS. Furthermore, a Screening Sheet for Protection of Human Subjects must be completed prior to the award being issued. Questions regarding Protection of Human Subjects and/or Privacy Certificate requirements can be directed to the Human Subjects Protection Officer (HSPO) at (202) 616–3282 [This is not a toll free number].

Proposals must include a project description and detailed budget. The project narrative should describe activities as discussed in the Scope of Work and address the evaluation criteria. The project narrative should contain a detailed time line for project activities, a description of the survey methodology to be used including defined geographic boundaries, data collection method, data entry, and data documentation procedures. The detailed budget must provide detailed cost including salaries of staff involved in the project and the portion of those salaries to be paid from the award, fringe benefits paid to each staff person, travel costs, supplies required for the project, sub-contractual agreements, and other allowable costs. The grant will be made for a period of 12 months.

Dated: November 16, 2001.

Lawrence A. Greenfield,

Acting Director, Bureau of Justice Statistics.

[FR Doc. 01–29332 Filed 11–23–01; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Federal Economic Statistics Advisory Committee; Notice of Open Meeting and Agenda

The fourth meeting of the Federal Economic Statistics Advisory Committee will be held on December 14, 2001 in the Postal Square Building, 2 Massachusetts Avenue NE., Washington, DC.

The Federal Economic Statistics Advisory Committee is a technical committee composed of economists, statisticians, and behavioral scientists who are recognized for their attainments and objectivity in their respective fields. Committee members are called upon to analyze issues involved in producing Federal economic statistics and recommend practices that will lead to optimum efficiency, effectiveness, and cooperation among the Department of Labor, Bureau of Labor Statistics and the Department of Commerce, Bureau of Economic Analysis and Bureau of the Census.

The meeting will be held in Meeting Rooms 1 and 2 of the Postal Square Building Conference Center. The schedule and agenda for the meeting are as follows:

8:30 a.m. Opening Session

9 a.m. North American Industry Classification System

10:30 p.m. Seasonal Adjustment

1:15 p.m. American Time Use Survey (continuation)

1:45 p.m. Wage Rate Data and Differentials in 790/202

2:15 p.m. American Community Survey

4 p.m. Priorities for future meetings

4:45 p.m. Conclude (approximate time)

The meeting is open to the public. Any questions concerning the meeting should be directed to Margaret Johnson, Federal Economic Research Advisory Committee, on Area Code (202) 691–5600. Individuals with disabilities, who need special accommodations, should contact Ms. Johnson at least two days prior to the meeting date.

Signed at Washington, DC, the 19th day of November 2001.

Lois L. Orr,

Acting Commissioner of Labor Statistics.

[FR Doc. 01–29368 Filed 11–23–01; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Hoist Operators Physical Fitness

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before January 25, 2002.

ADDRESSES: Send comments to Gordon J. Burke, Jr., Director, Administration and Management, 4015 Wilson Boulevard, Room 611, 4015, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to Burke-Gordon@msha.gov, along with an original printed copy. Mr. Burke can be reached at (703) 235–1383 (voice), or (703) 235–1563 (facsimile).

FOR FURTHER INFORMATION CONTACT: Charlene N. Barnard, Regulatory Specialist, Records Management Division, U.S. Department of Labor, Mine Safety and Health Administration, Room 725, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Ms. Barnard can be reached at *barnard-charlene@msha.gov* (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Title 30 CFR sections 56.19057 and 57.19057 require the annual examination and certification of a hoist operator's fitness. The safety of all metal and nonmetallic miners riding hoist conveyances is dependent upon the attentiveness and physical capabilities of the hoist operator, in routine and emergency evacuations. Improper movement. overspeed, and overtravel of a hoisting conveyance can result in serious physical harm or death to all passengers. While small mine operators are likely to have fewer hoists and hoist operators, Congress intended that the Mine Act be enforced at all mining operations within its jurisdiction regardless of size and that information collection and record keeping requirements be consistent with efficient and effective enforcement of the Mine Act. However, Congress did recognize that small operations may face problems in complying with some Mine Act provisions. Section 103(e) of the Mine Act directs the Secretary of Labor not to impose an unreasonable burden on small businesses when obtaining any information under the Mine Act. This information collection does not have a significant impact on a substantial number of small entities.

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Hoist Operator's Physical Fitness. MSHA 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 submissions of responses.

A copy of the proposed information collection request may be viewed on the Internet by accessing the MSHA Home Page (*http://www.msha.gov*) and selecting ''Statutory and Regulatory Information'' then ''Paperwork Reduction Act Submissions'' (*http://www.msha.gov/regspwork.htm*) or by contacting the employee listed above in the **FOR FURTHER INFORMATION CONTACT** section of this notice for a hard copy.

III. Current Actions

Title 30 CFR sections 56.19057 and 57.19057 require the annual examination and certification of a hoist operator's fitness. The safety of all metal and nonmetallic miners riding hoist conveyances is dependent upon the attentiveness and physical capabilities of the hoist operators, in routine and emergency evacuations. Improper movements, overspeed, and overtravel of a hoisting conveyance can result in serious physical harm or death to all passengers. Small mine operators are likely to have fewer hoists and hoist operators.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Hoist Operator's Physical Fitness.

OMB Number: 1219–0049.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Record keeping: At least one year from the time that certification is obtained.

Total Respondents: 47.

Total Responses: 235.

Average Time per Response: 2 minutes.

Estimated Total Burden Hours: 7.8.

Total Annualized Capital/Startup Costs: $0.

Total Operating and Maintenance Costs: $72,380.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: November 16, 2001.

Gordon J. Burke, Jr.,

Director, Administration and Management.

[FR Doc. 01–29369 Filed 11–23–01; 8:45 am]

BILLING CODE 4510–43–M

LEGAL SERVICES CORPORATION

Notice of Intent to Award—Grant Awards for the Provision of Civil Legal Services to Eligible Low-Income Clients Beginning March 1, 2002

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to make FY 2002 Competitive Grant Awards.

SUMMARY: The Legal Services Corporation (LSC) hereby announces its intention to award grants and contracts to provide economical and effective delivery of high quality civil legal services to eligible low-income clients, beginning March 1, 2002.

DATES: All comments and recommendations must be received on or before the close of business on December 26, 2001.

ADDRESSES: Legal Services Corporation—Competitive Grants, Legal Services Corporation, 750 First Street NE, 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Reginald Haley, Office of Program Performance, (202) 336–8827.

SUPPLEMENTARY INFORMATION: Pursuant to LSC's announcement of funding availability on April 19, 2001 (66 FR 20165), July 13, 2001 (66 FR 36807), and Grant Renewal applications due on August 13, 2001, LSC will award funds to one or more of the following organizations to provide civil legal services in the indicated service areas. The grant amounts shown below are based on FY 2001 funding levels and reflect a ten month funding period beginning March 1, 2002, and ending December 31, 2002.

Service area	Applicant name	Anticipated FY 2002 award
WI–5	Legal Action of Wisconsin	$2,783,980
MWI	Legal Action of Wisconsin	66.480
NWI–1	Wisconsin Judicare, Inc	116,810
WI–2	Wisconsin Judicare, Inc	888,410
LA–9	Capital Area Legal Services Corporation	3,509,370
LA–9	Southeast Louisiana Legal Services Corporation	3,509,370
LA–9	New Orleans Legal Assistance Corporation	3,509,370

These grants and contracts will be awarded under the authority conferred on LSC by the Legal Services Corporation Act, as amended (42 U.S.C. 2996e(a)(1)). Awards will be made so that each service area indicated above is served, although none of the listed organizations are guaranteed an award or contract. This public notice is issued pursuant to the LSC Act (42 U.S.C. 2996f(f)), with a request for comments and recommendations concerning the potential grantees within a period of thirty (30) days from the date of publication of this notice. Grants will become effective and grant funds will be distributed on or about March 1, 2002.

Dated: November 19, 2001.

Michael A. Genz,

Director, Office of Program Performance.

[FR Doc. 01–29355 Filed 11–23–01; 8:45 am]

BILLING CODE 7050–01–P

MERIT SYSTEMS PROTECTION BOARD

Sunshine Act Meeting

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552(b), notice is hereby given that the Merit Systems Protection Board is holding a closed meeting on November 29, 2001, at 2:00 p.m., in the Board's conference room at 1615 M Street, NW., 6th Floor, Washington, DC 20419. In calling the meeting, the Board determined that the public interest does not require consideration of the matter in a meeting open to public observation and that the matter could be considered by authority of subsection (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(10)).

MATTER TO BE CONSIDERED: Strategies for moving overage cases.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Shannon McCarthy or Matthew Shannon, Office of the Clerk of the Board, (202) 653–7200.

Dated: November 20, 2001.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 01–29499 Filed 11–21–01; 2:14 pm]

BILLING CODE 7400–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Fellowships Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Fellowships Advisory Panel, Folk & Traditional Arts Section (National Heritage Fellowships category) to the National Council on the Arts will be held on December 4–7, 2001 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, (Room M–07) Washington, DC, 20506. A portion of this meeting, from 1:30 p.m. to 2:30 p.m. on December 6th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 6:30 p.m. on December 4th and 5th, from 9 a.m. to 1:30 p.m. and 2:30 p.m. to 6:30 p.m. on December 6th, and from 9 a.m. to 3:30 p.m. on December 7th, will be closed.

The closed portions of these meetings are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 22, 2001, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: November 19, 2001.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 01–29321 Filed 11–23–01; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On October 17, 2001, the National Science Foundation published a notice in the **Federal Register** of a permit modification request received. The permit modification was issued on November 15, 2001 to: Paul J. Ponganis, Permit No. 2000–004.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 01–29354 Filed 11–23–01; 8:45am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on December 5–8, 2001, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Friday, November 17, 2000 (65 FR 69578).

Wednesday, December 5, 2001

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)

The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:10 a.m.: Dresden and Quad Cities Core Power Uprate (Open/Closed)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Exelon Generating Company regarding the resolution of the open issues associated with the core power uprate requests for Dresden Nuclear Power Station Units 2 and 3, and Quad Cities Nuclear Power Station Units 1 and 2, in particular the issue of the need for conducting large transient tests.

[**Note:** A portion of this session may be closed to discuss General Electric Nuclear Energy proprietary information applicable to this matter.]

10:30 a.m.–12:30 p.m.: Discussion of Topics for Meeting With the NRC Commissioners (Open)

The Committee will discuss topics scheduled for the ACRS meeting with the NRC Commissioners in the afternoon.

1:30 p.m.–3:30 p.m.: Meeting With the NRC Commissioners (Open)

The Committee will meet with the NRC Commissioners, Commissioners' Conference Room, One White Flint North, to discuss the following: Regulatory Challenges for Future Plant Designs, Reactor Oversight Process, ACRS Activities Associated with Power Uprates, and Status of ACRS Activities on License Renewal.

4 p.m.–5:30 p.m.: Risk-Informed 10 CFR Part 50 Pilot Program (Option 2) (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed revisions to the special treatment requirements of 10 CFR Part 50 (Option 2), including proposed 10 CFR 50.69, industry guidance in NEI 00–04, and proposed Appendix T to 10 CFR part 50.

5:50 p.m.–7 p.m.: Discussion of Proposed ACRS Reports (Open)

The Committee will discuss proposed ACRS reports on matters considered during this meeting, as well as proposed ACRS reports on: Dresden and Quad Cities Core Power Uprate and Safety Research Program (tentative).

Thursday, December 6, 2001

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)

The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10 a.m.: NEI 97–06, ''Steam Generator Program Guidelines'' (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Nuclear Energy Institute (NEI) regarding NEI 97–06 and the proposed technical specification change package.

10:15 a.m.–11:30 a.m.: Proposed Rulemaking for Risk-Informed Revisions to 10 CFR 50.44 (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft rule and associated regulatory analysis for risk-informed revisions to 10 CFR 50.44, ''Standards for Combustible Gas Control System in Light-Water Cooled Power Reactors.''

2 p.m.–6 p.m.: ACRS/ACNW Office Retreat (Open)

The Committee will meet with the ACRS technical and operational staffs to discuss issues arising from the ACRS/ACNW Office retreat held on September 19–21, 2001.

6:15 p.m.–7:30 p.m.: Discussion of Proposed ACRS Reports (Open)

The committee will discuss proposed ACRS reports.

Friday, December 7, 2001.

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)

The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9:30 a.m.: Subcommittee Reports (Open)

The Committee will hear reports by: The Chairman of the Thermal-Hydraulic Phenomena Subcommittee on matters discussed at the November 28, 2001 meeting; the Chairman of the Joint Meeting of the ACRS Subcommittees on Materials and Metallurgy, Thermal-Hydraulic Phenomena, and Reliability and Probabilistic Risk Assessment on matters discussed on November 15, 2001; the Co-Chairman of the ACRS/ACNW Joint Subcommittee on matters discussed at the November 14, 2001 meeting; and the Chairman of the Reactor Fuels Subcommittee on matters discussed at the November 16, 2001 meeting.

9:50 a.m.–10:50 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)

The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS.

10:50 a.m.–11:10 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)

The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected

to be made available to the Committee prior to the meeting.

11:10 a.m.–11:40 a.m.: Election of ACRS Officers (Open)

The Committee will elect Chairman and Vice Chairman for the ACRS and Member-at-Large for the Planning and Procedures Subcommittee for CY 2002.

12:45 p.m.–7 p.m.: Discussion of Proposed ACRS Reports (Open)

The Committee will discuss proposed ACRS reports.

Saturday, December 8, 2001

8:30 a.m.–12:30 p.m.: Discussion of Proposed ACRS Reports (Open)

The Committee will continue its discussion of proposed ACRS reports.

12:30 p.m.–1 p.m.: Miscellaneous (Open)

The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 3, 2001 (66 FR 50462). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Dr. Sher Bahadur, ACRS, five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting Dr. Sher Bahadur prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Dr. Sher Bahadur if such rescheduling would result in major inconvenience.

In accordance with subsection 10(d) P.L. 92–463, I have determined that it is necessary to close a portion of this meeting noted above to discuss proprietary information per 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting Dr. Sher Bahadur (telephone 301–415–0138), between 7:30 a.m. and 4:15 p.m., EST.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or viewing on the internet at *http://www.nrc.gov/ACRSACNW.*

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., EST, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

The ACRS meeting dates for Calendar Year 2002 are provided below:

ACRS meeting No.	Meeting dates
	January 2002—No meeting.
489	February 7–9, 2002.
490	March 7–9, 2002.
491	April 11–13, 2002.
492	May 2–4, 2002.
493	June 5–7, 2002.
494	July 10–12, 2002.
	August 2002—No meeting.
495	September 12–14, 2002.
496	October 10–12, 2002.
497	November 7–9, 2002.
498	December 5–7, 2002.

Dated: November 19, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–29365 Filed 11–23–01; 8:45 am]

BILLING CODE 7590–01–P

UNITED STATES POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

TIMES AND DATES: 12:30 p.m., Monday, December 3, 2001; 8:30 a.m., Tuesday, December 4, 2001; and 10:00 a.m., Tuesday, December 4, 2001.

PLACE: Washington, D.C., at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W., in the Benjamin Franklin Room.

STATUS: December 3 (Closed); December 4—8:30 a.m. (Open); 10:00 a.m. (Closed).

MATTERS TO BE CONSIDERED:

Monday, December 3—12:30 p.m. (Closed)

1. Audit and Finance Committee Report and Review of Year-End Financial Statements.
2. Notes to the Financial Statements.
3. Financial Performance.
4. Pay for Performance Program.
5. Strategic Planning.
6. Personnel Matters and Compensation Issues.

Tuesday, December 4—8:30 a.m. (Open)

1. Minutes of the Previous Meetings, November 5–6, and November 13 and 15, 2001.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Fiscal Year 2001 Audited Financial Statements.
4. Final Fiscal Year 2003 Appropriations Request.
5. Updates on Time and Attendance Collection System (TACS).
6. Tentative Agenda for the January 7–8, 2002, meeting in Washington, D.C.

Tuesday, December 4—10:00 a.m. (Closed)

1. Continuation of Monday's Closed Agenda.

CONTACT PERSON FOR MORE INFORMATION: David G. Hunter, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington D.C. 20260–1000. Telephone (202) 268–4800.

David G. Hunter,

Secretary.

[FR Doc. 01–29500 Filed 11–21–01; 2:23 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Regulation S, OMB Control No. 3235–0357, SEC File No. 270–315

Rule 13e–3 and Schedule 13E–3, OMB Control No. 3235–0007, SEC File No. 270–1

Form 12b–25, OMB Control No. 3235–0058—,SEC File No. 270–71

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Regulation S governs offers and sales of securities made outside the United States without registration under the Securities Act of 1933 (Securities Act). The purpose of Regulation S is to provide clarification of the extent to which section 5 of the Securities Act applies to sales and resales of securities outside of the United States. Regulation S is assigned one burden hour for administrative convenience.

Rule 13e–3 prescribes the filing, disclosure and dissemination requirements in connection with a going private transaction by an issuer or an affiliate. Schedule 13E–3 provides shareholders and the marketplace with information concerning going private transactions that is important in determining how to respond to such transactions. The information collected permits verification of compliance with securities laws requirements and ensures the public availability and dissemination of the collected information. This information is made available to the public. Information provided on Schedule 13E–3 is mandatory. Approximately 300 issuers file Schedule 13E–3 annually and it takes approximately 137.25 hours per response for a total of 41,175 annual burden hours. It is estimated that 25% of the 41,175 total burden hours (10,294 burden hours) is prepared by the company.

Form 12b–25 provides notice to the Commission and the marketplace that a public company will be unable to timely file a required periodic report. The purpose of Form 12b–25 collection of information is to aid in the development of, and to ensure the maintenance of fair markets, in the securities of publicly held companies. The information required is filed on occasion and is mandatory. All information is provided to the public for review. Publicly held companies file Form 12b–25. Approximately 6,000 issuers file Form 12b–25 and it takes approximately 2.5 hours per response for a total of 15,000 burden hours.

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.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: November 16, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–29356 Filed 11–23–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45071; File No. SR–Amex–2001–27]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change Filed by the American Stock Exchange LLC Relating to the Prohibition on the Entry of Certain Limit Orders and Electronically Generated Orders Into the Exchange's Order Routing System

November 16, 2001.

I. Introduction

On May 4, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 [1] and rule 19b–4 thereunder,[2] a proposed rule change to restrict the entry of certain limit orders and electronically generated orders into the Exchange's Order Routing System. On July 16, 2001, the Exchange submitted Amendment No. 1 to the proposal.[3] The proposed rule change, including Amendment No. 1, was published for comment in the **Federal Register** on August 3, 2001.[4] The Commission received one comment letter on the proposal.[5] On August 31, 2001 the Exchange filed Amendment No. 2 to the proposed rule change.[6]

II. Description of the Proposal

The Exchange is proposing to amend Amex Rules 1000, 1000A and 1200 to adopt restrictions on the entry of orders for the following equity derivative products: PDRs, such as Standard & Poors Depositary Receipts (''SPDRS''), DIAMONDS and Nasdaq 100 Tracking Stock (''QQQ''); IFSs, such as I-Shares; and TIRs such as Holding Company Depository Receipts (''HOLDRS''). Specifically, the proposed amendments would restrict the entry of certain limit orders and orders that are created and communicated electronically without manual input into the Exchange's electronic order routing and delivery system (Amex Order File—''AOF''), which routes orders of up to 99,900 shares of each equity derivative to the Exchange's electronic order execution and processing systems (*i.e.*, Point of Sale Specialist's Book), under certain circumstances as described below.

a. Limit Orders

Under the proposed rules, members, acting as either principal or agent, would be prohibited from entering limit orders for PDFs, IFSs, or TIRs into the electronic order routing system if such orders are for the account or accounts of the same or related beneficial owners, and the limit orders are entered in such a manner that the member or the beneficial owner effectively is operating as a market maker by holding itself out as willing to buy and sell such securities on a regular or continuous basis. The proposed rules provide that, in determining whether a member or beneficial owner effectively is operating as a market maker, the Exchange would consider, among other things, the simultaneous or near-simultaneous entry of limit orders to buy and sell the same security; the multiple acquisition and liquidation of positions in the security during the same day; and the entry of multiple limit orders at different prices in the same security.

b. Electronically Created and Communicated Orders

The Exchange also proposes to adopt rules that prohibit members from

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Claire McGrath, Vice President and Special Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated July 13, 2001 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 44594 (July 26, 2001), 66 FR 40755.

[5] *See* letter from Joel Greenberg, Managing Director, Susquehanna International Group, Inc. to Jonathan G. Katz, Secretary, Commission, dated August 16, 2001 (''SIG Letter'').

[6] *See* letter from Claire McGrath, Vice President and Special Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated August 31, 2001 (''Amendment No. 2''). In Amendment No. 2, the Exchange amended the proposed rule text to clarify that the Exchange maintains separate automatic execution systems or Portfolio Depositary Receipts (''PDRs''), Index Fund Shares (''IFSs''), and Trust Issue Receipts (''TIRs'').

entering orders that are created and communicated electronically without manual input, if such orders are eligible for execution through the Exchange's automatic execution system.[7] The Exchange would consider orders entered by customers or associated persons of members to involve manual input if the terms of the order are entered into an order-entry screen or there is a manual selection of a displayed order against which an off-setting order should be sent. The Exchange notes that the proposed rules would not prohibit members from electronically communicating to the Exchange orders entered by customers into front-end communication systems (*e.g.*, Internet gateways, online networks, etc.)

III. Summary of Comments

The Commission received one comment letter on the proposed rule change from Susquehanna International Group, Inc. (''SIG''), which expressed support for the proposed rule change.[8] In its discussion of the Exchange's proposal to prohibit members from entering or permitting the entry of orders that are created and communicated electronically without manual input if such orders are eligible for automatic execution, the commenter expressed its opinion on the nature of the conduct that the Exchange should consider as ''manual input'' for purposes of the proposed rules. Specifically, SIG stated its view that ''the manual element of the order entry process should be significant and not merely fleeting.'' SIG further stated that ''the mere entry of a term, such as price, or the clicking of a button to send a computer-generated order'' should be insufficient to constitute manual entry. SIG requested that the Commission provide guidance on this issue.

IV. Discussion

For the reasons discussed below, the Commission finds that the proposed rule change is consistent with section 6(b) of the Act,[9] and in particular with section 6(b)(5).[10] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest.[11] The Commission believes that the proposed rule change meets these requirements.

As discussed above, the Exchange has proposed to prohibit members, acting as either principal or agent, from entering limit orders for PDFs, IFSs or TIRs into the Exchange's order routing system if such orders are for the account or accounts of the same or related beneficial owners, and the limit orders are entered in such a manner that the member or beneficial owner effectively is operating as a market maker by holding itself out as willing to buy and sell such securities on a regular and continuous basis. The Commission has approved similar proposals filed by the Amex,[12] the International Securities Exchange (''ISE''),[13] the Chicago Board Options Exchange (''CBOE''),[14] and the Philadelphia Stock Exchange, Inc. (''Phlx'') with respect to options orders.[15] In considering these proposals, the Commission found that such a prohibition is a reasonable approach to prevent members (other than market makers) or customers from reaping the benefits of market making without the concomitant obligations. The Commission noted that if non-market maker members or customers were permitted to enter multiple customer limit orders to the extent that they were acting as market makers, and, at the same time, jump ahead of all other orders on the book, they would have an inordinate advantage over other market participants.[16]

The Commission finds that the Exchange's proposed rule, which prohibits the entry of certain limit orders, is adequately designed to prevent certain market participants from obtaining an unfair advantage by acting as market makers, while having priority over registered market makers by virtue of their customer status, and thus finds that the proposed rule is consistent with section 6(b)(5) of the Act.[17]

With respect to the portion of Amex's proposed rules that prohibit members from entering orders that are created and communicated electronically without manual input, if such orders are eligible for automatic execution, the Commission notes that it has approved similar proposals by the Amex,[18] the ISE,[19] the CBOE,[20] the Pacific Exchange, Inc. (''PCX''),[21] and the Phlx[22] with respect to options orders. In approving those proposals, the Commission noted that while in the equity markets limit orders from active customers have been a valuable source of quote competition, the options exchanges' business models depend on market makers for competition and liquidity. The Commission recognized that allowing electronic order entry could give automated customers a significant advantage over market makers, which could undercut the exchanges' business models. The Commission found that it was not inconsistent with the purposes of the Act for the options exchanges to address the risk to their market makers posed by rapid entry of electronically generated orders that are designed to take advantage of temporary anomalies between current options prices and the value of the underlying stock or index.

The Commission believes that the same analysis is appropriate for the instant filing, and therefore finds that the proposed rule change seeking to prohibit members from entering orders that are created and communicated electronically without manual input, if such orders are eligible for automatic execution is not inconsistent with the purposes of sections 6(b)(5)[23] and 6(b)(8)[24] of the Act.

In approving this proposal, the Commission notes it does not agree with the sole commenter's view on the rules' scope. In the Commission's view, the rules as written are clear—they prohibit the entry of orders that are created and communicated electronically *without manual input.* The Commission believes that, under the language of the rules, the entry of an order term, such as price, is sufficient to constitute manual input as this involves deliberate action on the part of the sender of the order. Under a plain reading of the rules, if manual input is involved in the creating or

[7] *See* Amendment No. 1, *supra* note 3.

[8] *See* SIG Letter, *supra* note 5.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* Securities Exchange Act Release No. 43938 (February 7, 2001), 66 FR 10539 (February 15, 2001) (noticing immediate effectiveness of SR–Amex–2001–03).

[13] *See* Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) (approving application of ISE for registration as a national securities exchange (''ISE Order'')).

[14] *See* Securities Exchange Act Release No. 44258 (May 4, 2001), 66 FR 26889 (May 16, 2001) (noticing immediate effectiveness of SR–CBOE–2001–20).

[15] *See* Securities Exchange Act Release No. 43939 (February 7, 2001), 66 FR 10547 (February 15, 2001) (noticing immediate effectiveness of SR–Phlx–01–05).

[16] *See* ISE Order, *supra* note 13.

[17] 15 U.S.C. 78f(b)(5).

[18] *See supra* note 12.

[19] *See supra* note 13.

[20] *See* Securities Exchange Act Release No. 43285 (September 12, 2000), 65 FR 56972 (September 20, 2000) (approving SR–CBOE–00–01).

[21] *See* Securities Exchange Act Release No. 43328 (September 22, 2000), 65 FR 58834 (October 2, 2000) (approving SR–PCX–00–13).

[22] *See* Securities Exchange Act Release No. 43376 (September 28, 2000), 65 FR 59488 (October 5, 2000) (notice immediate effectiveness of SR–Phlx–00–79).

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78f(b)(8). Section 6(b)(8) requires that the rules of the exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

communicating of an order, its entry does not violate Exchange rules.

V. Amendment No. 2

The Commission finds good cause for approving Amendment No. 2 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. In Amendment No. 2, the Exchange added text to the proposed commentaries to Annex Rules 1000, 1000A, and 1200 that clarifies that the proposed commentaries relate to atomatic executions systems for PDRs, IFSs and TIRs, as distinguished from the Exchange's automatic execution system for options. The Commission believes that these are technical, non-substantive changes to the proposal, which further strengthen and clarify the proposed rule change and raise no new regulatory issues. The Commission believes that Amendment No. 2 does not alter the original proposal, which was subject to a full notice and comment period. Therefore, the Commission finds that granting accelerated approval to Amendment No. 2 is appropriate and consistent with section 19(b)(2) of the Act.[25]

VI. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2001–27 and should be submitted by December 17, 2001.

VII. Conclusion

For all of the aforementioned reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[26]

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[27] that the proposed rule change (SR–AMEX–00–27) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 01–29357 Filed 11–23–01; 8:45 am]

BILLING CODE 8010–01–M

[25] 15 U.S.C. 78s(b)(2).

[26] In approving this rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation, consistent with section 3(f) of the Act. 15 U.S.C. 78c(f).

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45075; File No. SR–CBOE–2001–57]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated To Establish Fees for Excessive RFQs on Its New Screen-Based Trading System

November 19, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice hereby is given that on October 30, 2001, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE is proposing to establish fees for excessive requests for quotes (''RFQs'') on the Exchange's screen-based trading system. The text of the proposed rule change is available at the principal office of the Exchange and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE is proposing to establish an excessive request for quote fee applicable to the Exchange's new screen-based trading system, CBOE *direct*.[3] CBOE*direct* is CBOE's new options trading engine. A component of trading on CBOE*direct* is the RFQ process (although CBOE market-makers may be required to provide continuous two-sided markets in products traded on the system). RFQs generally provide a mechanism for gauging the CBOE market in a particular option series in connection with effecting a trade in such series. Accordingly, the RFQ process is not meant to serve exclusively as an unlimited price discovery mechanism. Thus, CBOE is proposing to adopt an excessive RFQ fee based on what CBOE believes to be a more than reasonable RFQ-to-total-trade ratio.

This monthly fee will equal $1 for any RFQ submitted by a member during a given calendar month if that member's RFQ-to-trade ratio for that month is greater than 5:1 and less than or equal to 10:1. Alternatively, this monthly fee will equal $5 for any RFQ submitted by a member during a given calendar month if that member's RFQ-to-trade ratio for that month is greater than 10:1. In this way, CBOE believes that the fee will help reduce excessive RFQs without prohibiting members from submitting excessive RFQs.

2. Statutory Basis

CBOE believes that the proposed rule change is consistent with section 6(b) of

[3] The Exchange anticipates that, initially, trading on CBOE*direct* will occur only during extended trading hours for a limited range of products. Separately, CBOE has filed a proposed rule change to adopt certain rules governing trading on CBOE*direct*. *See* File No. SR–CBOE–00–55.

the Act [4] in general and section 6(b)(4) [5] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

CBOE represents that the proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(B)(3)(A)(ii) of the Act [6] and subparagraph (f)(2) of Rule 19b–4 [7] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2001–57 and should be submitted by December 17, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–29358 Filed 11–23–01; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45076; File No. SR–PCX–2001–41]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Fees for Continued Listings and Options Floor Access

November 19, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on October 29, 2001, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to rule 19b–4 under the Act,[3] the Exchange proposes to modify its Schedule of Fees and Charges for Continued Listings and Options Floor Access.[4]

The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

Schedule of Fees and Charges for Exchange Services

* * * * *

PCX OPTIONS: FLOOR AND MARKET MAKER FEES

* * * * *	
Continued Listings Fee.	[$500 per month per eligible issue] *Difference between $500 and average monthly revenue for issues with less than $500 in volume based charges (average monthly revenue based on trailing 3 months).*
* * * * *	
[Badges]	[$30 initial issuance fee $30 per booth for booth clerks, $60 per month for stock firm clerks, hard badge managers, and all other floor personnel, $5 per day for temporary badge; $30 per month maximum $100 replacement fee].
Options Floor Access Fee.	*$130 per month for all registered floor members and personnel, with a cap of $5,000 per month per firm.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose* The Exchange proposes to decrease its continued Listings Fee in conjunction with an increase of its Options Floor Access Fee to, as the Exchange believes, distribute Exchange costs more evenly between all trading participants.

1. Continued Listings Fee

The Exchange states that a $500 Continued Listings Fee is applied monthly to options issues that generate less than $500 in monthly volume-based charges (including transaction, data entry, and comparison charges) and is based on a three-month trailing average.

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4.

[4] The Exchange states that it intends to implement the proposed charges beginning November 1, 2001. Telephone Conversation between Cindy Sink, Senior Attorney, PCX, and Christopher Solgan, Law Clerk, Division of Market Regulation, Commission, on November 6, 2001.

The fee applies to the Lead Market Marker (''LMM'') in the particular issue. If the LMM elects not to pay the Continued Listings Fee for an issue meeting these criteria, it then becomes eligible for reallocation or delisting. Under the Exchange's proposal, the Continued Listings Fee will change from a flat $500 per month to the incremental difference between the average monthly revenue generated by the issue and $500. For example, for an issue generating $300 in average monthly revenue, the Continued Listings Fee will be $200 per month under the new schedule, compared to the $500 fee that would have applied under the original fee schedule.

2. Options Floor Access Fee

The Exchange proposes to eliminate the current monthly Badge Fee. The Exchange states that this fee is currently $30 per month for booth clerks, $60 per month for other staff, $5 per day for temporary badge with a $30 per month maximum, and a $100 replacement fee. The Exchange proposes to replace these fees by a new Options Floor Access Fee of $130 per month for all registered floor members and personnel, with a cap of $5,000 per month on a member firm basis. The Exchange states that the intent of this rate change is to maintain a rate schedule that is competitive on an overall basis, while generating funds to help defray the costs involved in operating and maintaining the trading floor.

(2) *Statutory Basis* The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[5] in general, and furthers the objectives of section (b)(4),[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or charge imposed by the Exchange and, therefore, has become effective upon filing pursuant to rule 19(b)(3)(A)(ii) of the Act[7] and rule 19b–4(f)(2) thereunder.[8] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–PCX–2001–41 and should be submitted by December 17, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–29359 Filed 11–23–01;845am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78(s)(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3376]

State of Mississippi (And Contiguous Counties in the State of Tennessee)

Alcorn County and the contiguous Counties of Prentiss, Tippah and Tishomingo in the State of Mississippi; and Hardeman, Hardin and McNairy Counties in the State of Tennessee constitute a disaster area due to damages caused by heavy rainfall and flooding that occurred on October 13, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on January 15, 2002 and for economic injury until the close of business on August 16, 2002 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

For Physical Damage

Homeowners with credit available elsewhere: 6.500%
Homeowners without credit available elsewhere: 3.250%
Businesses with credit available elsewhere: 8.000%
Businesses and non-profit organizations without credit available elsewhere: 4.000%
Others (including non-profit organizations) with credit available elsewhere: 6.375%

For Economic Injury

Businesses and small agricultural cooperatives without credit available: elsewhere 4.000%

The numbers assigned to this disaster for physical damage are 337606 for Mississippi and 337706 for Tennessee. For economic injury, the numbers are 9N5300 for Mississippi and 9N5400 for Tennessee.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 16, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–29297 Filed 11–23–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3371]

State of Oklahoma; Amendment # 1

In accordance with a notice received from the Federal Emergency Management Agency, dated November

16, 2001, the above numbered declaration is hereby amended to include Caddo and Kiowa Counties in the State of Oklahoma as disaster areas due to damages caused by severe storms, flooding and tornadoes that occurred on October 9 and 10, 2001.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Blaine, Canadian, Comanche, Grady, Jackson and Tillman counties in Oklahoma.

All other contiguous counties have been previously declared.

All other information remains the same, *i.e.,* the deadline for filing applications for physical damage is December 30, 2001, and for economic injury July 31, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: November 16, 2001.

S. George Camp,

Acting Associate Administrator For Disaster Assistance.

[FR Doc. 01–29379 Filed 11–23–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for the Central District of California, entered September 21, 2001, the United States Small Business Administration hereby revokes the license of Helio Capital, Inc., a California corporation, to function as a small business investment company under the Small Business Investment Company License No. 09/09–5361 issued to Helio Capital, Inc. on September 20, 1985 and said license is hereby declared null and void as of November 14, 2001.

Dated: November 14, 2001.

United States Small Business Administration.

Harry Haskins,

Associate Administrator for Investment.

[FR Doc. 01–29298 Filed 11–23–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for the Eastern District of Michigan, dated August 9, 2001, the United States Small Business Administration hereby revokes the license of Mutual Investment Company, Inc., a Michigan corporation, to function as a small business investment company under the Small Business Investment Company License No. 05/05–5144 issued to Mutual Investment Company, Inc. on April 21, 1980 and said license is hereby declared null and void as of November 14, 2001.

Dated: November 14, 2001.

United States Small Business Administration.

Harry Haskins,

Associate Administrator for Investment.

[FR Doc. 01–29295 Filed 11–23–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region V Regulatory Fairness Board; Public Hearing

The Small Business Administration Region V Regulatory Fairness Board and the SBA Office of the National Ombudsman, will hold a Public Hearing Tuesday, December 4, 2001 at 8:30 AM at Indiana World War Memorial, 431 North Meridian Street, Indianapolis, IN 46204, Phone (317) 232–7615, Fax (317) 233–4285, to receive comments and testimony from small business owners and representatives of trade associations concerning the regulatory enforcement and compliance environment.

Anyone wishing to attend or to make a presentation must contact Mr. Darrell J. Mowery, in writing by letter or fax no later than November 27, 2001, in order to be put on the agenda. Darrell J. Mowery, Public Affairs Specialist, SBA Indiana District Office, 429 North Pennsylvania Street, Suite 100, Indianapolis, IN 46204–1873, Phone (317) 226–7272 x 214, fax (202) 481–0960, E-mail: *darrell.mowery@sba.gov.*

Dated: November 14, 2001.

Michael L. Barrera,

National Ombudsman.

[FR Doc. 01–29296 Filed 11–23–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

Bureau of Oceans and International Environmental and Scientific Affairs (OES)

[Public Notice 3848]

Public Meeting To Discuss the International Harmonization of Chemical Hazard Classification and Labeling Systems

SUMMARY: The United States Government, through an interagency working group, has been participating in the international effort to develop a globally harmonized system (GHS) of chemical hazard classification and labeling. The Department of State will hold a public meeting for interested parties, including industry representatives and public interest groups, on Wednesday, November 28, 2001, from 11:30 AM to 1 PM in Room 6200–6204 of the Nassif Building, at the U.S. Department of Transportation, 400 Seventh Street SW, Washington, DC. Attendees should bring picture identification with them; no advance registration is necessary. For further information, please contact Marie Ricciardone, U.S. Department of State, Office of Environmental Policy, OES/ENV Room 4325, 2201 C Street NW, Washington, DC, 20520; telephone (202)736–4660; fax (202)647–5947; email *ricciardonemd@state.gov.*

SUPPLEMENTARY INFORMATION:

The globally harmonized system for chemical hazard classification and labeling (GHS) is a voluntary system that provides a common and coherent approach to define and classify hazards, and communicate this information on labels and safety data sheets. The GHS will promote the sound management of chemicals by ensuring that coherent information is provided on all imported and exported chemicals, and facilitate trade by eliminating the need to comply with multiple classification and labeling systems.

The public meeting will provide an update on GHS activities since the previous meeting on May 8, 2001. (See Department of State Public Notice 3651 on page 21430 of the **Federal Register** of April 30, 2001.) The meeting will also preview the key topics of the Second Session of the United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labeling of Chemicals, that will take place in Geneva, December 12–14, 2001.

Agencies participating in the interagency group include the Department of State, Occupational Safety and Health Administration,

Environmental Protection Agency, Department of Transportation, Consumer Product Safety Commission, Food and Drug Administration, Department of Commerce, Department of Agriculture, Office of the U.S. Trade Representative, and National Institute of Environmental Health Sciences. For additional information on the harmonization process, please refer to the Department of State Public Notice 2526, pages 15951–15957 of the **Federal Register** of April 3, 1997.

Recent International Meetings

- Seventh Meeting of the International Labor Organization Working Group for the Harmonization of Chemical Hazard Communication, May 21–24, 2001, Geneva, Switzerland. Participants achieved consensus on most elements of the GHS, including symbols, signal words, hazard statements and safety data sheets.
- Eighteenth Consultation of the Inter-Organization Program for the Sound Management of Chemicals (IOMC) Coordinating Group for the Harmonization of Chemical Classification Systems, May 24–25, 2001, Geneva, Switzerland. The Coordinating Group completed its work and submitted the final document to the UN GHS Sub-Committee.
- Nineteenth Session of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods, July 2–6, 2001, Geneva, Switzerland. The Sub-Committee agreed on classification criteria for aerosol flammability and recommended a harmonized symbol shape/border.
- First Session of the United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labeling of Chemicals, July 9–11, 2001, Geneva, Switzerland. This Sub-Committee is responsible for promoting adoption of the GHS, and updating the system as necessary. The Sub-Committee elected officers, considered requests for consultative status, received progress reports on the GHS development and considered plans for implementation.

Upcoming Meetings

- Second Session of the United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labeling of Chemicals, December 12–14, 2001, Geneva, Switzerland. The Sub-Committee will review the GHS document prepared by the IOMC Coordinating Group that integrates the physical, health and environmental classification criteria and hazard communication elements; and consider implementation issues. Meeting documents are available on the web at: *http://www.unece.org/trans/main/dgdb/dgsubc4/c4doc_2001.html.*
- The Organization for Economic Cooperation and Development (OECD) Task Force on Harmonization of Classification and Labeling is considering the development of classification criteria for aspiration hazards, water-activated toxicity, respiratory irritation and narcotic effects.

The Department of State is issuing this notice to help ensure that interested and potentially affected parties are aware of and knowledgeable about the GHS, and have an opportunity to offer comments. Those organizations/individuals that cannot attend the meeting may submit written comments to Marie Ricciardone, Department of State, OES/ENV Room 4325, 2201 C Street NW, Washington, DC 20520. Comments will be placed in the OSHA public docket (H–022H), which is open from 10 AM until 4 PM, at the Department of Labor, Room 2625, 200 Constitution Avenue NW, Washington, DC; telephone (202)219–7894; fax (202)219–5046. Interested organizations/individuals that wish to receive future notifications of GHS developments by email should contact Mary Frances Lowe at *lowe.maryfrances@epa.gov.*

Dated: November 19, 2001.

Robert J. Ford,

Acting Director, Office of Environmental Policy, Department of State.

[FR Doc. 01–29381 Filed 11–23–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending November 9, 2001

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2001–10957.

Date Filed: November 5, 2001.

Parties: Members of the International Air Transport Association.

Subject: PTC2 EUR 0442 dated 6 November 2001; PTC2 EUR–AFR 0140 dated 6 November 2001; PTC2 EUR–ME 0122 dated 6 November 2001; Mail Vote 179—Resolution 010m; TC2 Special Passenger Amending Resolution from Tunisia to Africa, Europe, Middle East; Intended effective date: 10 November 2001.

Docket Number: OST–2001–10963.

Date Filed: November 6, 2001.

Parties: Members of the International Air Transport Association.

Subject: PTC23 Africa-TC3 0134 dated 26 October 2001; Africa-South Asian Subcontinent Expedited Resolutions r1–r4; PTC23 Africa-TC3 0135 dated 26 October 2001; Africa-South West Pacific Expedited Resolutions r5–r6; Intended effective date: 1 December 2001.

Docket Number: OST–2001–10964.

Date Filed: November 6, 2001.

Parties: Members of the International Air Transport Association.

Subject: PTC23 EUR–JK 0072 dated 2 November 2001; Europe-Japan/Korea Expedited Resolution 002LL r1; PTC23 EUR–JK 0073 dated 2 November 2001; Europe-Japan/Korea Expedited Resolutions r2–r7; Intended effective date: 15 December 2001/1 January 2002.

Docket Number: OST–2001–10965.

Date Filed: November 6, 2001.

Parties: Members of the International Air Transport Association.

Subject: PTC23 AFR–TC3 0143 dated 9 November 2001; Mail Vote 173—Resolution 010f; TC23/TC123 Africa-South East Asia Special Passenger Amending Resolution; Intended effective date: 1 December 2001.

Docket Number: OST–2001–10966.

Date Filed: November 6, 2001.

Parties: Members of the International Air Transport Association.

Subject: PTC23 AFR–TC3 0144 dated 9 November 2001; Mail Vote 174—Resolution 010g; TC23/TC123 Africa-Japan/Korea Special Passenger Amending Resolution; Intended effective date: 1 December 2001.

Docket Number: OST–2001–10978.

Date Filed: November 8, 2001.

Parties: Members of the International Air Transport Association.

Subject: PTC23 ME–TC3 0126 dated 30 October 2001; Middle East-TC3 (except South East Asia) Resolutions r1–r46; Minutes—PTC23 ME–TC3 0124 dated 30 October 2001; Tables—PTC23 ME–TC3 Fares 0056 dated 2 November 2001; Intended effective date: 1 April 2002.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–29371 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending November 16, 2001

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2001–11006.
Date Filed: November 14, 2001.
Parties: Members of the International Air Transport Association.
Subject: CSC/23/Meet/004/2001 dated 17 May 2001, Book of Finally Adopted Resolutions & RPs, Minutes—CSC/23/Meet/006/2001 dated 5 November 2001, Correction—CSC/23/Meet/005/2001 dated 10 July 2001, Intended effective date: 1 October 2001.

Docket Number: OST–2001–11008.
Date Filed: November 15, 2001.
Parties: Members of the International Air Transport Association.
Subject: PTC31 N&C/CIRC 0181 dated 13 November 2001, TC31 North and Central Pacific Areawide Expedited, Resolutions r1–r2, PTC31 N&C/CIRC 0182 dated 13 November 2001, TC3 (except Japan)-North America, Caribbean Expedited, Resolutions r3–r9, Intended effective date: 15 January 2002.

Docket Number: OST–2001–11009.
Date Filed: November 15, 2001.
Parties: Members of the International Air Transport Association.
Subject: PTC31 N&C/CIRC 0183 dated 13 November 2001, TC3–Central America, South America Expedited, Resolutions r1–r4, Intended effective dated: 15 January 2002.

Docket Number: OST–2001–11018.
Date Filed: November 16, 2001.
Parties: Members of the International Air Transport Association.
Subject: PSC/Reso/111 dated 8 November 2001, Expedited Resolutions & RPs r1–10, Intended effective date: as early as 1 December 2001.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–29373 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending November 9, 2001.

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart B (formerly subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2001–10985.
Date Filed: November 8, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 29, 2001.
Description: Application of Aerodynamics Incorporated pursuant to 49 U.S.C. section 41102 and subpart B, requesting a certificate of public convenience and necessity authorizing interstate charter air transportation of persons, property and mail.

Docket Number: OST–2001–10986.
Date Filed: November 8, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 29, 2001.
Description: Application of Aerodynamics Incorporated pursuant to 49 U.S.C. section 41102 and subpart B, requesting a certificate of public convenience and necessity authorizing foreign charter air transportation of persons, property and mail.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–29372 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. **The Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 24, 2001, pages 48899–48900.

DATES: Comments must be submitted on or before December 26, 2001. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration

Title: Security Programs for Foreign Air Carriers. 14 CFR Part 129.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0638.

Forms(s): NA.

Affected Public: As estimated 171 responses from business or other for-profit institutions.

Abstract: Security programs, proposed by amended rule to 14 CFR part 129, set forth procedures to be used by Foreign Air Carriers in carrying out their responsibilities involving the protection of persons and property against acts of criminal violence, aircraft piracy, and terrorist activities.

Estimated Annual Burden Hours: An estimated 5193 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on November 19, 2001.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 01–29374 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Government/Industry Free Flight Steering Committee Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Government/Industry Free Flight Steering Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Government/Industry Free Flight Steering Committee.

DATES: The meeting will be held December 5, 2001, from 1–5 p.m.

ADDRESSES: The meeting will be held at FAA Headquarters, 800 Independence Avenue, SW., Bessie Coleman Conference Room (Room 2AB), Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Appendix 2), notice is hereby given for a Free Flight Steering Committee meeting. The agenda will include:

- December 5:
- Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting)
- Assessment of National Airspace System (NAS) Performance
- Steering Committee Decision:
- New Operational Environment
- Member Perspectives on the NAS Performance Assessment
- Exchange of Views on needs for Security, Safety, and Efficiency
- Report/Recommendations from the Free Flight Select Committee
- Closing Session (Other Business, Date and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the personnel listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any tine.

Issued in Washington, DC, on November 19, 2001.

Janice L. Peters,

FAA Special Assistant, FTCA Advisory Committee.

[FR Doc. 01–29375 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 186 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 186: Automatic Dependent Surveillance—Broadcast (ADS–B).

DATES: The meeting will be held December 10–14, 2001 starting at 9 am.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW, suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW, Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 186 meeting. **Note:** *Specific working group sessions will be held December 10–11 and on December 14.* The agenda will include:

- December 12–13:
- Opening Plenary Session (Chairman's Introductory Remarks, Review of Meeting Agenda, Review/Approval of Previous Meeting Summary)
- SC–186 Activity Reports
- WG–1, Operations & Implementation
- WG–2, Traffic Information Service—Broadcast (TIS–B)
- WG–3, 1090 MHz Minimum Operational Performance Standard (MOPS)
- WG–4, Application Technical Requirements
- WG–5, Universal Access Transceiver (UAT) MOPS
- WG–6, Automatic Dependent Surveillance-Broadcast (ADS–B) Minimum Aviation System Performance Standards (MASPS)
- EUROCAE WG—51 Report
- Closing Plenary Session (Review Actions Items/Work Program, Date, Place and Time of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability, With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 19, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–29376 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 188: Minimum Aviation System Performance Standards for High Frequency Data Link

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 188 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 188: Minimum Aviation System Performance Standards for High Frequency Data Link.

DATES: The meeting will be held December 19, 2001 starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, 1828 L Street, NW, Suite 805, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 188 meeting. The agenda will include:

- December 19:
- Opening Plenary Session (Chairman's Introductory Remarks, Approval of Previous Meeting Summary, Review of Agenda and Work Plan)
- Complete Final Resolution and Comment (FRAC) Process for the

Minimum Aviation System Performance Standards (MASPS) for the High Frequency Data Link Operating in the Aeronautical Mobile (Route) Service (AMS(R)S) and approve the document

• Closing Plenary Session (Review Actions Items, Make Assignments, Other Business, Data, Place and Time of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 19, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–29377 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 159: Minimum Operational Performance Standards for Airborne Navigation Equipment Using Global Positioning System (GPS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 159 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 159: Minimum Operational Performance Standards for Airborne Navigation Equipment Using Global Positioning System (GPS).

DATES: The meeting will be held December 10–14, 2001, from 9 am to 4:30 pm (unless stated otherwise).

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW, Suite 805, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW, Suite 805, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 159 meeting. **Note:** *specific working group sessions will be held December 10–13.* The agenda will include:

• December 14:

• Opening Plenary Session (Welcome and Introductory Remarks, Approve Minutes of Previous Meeting)

• Review Working group Progress and Identify Issues for Resolution

• Review of EUROCAE activities

• Closing plenary Session (Assignment/Review of Future Work, Other Business, Date and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 19, 2001.

Janice L. Peters,

FAA Special Assistant.

[FR Doc. 01–29378 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waivers of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Jackson International, Inc.

[Docket Number FRA–2001–10947]

Jackson International, Inc., (JAXON) has developed a hydraulically operated low input handbrake for use on freight rail cars. This new handbrake complies with the FRA regulations in all but two areas, namely: 231.27 (a)(1)(i) Each box or house car without roof hatches shall be equipped with an efficient vertical wheel handbrake which shall operate in harmony with the power brake thereon. 231.27 (a)(3)(i) The handbrake shall be located so that it can be safely operated from horizontal end platform while car is in motion. The JAXON Hydraulic Low Input Handbrake is operated with a back-and-forth action hand pump lever and not a wheel. The JAXON Handbrake can be operated from the horizontal end platform or from a ladder. If a waiver is granted, Jackson International, Inc., would be able to market and sell this hydraulic handbrake as an alternative to the traditional geared handbrakes that are currently used in the rail industry.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA in writing before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number, (e.g., Docket Number FRA–2001–10947) and must be submitted to the DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590. Communications received within 45 days from the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practical. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at *http://dms.dot.gov*.

Issued in Washington, DC on November 15, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–29300 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–01–10867; Notice 1]

Transportation of Natural Gas by Pipeline Petition for Waiver; Williams Gas Pipelines-West

Williams Gas Pipelines-West (or ''Williams'') has petitioned the Research and Special Programs Administration

for a waiver from compliance with the regulation in 49 CFR 192.611(d) until June 30, 2003. This regulation requires pipeline operators to confirm or revise the maximum allowable operating pressure of certain gas transmission lines within 18 months after population growth changes the classification of the line.

The petition concerns a 1500-foot pipeline segment constructed in 1991 in Utah County, Utah, that changed from Class 2 to Class 3 due to development of a subdivision. The segment is part of the Kern River natural gas transmission line, which runs from Wyoming to the San Joaquin Valley near Bakersfield, California, where the gas is used in the generation of electricity.

The petition indicates the change in classification comes while Williams is undertaking an expansion project on its Kern River line, which it plans to complete in 2003, pending approval by the Federal Energy Regulatory Commission. Rather than replace the 1500-foot segment with new pipe to satisfy § 192.611(d), the petition indicates Williams prefers to relocate the segment to a less populated right-of-way as part of the expansion project. The relocation alternative would result in a single impact to land owners and the environment during the construction.

Our Western Region pipeline office has investigated the 1500-foot pipeline segment. That office reports that Williams is meeting periodically with the developer of the subdivision to ensure the developer is aware of the pipeline and its associated risk. The Western Region office also says that to minimize threats to the segment, Williams is patrolling the segment weekly, observing all nearby excavations, and notifying land owners of the existence of the pipeline and what to do in the case of an emergency. In addition, the Western Region office has confirmed that the segment has not had any deficient corrosion control readings, there are no geologically unstable areas near the segment, and the segment has had no reported leaks or damage. In sum, based on the petition and the Western Region office's investigation, we believe Williams is taking all reasonable steps to maintain the integrity of the segment.

We are authorized to waive compliance with § 192.611(d) if the waiver is not inconsistent with pipeline safety and we state the reasons for granting the waiver (49 U.S.C. 60118(c)). In view of the good safety record and condition of the 1500-foot segment, we think compliance with the 18-month deadline under § 192.611(d) is unnecessary for safety. We also support the goals of lower risk and less environmental disturbance that would result from relocating the segment as Williams plans. Therefore, we propose to waive compliance with § 192.611(d) until June 30, 2003.

According to the petition, June 30, 2003, should allow enough time to complete the expansion project. However, if there is an unforeseen delay in the project, we may extend the June 30, 2003, deadline up to an additional 6 months without further opportunity to comment by publishing a notice of such extension in the **Federal Register**.

We invite interested persons to comment on the proposed waiver by submitting such data, views, or arguments as they may desire. You may submit written comments by mailing or delivering an original and two copies to the Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. The Dockets Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays when the facility is closed. Or you may submit written comments electronically at the following web address: *http://dms.dot.gov.* To file written comments electronically, after logging onto *http://dms.dot.gov*, click on ''Electronic Submission.'' You can also read comments and other material in the docket at the same Web address. All written comments should identify the docket and notice numbers stated in the heading of this notice. Anyone who wants confirmation of mailed comments must include a self-addressed stamped postcard.

We will consider all comments received by December 26, 2001 before taking final action on the petition. Late filed comments will be considered so far as practicable. No public hearing is contemplated, but one may be held at a time and place set in a notice in the **Federal Register** if requested by an interested person desiring to comment at a public hearing and raising a genuine issue.

Authority: 49 U.S.C. 60118(c); and 49 CFR 1.53.

Issued in Washington, DC on November 16, 2001.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 01–29259 Filed 11–23–01; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 34079]

San Jacinto Rail Limited—Construction Exemption—and the Burlington Northern and Santa Fe Railway Company—Operation Exemption—Build-Out to the Bayport Loop Near Houston, Harris County, Texas

AGENCY: Surface Transportation Board.

ACTION: Notice of Availability of Draft Scope of Study for the Environmental Impact Statement, Notice of Scoping Meetings, and Request for Comments.

SUMMARY: On August 30, 2001, San Jacinto Rail Limited (San Jacinto) and The Burlington Northern and Santa Fe Railway (BNSF) (collectively the Applicants) filed a petition with the Surface Transportation Board (Board) pursuant to 49 U.S.C. 10502 for authority for construction by San Jacinto and operation by BNSF of a new rail line near Houston, Harris County, Texas. The project would involve approximately 12.8 miles of new rail line to serve the petro-chemical industries in the Bayport Industrial District (Bayport Loop). Because the construction and operation of this project has the potential to result in significant environmental impacts, the Board's Section of Environmental Analysis (SEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. SEA is holding public scoping meetings as part of the EIS process, as discussed in the Notice of Intent to Prepare an EIS published by the Board on October 1, 2001. As part of the scoping process, SEA has developed a draft Scope of Study for the EIS.

DATES AND LOCATIONS: Scoping meetings will be held on:

January 14, 2002, 2–4 pm and 7–9 pm, January 15, 2002, 2–4 pm and 7–9 pm.

The scoping meetings will be held at the: Pasadena Convention Center, 7902 Fairmont Parkway, Pasadena, Texas.

The public scoping meetings will be informal meetings in a workshop format during which interested persons may ask questions about the proposal and the Board's environmental review process, and advise the Board's representative about potential environmental effects of the project. SEA has made available for public comment the draft scope contained in this notice. SEA will issue a final scope shortly after the close of the comment period. Written comments on the Scope

of Study are due February 1, 2002 (60 days).

Filing Environmental Comments: Interested persons and agencies are invited to participate in the EIS scoping process. A signed original and 10 copies of comments should be submitted to: Office of the Secretary, Case Control Unit, STB Finance Docket No. 34079, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001.

To ensure proper handling of your comments, you must mark your submission: Attention: Dana White, Section of Environmental Analysis, Environmental Filing.

FOR FURTHER INFORMATION CONTACT: Ms. Dana White, Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001, or SEA's toll-free number for this project at 1–888–229–7857 (TDD for the hearing impaired 1–800–877–8339). The web site for the Surface Transportation Board is *www.stb.dot.gov.*

SUPPLEMENTARY INFORMATION:

Draft Scope of Study for the EIS

Proposed Action and Alternatives

The proposed action, known as the Bayport Loop Build-Out, involves the construction and operation of approximately 12.8 miles of new rail line connecting the Bayport Loop petrochemical and plastic production facilities and the former Galveston, Henderson & Houston Railroad line, now owned by the Union Pacific Railroad Company (UP), near the southeast corner of Ellington Field at Texas State Highway 3. The proposed action also includes operating trains from the BNSF New South Yard over trackage rights on Union Pacific mainlines to the point of connection. As a result of the new construction, BNSF would have access to the facilities located in the Bayport Loop using the new line, and the facilities would be provided with a choice of rail providers.

The reasonable and feasible alternatives that will be evaluated in the EIS are (1) construction and operation of the proposed project along the identified preferred alignment, (2) other alternatives that might be identified during the scoping process, and (3) the no-action alternative.

Environmental Impact Analysis

Proposed New Construction

Analysis in the EIS will address the proposed activities associated with the construction and operation of new rail facilities and their potential environmental impacts, as appropriate.

Impact Categories

The EIS will address potential impacts from the proposed construction and operation of new rail facilities on the human and natural environment. Impact areas addressed will include the categories of land use, biological resources, water resources, geology and soils, air quality, noise, energy resources, socioeconomics as they relate to physical changes in the environment, safety, transportation systems, cultural and historic resources, recreation, aesthetics, and environmental justice. The EIS will include a discussion of each of these categories as they currently exist in the project area and will address the potential impacts from the proposed project on each category as described below:

1. Land Use

The EIS will:

a. Describe existing land use patterns within the project area and identify those land uses that would be potentially impacted by new rail line construction.

b. Describe the potential impacts associated with the proposed new rail line construction to land uses identified within the project area. Such potential impacts may include impacts to farming and ranching activities, incompatibility with existing land uses, consistency with the coastal zone management plan, and conversion of land to railroad uses.

c. Propose mitigative measures to minimize or eliminate potential project impacts to land use, as appropriate.

2. Biological Resources

The EIS will:

a. Describe the existing biological resources within the project area, including vegetative communities, wildlife and fisheries, and federal and state threatened or endangered species and the potential impacts to these resources resulting from construction and operation of new rail facilities.

b. Describe any wildlife sanctuaries, refuges, and national or state parks, forests, or grasslands within the project area and the potential impacts to these resources resulting from construction and operation of new rail line.

c. Propose mitigative measures to minimize or eliminate potential project impacts to biological resources, as appropriate.

3. Water Resources

The EIS will:

a. Describe the existing surface and groundwater resources within the project area, including lakes, rivers, bayous, streams, stock ponds, wetlands, and floodplains and the potential impacts on these resources resulting from construction and operation of new rail line.

b. Describe the permitting requirements for the proposed new rail line construction regarding wetlands, stream and river crossings, water quality, and erosion control.

c. Propose mitigative measures to minimize or eliminate potential project impacts to water resources, as appropriate.

4. Geology and Soils

The EIS will:

a. Describe the geology and soils found within the project area, including unique or problematic geologic formations or soils and prime farmland and hydric soils and the potential impacts on these resources resulting from the construction and operation of new rail line.

b. Describe measures employed to avoid or construct through unique or problematic geologic formations or soils.

c. Propose mitigative measures to minimize or eliminate potential project impacts to geology and soils, as appropriate.

5. Air Quality

The EIS will:

a. Evaluate rail-related air emissions on new rail line, if the proposed project affects a Class I or non-attainment area as designated under the Clean Air Act.

b. Discuss and evaluate the potential air emissions increases from vehicle delays at new at-grade road/rail crossings. Emissions from vehicle delays will be factored into the emissions estimates for the affected area, as appropriate.

c. Describe the potential air quality impact resulting from new rail line construction activities.

d. Propose mitigative measures to minimize or eliminate potential project impacts to air quality, as appropriate.

6. Noise

The EIS will:

a. Describe the potential noise impacts during new rail line construction.

b. Describe the potential noise impacts of new rail line operation for those areas that exceed the Board's environmental threshold of eight or more trains per day.

c. Propose mitigative measures to minimize or eliminate potential project impacts to noise receptors, as appropriate.

7. Energy Resources

The EIS will:

a. Describe the potential impact of the new rail line on the distribution of energy resources in the project area, including petroleum and gas pipelines and overhead electric transmission lines.

b. Propose mitigative measures to minimize or eliminate potential project impacts to energy resources, as appropriate.

8. Socioeconomics

The EIS will:

a. Describe the potential environmental impacts to residences, residential areas, and communities within the project area as a result of new rail line construction and operation activities.

b. Describe the potential environmental impacts to commercial and industrial activities and development in the project area as a result of new rail line construction and operation.

c. Propose mitigative measures to minimize or eliminate potential project adverse impacts to social and economic resources, as appropriate.

9. Safety

The EIS will:

a. Describe existing road/rail grade crossing safety and the potential for an increase in accidents related to the new rail operations, as appropriate.

b. Describe existing rail operations and the potential for increased probability of train accidents, as appropriate.

c. Describe pipeline safety factors at rail/pipeline crossings, as appropriate.

d. Describe hazardous materials safety factors for the transportation of hazardous materials and the potential for a release of those materials, as appropriate.

e. Describe the potential for disruption and delays to the movement of emergency vehicles due to new rail line construction and operation.

f. Propose mitigative measures to minimize or eliminate potential project impacts to safety, as appropriate.

10. Transportation Systems

The EIS will:

a. Describe the potential impacts of new rail line construction and operation on the existing transportation network in the project area, including vehicular delays at grade crossings.

b. Describe potential impacts to navigation associated with new bridges.

c. Propose mitigative measures to minimize or eliminate potential project impacts to transportation systems, as appropriate.

11. Cultural and Historic Resources

The EIS will:

a. Describe the potential impacts to historic structures or districts previously recorded and determined potentially eligible, eligible, or listed on the National Register of Historic Places within or immediately adjacent to the right-of-way for the preferred and alternative construction alignments.

b. Describe the potential impacts to archaeological sites previously recorded and either listed as unevaluated or determined potentially eligible, eligible, or listed on the National Register of Historic Places within the right-of-way for the preferred and alternative construction alignments.

c. Describe the potential impacts to historic structures or districts identified by ground survey and determined potentially eligible, eligible, or listed on the National Register of Historic Places within or immediately adjacent to the right-of-way for the preferred and alternative construction alignments.

d. Describe the potential impacts to archaeological sites identified by ground survey and determined potentially eligible, eligible, or listed on the National Register of Historic Places within the right-of-way for the preferred and alternative construction alignments.

e. Describe the potential general impacts to paleontological resources in the project area due to project construction, if necessary and required.

f. Propose mitigative measures to minimize or eliminate potential project impacts to cultural and historic resources, as appropriate.

12. Recreation

The EIS will:

a. Describe the potential impacts of the proposed new rail line construction and operation on recreational opportunities provided in the project area.

b. Propose mitigative measures to minimize or eliminate potential project impacts on recreational opportunities, as appropriate.

13. Aesthetics

The EIS will:

a. Describe the potential impacts of the proposed new rail line construction on any areas identified or determined to be of high visual quality.

b. Describe the potential impacts of the proposed new rail line construction on any waterways considered for or designated as wild and scenic.

c. Propose mitigative measures to minimize or eliminate potential project impacts on aesthetics, as appropriate.

14. Environmental Justice

The EIS will:

a. Describe the demographics in the project area and the immediate vicinity of the proposed new construction, including communities potentially impacted by the construction and operation of the proposed new rail line.

b. Evaluate whether new rail line construction or operation would have a disproportionately high adverse impact on any minority or low-income groups.

c. Propose mitigative measures to minimize or eliminate potential project impacts on aesthetics, as appropriate.

15. Cumulative Impacts

The EIS will address the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-federal) or person undertakes such actions.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 01–29387 Filed 11–23–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Commercial Invoices

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burdens, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Commercial Invoices. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before January 25, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2–C, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Tracey Denning, Room

3.2–C, 1300 Pennsylvania Avenue NW, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Commercial Invoices.

OMB Number: 1515–0120.

Form Number: N/A.

Abstract: The collection of Commercial Invoices is necessary for the proper assessment of Customs duties. The invoice(s) is attached to the CF7501. The information which is supplied by the foreign shipper is used to ensure compliance with statues and regulations.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 350,000.

Estimated Time Per Respondent: 10 seconds.

Estimated Total Annual Burden Hours: 84,000.

Estimated Total Annualized Cost on the Public: $1,201,200.00.

Dated: November 20, 2001.

Tracey Denning,

Information Services Group.

[FR Doc. 01–29388 Filed 11–23–01; 8:45 am]

BILLING CODE 4820–02–P

Corrections

Federal Register

Vol. 66, No. 227

Monday, November 26, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 011109273–1273–01]

RIN 0660–XX13

Notice, Request for Comments on Deployment of Broadband Networks and Advanced Telecommunications

Correction

In notice document 01–28784 beginning on page 57941 in the issue of Monday, November 19, 2001, make the following correction:

On page 57941, in the second column, in the **DATES** section, ''December 14, 2001'' should read, ''December 19, 2001''.

[FR Doc. C1–28784 Filed 11–23–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Availability Draft Environmental Impact Statement (DEIS) for the Greers Ferry Lake Shoreline Management Plan, Arkansas

Correction

In notice document 01–28674 beginning on page 57428 in the issue of Thursday, November 15, 2001, make the following correction:

On page 57429, in the third column, under the **Commenting** heading, in the last line, ''pubic'' should read ''public''.

[FR Doc. C1–28674 Filed 11–23–01; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (''Appliance Labeling Rule'')

Correction

In final rule document 01–28438 beginning on page 57867 in the issue of Monday, November 19, 2001, make the following correction:

PART 305—[CORRECTED]

On page 57871, before the

APPENDIX A8 TO PART 305

heading, insert the following instructive text: ''9. Appendix A8 to Part 305 is revised to read as follows:''.

[FR Doc. C1–28438 Filed 11–23–01; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45037; File No. SR–OCC–2001–03]

Self–Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of Proposed Rule Change To Rescind Concentration Restrictions on Letters of Credit Issued by Certain Non–U.S. Institutions

Correction

In notice document 01–28489 beginning on page 57143 in the issue of Wednesday, November 14, 2001, make the following correction:

On page 57143, in the second column, the Release No. should be as set forth above.

[FR Doc. C1–28489 Filed 11–23–01; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45047; File No. SR–NASD–2001–77]

Self–Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposal To Permit SuperSOES To Trade Through the Quotations of UTP Exchanges That Do Not Participate in the Nasdaq National Market Execution Service

November 8, 2001.

Correction

In notice document 01–28587 beginning on page 57496 in the issue of Thursday, November 15, 2001, make the following correction:

On page 57496, in the third column, the Release No. should be as set forth above.

[FR Doc. C1–28587 Filed 11–23–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 560

[No. 2001–67]

RIN 1550–AB37

Lending and Investment

Correction

In proposed rule document 01–27329 beginning on page 55131 in the issue of Thursday, November 1, 2001, make the following correction:

§560.42 [Corrected]

On page 55138, in the table for § 560.42, in the first column, entries (2) and (3) should read as follows:

''(2) Other obligations of a governmental entity (e.g., revenue bonds) that hold one of the four highest investment grade ratings by a nationally recognized rating agency or that are nonrated but of investment quality''.

''(3) Obligations of a governmental entity that do not qualify under any other paragraph but are approved by your Regional Director''.

[FR Doc. C1–27329 Filed 11–23–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
November 26, 2001

Part II

Department of Housing and Urban Development

24 CFR Part 888
Section 8 Housing Assistance Payments Program-Contract Rent Annual Adjustment Factors, Fiscal Year 2002; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 888

[Docket No. FR–4715–N–01]

Section 8 Housing Assistance Payments Program—Contract Rent Annual Adjustment Factors, Fiscal Year 2002

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of revised contract rent annual adjustment factors.

SUMMARY: This Notice announces revised Annual Adjustment Factors (AAFs) for adjustment of Section 8 contract rents on housing assistance payment contract anniversaries from October 1, 2001. The AAFs are based on a formula using data on residential rent and utility cost changes from the most current Bureau of Labor Statistics Consumer Price Index (CPI) survey and from HUD's Random Digit Dialing (RDD) rent change surveys.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, can respond to questions relating to the Section 8 Voucher, Certificate, and Moderate Rehabilitation programs; Allison Manning, Office of Special Needs Assistance Programs, Office of Community Planning and Development, (202) 708–1234 for questions regarding the Single Room Occupancy Moderate Rehabilitation program; and Beverly Miller, Director, Office of Multifamily Asset Management, Office of Housing (202) 708–3730 for questions relating to all other Section 8 programs. Lynn A. Rodgers, Economic and Market Analysis Division, Office of Policy Development and Research (202) 708–0590, is the contact for technical information regarding the development of the schedules for specific areas or the methods used for calculating the AAFs. The mailing address for the above person is: Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Hearing- or speech-impaired persons may contact the Federal Information Relay Service at 1–800–877–8339 (TTY). (Other than the ''800'' TTY number, the above-listed telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: This Notice explains how AAFs are applied to various Section 8 programs. The first section of the Notice identifies to which programs and under what circumstances AAFs apply. The second section explains when and how to apply the statutory 1 percent reduction to AAFs. The third section describes the actual adjustment procedures. Next the Notice explains the content and applicability of the two AAF tables included in this Notice and provides detailed information on the geographical coverage of each AAF area. The Notice closes with a brief explanation of how HUD calculates AAFs.

I. Section 8 Programs That Use the AAFS

AAFs established by this Notice are used to adjust contract rents for units assisted in certain Section 8 housing assistance payments programs, during the term of the HAP contract. Two categories of Section 8 program use the AAFs:

Category 1—The Section 8 new construction and substantial rehabilitation programs and the moderate rehabilitation program.

Category 2—The Section 8 loan management (LM) and property disposition (PD) programs.

Category 3—The Section 8 project-based certificate program (for outstanding pre-conversion HAP contracts).

Each Section 8 program category uses the AAFs differently. The specific application of the AAFs is determined by the law, the HAP contract, and appropriate program regulations or requirements.

AAFs are not used in the following cases:

- *Renewal Rents* AAFs are not used to determine renewal rents after expiration of the original Section 8 project-based HAP contract (either for projects where the Section 8 HAP contract is renewed under a restructuring plan adopted under 24 CFR part 401; or renewed without restructuring under 24 CFR part 402). In general, renewal rents are based on the applicable state-by-state operating cost adjustment factor (OCAF) published by HUD; the OCAF is applied to the previous year's contract rent minus debt service.
- *Voucher Program* AAFs are not used for any purpose in the Section 8 voucher program.
- *Budget-based Rents* AAFs are not used for budget-based rent adjustments. Contract rents for projects receiving Section 8 subsidies under the loan management program (24 CFR part 886, subpart A) and for projects receiving Section 8 subsidies under the property disposition program (24 CFR part 886, subpart C) are adjusted, at HUD's option, either by applying the AAFs or by budget-based adjustments in accordance with 24 CFR 207.19(e). Budget-based adjustments are used for most Section 8/202 projects.
- *Certificate Program* In the past, AAFs were used to adjust contract rent in the tenant-based certificate program (including manufactured home space rentals in the certificate program). However, this program has now been terminated. All tenancies have now been converted to the Voucher Program. AAFs are still used for adjustment of contract rent for outstanding HAP contracts under the project-based certificate program executed before conversion to the voucher program.

Under the Section 8 moderate rehabilitation program (both the regular program and the single room occupancy program), the public housing agency (PHA) applies the AAF to the base rent component of the contract rent, not the full contract rent. For the other covered programs, the AAF is applied to the whole amount of the pre-adjustment contract rent.

II. Use of Reduced AAF

In accordance with Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), the AAF is reduced by .01:

—For all tenancies assisted in the Section 8 project-based certificate program.

—In other Section 8 programs, for a unit occupied by the same family at the time of the last annual rent adjustment (and where the rent is not reduced by application of comparability (rent reasonableness)).

The law provides that:

> Except for assistance under the certificate program, for any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. In the case of assistance under the certificate program, 0.01 shall be subtracted from the amount of the annual adjustment factor (except that the factor shall not be reduced to less than 1.0), and the adjusted rent shall not exceed the rent for a comparable unassisted unit of similar quality, type, and age in the market area. 42 U.S.C. 1437f(c)(2)(A).

To implement the law, HUD publishes two separate AAF Tables, contained in Schedule C, Tables 1 and 2 of this notice. Each AAF in Table 2 has been computed by subtracting 0.01 from the annual adjustment factor in Table 1.

III. Adjustment Procedures

This section of the notice is intended to provide a broad description of adjustment procedures. Technical details and requirements are described in HUD notices. The notices are issued by the Office of Housing and the Office of Public and Indian Housing.

Because of statutory and structural distinctions among the various Section 8 programs, there are separate rent adjustment procedures for three program categories:

—The Section 8 new construction and substantial rehabilitation programs (including the Section 8 state agency program); and the moderate rehabilitation programs (including the moderate rehabilitation single room occupancy program).
—The Section 8 loan management (LM) Program (part 886, subpart A) and property disposition (PD) Program (part 886 subpart C).
—The project-based certificate [PBC] program (where the AHAP was entered prior to January 16, 2001).

Category 1: Section 8 New Construction, Substantial Rehabilitation and Moderate Rehabilitation Programs

In the Section 8 New Construction and Substantial Rehabilitation programs, the published AAF factor is applied to the pre-adjustment contract rent. In the Section 8 Moderate Rehabilitation program, the published AAF is applied to the pre-adjustment base rent.

For category 1 programs, the Table 1 AAF factor is applied before determining comparability (rent reasonableness). Comparability applies if the pre-adjustment gross rent (pre-adjustment contract rent plus any allowance for tenant-paid utilities) is above the published FMR.

If the comparable rent level (plus any initial difference) is lower than the contract rent as adjusted by application of the Table 1 AAF, the comparable rent level (plus any initial difference) will be the new contract rent. However, the pre-adjustment contract rent will not be decreased by application of comparability.

In all other cases (*i.e.,* unless the contract rent is reduced by comparability):

—The Table 1 AAF is used for a unit occupied by a new family since the last annual contract anniversary.
—The Table 2 AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

Category 2: The Loan Management Program (LM; Part 886, Subpart A) and Property Disposition Program (PD; Part 886 Subpart C)

At this time, rent adjustment by the AAF in the Category 2 programs is not subject to comparability. (Comparability will again apply if HUD establishes regulations for conducting comparability studies under 42 U.S.C. 1437f(c)(2)(C).) Rents are adjusted by applying the full amount of the applicable AAF under this notice.

The applicable AAF is determined as follows:

—The Table 1 AAF is used for a unit occupied by a new family since the last annual contract anniversary.
—The Table 2 AAF is used for a unit occupied by the same family as at the time of the last annual contract anniversary.

Category 3: Section 8 Project-Based Certificate Program

The following procedures are used to adjust contract rent for outstanding pre-conversion HAP contracts in the Section 8 Project-based Certificate program:

—The Table 2 AAF is always used; the Table 1 AAF is not used.
—The Table 2 AAF is always applied before determining comparability (rent reasonableness).
—Comparability always applies. If the comparable rent level is lower than the rent to owner (contract rent) as adjusted by application of the Table 2 AAF, the comparable rent level will be the new rent to owner.

AAF Tables

The AAFs are contained in Schedule C, Tables 1 and 2 of this notice. There are two columns in each table. The first column is used to adjust contract rent for units where the highest cost utility is included in the contract rent—*i.e.,* where the owner pays for the highest cost utility. The second column is used where the highest cost utility is not included in the contract rent—*i.e.,* where the tenant pays for the highest cost utility.

AAF Areas

Each AAF applies to a specified geographic area and to units of all bedroom sizes. AAFs are provided:

—For the metropolitan parts of the ten HUD regions exclusive of CPI areas;
—For the nonmetropolitan parts of these regions; and
—For separate metropolitan AAF areas for which local CPI survey data are available.

With the exceptions discussed below, the AAFs shown in Schedule C use the Office of Management and Budget's (OMB) most current definitions of metropolitan areas. HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions for AAF areas because of their close correspondence to housing market area definitions.

The exceptions are for certain large metropolitan areas, where HUD considers the area covered by the OMB definition to be larger than appropriate for use as a housing market area definition. In those areas, HUD has deleted some of the counties that OMB had added to its revised definitions. The following counties are deleted from the HUD definitions of AAF areas:

Metropolitan Area and Deleted Counties

Chicago, IL: DeKalb, Grundy and Kendall Counties.
Cincinnati-Hamilton, OH–KY–IN: Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana.
Dallas, TX: Henderson County.
Flagstaff, AZ–UT: Kane County, UT.
New Orleans, LA: St. James Parish.
Washington, DC–VA–MD–WV: Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren counties in Virginia.

Separate AAFs are listed in this publication for the above counties. They and the metropolitan area of which they are a part are identified with an asterisk (*) next to the area name. The asterisk indicates that there is a difference between the OMB metropolitan area and the HUD AAF area definition for these areas.

To make certain that they are using the correct AAFs, users should refer to the area definitions section at the end of Schedule C. For units located in metropolitan areas with a local CPI survey, AAFs are listed separately. For units located in areas without a local CPI survey, the appropriate HUD regional Metropolitan or Nonmetropolitan AAFs are used.

The AAF area definitions shown in Schedule C are listed in alphabetical order by State. The associated HUD region is shown next to each State name. Areas whose AAFs are determined by local CPI surveys are listed first. All metropolitan CPI areas have separate AAF schedules and are shown with their corresponding county definitions or as metropolitan counties. Listed after the metropolitan CPI areas (in those states that have such areas) are the non-CPI metropolitan and nonmetropolitan counties of each State. In the six New England States, the

listings are for counties or parts of counties as defined by towns or cities.

Puerto Rico and the Virgin Islands use the Southeast AAFs. All areas in Hawaii use the AAFs identified in the Table as ''STATE: Hawaii,'' which are based on the CPI survey for the Honolulu metropolitan area. The Pacific Islands use the Pacific/Hawaii Nonmetropolitan AAFs. The Anchorage metropolitan area uses the AAFs based on the local CPI survey; all other areas in Alaska use the Northwest/Alaska Nonmetropolitan AAFs.

How Factors Are Calculated

For Areas With CPI Surveys:

(1) Changes in the shelter rent and utilities components were calculated based on the most recent CPI annual average change data.

(2) The ''Highest Cost Utility Included'' column in Schedule C was calculated by weighting the rent and utility components with the corresponding components from the 1990 Census.

(3) The ''Highest Cost Utility Excluded'' column in Schedule C was calculated by eliminating the effect of heating costs that are included in the rent of some of the units in the CPI surveys.

For Areas Without CPI Surveys:

(1) HUD used random digit dialing (RDD) regional surveys to calculate AAFs. The RDD survey method is based on a sampling procedure that uses computers to select a statistically random sample of rental housing, dial and keep track of the telephone calls, and process the responses. RDD surveys are conducted to determine the rent change factors for the metropolitan parts (exclusive of CPI areas) and nonmetropolitan parts of the 10 HUD regions, a total of 20 surveys.

(2) The change in rent with the highest cost utility included in the rent was calculated using the average of the ratios of gross rent in the current year RDD survey divided by the previous year's for the respective metropolitan or nonmetropolitan parts of the HUD region.

(3) The change in rent with the highest cost utility excluded (*i.e.,* paid separately by the tenant) was calculated in the same manner, after subtracting the median values of utilities costs from the gross rents in the two years. The median cost of utilities was determined from the units in the RDD sample which reported that all utilities were paid by the tenant.

Accordingly, the Department publishes these Annual Adjustment Factors for the Section 8 Housing Assistance Payments Programs as set forth in the following Tables:

Dated: November 6, 2001.

Mel Martinez,

Secretary.

BILLING CODE 4210–62–P

SCHEDULE C - TABLE 1 - CONTRACT RENT AAFS

PREPARED ON 092501

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED		HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
New England Metropolitan	1.035	1.024	New England Nonmetropolitan	1.041	1.028
New York/New Jersey Metropolitan	1.022	1.014	New York/New Jersey Nonmetropolitan	1.025	1.013
Mid-Atlantic Metropolitan	1.032	1.024	Mid-Atlantic Nonmetropolitan	1.039	1.022
Southeast Metropolitan	1.029	1.025	Southeast Nonmetropolitan	1.026	1.015
Midwest Metropolitan	1.034	1.022	Midwest Nonmetropolitan	1.040	1.021
Southwest Metropolitan	1.034	1.025	Southwest Nonmetropolitan	1.043	1.019
Great Plains Metropolitan	1.026	1.017	Great Plains Nonmetropolitan	1.040	1.024
Rocky Mountain Metropolitan	1.033	1.022	Rocky Mountain Nonmetropolitan	1.034	1.019
Pacific/Hawaii Metropolitan	1.034	1.030	Pacific/Hawaii Nonmetropolitan	1.031	1.019
Northwest/Alaska Metropolitan	1.023	1.017	Northwest/Alaska Nonmetropolitan	1.025	1.017
STATE Hawaii	1.001	1.000	PMSA Akron, OH	1.059	1.022
MSA Anchorage, AK	1.023	1.029	PMSA Ann Arbor, MI	1.039	1.043
MSA Atlanta, GA	1.046	1.032	PMSA Atlantic-Cape May, NJ	1.034	1.030
PMSA Baltimore, MD	1.041	1.035	PMSA Bergen-Passaic, NJ	1.047	1.039
*COUNTY Berkeley, WV	1.043	1.034	PMSA Boston, MA-NH	1.074	1.063
PMSA Boulder-Longmont, CO	1.072	1.062	PMSA Brazoria, TX	1.038	1.028
PMSA Bremerton, WA	1.047	1.037	PMSA Bridgeport, CT	1.049	1.036
PMSA Brockton, MA	1.075	1.063	*COUNTY Brown, OH	1.038	1.028
*Chicago, IL	1.051	1.023	*Cincinnati, OH-KY-IN	1.034	1.029
*COUNTY Clarke, VA	1.043	1.034	PMSA Cleveland-Lorain-Elyria, OH	1.057	1.022
*COUNTY Culpeper, VA	1.042	1.034	*Dallas, TX	1.046	1.038

SCHEDULE C - TABLE 1 - CONTRACT RENT AAFS

PREPARED ON 092501

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
PMSA Danbury, CT	1.048	1.037
PMSA Denver, CO	1.073	1.062
PMSA Dutchess County, NY	1.047	1.038
PMSA Flint, MI	1.038	1.043
PMSA Fort Worth-Arlington, TX	1.047	1.038
PMSA Galveston-Texas City, TX	1.038	1.027
*COUNTY Grant, KY	1.038	1.028
*COUNTY Grundy, IL	1.065	1.010
PMSA Hamilton-Middletown, OH	1.035	1.029
PMSA Houston, TX	1.036	1.028
PMSA Jersey City, NJ	1.047	1.039
MSA Kansas City, MO-KS	1.060	1.042
PMSA Kenosha, WI	1.059	1.015
PMSA Lawrence, MA-NH	1.076	1.063
PMSA Lowell, MA-NH	1.074	1.063
PMSA Miami, FL	1.017	1.018
PMSA Milwaukee-Waukesha, WI	1.040	1.000
PMSA Monmouth-Ocean, NJ	1.049	1.037
PMSA Nassau-Suffolk, NY	1.048	1.037
PMSA New Haven-Meriden, CT	1.048	1.037
*COUNTY Westchester, NY	1.046	1.040
*COUNTY De Kalb, IL	1.058	1.017
PMSA Detroit, MI	1.038	1.043
PMSA Fitchburg-Leominster, MA	1.075	1.063
PMSA Fort Lauderdale, FL	1.017	1.018
*COUNTY Gallatin, KY	1.039	1.027
PMSA Gary, IN	1.067	1.009
PMSA Greeley, CO	1.073	1.062
PMSA Hagerstown, MD	1.042	1.034
*COUNTY Henderson, TX	1.054	1.038
*COUNTY Jefferson, WV	1.044	1.034
PMSA Kankakee, IL	1.069	1.007
*COUNTY Kendall, Il	1.057	1.017
*COUNTY King George, VA	1.043	1.034
PMSA Los Angeles-Long Beach, CA	1.052	1.040
PMSA Manchester, NH	1.075	1.063
PMSA Middlesex-Somerset-Hunterdon, NJ	1.047	1.039
MSA Minneapolis-St. Paul, MN-WI	1.068	1.049
PMSA Nashua, NH	1.075	1.063
PMSA New Bedford, MA	1.075	1.063
PMSA New York, NY	1.046	1.040
PMSA Newark, NJ	1.047	1.039

SCHEDULE C - TABLE 1 - CONTRACT RENT AAFS PREPARED ON 092501

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
PMSA Newburgh, NY-PA	1.047	1.038
*COUNTY Ohio, IN	1.037	1.028
PMSA Orange County, CA	1.049	1.040
PMSA Philadelphia, PA-NJ	1.034	1.030
PMSA Portland-Vancouver, OR-WA	1.023	1.015
PMSA Racine, WI	1.043	1.000
MSA St. Louis, MO-IL	1.075	1.024
MSA San Diego, CA	1.074	1.065
PMSA San Jose, CA	1.075	1.070
PMSA Santa Rosa, CA	1.078	1.070
PMSA Stamford-Norwalk, CT	1.047	1.039
MSA Tampa-St. Petersburg-Clearwater, FL	1.034	1.033
PMSA Vallejo-Fairfield-Napa, CA	1.079	1.069
PMSA Vineland-Millville-Bridgeton, NJ	1.034	1.030
*Washington, DC-MD-VA	1.040	1.035
PMSA Wilmington-Newark, DE-MD	1.034	1.030
PMSA Oakland, CA	1.076	1.070
PMSA Olympia, WA	1.048	1.037
*COUNTY Pendleton, KY	1.038	1.028
PMSA Pittsburgh, PA	1.024	1.001
PMSA Portsmouth-Rochester, NH-ME	1.075	1.063
PMSA Riverside-San Bernardino, CA	1.057	1.039
PMSA Salem, OR	1.024	1.015
PMSA San Francisco, CA	1.075	1.070
PMSA Santa Cruz-Watsonville, CA	1.077	1.070
PMSA Seattle-Bellevue-Everett, WA	1.044	1.037
PMSA Tacoma, WA	1.046	1.037
PMSA Trenton, NJ	1.047	1.038
PMSA Ventura, CA	1.050	1.040
*COUNTY Warren, VA	1.042	1.034
PMSA Waterbury, CT	1.048	1.037
PMSA Worcester, MA-CT	1.075	1.063

SCHEDULE C - TABLE 2 - CONTRACT RENT AAFS

PREPARED ON 092501

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED		HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
New England Metropolitan	1.025	1.014	New England Nonmetropolitan	1.031	1.018
New York/New Jersey Metropolitan	1.013	1.004	New York/New Jersey Nonmetropolitan	1.015	1.003
Mid-Atlantic Metropolitan	1.022	1.014	Mid-Atlantic Nonmetropolitan	1.029	1.013
Southeast Metropolitan	1.019	1.015	Southeast Nonmetropolitan	1.016	1.005
Midwest Metropolitan	1.024	1.012	Midwest Nonmetropolitan	1.030	1.011
Southwest Metropolitan	1.024	1.015	Southwest Nonmetropolitan	1.033	1.009
Great Plains Metropolitan	1.016	1.007	Great Plains Nonmetropolitan	1.030	1.014
Rocky Mountain Metropolitan	1.023	1.013	Rocky Mountain Nonmetropolitan	1.024	1.009
Pacific/Hawaii Metropolitan	1.024	1.020	Pacific/Hawaii Nonmetropolitan	1.021	1.009
Northwest/Alaska Metropolitan	1.013	1.008	Northwest/Alaska Nonmetropolitan	1.015	1.007
STATE Hawaii	1.000	1.000	PMSA Akron, OH	1.049	1.012
MSA Anchorage, AK	1.013	1.019	PMSA Ann Arbor, MI	1.029	1.033
MSA Atlanta, GA	1.036	1.022	PMSA Atlantic-Cape May, NJ	1.024	1.020
PMSA Baltimore, MD	1.031	1.025	PMSA Bergen-Passaic, NJ	1.037	1.029
*COUNTY Berkeley, WV	1.033	1.024	PMSA Boston, MA-NH	1.064	1.053
PMSA Boulder-Longmont, CO	1.062	1.052	PMSA Brazoria, TX	1.028	1.018
PMSA Bremerton, WA	1.038	1.027	PMSA Bridgeport, CT	1.039	1.026
PMSA Brockton, MA	1.065	1.053	*COUNTY Brown, OH	1.028	1.018
*Chicago, IL	1.041	1.013	*Cincinnati, OH-KY-IN	1.024	1.019
*COUNTY Clarke, VA	1.033	1.024	PMSA Cleveland-Lorain-Elyria, OH	1.047	1.012
*COUNTY Culpeper, VA	1.032	1.024	*Dallas, TX	1.036	1.028

SCHEDULE C - TABLE 2 - CONTRACT RENT AAFS

PREPARED ON 092501

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
PMSA Danbury, CT	1.038	1.027
PMSA Denver, CO	1.063	1.052
PMSA Dutchess County, NY	1.037	1.028
PMSA Flint, MI	1.028	1.033
PMSA Fort Worth-Arlington, TX	1.037	1.028
PMSA Galveston-Texas City, TX	1.029	1.017
*COUNTY Grant, KY	1.028	1.018
*COUNTY Grundy, IL	1.055	1.000
PMSA Hamilton-Middletown, OH	1.025	1.019
PMSA Houston, TX	1.026	1.018
PMSA Jersey City, NJ	1.037	1.029
MSA Kansas City, MO-KS	1.050	1.032
PMSA Kenosha, WI	1.049	1.006
PMSA Lawrence, MA-NH	1.066	1.053
PMSA Lowell, MA-NH	1.065	1.053
PMSA Miami, FL	1.007	1.008
PMSA Milwaukee-Waukesha, WI	1.030	1.000
PMSA Monmouth-Ocean, NJ	1.039	1.027
PMSA Nassau-Suffolk, NY	1.038	1.028
PMSA New Haven-Meriden, CT	1.038	1.028
*COUNTY Westchester, NY	1.036	1.030
*COUNTY De Kalb, IL	1.048	1.007
PMSA Detroit, MI	1.028	1.033
PMSA Fitchburg-Leominster, MA	1.065	1.053
PMSA Fort Lauderdale, FL	1.007	1.008
*COUNTY Gallatin, KY	1.029	1.017
PMSA Gary, IN	1.057	1.000
PMSA Greeley, CO	1.063	1.052
PMSA Hagerstown, MD	1.032	1.024
*COUNTY Henderson, TX	1.044	1.028
*COUNTY Jefferson, WV	1.034	1.024
PMSA Kankakee, IL	1.059	1.000
*COUNTY Kendall, Il	1.047	1.008
*COUNTY King George, VA	1.033	1.024
PMSA Los Angeles-Long Beach, CA	1.042	1.030
PMSA Manchester, NH	1.065	1.053
PMSA Middlesex-Somerset-Hunterdon, NJ	1.037	1.029
MSA Minneapolis-St. Paul, MN-WI	1.058	1.039
PMSA Nashua, NH	1.065	1.053
PMSA New Bedford, MA	1.065	1.053
PMSA New York, NY	1.036	1.030
PMSA Newark, NJ	1.037	1.029

SCHEDULE C - TABLE 2 - CONTRACT RENT AAFS

PREPARED ON 092501

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
PMSA Newburgh, NY-PA	1.037	1.028
*COUNTY Ohio, IN	1.028	1.018
PMSA Orange County, CA	1.039	1.030
PMSA Philadelphia, PA-NJ	1.024	1.020
PMSA Portland-Vancouver, OR-WA	1.013	1.005
PMSA Racine, WI	1.033	1.000
MSA St. Louis, MO-IL	1.065	1.014
MSA San Diego, CA	1.064	1.055
PMSA San Jose, CA	1.065	1.060
PMSA Santa Rosa, CA	1.068	1.060
PMSA Stamford-Norwalk, CT	1.037	1.029
MSA Tampa-St. Petersburg-Clearwater, FL	1.024	1.023
PMSA Vallejo-Fairfield-Napa, CA	1.069	1.060
PMSA Vineland-Millville-Bridgeton, NJ	1.024	1.020
*Washington, DC-MD-VA	1.030	1.025
PMSA Wilmington-Newark, DE-MD	1.024	1.020
PMSA Oakland, CA	1.066	1.060
PMSA Olympia, WA	1.038	1.027
*COUNTY Pendleton, KY	1.028	1.018
PMSA Pittsburgh, PA	1.014	1.000
PMSA Portsmouth-Rochester, NH-ME	1.065	1.053
PMSA Riverside-San Bernardino, CA	1.047	1.029
PMSA Salem, OR	1.014	1.005
PMSA San Francisco, CA	1.065	1.060
PMSA Santa Cruz-Watsonville, CA	1.067	1.060
PMSA Seattle-Bellevue-Everett, WA	1.034	1.027
PMSA Tacoma, WA	1.036	1.027
PMSA Trenton, NJ	1.037	1.028
PMSA Ventura, CA	1.040	1.030
*COUNTY Warren, VA	1.032	1.024
PMSA Waterbury, CT	1.038	1.028
PMSA Worcester, MA-CT	1.065	1.053

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

ALABAMA (SOUTHEAST)

METROPOLITAN COUNTIES
Autauga, Baldwin, Blount, Calhoun, Colbert, Dale, Elmore, Etowah, Houston, Jefferson, Lauderdale, Lawrence, Lee, Limestone, Madison, Mobile, Montgomery, Morgan, Russell, Shelby, St. Clair, Tuscaloosa

NONMETROPOLITAN COUNTIES
Barbour, Bibb, Bullock, Butler, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, Dekalb, Escambia, Fayette, Franklin, Geneva, Greene, Hale, Henry, Jackson, Lamar, Lowndes, Macon, Marengo, Marion, Marshall, Monroe, Perry, Pickens, Pike, Randolph, Sumter, Talladega, Tallapoosa, Walker, Washington, Wilcox, Winston

ALASKA (NORTHWEST/ALASKA)

CPI AREAS: COUNTIES
MSA Anchorage, AK: Anchorage

NONMETROPOLITAN COUNTIES
Aleutian East, Aleutian West, Bethel, Dillingham, Lake & Peninsula, Northwest Arctic, Nome, Pr. Wales-Outer Ketchikan, Skagway-Yakutat-Angoon, Southeast Fairbanks, Valdez-Cordova, Wade Hampton, Wrangell-Petersburg, Yukon-Koyukuk, Bristol Bay, Fairbanks North Star, Haines, Juneau, Kenai Peninsula, Ketchikan Gateway, Kodiak Island, Matanuska-Susitna, North Slope, Sitka

ARIZONA (PACIFIC/HAWAII)

METROPOLITAN COUNTIES
Coconino, Maricopa, Mohave, Pima, Pinal, Yuma

NONMETROPOLITAN COUNTIES
Apache, Cochise, Gila, Graham, Greenlee, La Paz, Navajo, Santa Cruz, Yavapai

ARKANSAS (SOUTHWEST)

METROPOLITAN COUNTIES
Benton, Crawford, Craighead, Crittenden, Faulkner, Jefferson, Lonoke, Miller, Pulaski, Saline, Sebastian, Washington

NONMETROPOLITAN COUNTIES
Arkansas, Ashley, Baxter, Boone, Bradley, Calhoun, Carroll, Chicot, Clark, Clay, Cleburne, Cleveland, Columbia, Conway, Cross, Dallas, Desha, Drew, Franklin, Fulton, Garland, Grant, Greene, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Johnson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Madison, Marion, Mississippi, Monroe, Montgomery, Nevada, Newton, Ouachita, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Randolph, Scott, Searcy, Sevier, Sharp, St. Francis, Stone, Union, Van Buren, White, Woodruff, Yell

CALIFORNIA (PACIFIC/HAWAII)

CPI AREAS: COUNTIES
PMSA Los Angeles-Long Beach, CA: Los Angeles
PMSA Oakland, CA: Alameda, Contra Costa
PMSA Orange County, CA: Orange
PMSA Riverside-San Bernardino, CA: Riverside, San Bernardino
MSA San Diego, CA: San Diego
PMSA San Francisco, CA: Marin, San Francisco, San Mateo
PMSA San Jose, CA: Santa Clara
PMSA Santa Cruz-Watsonville, CA: Santa Cruz
PMSA Santa Rosa, CA: Sonoma
PMSA Vallejo-Fairfield-Napa, CA: Napa, Solano
PMSA Ventura, CA: Ventura

METROPOLITAN COUNTIES
Butte, El Dorado, Fresno, Kern, Madera, Merced, Monterey, Placer, Sacramento, San Joaquin, San Luis Obispo, Santa Barbara, Shasta, Stanislaus, Sutter, Tulare, Yolo, Yuba

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

CALIFORNIA (cont'd)

NONMETROPOLITAN COUNTIES
Alpine, Amador, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Imperial, Inyo, Kings, Lake, Lassen, Mariposa, Mendocino, Modoc, Mono, Nevada, Plumas, San Benito, Sierra, Siskiyou, Tehama, Trinity, Tuolumne

COLORADO (ROCKY MOUNTAIN)

CPI AREAS: COUNTIES
PMSA Boulder-Longmont, CO: Boulder
PMSA Denver, CO: Adams, Arapahoe, Denver, Douglas, Jefferson
PMSA Greeley, CO: Weld

METROPOLITAN COUNTIES
El Paso, Larimer, Mesa, Pueblo

NONMETROPOLITAN COUNTIES
Alamosa, Archuleta, Baca, Bent, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Dolores, Eagle, Elbert, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Kiowa, Kit Carson, La Plata, Lake, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Yuma

CONNECTICUT (NEW ENGLAND)

CPI AREAS: COUNTIES
PMSA Bridgeport, CT
Fairfield County part: Bridgeport city, Easton town, Fairfield town, Monroe town, Shelton city, Stratford town, Trumbull town
New Haven County part: Ansonia city, Beacon Falls town, Derby city, Milford city, Oxford town, Seymour town

PMSA Danbury, CT
Fairfield County part: Bethel town, Brookfield town, Danbury city, New Fairfield town, Newtown town, Redding town, Ridgefield town, Sherman town
Litchfield County part: Bridgewater town, New Milford town, Roxbury town, Washington town

PMSA New Haven-Meriden, CT
Middlesex County part: Clinton town, Killingworth town
New Haven County part: Bethany town, Branford town, Cheshire town, East Haven town, Guilford town, Hamden town, Madison town, Meriden town, New Haven town, North Branford town, North Haven town, Orange town, Wallingford town, North Haven town, Woodbridge town

PMSA Stamford-Norwalk, CT
Fairfield County part: Darien town, Greenwich town, New Canaan town, Norwalk town, Stamford town, Weston town, Westport town, Wilton town

PMSA Waterbury, CT
Litchfield County part: Bethlehem town, Thomaston town, Watertown town, Woodbury town
New Haven County part: Middlebury town, Naugatuck borough, Prospect town, Southbury town, Waterbury city, Wolcott town

PMSA Worcester, MA-CT
Windham County part: Thompson town

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

CONNECTICUT (cont'd)

METROPOLITAN COUNTIES

Hartford County part: Avon town, Berlin town, Bloomfield town, Bristol town, Burlington town, Canton town, East Granby town, East Hartford town, East Windsor town, Enfield town, Farmington town, Glastonbury town, Granby town, Hartford city, Manchester town, Marlborough town, New Britain city, Newington town, Plainville town, Rocky Hill town, Simsbury town, Southington town, South Windsor town, Suffield town, West Hartford town, Wethersfield town, Windsor town, Windsor Locks town

Litchfield County part: Barkhamsted town, Harwinton town, New Hartford town, Plymouth town, Winchester town

Middlesex County part: Cromwell town, Durham town, East Haddam town, East Hampton town, Haddam town, Middlefield town, Middletown city, Portland town, Old Saybrook town

New London County part: Bozrah town, East Lyme town, Franklin town, Griswold town, Groton town, Ledyard town, Lisbon town, Montville town, New London city, North Stonington town, Norwich city, Old Lyme town, Preston town, Salem town, Sprague town, Stonington town, Waterford town, Colchester town, Lebanon town

Tolland County part: Andover town, Bolton town, Columbia town, Coventry town, Ellington town, Hebron town, Mansfield town, Somers town, Stafford town, Tolland town, Vernon town, Willington town

Windham County part: Ashford town, Canterbury town, Chaplin town, Plainfield town, Windham town

NONMETROPOLITAN COUNTIES

Hartford County part: Hartland town

Litchfield County part: Canaan town, Colebrook town, Cornwall town, Goshen town, Kent town, Litchfield town, Morris town, Norfolk town, North Canaan town, Salisbury town, Sharon town, Torrington town, Warren town

Middlesex County part: Chester town, Deep River town, Essex town, Westbrook town

New London County part: Lyme town, Voluntown town

Tolland County part: Union town

Windham County part: Brooklyn town, Eastford town, Hampton town, Killingly town, Pomfret town, Putnam town, Scotland town, Sterling town, Woodstock town

DELAWARE (MID-ATLANTIC)

CPI AREAS: COUNTIES

PMSA Wilmington-Newark, DE-MD: New Castle

METROPOLITAN COUNTIES

Kent

NONMETROPOLITAN COUNTIES

Sussex

DIST. OF COLUMBIA (MID-ATLANTIC)

CPI AREAS: COUNTIES

District of Columbia

FLORIDA (SOUTHEAST)

CPI AREAS: COUNTIES

PMSA Fort Lauderdale, FL: Broward

PMSA Miami, FL: Miami-Dade

MSA Tampa-St. Petersburg-Clearwater, FL: Hernando, Hillsborough, Pasco, Pinellas

METROPOLITAN COUNTIES

Alachua, Bay, Brevard, Charlotte, Clay, Collier, Duval, Escambia, Flagler, Gadsden, Lake, Lee, Leon, Manatee, Marion, Martin, Nassau, Okaloosa, Orange, Osceola, Palm Beach, Polk, Santa Rosa, Sarasota, Seminole, St. Johns, St. Lucie, Volusia

NONMETROPOLITAN COUNTIES

Baker, Bradford, Calhoun, Citrus, Columbia, Desoto, Dixie, Franklin, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Indian River, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Monroe, Okeechobee, Putnam, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, Washington

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

GEORGIA (SOUTHEAST)

CPI AREAS: COUNTIES

*Atlanta, GA: Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, Pickens, Rockdale, Spalding, Walton

METROPOLITAN COUNTIES

Bibb, Bryan, Catoosa, Chatham, Chattahoochee, Clarke, Columbia, Dade, Dougherty, Effingham, Harris, Houston, Jones, Lee, Madison, Mcduffie, Muscogee, Oconee, Peach, Richmond, Twiggs, Walker

NONMETROPOLITAN COUNTIES

Appling, Atkinson, Bacon, Baker, Baldwin, Banks, Ben Hill, Berrien, Bleckley, Brantley, Brooks, Bulloch, Burke, Butts, Calhoun, Camden, Candler, Charlton, Chattooga, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Dawson, Decatur, Dodge, Dooly, Early, Echols, Elbert, Emanuel, Evans, Fannin, Floyd, Franklin, Gilmer, Glascock, Glynn, Gordon, Grady, Greene, Habersham, Hall, Hancock, Haralson, Hart, Heard, Irwin, Jackson, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Lamar, Lanier, Laurens, Liberty, Lincoln, Long, Lowndes, Lumpkin, Macon, Marion, Mcintosh, Meriwether, Miller, Mitchell, Monroe, Montgomery, Morgan, Murray, Oglethorpe, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Rabun, Randolph, Schley, Screven, Seminole, Stephens, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Taylor, Telfair, Terrell, Thomas, Tift, Toombs, Towns, Treutlen, Troup, Turner, Union, Upson, Ware, Warren, Washington, Wayne, Webster, Wheeler, White, Whitfield, Wilcox, Wilkes, Wilkinson, Worth

HAWAII (PACIFIC/HAWAII)

CPI AREAS: COUNTIES

STATE Hawaii: Hawaii, Honolulu, Kauai, Maui

IDAHO (NORTHWEST/ALASKA)

METROPOLITAN COUNTIES

Ada, Bannock, Canyon

NONMETROPOLITAN COUNTIES

Adams, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Bonneville, Boundary, Butte, Camas, Caribou, Cassia, Clark, Clearwater, Custer, Elmore, Franklin, Fremont, Gem, Gooding, Idaho, Jefferson, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Madison, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Teton, Twin Falls, Valley, Washington

ILLINOIS (MIDWEST)

CPI AREAS: COUNTIES

*Chicago, IL: Cook, Dupage, Kane, Lake, McHenry, Will
*COUNTY De Kalb, IL: Dekalb
*COUNTY Grundy, IL: Grundy
PMSA Kankakee, IL: Kankakee
*COUNTY Kendall, Il: Kendall
MSA St. Louis, MO-IL: Clinton, Jersey, Madison, Monroe, St. Clair

METROPOLITAN COUNTIES

Boone, Champaign, Henry, Macon, Mclean, Menard, Ogle, Peoria, Rock Island, Sangamon, Tazewell, Winnebago, Woodford

NONMETROPOLITAN COUNTIES

Adams, Alexander, Bond, Brown, Bureau, Calhoun, Carroll, Cass, Christian, Clark, Clay, Coles, Crawford, Cumberland, De Witt, Douglas, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Hamilton, Hancock, Hardin, Henderson, Iroquois, Jackson, Jasper, Jefferson, Jo Daviess, Johnson, Knox, La Salle, Lawrence, Lee, Livingston, Logan, Macoupin, Marion, Marshall, Mason, Massac, Mcdonough, Mercer, Montgomery, Morgan, Moultrie, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Saline, Schuyler, Scott, Shelby, Stark, Stephenson, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Williamson

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

INDIANA (MIDWEST)

CPI AREAS: COUNTIES

*Cincinnati, OH-KY-IN:	Dearborn
PMSA Gary, IN:	Lake, Porter
*COUNTY Ohio, IN:	Ohio

METROPOLITAN COUNTIES

Adams, Allen, Boone, Clark, Clay, Clinton, De Kalb, Delaware, Elkhart, Floyd, Hamilton, Hancock, Harrison, Hendricks, Howard, Huntington, Johnson, Madison, Marion, Monroe, Morgan, Posey, Scott, Shelby, St. Joseph, Tippecanoe, Tipton, Vanderburgh, Vermillion, Vigo, Warrick, Wells, Whitley

NONMETROPOLITAN COUNTIES

Bartholomew, Benton, Blackford, Brown, Carroll, Cass, Crawford, Daviess, Decatur, Dubois, Fayette, Fountain, Franklin, Fulton, Gibson, Grant, Greene, Henry, Jackson, Jasper, Jay, Jefferson, Jennings, Knox, Kosciusko, La Porte, Lagrange, Lawrence, Marshall, Martin, Miami, Montgomery, Newton, Noble, Orange, Owen, Parke, Perry, Pike, Pulaski, Putnam, Randolph, Ripley, Rush, Spencer, Starke, Steuben, Sullivan, Switzerland, Union, Wabash, Warren, Washington, Wayne, White

IOWA (GREAT PLAINS)

METROPOLITAN COUNTIES

Black Hawk, Dallas, Dubuque, Johnson, Linn, Polk, Pottawattamie, Scott, Warren, Woodbury

NONMETROPOLITAN COUNTIES

Adair, Adams, Allamakee, Appanoose, Audubon, Benton, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Davis, Decatur, Delaware, Des Moines, Dickinson, Emmet, Fayette, Floyd, Franklin, Fremont,

IOWA (Cont.)

Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Jones, Keokuk, Kossuth, Lee, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Plymouth, Pocahontas, Poweshiek, Ringgold, Sac, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Washington, Wayne, Webster, Winnebago, Winneshiek, Worth, Wright

KANSAS (GREAT PLAINS)

CPI AREAS: COUNTIES

MSA Kansas City, MO-KS:	Johnson, Leavenworth, Miami, Wyandotte

METROPOLITAN COUNTIES

Butler, Douglas, Harvey, Sedgwick, Shawnee

NONMETROPOLITAN COUNTIES

Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche, Cowley, Crawford, Decatur, Dickinson, Doniphan, Edwards, Elk, Ellis, Ellsworth, Finney, Ford, Franklin, Geary, Gove, Graham, Grant, Gray, Greeley, Greenwood, Hamilton, Harper, Haskell, Hodgeman, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Lane, Lincoln, Linn, Logan, Lyon, Marion, Marshall, Mcpherson, Meade, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Norton, Osage, Osborne, Ottawa, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Riley, Rooks, Rush, Russell, Saline, Scott, Seward, Sheridan, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wabaunsee, Wallace, Washington, Wichita, Wilson, Woodson

KENTUCKY (SOUTHEAST)

CPI AREAS: COUNTIES

*Cincinnati, OH-KY-IN:	Boone, Campbell, Kenton
*COUNTY Gallatin, KY:	Gallatin
*COUNTY Grant, KY:	Grant
*COUNTY Pendleton, KY:	Pendleton

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

KENTUCKY (cont'd)

METROPOLITAN COUNTIES
Bourbon, Boyd, Bullitt, Carter, Christian, Clark, Daviess, Fayette, Greenup, Henderson, Jefferson, Jessamine, Madison, Oldham, Scott, Woodford

NONMETROPOLITAN COUNTIES
Adair, Allen, Anderson, Ballard, Barren, Bath, Bell, Boyle, Bracken, Breathitt, Breckinridge, Butler, Caldwell, Calloway, Carlisle, Carroll, Casey, Clay, Clinton, Crittenden, Cumberland, Edmonson, Elliott, Estill, Fleming, Floyd, Franklin, Fulton, Garrard, Graves, Grayson, Green, Hancock, Hardin, Harlan, Harrison, Hart, Henry, Hickman, Hopkins, Jackson, Johnson, Knott, Knox, Larue, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, Livingston, Logan, Lyon, Magoffin, Marion, Marshall, Martin, Mason, Mccracken, Mccreary, Mclean, Meade, Menifee, Mercer, Metcalfe, Monroe, Montgomery, Morgan, Muhlenberg, Nelson, Nicholas, Ohio, Owen, Owsley, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Trimble, Union, Warren, Washington, Wayne, Webster, Whitley, Wolfe

LOUISIANA (SOUTHWEST)

METROPOLITAN COUNTIES
Acadia, Ascension, Bossier, Caddo, Calcasieu, East Baton Rouge, Jefferson, Lafayette, Lafourche, Livingston, Orleans, Ouachita, Plaquemines, Rapides, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Terrebonne, Webster, West Baton Rouge

NONMETROPOLITAN COUNTIES
Allen, Assumption, Avoyelles, Beauregard, Bienville, Caldwell, Cameron, Catahoula, Claiborne, Concordia, De Soto, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson Davis, La Salle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Red River, Richland, Sabine, St. Helena, St. Mary, Tangipahoa, Tensas, Union, Vermilion, Vernon, Washington, West Carroll, West Feliciana, Winn

MAINE (NEW ENGLAND)

CPI AREAS: COUNTIES
PMSA Portsmouth-Rochester, NH-ME
York County part: Berwick town, Eliot town, Kittery town, South Berwick town, York town

METROPOLITAN COUNTIES
Androscoggin County part: Auburn city, Greene town, Lewiston city, Lisbon town, Mechanic Falls town, Poland town, Sabattus town, Turner town, Wales town
Cumberland County part: Cape Elizabeth town, Casco town, Cumberland town, Falmouth town, Freeport town, Gorham town, Gray town, Long Island town, North Yarmouth town, Portland city, Raymond town, Scarborough town, South Portland city, Standish town, Westbrook city, Windham town, Yarmouth town
Penobscot County part: Bangor city, Brewer city, Eddington town, Glenburn town, Hampden town, Hermon town, Holden town, Kenduskeag town, Milford town, Old Town city, Orono town, Orrington town, Penobscot Indian Island, Veazie town
Waldo County part: Winterport town
York County part: Buxton town, Hollis town, Limington town, Old Orchard Beach

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

MAINE (cont'd)

NONMETROPOLITAN COUNTIES
Aroostook
Franklin
Hancock
Kennebec
Knox
Lincoln
Oxford
Piscataquis
Sagadahoc
Somerset
Washington
Androscoggin County part: Durham town, Leeds town, Livermore town, Livermore Falls town, Minot town
Cumberland County part: Harpswell town, Harrison town, Naples town, New Gloucester town, Pownal town, Sebago town
Penobscot County part: Alton town, Argyle unorg., Bradford town, Bradley town, Burlington town, Charleston town, Chester town, Clifton town, Corinna town, Corinth town, Dexter town, Dixmont town, Drew plantation, East Central Penob, East Millinocket town, Edinburg town, Enfield town, Etna town, Exeter town, Garland town, Greenbush town, Greenfield town, Howland town, Hudson town, Kingman unorg., Lagrange town, Lakeville town, Lee town, Levant town, Lincoln town, Lowell town, Mattawamkeag town, Maxfield town, Medway town, Millinocket town, Mount Chase town, Newburgh town, Penobscot unorg., Passadumkeag town, Patten town, Plymouth town, Prentiss plantation, Seboeis plantation, Springfield town, Stacyville town, Stetson town, Twombly unorg., Webster plantation, Whitney unorg., Winn town, Woodville town
Waldo County part: Belfast city, Belmont town, Brooks town, Burnham town, Frankfort town, Freedom town, Islesboro town, Jackson town, Knox town, Liberty town, Lincolnville town, Monroe town, Montville town, Morrill town, Northport town, Palermo town, Prospect town, Searsmont town, Searsport town, Stockton Springs, Swanville town, Thorndike town, Troy town, Unity town, Waldo town
York County part: Acton town, Alfred town, Arundel town, Biddeford city, Cornish town, Dayton town, Kennebunk town, Kennebunkport town, Lebanon town, Limerick town, Lyman town, Newfield town, North Berwick town, Ogunquit town, Parsonsfield town, Saco city, Sanford town, Shapleigh town, Waterboro town, Wells town

MARYLAND (MID-ATLANTIC)

CPI AREAS: COUNTIES
PMSA Baltimore, MD: Anne Arundel, Baltimore, Carroll, Harford, Howard, Queen Anne's, Baltimore city, Columbia city
PMSA Hagerstown, MD: Washington
*Washington, DC-MD-VA: Calvert, Charles, Frederick, Montgomery, Prince George's
PMSA Wilmington-Newark, DE-MD: Cecil

METROPOLITAN COUNTIES
Allegany

NONMETROPOLITAN COUNTIES
Caroline, Dorchester, Garrett, Kent, Somerset, St. Mary's, Talbot, Wicomico, Worcester

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

MASSACHUSETTS (NEW ENGLAND)

CPI AREAS: COUNTIES

PMSA Boston, MA-NH

Bristol County part: Berkley town, Dighton town, Mansfield town, Norton town, Taunton city

Essex County part: Amesbury town, Beverly city, Danvers town, Essex town, Gloucester city, Hamilton town, Ipswich town, Lynn city, Lynnfield town, Manchester-by-the-Sea town, Marblehead town, Middleton town, Nahant town, Newbury town, Newburyport city, Peabody city, Rockport town, Rowley town, Salem city, Salisbury town, Saugus town, Swampscott town, Topsfield town, Wenham town

Middlesex County part: Acton town, Arlington town, Ashland town, Ayer town, Bedford town, Belmont town, Boxborough town, Burlington town, Cambridge city, Carlisle town, Concord town, Everett city, Framingham town, Holliston town, Hopkinton town, Hudson town, Lexington town, Lincoln town, Littleton town, Malden city, Marlborough city, Maynard town, Medford city, Melrose city, Natick town, Newton city, North Reading town, Reading town, Sherborn town, Shirley town, Somerville city, Stoneham town, Stow town, Sudbury town, Townsend town, Wakefield town, Waltham city, Watertown town, Wayland town, Weston town, Wilmington town, Winchester town, Woburn city

Norfolk County part: Bellingham town, Braintree town, Brookline town, Canton town, Cohasset town, Dedham town, Dover town, Foxborough town, Franklin town, Holbrook town, Medfield town, Medway town, Millis town, Milton town, Needham town, Norfolk town, Norwood town, Plainville town, Quincy city, Randolph town, Sharon town, Stoughton town, Walpole town, Wellesley town, Westwood town, Weymouth town, Wrentham town

Plymouth County part: Carver town, Duxbury town, Hanover town, Hingham town, Hull town, Kingston town, Marshfield town, Norwell town, Pembroke town, Plymouth town, Rockland town, Scituate town, Wareham town

Suffolk county part: Boston city, Chelsea city, Revere city, Winthrop town Worcester County part: Berlin town, Blackstone town, Bolton town, Harvard town, Hopedale town, Lancaster town, Mendon town, Milford town, Millville town, Southborough town, Upton town

PMSA Brockton, MA

Bristol County part: Easton town, Raynham town

Norfolk County part: Avon town

Plymouth County part: Abington town, Bridgewater town, Brockton city, East Bridgewater town, Halifax town, Hanson town, Lakeville town, Middleborough town, Plympton town, West Bridgewater town, Whitman town

PMSA Fitchburg-Leominster, MA

Middlesex County part: Ashby town

Worcester County part: Ashburnham town, Fitchburg city, Gardner city, Leominster city, Lunenburg town, Templeton town, Westminster town, Winchendon town

PMSA Lawrence, MA-NH

Essex County part: Andover town, Boxford town, Georgetown town, Groveland town, Haverhill city, Lawrence city, Merrimac town, Methuen town, North Andover town, West Newbury town

PMSA Lowell, MA-NH

Middlesex County part: Billerica town, Chelmsford town, Dracut town, Dunstable town, Groton town, Lowell city, Pepperell town, Tewksbury town, Tyngsborough town, Westford town

PMSA New Bedford, MA

Bristol County part: Acushnet town, Dartmouth town, Fairhaven town, Freetown town, New Bedford city

Plymouth County part: Marion town, Mattapoisett town, Rochester town

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

MASSACHUSETTS (cont'd)

CPI AREAS: COUNTIES

PMSA Worcester, MA-CT

Hampden County part: Holland town

Worcester County part: Auburn town, Barre town, Boylston town, Brookfield town, Charlton town, Clinton town, Douglas town, Dudley town, East Brookfield town, Grafton town, Holden town, Leicester town, Millbury town, Northborough town, Northbridge town, North Brookfield town, Oakham town, Oxford town, Paxton town, Princeton town, Rutland town, Shrewsbury town, Southbridge town, Spencer town, Sterling town, Sturbridge town, Sutton town, Uxbridge town, Webster town, Westborough town, West Boylston town, West Brookfield town, Worcester city

METROPOLITAN COUNTIES

Barnstable County part: Barnstable town, Brewster town, Chatham town, Dennis town, Eastham town, Harwich town, Mashpee town, Orleans town, Sandwich town, Yarmouth town

Berkshire County part: Adams town, Cheshire town, Dalton town, Hinsdale town, Lanesborough town, Lee town, Lenox town, Pittsfield city, Richmond town, Stockbridge town

Bristol County part: Attleboro city, Fall River city, North Attleborough, Rehoboth town, Seekonk town,Somerset town, Swansea town, Westport town

Franklin County part: Sunderland town

Hampden County part: Agawam town, Chicopee city, East Longmeadow town, Hampden town, Holyoke city, Longmeadow town, Ludlow town, Monson town, Montgomery town, Palmer town, Russell town, Southwick town, Springfield city, Westfield city, West Springfield town, Wilbraham town

Hampshire County part: Amherst town, Belchertown town, Easthampton town, Granby town, Hadley town, Hatfield town, Huntington town, Northampton city, Southampton town, South Hadley town, Ware town, Williamsburg town

NONMETROPOLITAN COUNTIES

Dukes

Nantucket

Barnstable County part: Bourne town, Falmouth town, Provincetown town, Truro town, Wellfleet town

Berkshire County part: Alford town, Becket town, Clarksburg town, Egremont town, Florida town, Great Barrington town, Hancock town, Monterey town, Mount Washington town, New Ashford town, New Marlborough town, North Adams city, Otis town, Peru town, Sandisfield town, Savoy town, Sheffield town, Tyringham town, Washington town, West Stockbridge town, Williamstown town, Windsor town

Franklin County part: Ashfield town, Bernardston town, Buckland town, Charlemont town, Colrain town, Conway town, Deerfield town, Erving town, Gill town, Greenfield town, Hawley town, Heath town, Leverett town, Leyden town, Monroe town, Montague town, New Salem town, Northfield town, Orange town, Rowe town, Shelburne town, Shutesbury town, Warwick town, Wendell town, Whately town

Hampden County part: Blandford town, Brimfield town, Chester town, Granville town, Tolland town, Wales town

Hampshire County part: Chesterfield town, Cummington town, Goshen town, Middlefield town, Pelham town, Plainfield town, Westhampton town, Worthington town

Worcester County part: Athol town, Hardwick town, Hubbardston town, New Braintree town, Petersham town, Phillipston town, Royalston town, Warren town

MICHIGAN (MIDWEST)

CPI AREAS: COUNTIES

PMSA Ann Arbor, MI: Lenawee, Livingston, Washtenaw

PMSA Detroit, MI: Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne

PMSA Flint, MI: Genesee

METROPOLITAN COUNTIES

Allegan, Bay, Berrien, Calhoun, Clinton, Eaton, Ingham, Jackson, Kalamazoo, Kent, Midland, Muskegon, Ottawa, Saginaw, Van Buren

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

MICHIGAN (cont'd)

NONMETROPOLITAN COUNTIES
Alcona, Alger, Alpena, Antrim, Arenac, Baraga, Barry, Benzie, Branch, Cass, Charlevoix, Cheboygan, Chippewa, Clare, Crawford, Delta, Dickinson, Emmet, Gladwin, Gogebic, Grand Traverse, Gratiot, Hillsdale, Houghton, Huron, Ionia, Iosco, Iron, Isabella, Kalkaska, Keweenaw, Lake, Leelanau, Luce, Mackinac, Manistee, Marquette, Mason, Mecosta, Menominee, Missaukee, Montcalm, Montmorency, Newaygo, Oceana, Ogemaw, Ontonagon, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Sanilac, Schoolcraft, Shiawassee, St. Joseph, Tuscola, Wexford

MINNESOTA (MIDWEST)

CPI AREAS: COUNTIES
MSA Minneapolis-St. Paul, MN-WI: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, Wright

METROPOLITAN COUNTIES
Benton, Clay, Houston, Olmsted, Polk, St. Louis, Stearns

NONMETROPOLITAN COUNTIES
Aitkin, Becker, Beltrami, Big Stone, Blue Earth, Brown, Carlton, Cass, Chippewa, Clearwater, Cook, Cottonwood, Crow Wing, Dodge, Douglas, Faribault, Fillmore, Freeborn, Goodhue, Grant, Hubbard, Itasca, Jackson, Kanabec, Kandiyohi, Kittson, Koochiching, Lac qui Parle, Lake, Lake of the Woods, Le Sueur, Lincoln, Lyon, Mahnomen, Marshall, Martin, Mcleod, Meeker, Mille Lacs, Morrison, Mower, Murray, Nicollet, Nobles, Norman, Otter Tail, Pennington, Pine, Pipestone, Pope, Red Lake, Redwood, Renville, Rice, Rock, Roseau, Sibley, Steele, Stevens, Swift, Todd, Traverse, Wabasha, Wadena, Waseca, Watonwan, Wilkin, Winona, Yellow Medicine

MISSISSIPPI (SOUTHEAST)

METROPOLITAN COUNTIES
Desoto, Forrest, Hancock, Harrison, Hinds, Jackson, Lamar, Madison, Rankin

NONMETROPOLITAN COUNTIES
Adams, Alcorn, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, Franklin, George, Greene, Grenada, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lauderdale, Lawrence, Leake, Lee, Leflore, Lincoln, Lowndes, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Scott, Sharkey, Simpson, Smith, Stone, Sunflower, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo

MISSOURI (GREAT PLAINS)

CPI AREAS: COUNTIES
MSA Kansas City, MO-KS: Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
MSA St. Louis, MO-IL: Franklin, Jefferson, Lincoln, St. Charles, St. Louis, Warren, St. Louis city, Crawford-Sullivan (part)

METROPOLITAN COUNTIES
Andrew, Boone, Buchanan, Christian, Greene, Jasper, Newton, Webster

NONMETROPOLITAN COUNTIES
Adair, Atchison, Audrain, Barry, Barton, Bates, Benton, Bollinger, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cedar, Chariton, Clark, Cole, Cooper, Crawford, Dade, Dallas, Daviess, Dekalb, Dent, Douglas, Dunklin, Gasconade, Gentry, Grundy, Harrison, Henry, Hickory, Holt, Howard,Howell, Iron, Johnson, Knox, Laclede, Lawrence, Lewis, Linn, Livingston, Macon, Madison, Maries, Marion, Mcdonald, Mercer, Miller, Mississippi, Moniteau, Monroe, Montgomery, Morgan, New Madrid, Nodaway, Oregon, Osage, Ozark, Pemiscot, Perry, Pettis, Phelps, Pike, Polk, Pulaski, Putnam, Ralls, Randolph, Reynolds, Ripley, Saline, Schuyler, Scotland, Scott, Shannon, Shelby, St. Clair, St. Francois, Ste. Genevieve, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Washington, Wayne, Worth, Wright

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

MONTANA (ROCKY MOUNTAIN)

METROPOLITAN COUNTIES
Cascade, Missoula, Yellowstone

NONMETROPOLITAN COUNTIES
Beaverhead, Big Horn, Blaine, Broadwater, Carbon, Carter, Chouteau, Custer, Daniels, Dawson, Deer Lodge, Fallon, Fergus, Flathead, Gallatin, Garfield, Glacier, Golden Valley, Granite, Hill, Jefferson, Judith Basin, Lake, Lewis and Clark, Liberty, Lincoln, Madison, Mccone, Meagher, Mineral, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Powell, Prairie, Ravalli, Richland, Roosevelt, Rosebud, Sanders, Sheridan, Silver Bow, Stillwater, Sweet Grass, Teton, Toole, Treasure, Valley, Wheatland, Wibaux

NEBRASKA (GREAT PLAINS)

METROPOLITAN COUNTIES
Cass, Dakota, Douglas, Lancaster, Sarpy, Washington

NONMETROPOLITAN COUNTIES
Adams, Antelope, Arthur, Banner, Blaine, Boone, Box Butte, Boyd, Brown, Buffalo, Burt, Butler, Cedar, Chase, Cherry, Cheyenne, Clay, Colfax, Cuming, Custer, Dawes, Dawson, Deuel, Dixon, Dodge, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lincoln, Logan, Loup, Madison, Mcpherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Red Willow, Richardson, Rock, Saline, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Thurston, Valley, Wayne, Webster, Wheeler, York

NEVADA (PACIFIC/HAWAII)

METROPOLITAN COUNTIES
Clark, Nye, Washoe

NONMETROPOLITAN COUNTIES
Churchill, Douglas, Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Lyon, Mineral, Pershing, Storey, White Pine, Carson City

NEW HAMPSHIRE (NEW ENGLAND)

CPI AREAS: COUNTIES

PMSA Boston, MA-NH
Rockingham County part: Seabrook town, South Hampton town

PMSA Lawrence, MA-NH
Rockingham County part: Atkinson town, Chester town, Danville town, Derry town, Fremont town, Hampstead town, Kingston town, Newton town, Plaistow town, Raymond town, Salem town, Sandown town, Windham town

PMSA Lowell, MA-NH
Hillsborough county pt: Pelham town

PMSA Manchester, NH
Hillsborough county pt: Bedford town, Goffstown town, Manchester city, Weare town
Merrimack county part: Allenstown town, Hooksett town
Rockingham county part: Auburn town, Candia town, Londonderry town

PMSA Nashua, NH
Hillsborough county pt: Amherst town, Brookline town, Greenville town, Hollis town, Hudson town, Litchfield town, Mason town, Merrimack town, Milford town, Mont Vernon town, Nashua city, New Ipswich town, Wilton town

PMSA Portsmouth-Rochester, NH-ME
Rockingham County part: Brentwood town, East Kingston town, Epping town, Exeter town, Greenland town, Hampton town, Hampton Falls town, Kensington town, New Castle town, Newfields town, Newington town, Newmarket town, North Hampton town, Portsmouth city, Rye town, Stratham town

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

NEW HAMPSHIRE (cont'd)

CPI AREAS: COUNTIES

Strafford County part: Barrington town, Dover city, Durham town, Farmington town, Lee town, Madbury town, Milton town, Rochester city, Rollinsford town, Somersworth city

NONMETROPOLITAN COUNTIES

Belknap
Carroll
Cheshire
Coos
Grafton
Sullivan
Hillsborough County part: Antrim town, Bennington town, Deering town, Francestown town, Greenfield town, Hancock town, Hillsborough town, Lyndeborough town, New Boston town, Peterborough town, Sharon town, Temple town, Windsor town
Merrimack County part: Andover town, Boscawen town, Bow town, Bradford town, Canterbury town, Chichester town, Concord city, Danbury town, Dunbarton town, Epsom town, Franklin city, Henniker town, Hill town, Hopkinton town, Loudon town, Newbury town, New London town, Northfield town, Pembroke town, Pittsfield town, Salisbury town, Sutton town, Warner town, Webster town, Wilmot town
Rockingham County part: Deerfield town, Northwood town, Nottingham town,
Strafford County part: Middleton town, New Durham town, Strafford town

NEW JERSEY (NEW YORK/NEW JERSEY)

CPI AREAS: COUNTIES

PMSA Atlantic-Cape May, NJ: Atlantic, Cape May
PMSA Bergen-Passaic, NJ: Bergen, Passaic
PMSA Jersey City, NJ: Hudson
PMSA Middlesex-Somerset-Hunterdon, NJ: Hunterdon, Middlesex, Somerset
PMSA Monmouth-Ocean, NJ: Monmouth, Ocean
PMSA Newark, NJ: Essex, Morris, Sussex, Union, Warren
PMSA Philadelphia, PA-NJ: Burlington, Camden, Gloucester, Salem
PMSA Trenton, NJ: Mercer
PMSA Vineland-Millville-Bridgeton, NJ: Cumberland

NEW MEXICO (SOUTHWEST)

METROPOLITAN COUNTIES

Bernalillo, Dona Ana, Los Alamos, Sandoval, Santa Fe, Valencia

NONMETROPOLITAN COUNTIES

Catron, Chaves, Cibola, Colfax, Curry, Debaca, Eddy, Grant, Guadalupe, Harding, Hidalgo, Lea, Lincoln, Luna, Mckinley, Mora, Otero, Quay, Rio Arriba, Roosevelt, San Juan, San Miguel, Sierra, Socorro, Taos, Torrance, Union

NEW YORK (NEW YORK/NEW JERSEY)

CPI AREAS: COUNTIES

PMSA Dutchess County, NY : Dutchess
PMSA Nassau-Suffolk, NY: Nassau, Suffolk
PMSA New York, NY: Bronx, Kings, New York, Putnam, Queens, Richmond, Rockland
*COUNTY Westchester, NY: Westchester
PMSA Newburgh, NY-PA: Orange

METROPOLITAN COUNTIES

Albany, Broome, Cayuga, Chautauqua, Chemung, Erie, Genesee, Herkimer, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Rensselaer, Saratoga, Schenectady, Schoharie, Tioga, Warren, Washington, Wayne

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

NEW YORK (cont'd)

NONMETROPOLITAN COUNTIES
Allegany, Cattaraugus, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Jefferson, Lewis, Otsego, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tompkins, Ulster, Wyoming, Yates

NORTH CAROLINA (SOUTHEAST)

METROPOLITAN COUNTIES
Alamance, Alexander, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Chatham, Cumberland, Currituck, Davidson, Davie, Durham, Edgecombe, Forsyth, Franklin, Gaston, Guilford, Johnston, Lincoln, Madison, Mecklenburg, Nash, New Hanover, Onslow, Orange, Pitt, Randolph, Rowan, Stokes, Union, Wake, Wayne, Yadkin

NONMETROPOLITAN COUNTIES
Alleghany, Anson, Ashe, Avery, Beaufort, Bertie, Bladen, Camden, Carteret, Caswell, Cherokee, Chowan, Clay, Cleveland, Columbus, Craven, Dare, Duplin, Gates, Graham, Granville, Greene, Halifax, Harnett, Haywood, Henderson, Hertford, Hoke, Hyde, Iredell, Jackson, Jones, Lee, Lenoir, Macon, Martin, Mcdowell, Mitchell, Montgomery, Moore, Northampton, Pamlico, Pasquotank, Pender, Perquimans, Person, Polk, Richmond, Robeson, Rockingham, Rutherford, Sampson, Scotland, Stanly, Surry, Swain, Transylvania, Tyrrell, Vance, Warren, Washington, Watauga, Wilkes, Wilson, Yancey

NORTH DAKOTA (ROCKY MOUNTAIN)

METROPOLITAN COUNTIES
Burleigh, Cass, Grand Forks, Morton

NONMETROPOLITAN COUNTIES
Adams, Barnes, Benson, Billings, Bottineau, Bowman, Burke, Cavalier, Dickey, Divide, Dunn, Eddy, Emmons, Foster, Golden Valley, Grant, Griggs, Hettinger, Kidder, Lamoure, Logan, Mchenry, Mcintosh, Mckenzie, Mclean, Mercer, Mountrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Ransom, Renville, Richland, Rolette, Sargent, Sheridan, Sioux, Slope, Stark, Steele, Stutsman, Towner, Traill, Walsh, Ward, Wells, Williams

OHIO (MIDWEST)

CPI AREAS: COUNTIES

PMSA Akron, OH:	Portage, Summit
*COUNTY Brown, OH:	Brown
*Cincinnati, OH-KY-IN:	Clermont, Hamilton, Warren
PMSA Cleveland-Lorain-Elyria, OH:	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina
PMSA Hamilton-Middletown, OH:	Butler

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

OHIO (MIDWEST) cont.

METROPOLITAN COUNTIES
Allen, Auglaize, Belmont, Carroll, Clark, Columbiana, Crawford, Delaware, Fairfield, Franklin, Fulton, Greene, Jefferson, Lawrence, Licking, Lucas, Madison, Mahoning, Miami, Montgomery, Pickaway, Richland, Stark, Trumbull, Washington, Wood

NONMETROPOLITAN COUNTIES
Adams, Ashland, Athens, Champaign, Clinton, Coshocton, Darke, Defiance, Erie, Fayette, Gallia, Guernsey, Hancock, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Knox, Logan, Marion, Meigs, Mercer, Monroe, Morgan, Morrow, Muskingum, Noble, Ottawa, Paulding, Perry, Pike, Preble, Putnam, Ross, Sandusky, Scioto, Seneca, Shelby, Tuscarawas, Union, Van Wert, Vinton, Wayne, Williams, Wyandot

OKLAHOMA (SOUTHWEST)

METROPOLITAN COUNTIES
Canadian, Cleveland, Comanche, Creek, Garfield, Logan, Mcclain, Oklahoma, Osage, Pottawatomie, Rogers, Sequoyah, Tulsa, Wagoner

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

OKLAHOMA (cont'd)

NONMETROPOLITAN COUNTIES
Adair, Alfalfa, Atoka, Beaver, Beckham, Blaine, Bryan, Caddo, Carter, Cherokee, Choctaw, Cimarron, Coal, Cotton, Craig, Custer, Delaware, Dewey, Ellis, Garvin, Grady, Grant, Greer, Harmon, Harper, Haskell, Hughes, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Latimer, Le Flore, Lincoln, Love, Major, Marshall, Mayes, Mccurtain, Mcintosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Okmulgee, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pushmataha, Roger Mills, Seminole, Stephens, Texas, Tillman, Washington, Washita, Woods, Woodward

OREGON (NORTHWEST/ALASKA)

CPI AREAS: COUNTIES
PMSA Portland-Vancouver, OR-WA: Clackamas, Columbia, Multnomah, Washington, Yamhill
PMSA Salem, OR: Marion, Polk

METROPOLITAN COUNTIES
Benton, Jackson, Lane

NONMETROPOLITAN COUNTIES
Baker, Clatsop, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jefferson, Josephine, Klamath, Lake, Lincoln, Linn, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Wheeler

PENNSYLVANIA (MID-ATLANTIC)

CPI AREAS: COUNTIES
PMSA Newburgh, NY-PA: Pike
PMSA Philadelphia, PA-NJ: Bucks, Chester, Delaware, Montgomery, Philadelphia
PMSA Pittsburgh, PA: Allegheny, Beaver, Butler, Fayette, Washington, Westmoreland

METROPOLITAN COUNTIES
Berks, Blair, Cambria, Carbon, Centre, Columbia, Cumberland, Dauphin, Erie, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mercer, Northampton, Perry, Somerset, Wyoming, York

NONMETROPOLITAN COUNTIES
Adams, Armstrong, Bedford, Bradford, Cameron, Clarion, Clearfield, Clinton, Crawford, Elk, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mc Kean, Mifflin, Monroe, Montour, Northumberland, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Wayne

RHODE ISLAND (NEW ENGLAND)

METROPOLITAN COUNTIES
Bristol County part: Barrington town, Bristol town, Warren town
Kent County part: Coventry town, East Greenwich town, Warwick city, West Greenwich town, West Warwick town
Newport County part: Jamestown town, Little Compton town, Tiverton town
Providence County part: Burrillville town, Central Falls city, Cranston city, Cumberland town, East Providence city, Foster town, Glocester town, Johnston town, Lincoln town, North Providence town, North Smithfield town, Pawtucket city, Providence city, Scituate town, Smithfield town, Woonsocket city
Washington County part: Charlestown town, Exeter town, Hopkinton town, Narragansett town, North Kingstown town, Richmond town, South Kingstown town, Westerly town

NONMETROPOLITAN COUNTIES
Newport County part: Middletown town, Newport city, Portsmouth town
Washington County part: New Shoreham town

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

SOUTH CAROLINA (SOUTHEAST)

METROPOLITAN COUNTIES
Aiken, Anderson, Berkeley, Charleston, Cherokee, Dorchester, Edgefield, Florence, Greenville, Horry, Lexington, Pickens, Richland, Spartanburg, Sumter, York

NONMETROPOLITAN COUNTIES
Abbeville, Allendale, Bamberg, Barnwell, Beaufort, Calhoun, Chester, Chesterfield, Clarendon, Colleton, Darlington, Dillon, Fairfield, Georgetown, Greenwood, Hampton, Jasper, Kershaw, Lancaster, Laurens, Lee, Marion, Marlboro, Mccormick, Newberry, Oconee, Orangeburg, Saluda, Union, Williamsburg

SOUTH DAKOTA (ROCKY MOUNTAIN)

METROPOLITAN COUNTIES
Lincoln, Minnehaha, Pennington

NONMETROPOLITAN COUNTIES
Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Jones, Kingsbury, Lake, Lawrence, Lyman, Marshall, Mccook, Mcpherson, Meade, Mellette, Miner, Moody, Perkins,Potter, Roberts, Sanborn, Shannon, Spink, Stanley, Sully, Todd, Tripp, Turner, Union, Walworth, Yankton, Ziebach

TENNESSEE (SOUTHEAST)

METROPOLITAN COUNTIES
Anderson, Blount, Carter, Cheatham, Chester, Davidson, Dickson, Fayette, Hamilton, Hawkins, Knox, Loudon, Madison, Marion, Montgomery, Robertson, Rutherford, Sevier, Shelby, Sullivan, Sumner, Tipton, Unicoi, Union, Washington, Williamson, Wilson

NONMETROPOLITAN COUNTIES
Bedford, Benton, Bledsoe, Bradley, Campbell, Cannon, Carroll, Claiborne, Clay, Cocke, Coffee, Crockett, Cumberland, Dekalb, Decatur, Dyer, Fentress, Franklin, Gibson, Giles, Grainger, Greene, Grundy, Hamblen, Hancock, Hardeman, Hardin, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Jefferson, Johnson, Lake, Lauderdale, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Mcminn, Mcnairy, Meigs, Monroe, Moore, Morgan, Obion, Overton, Perry, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Smith, Stewart, Trousdale, Van Buren, Warren, Wayne, Weakley, White

TEXAS (SOUTHWEST)

CPI AREAS: COUNTIES

PMSA Brazoria, TX:	Brazoria
*Dallas, TX:	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
PMSA Fort Worth-Arlington, TX:	Hood, Johnson, Parker, Tarrant
PMSA Galveston-Texas City, TX:	Galveston
*COUNTY Henderson, TX:	Henderson
PMSA Houston, TX:	Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller

METROPOLITAN COUNTIES
Archer, Bastrop, Bell, Bexar, Bowie, Brazos, Caldwell, Cameron, Comal, Coryell, Ector, El Paso, Grayson, Gregg, Guadalupe, Hardin, Harrison, Hays, Hidalgo, Jefferson, Lubbock, Mclennan, Midland, Nueces, Orange, Potter, Randall, San Patricio, Smith, Taylor, Tom Green, Travis, Upshur, Victoria, Webb, Wichita, Williamson, Wilson

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

TEXAS (cont'd.)

NONMETROPOLITAN COUNTIES

Anderson, Andrews, Angelina, Aransas, Armstrong, Atascosa, Austin, Bailey, Bandera, Baylor, Bee, Blanco, Borden, Bosque, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Calhoun, Callahan, Camp, Carson, Cass, Castro, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Colorado, Comanche, Concho, Cooke, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Dewitt, Deaf Smith, Delta, Dickens, Dimmit, Donley, Duval, Eastland, Edwards, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Franklin, Freestone, Frio, Gaines, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grimes, Hale, Hall, Hamilton, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hill, Hockley, Hopkins, Houston, Howard, Hudspeth, Hutchinson, Irion, Jack, Jackson, Jasper, Jeff Davis, Jim Hogg, Jim Wells, Jones, Karnes, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, La Salle, Lamar, Lamb, Lampasas, Lavaca, Lee, Leon, Limestone, Lipscomb, Live Oak, Llano, Loving, Lynn, Madison, Marion, Martin, Mason, Matagorda, Maverick, Mcculloch, Mcmullen, Medina, Menard, Milam, Mills, Mitchell, Montague, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Ochiltree, Oldham, Palo Pinto, Panola, Parmer, Pecos, Polk, Presidio, Rains, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Terrell, Terry, Throckmorton, Titus, Trinity, Tyler, Upton, Uvalde, Val Verde, Van Zandt, Walker, Ward, Washington, Wharton, Wheeler, Wilbarger, Willacy, Winkler, Wise, Wood, Yoakum, Young, Zapata, Zavala

UTAH (ROCKY MOUNTAIN)

METROPOLITAN COUNTIES

Davis, Kane, Salt Lake, Utah, Weber

NONMETROPOLITAN COUNTIES

Beaver, Box Elder, Cache, Carbon, Daggett, Duchesne, Emery, Garfield, Grand, Iron, Juab, Millard, Morgan, Piute, Rich, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Wasatch, Washington, Wayne

VERMONT (NEW ENGLAND)

METROPOLITAN COUNTIES

Chittenden County part: Burlington city, Charlotte town, Colchester town, Essex town, Hinesburg town, Jericho town, Milton town, Richmond town, St. George town, Shelburne town, South Burlington city, Williston town, Winooski city
Franklin County part: Fairfax town, Georgia town, St. Albans city, St. Albans town, Swanton town
Grand Isle County part: Grand Isle town, South Hero town

NONMETROPOLITAN COUNTIES

Addison
Bennington
Caledonia
Essex
Lamoille
Orange
Orleans
Rutland
Washington
Windham
Windsor
Chittenden County part: Bolton town, Buels gore, Huntington town, Underhill town, Westford town
Franklin County part: Bakersfield town, Berkshire town, Enosburg town, Fairfield town, Fletcher town, Franklin, Highgate town, Montgomery town, Richford town, Sheldon town
Grand Isle County part: Alburg town, Isle La Motte town, North Hero town

VIRGINIA (MID-ATLANTIC)

CPI AREAS: COUNTIES

*COUNTY Clarke, VA: Clarke
*COUNTY Culpeper, VA: Culpeper
*COUNTY King George, VA: King George
*COUNTY Warren, VA: Warren

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

VIRGINIA (cont'd).

CPI AREAS: COUNTIES

*Washington, DC-MD-VA: Arlington, Fairfax, Fauquier, Loudoun, Prince William, Spotsylvania, Stafford, Alexandria city, Fairfax city, Falls Church city, Fredericksburg city, Manassas Park city, Manassas city

METROPOLITAN COUNTIES

Albemarle, Amherst, Bedford, Botetourt, Campbell, Charles City, Chesterfield, Dinwiddie, Fluvanna, Gloucester, Goochland, Greene, Hanover, Henrico, Isle of Wight, James City, Mathews, New Kent, Pittsylvania, Powhatan, Prince George, Roanoke, Scott, Washington, York, Bedford city, Bristol city, Charlottesville city, Chesapeake city, Colonial Heights city, Danville city, Hampton city, Hopewell city, Lynchburg city, Newport News city, Norfolk city, Petersburg city, Poquoson city, Portsmouth city, Richmond city, Roanoke city, Salem city, Suffolk city, Virginia Beach city, Williamsburg city

NONMETROPOLITAN COUNTIES

Accomack, Alleghany, Amelia, Appomattox, Augusta, Bath, Bland, Brunswick, Buchanan, Buckingham, Caroline, Carroll, Charlotte, Craig, Cumberland, Dickenson, Essex, Floyd, Franklin, Frederick, Giles, Grayson, Greensville, Halifax, Henry, Highland, King William, King and Queen, Lancaster, Lee, Louisa, Lunenburg, Madison, Mecklenburg, Middlesex, Montgomery, Nelson, Northampton Northumberland, Nottoway, Orange, Page, Patrick, Prince Edward, Pulaski, Rappahannock, Richmond, Rockbridge, Rockingham, Russell Shenandoah, Smyth, Southampton, Surry, Sussex, Tazewell, Westmoreland, Wise, Wythe

WASHINGTON (NORTHWEST/ALASKA)

CPI AREAS: COUNTIES

PMSA Bremerton, WA: Kitsap
PMSA Olympia, WA: Thurston
PMSA Portland-Vancouver, OR-WA: Clark
PMSA Seattle-Bellevue-Everett, WA: Island, King, Snohomish
PMSA Tacoma, WA: Pierce

METROPOLITAN COUNTIES

Benton, Franklin, Spokane, Whatcom, Yakima

NONMETROPOLITAN COUNTIES

Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, San Juan, Skagit, Skamania, Stevens, Wahkiakum, Walla Walla, Whitman

WEST VIRGINIA (MID-ATLANTIC)

CPI AREAS: COUNTIES

*COUNTY Berkeley, WV: Berkeley
*COUNTY Jefferson, WV: Jefferson

METROPOLITAN COUNTIES

Brooke, Cabell, Hancock, Kanawha, Marshall, Mineral, Ohio, Putnam, Wayne, Wood

NONMETROPOLITAN COUNTIES

Barbour, Boone, Braxton, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jackson, Lewis, Lincoln, Logan, Marion, Mason, Mcdowell, Mercer, Mingo, Monongalia, Monroe, Morgan, Nicholas, Pendleton, Pleasants, Pocahontas, Preston, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Webster, Wetzel, Wirt, Wyoming

WISCONSIN (MIDWEST)

CPI AREAS: COUNTIES

PMSA Kenosha, WI: Kenosha
PMSA Milwaukee-Waukesha, WI: Milwaukee, Ozaukee, Washington, Waukesha
MSA Minneapolis-St. Paul, MN-WI: Pierce, St. Croix
PMSA Racine, WI: Racine

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - **AREA DEFINITIONS**

WISCONSIN (cont'd)

METROPOLITAN COUNTIES
Brown, Calumet, Chippewa, Dane, Douglas, Eau Claire, La Crosse, Marathon, Outagamie, Rock, Sheboygan, Winnebago

NONMETROPOLITAN COUNTIES
Adams, Ashland, Barron, Bayfield, Buffalo, Burnett, Clark, Columbia, Crawford, Dodge, Door, Dunn, Florence, Fond du Lac, Forest, Grant, Green, Green Lake, Iowa, Iron, Jackson, Jefferson, Juneau, Kewaunee, Lafayette, Langlade, Lincoln, Manitowoc, Marinette, Marquette, Menominee, Monroe, Oconto, Oneida, Pepin, Polk, Portage, Price, Richland, Rusk, Sauk, Sawyer, Shawano, Taylor, Trempealeau, Vernon, Vilas, Walworth, Washburn, Waupaca, Waushara, Wood

WYOMING (ROCKY MOUNTAIN)

METROPOLITAN COUNTIES
Laramie, Natrona

NONMETROPOLITAN COUNTIES
Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Lincoln, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston

PACIFIC ISLANDS (PACIFIC/HAWAII)

NONMETROPOLITAN COUNTIES
American Samoa, Guam, Northern Mariana Islands, Palau

PUERTO RICO (SOUTHEAST)

METROPOLITAN COUNTIES
Aguada, Aguadilla, Aguas Buenas, Anasco, Arecibo, Barceloneta, Bayamon, Cabo Rojo, Caguas, Camuy, Canovanas, Carolina, Catano, Cayey, Ceiba, Cidra, Comerio, Corozal, Dorado, Fajardo, Florida, Guayanilla, Guaynabo, Gurabo, Hatillo, Hormigueros, Humacao, Juana Diaz, Juncos, Las Piedras, Loiza, Luquillo, Manati, Mayaguez, Moca, Morovis, Naguabo, Naranjito, Penuelas, Ponce, Rio Grande, Sabana Grande, San German, San Juan, San Lorenzo, Toa Alta, Toa Baja, Trujillo Alto, Vega Alta, Vega Baja, Villalba, Yabucoa, Yauco

NONMETROPOLITAN COUNTIES
Aibonito, Arroyo, Adjuntas, Barranquitas, Ciales, Coamo, Culerbra, Guanica, Guayama, Isabela, Jayuya, Lajas, Lares, Las Marias, Maricao, Maunabo, Orocovis, Patillas, Quebradillas, Rincon, Salinas, San Sebastia, Santa Isabel, Utuado, Vieques

VIRGIN ISLANDS (SOUTHEAST)

NONMETROPOLITAN COUNTIES
Virgin Island

[FR Doc. 01–29172 Filed 11–23–01; 8:45 am]
BILLING CODE 4210–62–C

Federal Register

Monday,
November 26, 2001

Part III

Department of Housing and Urban Development

Public Housing Assessment System (PHAS) Information About PHAS Interim Scoring Methodology for Public Housing Agencies (PHAs) With Fiscal Years Ending On or After September 30, 2001: Introduction; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4710–N–01]

Public Housing Assessment System (PHAS) Information About PHAS Interim Scoring Methodology for Public Housing Agencies (PHAs) With Fiscal Years Ending On or After September 30, 2001: Introduction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: HUD assesses America's public housing agencies (PHAs) under the Public Housing Assessment System (PHAS). Under the PHAS, HUD evaluates PHAs based on four key indicators: (1) The physical condition of the PHA's properties; (2) the PHA's financial condition; (3) the PHA's management operations; and (4) the residents' assessment (through a resident survey) of the PHA's performance. This notice, together with two other notices published in today's **Federal Register**, provides additional information on an interim PHAS scoring process for two of the four PHAS indicators and other relevant information about PHAS scoring.

This interim scoring for the Physical Condition Indicator and the Financial Condition Indicator is effective for PHAs with fiscal years ending (FYEs) September 30, 2001, December 31, 2001, March 31, 2002, June 30, 2002, and September 30, 2002. During the interim period HUD expects to give extensive consideration to potential improvements in the public housing assessment system. HUD expects this consideration to lead to further changes in the assessment system. If this does not occur, however, the scoring notices published prior to today would become effective at the end of the interim period (with any necessary technical corrections) and PHAS scores would be issued for effect based on these notices.

DATES: Comments Due Date: December 26, 2001.

FOR FURTHER INFORMATION CONTACT: For further information contact the Real Estate Assessment Center (REAC), Attention: Wanda Funk, U.S. Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington, DC 20024, telephone REAC's Customer Service Center at (888) 245–4860 (this is a toll free number) or the Office of Public and Indian Housing, Attention: Judy Wojciechowski, Director of PHAS Operations, U.S. Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington, DC 20024, telephone (202) 708–4932 extension 3464. Persons with hearing or speech impairments may access these telephone numbers via TTY by calling the Federal Information Relay Service at (800) 877–8339. Additional information is available from the REAC web site at *http://www.hud.gov/reac/.*

SUPPLEMENTARY INFORMATION

1. Overview of the PHAS

On September 1, 1998 (63 FR 46596), HUD published a final rule, codified at 24 CFR Part 902, that established a new system for the assessment of America's public housing. The PHAS became effective for all PHAs with FYE on and after September 30, 1999. The Department amended the PHAS rule on January 11, 2000 (65 FR 1712), and deferred full implementation of PHAS for PHAs with FYE September 30, 1999 and December 31, 1999. The May 30, 2001 notice (66 FR 29342) provided that these PHAs would receive an assessment score based only on the Management Operations Indicator (MASS) in lieu of a PHAS score.

On June 6, 2000 (65 FR 36042), HUD issued a technical correction to the January 11, 2000, final rule, and further deferred full implementation of PHAS for PHAs with FYE on and after June 30, 2000.

The Conference Report 106–988 for the Department's Fiscal Year 2001 Appropriations Act (Pub L. 106–377, approved October 27, 2000), directed the Department to, among other things, continue to assess the accuracy and effectiveness of the PHAS system, to perform a statistically valid test of PHAS, conduct a thorough analysis of the results, and have the methodology and results reviewed by an independent expert before taking any adverse action against a PHA based solely on its PHAS score. On March 1, 2001, HUD provided a report addressing these issues to the Congressional Committees on its Appropriations.

In addition, consistent with the direction of the conferees, HUD issued a PIH notice (Notice PIH 2001–5) on January 19, 2001, which provided that prior to March 1, 2001, HUD would not take adverse action against PHAs solely on the basis of PHAS scores. ''Adverse action'' was defined as troubled designations based upon the official composite PHAS score. In accordance with the PIH Notice, all official troubled/substandard designations (with the exception of a substandard designation under the Management Assessment Scoring System (MASS)), beginning with PHAs with June 30, 2000, FYE dates, were held in abeyance prior to March 1, 2001, the date on which HUD submitted the report to its Congressional committees.

Given those events, HUD published a notice in the **Federal Register** on May 30, 2001 (66 FR 29342), further deferring full implementation of PHAS until after June 30, 2001. As provided in this notice, PHAs with FYE dates of June 30, 2000, through June 30, 2001, received an assessment score based solely on the MASS in accordance with 24 CFR part 902, subpart D of the PHAS regulation, as amended by the January 11, 2000, final rule, and corrected by the June 6, 2000, PHAS Technical Correction.

2. Purpose of This Notice

As provided in the May 30, 2001, notice, the Department met with public housing stakeholders (including representatives of PHAs and residents, housing advocacy representatives, governmental representatives and other groups), to discuss specific PHAS concerns and possible solutions. In addition, the Department explained the need for an immediate, comprehensive assessment system for all PHAs beginning with FYE September 30, 2001.

As a result of these discussions and further consideration by the Department, the Department will make two scoring changes for an interim period to provide transition assistance applicable to the issuance of overall PHAS scores. More specifically, the Department is revising the scoring methodology for the Financial Condition Indicator and the Physical Condition Indicator on an interim basis. PHAs with FYEs September 30, 2001, December 31, 2001, March 31, 2002, June 30, 2002, and September 30, 2002 will be scored on their Physical Condition Indicator and Financial Condition Indicator using the interim scoring methodology. During the interim assessment period, the Department will continue to meet with public housing stakeholders in order to further discuss PHAS and the scoring processes. With respect to any action that may be taken, and consistent with the PHAS rule, HUD will provide advance notice of any changes and provide the opportunity for comment.

This notice provides an overview of the changes to the PHAS scoring methodology that will be in effect for the interim assesment period.

3. Changes From the Current PHAS Assessment Methodology

Under the PHAS, HUD evaluates a PHA based on the following four

indicators: (1) The physical condition of the PHA's public housing properties; (2) the PHA's financial condition; (3) the PHA's management operations; and (4) the residents' assessment (through a resident survey) of the PHA's performance. Of the total 100 points available for a PHAS score, a PHA may receive up to 30 points each for physical, financial and management operations, with resident assessment accounting for the remaining ten possible points.

A. Physical Condition Indicator

Current Scoring Assessment. Under the current PHAS scoring assessment methodology, a property's overall physical condition is a weighted average of the following five inspectable area scores:

(1) Site (Weight 15%).

(2) Building Exterior (Weight 15%).

(3) Building Systems (Weight 20%).

(4) Common Areas (Weight 15%).

(5) Dwelling Units (Weight 35%).

These weights are assigned if all inspectable items are present for each area and for each building and unit. All of the inspectable items may not be present in every inspectable area. When items are missing in an area, the area weights are modified to reflect the missing items so that they once again total 100%.

Interim Scoring Assessment. The following changes are made to the Physical Condition Indicator scoring process.

(1) *Physical Condition Indicator Scoring.* Under the interim PHAS scoring, all five areas will be inspected, scored, and the inspection data captured in the system. However, for assessment purposes, a property's score, and hence, a PHA's overall Physical Condition Indicator score, will be derived only from the deficiencies observed in the Building Systems and Dwelling Units. As a result, the area weights assigned to Site, Building Exterior and Common Areas, are being re-distributed to Building Systems and Dwelling Units. A property score is still based on a 100-point scale.

(2) *Physical Condition Inspections.* (a) For PHAs with a Physical Condition Indicator score of less than 24 on the 30-point scale, properties will be inspected once a year; and (b) For PHAs with a Physical Condition Indicator score of 24 or greater on the 30-point scale, properties will be inspected every two years.

B. Financial Condition Indicator

Current Scoring Assessment. Under the current PHAS scoring assessment methodology, the Financial Condition Indicator consists of the following six components:

(1) Current Ratio (Maximum points possible: 9.0).

(2) Number of Months Expendable Fund Balance (Maximum points possible: 9.0).

(3) Tenant Receivable Outstanding (Maximum points possible: 4.5).

(4) Occupancy Loss (Maximum points possible: 4.5).

(5) Expense Management/Utility Consumption (Maximum points possible: 1.5).

(6) Net Income (Maximum points possible: 1.5).

Currently, five of the six components, excluding Net Income, are calculated according to peer groupings. All PHAs as a group determine the mean score and each PHA is then ranked accordingly. Scoring thresholds were developed to make the peer groupings possible. The thresholds identify a point below which component values are clearly financially unacceptable; thus component values beyond these thresholds result in a score of zero. For component values within the acceptable range, PHAs receive a score based on their performance relative to their peers. This score is determined by a PHA's position in the distribution of values for each component and peer group represented by percentiles. For those components on a 4.5 point scale, the cut points are set at the 50th and 95th percentiles. For those components on a 9.0 point scale, the cut points are set at the 30th, 80th and 95th percentile. For the Current Ratio and Months Expendable Fund Balance components, a PHA receives zero points for component values of less than one. With a component value of one or greater, a PHA would receive a Current Ratio or Months Expendable Fund Balance component score of between 1.0 and 9.0 which corresponds to the 30th and 80th percentiles. The actual number of points provided is determined by the distribution of the data, and therefore varies by size category.

Interim Scoring Assessment. During the interim PHAS scoring, the Financial Condition Indicator scoring process will remain the same except for component #1, Current Ratio, and component #2, Number of Months Expendable Fund Balance. Under the interim scoring process, the score for Current Ratio and Number of Months Expendable Fund Balance will not be based on peer groups. PHAs with a Current Ratio or Months Expendable Fund Balance component value of less than one will receive zero points for these two components. If the component values for Current Ratio and Months Expendable Fund Balance are equal to or greater than one, then PHAs, regardless of standing in relation to their peers, will receive the full 9 points for each component.

4. Database Adjustments, Technical Reviews, and Appeals of PHAS Scores

During the interim scoring period, a PHA may use the three methods set forth in the PHAS regulation to request a review of its PHAS scores. A PHA may request a database adjustment pursuant to § 902.25 of the PHAS regulation, request a technical review pursuant to § 902.68 of the PHAS regulation, and appeal its overall PHAS score pursuant to § 902.69.

5. Additional Information About the Interim PHAS Assessment Process

The notices that follow this introductory notice are specifically directed to providing further information about the interim PHAS scoring assessment process for the two PHAS indicators that are impacted. The notices, published in today's **Federal Register** and that immediately follow this introductory notices, are:

- Notice of Interim Assessment Methodology for the Physical Condition Indicator of PHAS.
- Notice of Interim Assessment Methodology for the Financial Condition Indicator of PHAS.

6. Findings and Certifications

Environmental Review. This notice and the two accompanying notices provide operating instructions and procedures in connection with activities under 24 CFR Part 902, which has previously been subject to a Finding of No Significant Impact. Accordingly, under 24 CFR 50.19(c)(4), these notices are categorically excluded from environmental review under the National Environmental Policy Act (42 U.S.C. 4321).

Dated: November 19, 2001.

Michael Liu,

Assistant Secretary, Public and Indian Housing.

[FR Doc. 01–29268 Filed 11–23–01; 8:45 am]

BILLING CODE 4210–33–P

Federal Register

Monday,
November 26, 2001

Part IV

Department of Housing and Urban Development

Public Housing Assessment System Physical Condition Scoring Process Interim Scoring, Corrections and Republication; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4710–N–02]

Public Housing Assessment System Physical Condition Scoring Process Interim Scoring, Corrections and Republication

AGENCY: Office of the Assistant Secretary of Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice provides additional information to public housing agencies (PHAs) about the interim scoring methodology for scoring PHAs under the Physical Condition Indicator of the Public Housing Assessment System (PHAS). This interim scoring is effective for PHAs with fiscal years ending September 30, 2001, December 31, 2001, March 31, 2002, June 30, 2002, and September 30, 2002. After the interim period, the Department will determine a PHA's PHAS Physical Condition Indicator score in accordance with the scoring process of this notice, excluding the modification in the calculation of the area weights for the five inspectable areas.

By notice published June 28, 2000, the Department updated the Physical Condition Scoring Process notice that was published on June 23, 1999. The June 28, 2000, notice took into consideration public comments received on the June 23, 1999, notice and reflected changes made to the PHAS final rule published on January 11, 2000, and corrections to that final rule published on June 6, 2000.

This document also corrects printing errors that occurred in a portion of Appendix 1 in the June 28, 2000, notice; and includes the revised Dictionary of Deficiency Definitions as Appendix 2.

The changes made to this notice are discussed in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: Comments Due Date: December 26, 2001.

FOR FURTHER INFORMATION CONTACT: For further information contact the Real Estate Assessment Center (REAC), Attention: Wanda Funk, U.S. Department of Housing and Urban Development, 1280 Maryland Avenue, SW., Suite 800, Washington, DC 20024: telephone REAC's Customer Service Center at (888) 245–4860 (this is a toll free number) or contact the Office of Public and Indian Housing, Attention: Judy Wojciechowski, U.S. Department of Housing and Urban Development, 1280 Maryland Avenue, SW., Suite 800, Washington, DC 20024: telephone (202) 708–4932 extension 3464. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Additional information is available from the REAC Web site at *http://www.hud.gov/reac/.*

SUPPLEMENTARY INFORMATION:

Purpose of This Notice

The purpose of this notice is to provide additional information about the scoring process for PHAS Indicator #1, Physical Condition. The purpose of the Physical Condition assessment is to ensure that public housing units are decent, safe, sanitary and in good repair, using HUD's Uniform Physical Condition Standards (UPCS) for the assessment. The physical condition assessment under the PHAS utilizes uniform physical inspection procedures to determine compliance with the UPCS and is an important indicator of the PHA's performance.

Of the total 100 points available for a PHAS score, a PHA may receive up to 30 points under PHAS Indicator #1. The physical condition score is included in the aggregate PHAS score.

The information provided in this notice was originally published on May 13, 1999 (64 FR 26166), and republished on June 23, 1999 (64 FR 33650). HUD solicited public comment on both the May 13, 1999, and June 23, 1999, notices. This Physical Condition Scoring Process notice, is published in this edition of the **Federal Register**, has been revised from the June 23, 1999, notice, to reflect the public comments received on the previous notices and to reflect the changes made to the PHAS regulations by final rule published on January 11, 2000 (65 FR 1712).

This notice is different from the June 28, 2000 notice in the following respects: (1) It modifies the normalized area weights so that a property's physical inspection score is derived from Dwelling Unites and Building Systems only; (2) it prescribes the frequency of inspections based on a PHA's most recent PHAS Physical Condition Indicator score; (3) it describes how the scoring methodology reflects that not all buildings are inspected and includes in building weights the building selection probabilities; and (4) it includes the revised Dictionary of Deficiency Definitions as Appendix 2. During the interim period, the numerical scoring of each inspection will change but the inspection process and protocol will remain the same. The inspector will follow the same inspection methodology, i.e., recording information and observable deficiencies in the five inspectable areas: Site, Building Exterior, Building Systems, Common Areas, and Dwelling Units. The inspector also will record and report all health and safety deficiencies in each of the five inspectable areas. However, the inspection score for each property will be based only on the information reported by the inspector for two inspectable areas, Building Systems and Dwelling Units, after redistribution of the area weights for the three non-included areas.

The area weights for the three non-scored inspectable areas will be redistributed proportionally to the two inspectable areas that will be scored. Each property inspection score will continue to be based on a 100 point scale. As a result, the nominal weights of the two inspectable areas that will be scored will change. See Item 9, below.

The overall PHAS Indicator #1 score will determine the frequency of inspections of a PHA's portfolio. For PHAs whose PHAS Indicator #1 score is 24 or higher based on the 30 point score, physical inspections will be conducted every two years (subject to any changes made in further revisions to the rule or scoring notices). For PHAs whose PHAS Indicator #1 score is less than 24 based on the 30 point score, physical inspections will be conducted annually.

The ''baseline'' PHAS Indicator #1 score that determines the frequency of inspections is as follows:

(1) For PHAs having a fiscal year end (FYE) of September 30, the PHAS Indicator #1 score from the September 30, 2000, physical inspection(s) will be used;

(2) For PHAs having a FYE of December 31, the PHAS Indicator #1 score from December 31, 1999 will be used; if the PHA was inspected for the December 31, 2000, cycle, the December 31, 2000, score will be used;

(3) For PHAs having a FYE of March 31, the PHAS Indicator #1 score form March 31, 2000 will be used; if the PHA was inspected for the March 31, 20001, cycle, the March 31, 2001, score will be used; and

(4) For PHAs having a FYE of June 30, the PHAS Indicator #1 score from June 30, 2000, will be used; if the PHA was inspected for the June 30, 2001, cycle, the June 30, 2001, score will be used.

Physical inspections will be conducted in accordance with the above assessment cycle commenting with PHAs having a FYE of September 30, 2001. The application for adjustment to PHAS Indicator #1 for physical condition and/or neighborhood environment will be considered in the

year the PHA receives a physical inspection.

Notwithstanding the foregoing, any PHA that is not required to have an inspection based on its ''baseline'' score, may request that HUD perform a PHAS Indicator #1 inspection. The Office of Public and Indian Housing must receive requests for an inspection no later than 60 days prior to the PHA's FYE with the exception of requests for an inspection from PHAs with a FYE of September 30, 2001, and December 31, 2001, which must be received no later than December 31, 2001. All PHAs which request a new PHAS Indicator #1 inspection are bound by that score, and this score will be used to determine the PHA's next time of inspection.

The PHAS/REAC Physical Inspection

The PHAS physical inspection, performed by HUD's Real Estate Assessment Center (REAC), generates comprehensive results, such as:

- Physical inspection scores reported at the property level;
- Area level scores for each of the five REAC physical inspection areas; and
- Observations of deficiencies recorded by the inspector electronically at the time of the inspection.

The Physical Inspection Scoring Process

1. Definitions

THe following are the important definitions of terms used in the physical conditions scoring process:

Score means a number between 0 and 100 that reflects the physical condition of a property, inspectable area, dwelling unit, or sub-area:

- To record a health or safety problem, a letter is added to the property score (a, b, or c); and
- To note that smoke detectors are inoperable or missing, an asterisk (*) is added to the property score.

Inspectable area means any of the five major components of the property which are:

- Site
- Building Exterior
- Building System
- Common Areas
- Dwelling Units

Sub-area means an inspectable area for one building. For example, if a property has more than one building, each inspectable area for each building in the property is treated as a sub-area.

Inspectable items refer to walls, kitchens, bathrooms, and other things to be inspected in an inspectable area. The number of inspectable items varies for each area. Weights are assigned to each item to reflect relative importance, as shown in Appendix 1 (Item Weights and Criticality Levels).

Deficiencies refer to specific problems that can be recorded for the inspectable items, such as a hole in a wall or a damaged refrigerator in the kitchen.

Criticality means one of five levels that reflect the relative importance of the deficiencies for an inspectable item. Appendix 1 also lists all deficiencies with their designated levels, which vary from 1 to 5, with 5 as the more critical. The deficiencies also have assigned values used in scoring as follows:

Criticality	Level	Value
Critical	5	5.00
Very important	4	3.00
Important	3	2.25
Contributes	2	1.25
Slight contribution	1	0.50

Based on the importance of the deficiency, reflected in its criticality value, points are deducted from the property score. For example, a clogged drain in the kitchen is more critical than a damaged surface on a counter top. Therefore, more points will be deducted for a clogged drain than for a damaged surface.

Severity means one of three levels that reflect the extent of damage associated with each deficiency, with values assigned as follows:

Severity level	Value
3	1.00
2	0.50
1	0.25

Appendix I shows the severity levels that are possible for each deficiency. Based on the severity of each deficiency, the score is reduced. Points deducted are calculated based on the product of the item weight and the values for criticality and severity, as described below. For specific definitions of each severity level, see the REAC's ''Dictionary of Deficiency Definitions,'' which is attached hereto as Appendix 2. The dictionary is also available from REAC's Internet site at *http://www.hud.gov/reac.*

Normalized area weights mean weights used with area scores to create property level scores. The weights are adjusted to reflect the inspectable items that are present.

2. Scoring Process Input

To generate accurate scores, it is crucial to determine the appropriate relative weights of the various components of the inspection; that is, which components are the most important, the next most important, and so on. To develop the scoring methodology for the PHAS physical inspection, HUD utilized information provided by several knowledgeable parties, including:

- Professionals experienced in assessing the physical condition of properties;
- Representatives from the housing and public housing industries; and
- HUD professionals.

In an extensive series of meetings, these parties gave HUD valuable advice and comments on the relative weights and values for inspectable areas, items, criticality of deficiencies, and severity levels of deficiencies.

3. Equity Principles

In addition to determining the appropriate relative weights, HUD also took into consideration several issues concerning equity between properties:

Proportionality. The scoring methodology includes an important control, which does not allow any dwelling unit or sub-area scores to be negative. If a sub-area, such as the building systems for a given building, has so many deficiencies that the sub-area score is negative, the score is set to zero. This control mechanism ensures that no single building or dwelling unit can affect the overall score more than its proportionate share of the whole.

Configuration of property. The scoring methodology takes into account that properties have different numbers of units in buildings. To fairly score properties with different numbers of units in buildings, the area scores are calculated for Building Exterior and Building Systems by using weighted averages of the sub-area scores, where the weights are based on the number of units in each building.

Differences between properties. The scoring methodology also takes into account that properties have different features and amenities. To ensure that the overall score reflects only the items present to be inspected, weights to calculate area and property scores are adjusted depending on how many items are to be inspected.

4. Deficiency Definitions

During a physical inspection of a property, the inspector looks for deficiencies identified in the UPCS inspection software for each inspectable item within the inspectable areas, such as the walls (item) of a dwelling unit (area). A specific criticality level is assigned to each deficiency. The criticality level reflects the importance of the deficiency relative to all deficiencies for the item. One of three

severity levels is also assigned based on the observed condition.

The ''Dictionary of Deficiency Definitions,'' defines the three levels of severity: level 1, level 2, and level 3.

5. Health and Safety Deficiencies

The REAC physical inspection emphasizes health and safety (H&S) deficiencies because of their crucial importance to the well-being of residents. H&S deficiencies can substantially reduce the overall property score. As noted earlier, the H&S deficiencies are highlighted by adding a letter to the numeric score. Letters to the numeric score are added as follows:

- If there are no H&S deficiencies, add a;
- If there are H&S deficiencies, that are not life-threatening (NLT), add b; and
- If there are exigent H&S deficiencies that are life threatening (LT), i.e., calling for immediate attention or remedy—or fire safety H&S deficiencies, add c.

Appendix 1 lists all H&S deficiencies with an ''LT'' designation for exigent/fire safety and ''NLT'' for non-life threatening deficiencies. Note that these designations only apply for severity level 3.

To ensure prompt correction of H&S deficiencies, the inspector gives the property representative the list of every observed exigent/fire safety H&S deficiency before leaving the site. The property representative acknowledges receipt of the deficiency report by signature. The inspector also transmits the deficiency report to HUD not later than the morning after completing the inspection. HUD sends all PHAs an inspection report of the H&S deficiencies recorded by an inspector. These reports clearly show:

- The number of H&S deficiencies (exigent/fire safety and non-life threatening) that the inspector observed;
- All observed smoke detector deficiencies; and
- A projection of the total number of H&S problems that the inspector potentially would see in an inspection of all buildings and all units.

If there are smoke detector deficiencies, the physical condition score will include an asterisk. However, problems with smoke detectors do not currently affect the overall score. When there is an asterisk indicating the property has at least one smoke detector deficiency, that part of the score may be identified as ''risk.'' For example, ''93a, risk'' for 93a* and ''71c, risk'' for 71c*.

There are six distinct letter grade combinations: a, a*, b, b*, c and c*. For example:

- A score of 90c* means that the property contains at least one exigent/fire safety H&S deficiency to be corrected, including at least one smoke detector deficiency, but is otherwise in excellent condition;
- A score of 55a means that the property is in poor condition, even though there are not H&S deficiencies; and
- A property in excellent physical condition with no H&S deficiencies would have a score of 90a to 100a.

6. Scoring Process Elements

The physical condition scoring process is based on three elements within a property:

- Inspectable areas;
- Inspectable items; and
- Observed deficiencies.

7. Scoring a Weighted Averages

The score for a property is the weighted average of area scores, with the area weights adjusted to take into account how many of an area's inspectable items are actually present to be inspected.

The area scores are calculated by deriving weighted averages of sub-area scores over buildings or dwelling units as appropriate.

The sub-area scores are calculated by deducting points for deficiencies, based on criticality and severity levels. Points are also deducted for H&S deficiencies. (Sub-area scores may not be less than zero.)

8. Essential Weights and Levels

The process of scoring a property's physical condition depends on the weights, levels, and associated values of several quantities:

- Weights for inspectable areas;
- Weights for inspectable items within areas;
- Criticality levels and their associated values for the possible deficiencies within items inspected;
- Severity levels and their associated values for deficiencies; and
- Health and safety deductions (exigent/fire safety and non-life threatening) for site, buildings, and dwelling units.

9. Nominal Area Weights

A property's overall physical condition score is a weighted average of area scores. For the interim assessment, a property's score will be derived from the Dwelling Units and Building Systems scores only. As a result, the three other area weights must be redistributed to these two areas so that a property's score is still based on a 100 point scale. Accordingly, approximate area weights for the area scores (i.e., Dwelling Units and Building Systems) have been modified as illustrated below when Site, Building Exterior, and Common Areas have their nominal area weight set to zero.

Area	June 28, 2000 scoring notice	Interim notice
	Weight (percent)	Weight (percent)
Site	15	0
Buildiing Exterior	15	0
Buildings Systems	20	36
Common Areas	15	0
Dwelling Units	35	64

These weights are assigned if all inspectable items are present for each area and for each building and unit. All of the inspectable items may not be present in every inspectable area. When items are missing in an area, the area weights are modified in reflect the missing items so they once again add to 100%. This is illustrated in Item 14, Example 3, below, where some inspectable items are missing in an inspectable area.

10. Dwelling Units and Building Systems Sub-Area Scores

For the interim assessment, property scores will be derived from area scores from Dwelling Units and Building Systems only. The area weights for Site, Building Exterior, and Common Areas will be set to zero and their respective points redistributed. The area scores will be derived from weighted averages of ''sub-area'' scores, which are the Dwelling Units and Building Systems scores calculated for individual dwelling units and buildings. These are the steps to arrive at sub-area scores for a dwelling unit or building:

Step 1: Calculate an ''initial proportionate score''—the difference between the possible points for a building or a unit and the deductions associated with the deficiencies recorded. The number of possible points is the total of the inspectable item weights, ignoring the H&S item, for the site, or a building sub-area, or dwelling unit.

Step 2: Calculate the deduction for an observed deficiency by multiplying the relevant item weight by the criticality value and by the severity value.

Step 3: In a similar manner, reduce the scores for any health and safety (H&S) deficiencies observed, including those in the H&S item and those in other non-H&S items. (The item weight for deficiencies included in the H&S item is equal to the largest weight among the

items present). At this point, the control to prevent negative scores is applied. Thus, no one building or unit may affect an area score more than its proportionate share would justify.

Step 4: Normalize the resulting proportionate scores to scores based on 100 points by dividing by the total of weights of items present to be inspected, not including the H&S items.

11. Area Scores

Within each area involving either multiple buildings or units, the area score is weighted average of the building sub-area scores or unit scores. To calculate these weighted averages, follow these guidelines:

Dwelling Units: The area score is the weighted average of sub-area scores for each unit, weighted by the total of item weights present to be inspected in each unit.

Building Systems: The area score for Building Systems is the weighted average of sub-area scores. The weights are the product of the total weights for items, ignoring the H&S item, inspected for each building's building systems times the total number of units for each building. (Note: the total number of units is all units, and not just units inspected.) For most properties, all buildings are inspected. For properties for which buildings are sampled, each sampled building's weight is multiplied by its ''sampling weight,'' which is the reciprocal of the probability of selection. When computing area scores for Building Exterior or Building Systems, a number of adjustments are made for common buildings without units. When computing the area scores for Building Systems, there may be special considerations when there are common buildings. (The term common building refers to any inspectable building that contains no dwelling units.) All common buildings are inspected. In those cases where a sample is taken of buildings with units, the effect of common buildings on the Building Systems score should be reduced. This reduction is accomplished by multiplying the weights for common buildings by the number of units in inspected buildings, divided by the total number of units in the property. Also for weighting purposes, a common building is assigned the average number of units in all buildings, including all common buildings and all buildings with units, whether inspected or not. Finally, to adjust for differences in size between common buildings, a common building's weight is multiplied by the total weight of items present to be inspected for the building's common areas.

12. Overall Property Score

To calculate the overall property score, the normalized area weights are applied to the area scores. For the interim assessment, the property score will be derived from the Dwelling Units and Building Systems area scores only since the area weights for Site, Building Exterior, and Common Areas have been set to zero and the points redistributed.

13. Possible Points

Normalized area weights reflect both the initial weights and the relative weights between areas of inspectable items actually present. For reporting purposes, normalized weights are presented as the maximum point contributions for each of the five inspectable areas. The following items are set forth on each Physical Inspection Report:

- Normalized weights, listed as the ''Possible Points,'' by inspectable area;
- The scores for each inspectable area, listed as ''Area Points,'' taking into account the points deducted for observed deficiencies;
- The deductions for H&S, listed as ''H&S Deductions,'' associated with each inspectable area; and
- The overall property score.

The physical Inspection Report allows the PHA to see the magnitude of the points lost by inspectable area, and the impact on the score of the H&S deficiencies.

14. Examples of Physical Condition Score Calculations

The physical inspection scoring is deficiency based; all properties start with 100 points. Each deficiency observed reduces the score by an amount dependent on the importance and severity of the deficiency, the number of buildings and units inspected, the inspectable items actually present to be inspected and the relative weights between inspectable items and between inspectable areas.

To illustrate how physical condition scores are calculated, three examples are provided below. These examples go through a number of interim stages in calculating the score, illustrating how sub-area scores are calculated and then rolled up into area scores, and how area scores are combined to calculate the overall property score. One particular deficiency, a leak in a boiler pump, is carried through the examples with the end result of causing a loss of one and one-half points. As will be seen, the deduction starts out as a percent of the sub-area and then the area score is considerably decreased in the final overall property score since it is averaged across other sub-areas (Building Systems in the example) and then averaged across the five areas. Although interim results in the examples are rounded, only the final results are rounded for actual calculations.

Following this section, another example is given specifically for public housing properties to show how property scores are rolled up into the PHAS Indicator #1 score for the PHA as a whole.

Example #1: This example illustrates how the score for a building system sub-area is calculated based on the following features:

#1a. Ignoring the H&S item, the other seven items have a total weight of 100%, as shown in Appendix 1. If the building had no elevator, an item with a normal weight of 5%, then the total item weight for the remaining non-H&S items would be 95%, which is then the base (95.0 points) from which deductions are made to create the ''initial proportionate score'' as described, above, under *Sub-Area Scores.*

#1b. Assume a small leak was observed in one of the recirculating pumps associated with the building's boiler system. This is the deficiency mentioned, above, which will reduce the overall property score by one and one-half points. The criticality level for this deficiency is provided in Appendix 1 as a ''4'', which has a value of 3.0 as given, above, under *Definitions.* If, based on the Dictionary of Deficiency Definitions, it is determined that the small leak is a level 1 deficiency, then the amount of points deducted is the item weight (15.5) times the criticality value (3), times the severity value (0.25), which equals 11.6 points for this interim state of assessment. As noted above, however, this deduction is actually only one and one-half points after completing calculation of the sub-area score for this building system, and then averaging over other building systems and the five areas. These changes in deductions through the interim stages will be noted after each stage of calculation.

#1c. If this is the only deficiency observed, then the initial proportionate score for this sub-area would be 95.0–11.6 or 83.4 points.

#1d. Additional deficiencies or H&S deficiencies (calculated in the same manner) would further decrease the sub-area score, and if the score dropped below zero, then it would be changed to zero.

#1e. The initial proportionate sub-area score is then normalized to a 100 point basis by dividing by the total of the non-H&S item weights (0.95), which would create the final score of (83.4)/(0.95) = 87.8.

Note: Although ultimately just one and one-half points is deducted from the overall property score, during the interim assessment, the 11.6 point deductions for the small boiler pump leak becomes a (11.6)/(0.95) = 12.2 point deduction in this building's system sub-area score.

Example #2: This example illustrates how the score for an area is calculated based on the following features:

#2a. Consider a property with two buildings with the following characteristics:

• Since both buildings were inspected, their probability of selection is both 1.00.

• Building #1 (from Example #1, above):

—10 units
—95.0% of the weight for the items that were present in Building Systems
—Sampling weight is 1.00
—Building Systems score is 87.8 points

• Building #2:

—20 units
—100% of the weight for the items that were present in Building Systems
—Sampling weight is 1.00
—Building Systems score is 69.1 points

• The average percent of weight of items present is ((10 units × 95%) + (20 units × 100%))/30 = 98%

#2b. The Building Systems score for the building system area is the weighted average of the individual scores. Each Building Systems score is weighted by the following: the number of units, the percent of the weight for items present in the Building Systems, and the sampling weight.

#2c. The scores for buildings #1 and #2, above, are calculated using the following formula: Building Systems score = sum of [(building score) times (building weight divided by the sum of building weights)]

• Building #1 weight: [(10 units) × (95% weight) × 1.00] = 9.5

• Building #2 weight: [(20 units) × (100% weight) × 1.00] = 20

• Total weight = 9.5 + 20, or 29.5

• Building Systems score
= (87.8 points) × (9.5/29.5)
+ (69.1 points) × (20/29.5)
= 28.3 + 46.8
= 75.1

Note: The interim 12.2 point sub-area deduction for the small boiler pump leak in the sub-area score is a (12.2) × (9.5/29.5) = 3.9 point deduction in the building system area score. The next stage reduces the deduction to one and one-half property points.

Example #3: This example illustrates how the score for a property is calculated based on the following:

#3a. Consider a property with the following characteristics:

• Building Systems (from Example #2 above):

—Score: 75.1 points
—98% of weight of items present
—Nominal weight: 36%

• Dwelling Units:

—Score: 80 points
—85% of weight of items present
—Nominal weight: 64%

#3b. First, adjust the area weights for each area. Multiply the weight of items present by the nominal weight for each area and add the total:

Building Systems	36 × 98%	=	35.3
Dwelling Units	64 × 85%	=	54.4
Total		=	89.7

#3c. Adjust the area weights to ''normalize'' so that they add to 100. Divide each adjusted area weight by the total and multiply by 100 (this also results in the maximum possible points reported for each area):

Building Systems	(35.3/89.7)×100	=	39.4
Dwelling Units	(54.4/89.7)×100	=	60.6

#3d. Multiply the new ''normalized'' weights by the area scores, above, divide by 100, and add the results:

Building Systems	39.4 × 75.1 / 100	=	29.6
Dwelling Units	60.6 × 80 / 100	=	48.5
Total Property Score		=	78.1

Note: The deduction from the Building Systems score caused by the small boiler pump leak in Building #1 then becomes a final deduction of (39.4) × (3.9/100) = 1.5 points in the overall property score. The final rounded property score would be 78 points.

15. Computing the PHAS Physical Condition Indicator Score

The PHAS Indicator #1 score for a PHA is the weighted average of the PHA's individual properties' physical inspection scores adjusted for physical condition and neighborhood environment, where the weights are the number of units in each property divided by the total number of units in all properties for the PHA.

Example: Property 1 has a score of 78 and has 30 units; Property 2 has a score of 85 and has 200 units. The score is computed as follows:

Score
= [78 × 30/(30 + 200)] + [85 × 200/(30 + 200)]
= 10.2 + 73.9
= 84.1

The PHAS Indicator #1 score is then calculated by multiplying by 0.30 to obtain a score based on 30 points. For this example, the resulting score would be 25.2 points.

16. Examples of Sampling Weights for Buildings

The determination of which buildings will be inspected is a two-phase process. In phase 1 of the process, all buildings that contain the sampled dwelling units that will be inspected are included in the sampled buildings that will be inspected. (Dwelling units are sampled with equal probabilities at random from all buildings.) When all buildings on a property are not selected in the building sample through phase 1, phase 2 is used to increase the size of the building sample. In phase 2, the additional buildings that are to be included in the sample are selected with equal probabilities so that the total building sample size is the lesser of either (1) the dwelling unit sample size, or (2) the number of all buildings.

To illustrate the process for sampling buildings, two examples are provided below:

Example #1: This example illustrates a property with two buildings for which both buildings are sampled with certainty.

Building 1 has ten dwelling units and building 2 has 20 dwelling units, for a total of 30 dwelling units. The target dwelling unit sample size for a property with 30 dwelling units is 15. Thus, the sampling ratio for this property is 30/15 = 2, which means every second dwelling unit will be selected. The number of residential buildings to be inspected is the minimum of 15 and 2; thus, two residential buildings are to be inspected. Since both buildings have at least 2 dwelling units, both buildings were selected in phase 1 of sampling, phase 2 is not invoked. Both buildings will then have a selection probability of 1.000 and a sampling weight of 1.00.

Example #2: This example illustrates a property with some buildings selected in phase 1, others selected in phase 2, and some buildings that are not selected at all.

The property is comprised of 22 residential buildings. Two buildings each have ten dwelling units and 20 buildings are single-family dwelling units. The property has 40 dwelling units (2 × 10 + 20). The target sample size for a property with 40 dwelling units is 16; the sampling ratio is 40/16 = 2.5. Pursuant to protocol 16 residential buildings will be inspected for this property.

In phase 1 of sampling, the two buildings with 10 dwelling units are selected with certainty since they each have more than 2.5 dwelling units. Each of the single-family buildings has a 1/2.5 = 0.40 probability of phase 1 selection.

Assume that both large buildings and eight of the single-family buildings (ten buildings in all) were selected in phase 1. This leaves 12 single-family buildings available for selection in phase 2. Since 16 residential buildings are inspected, the sample of ten buildings selected in phase 1 falls six buildings short of a full sample and six buildings will be selected in phase 2. Since phase 2 sampling will select six of the 12 previously unselected buildings, each building not selected in phase 1 will have a 6 in 12 (0.50) probability of selection in phase 2.

The probability of selection for the two large buildings is: Sampling probability = 1.00 = (1.00 − 1.00) × 0.50 = 1.00. The sampling weights for these buildings are 1.

The single-family buildings each have a sampling probability calculated as follows:

Sampling probability = 0.40 + (1.00 − 0.40) × 0.50) = 0.70. The sampling weight of selected single-family buildings is 1/0.70 = 1.43.

17. Accessibility Questions

The physical inspection will include determining if: (1) There is a wheelchair accessible route to and from the main ground floor entrance of the buildings inspected; (2) the main entrance for every building inspected is at least 324'' wide, measured between the door and the opposite door jamb; (3) there is an accessible route to all exterior common areas; and (4) the interior hallways to all inspected units and common areas are at least 36'' wide for multistory buildings that are inspected. This item is not scored.

Dated: November 19, 2001.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

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Appendix1 - Item Weights and Criticality Levels
Area:Site

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality	Level 1	Level 2	Level 3	H&S
Fencing and Gates	10%	Damaged/Falling/Leaning	4		X	X	NLT
	10%	Holes	3	X		X	NLT
	10%	Missing Sections	3	X		X	NLT
Grounds	12.50%	Erosion/Rutting Areas	4		X	X	NLT
	12.50%	Overgrown/Penetrating Vegetation	3		X	X	
	12.50%	Ponding/Site Drainage	4		X	X	
Health & Safety	12.50%	Air Quality - Sewer Odor Detected	3			X	NLT
	12.50%	Air Quality - Propane/Nat'l Gas/Methane Gas Detected	5			X	LT
	12.50%	Electrical Hazards - Exposed Wires/Open Panels	5			X	LT
	12.50%	Electrical Hazards - Water Leaks on/near Electrical Equipment	5			X	LT
	12.50%	Flammable Materials - Improperly Stored	3			X	NLT
	12.50%	Garbarge and Debris - Outdoors	3			X	NLT
	12.50%	Hazards - Other	3			X	NLT
	12.50%	Hazards - Sharp Edges	3			X	NLT
	12.50%	Hazards - Tripping	3			X	NLT
	12.50%	Infestation - Insects	3			X	NLT
	12.50%	Infestation - Rats/Mice/Vermin	3			X	NLT
Mailboxes/Project Signs	1%	Mailbox Missing/Damaged	2			X	
	1%	Signs Damaged	2	X			
Market Appeal	8%	Graffiti	4	X	X	X	
	8%	Litter	4		X		
Parking Lots/Driveways/Roads	8.50%	Cracks	3		X		
	8.50%	Ponding	4		X	X	
	8.50%	Potholes/Loose Material	4	X		X	
	8.50%	Settlement/Heaving	4	X		X	
Play Areas and Equipment	12.50%	Damaged/Broken Equipment	3	X	X	X	NLT
	12.50%	Deteriorated Play Area Surface	3		X	X	
Refuse Disposal	12.50%	Broken/Damaged Enclosure-Inadequate Outside Storage Space	3		X		
Retaining Walls	10%	Damaged/Falling/Leaning	4		X	X	NLT
Storm Drainage	12.50%	Damaged/Obstructed	5		X	X	
Walkways/Steps	12.50%	Broken/Missing Hand Railing	3			X	NLT
	12.50%	Cracks/Settlement/Heaving	3		X		
	12.50%	Spalling	3	X	X		

Note:1.) Nominal item weight assumes that all items for the Site are present. Item weights would be adjusted accordingly when items are not applicable (N/A)

2.) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 12.5%

3.) "X" in the level column indicates which levels are applicable.

4.) Only level 3 is applied to H&S deficiencies.

5.) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy.)

Appendix 1 - Item Weights and Criticality Levels
Area: Building Exterior

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality	Level 1	Level 2	Level 3	H&S
Doors	16%	Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	16%	Damaged Hardware/Locks	3		X	X	
	16%	Damaged Surface (Holes/Paint/Rusting/Glass)	4		X	X	
	16%	Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	16%	Deteriorated/Missing Caulking/Seals	4			X	
	16%	Missing Door	5			X	
Fire Escapes	16%	Blocked Egress/Ladders	5			X	LT
	16%	Visibly Missing Components	5			X	LT
Foundations	16%	Cracks/Gaps	5		X	X	
	16%	Spalling/Exposed Rebar	4		X	X	
Health and Safety	16%	Electrical Hazards - Exposed Wires/Open Panels	5			X	LT
	16%	Electrical Hazards - Water Leaks on/near Electrical Equipment	5			X	LT
	16%	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	5			X	LT
	16%	Emergency Fire Exits - Missing Exit Signs	3			X	NLT
	16%	Flammable Materials - Improperly Stored	3			X	NLT
	16%	Garbage and Debris - Indoors	3			X	NLT
	16%	Garbage and Debris - Outdoors	3			X	NLT
	16%	Hazards - Other	3			X	NLT
	16%	Hazards - Sharp Edges	3			X	NLT
	16%	Hazards - Tripping	3			X	NLT
	16%	Infestation - Insects	3			X	NLT
	16%	Infestation - Rats/Mice/Vermin	3			X	NLT
Lighting	10%	Broken Fixtures/Bulbs	4		X	X	
Roofs	16%	Damaged Soffits/Fascia	4	X		X	
	16%	Damaged Vents	4	X		X	
	16%	Damaged/Clogged Drains	5		X	X	
	16%	Damaged/Torn Membrane/Missing Ballast	5		X	X	
	16%	Missing/Damaged Components from Downspout/Gutter	3	X	X	X	
	16%	Missing/Damaged Shingles	5	X	X	X	
	16%	Ponding	4			X	
Walls	13%	Cracks/Gaps	5		X	X	
	13%	Damaged Chimneys	4		X	X	NLT
	13%	Missing/Damaged Caulking/Mortar	4	X	X		
	13%	Missing Pieces/Holes/Spalling	4		X	X	
	13%	Stained/Peeling/Needs Paint	3	X	X		
Windows	13%	Broken/Missing/Cracked Panes	3	X		X	NLT
	13%	Damaged Sills/Frames/Lintels/Trim	5	X	X		
	13%	Damaged/Missing Screens	2	X			
	13%	Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	13%	Peeling/Needs Paint	2	X			
	13%	Security Bars Prevent Egress	5			X	LT
FHEO - 32" Wide Main Entrance	0%	Main Entrance Less Than 32" Wide	5			X	
FHEO - Accessibility to Main Floor Entrance	0%	Obstructed or Missing Accessibility Route	5			X	

Note:1.) Nominal item weight assumes that all items for the Building Exterior are present. Item weights would be adjusted accordingly when items are not applicable (N/A)

2.) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 16%

3.) "X" in the level column indicates which levels are applicable.

4.) Only level 3 is applied to H&S deficiencies.

5.) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy.)

Appendix 1 - Item Weights and Criticality Levels
Area: Building Systems

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality	Level 1	Level 2	Level 3	H&S
Domestic Water	15.50%	Leaking Central Water Supply	4			X	
	15.50%	Misaligned Chimney/Ventilation System	5			X	LT
	15.50%	Missing Pressure Relief Valve	5			X	NLT
	15.50%	Rust/Corrosion on Heater Chimney	2			X	NLT
	15.50%	Water Supply Inoperable	5			X	NLT
Electrical System	15.50%	Blocked Access/Improper Storage	3			X	NLT
	15.50%	Burnt Breakers	4			X	NLT
	15.50%	Evidence of Leaks/Corrosion	5			X	NLT
	15.50%	Frayed Wiring	5			X	
	15.50%	Missing Breakers/Fuses	5			X	LT
	15.50%	Missing Covers	5			X	LT
Elevators	5%	Not Operable	5			X	NLT
Emergency Power	2%	Auxiliary Lighting Inoperable	5			X	
	2%	Run-Up Records/Documentation Not Available	4		X	X	
Exhaust System	15.50%	Roof Exhaust Fan Inoperable	3			X	
Fire Protection	15.50%	Missing Sprinkler Head	5			X	NLT
	15.50%	Missing/Damaged/Expired Extinguishers	5	X	X	X	LT
Health & Safety	15.50%	Air Quality - Mold and/or Mildew Observed	3			X	NLT
	15.50%	Air Quality - Propane/Nat'l Gas/Methane Gas Detected	5			X	LT
	15.50%	Air Quality - Sewer Odor Detected	3			X	NLT
	15.50%	Electrical Hazards - Exposed Wires/Open Panels	5			X	LT
	15.50%	Electrical Hazards - Water Leaks on/near Electrical Equipment	5			X	LT
	15.50%	Elevator - Tripping	3			X	NLT
	15.50%	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	5			X	LT
	15.50%	Emergency Fire Exits - Missing Exit Signs	3			X	NLT
	15.50%	Flammable Materials - Improperly Stored	3			X	NLT
	15.50%	Garbage and Debris - Indoors	3			X	NLT
	15.50%	Garbage and Debris - Outdoors	3			X	NLT
	15.50%	Hazards - Other	3			X	NLT
	15.50%	Hazards - Sharp Edges	3			X	NLT
	15.50%	Hazards - Tripping	3			X	NLT
	15.50%	Infestation - Insects	3			X	NLT
	15.50%	Infestation - Rats/Mice/Vermin	3			X	NLT
HVAC	15.50%	Boiler/Pump Leaks	4	X		X	
	15.50%	Fuel Supply Leaks	4			X	NLT
	15.50%	Misaligned Chimney/Ventilation System	5			X	LT
	15.50%	General Rust/Corrosion	2		X	X	NLT
Sanitary System	15.50%	Broken/Leaking/Clogged Pipes or Drains	5			X	NLT
	15.50%	Missing Drain/Cleanout/Manhole Covers	3			X	

Note: 1.) Nominal item weight assumes that all items for the Building System are present. Item weights would be adjusted accordingly when items are not applicable (N/A)

2.) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 15.5%

3.) "X" in the level column indicates which levels are applicable.

4.) Only level 3 is applied to H&S deficiencies.

5.) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy.)

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality	Level 1	Level 2	Level 3	H&S
Basement/Garage/Carport	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Peeling/Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	3		X	X	
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Damaged Surface - Holes/Paint/Rusting/Glass	3		X	X	
	5.0%	Doors - Damaged/Missing Screen/Storm/Security Door	4	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals (Entry Only)	5			X	
	5.0%	Doors - Missing Door	4	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damaged	4	X	X	X	
	5.0%	Floors - Missing Flooring/Tiles	4	X	X	X	
	5.0%	Floors - Peeling/Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	Lighting - Missing/IDamaged/noperable Fixture	4		X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	LT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Peeling/Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Closet/Utility/Mechanical	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Peeling/Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting/Glass)	3		X	X	
	5.0%	Doors - Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals (Entry Only)	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	NLT
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damagedd	4	X	X	X	
	5.0%	Floors - Missing Flooring/Tiles	4	X	X	X	
	5.0%	Floors - Peeling/Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	Lighting - Missing/IDamaged/noperable Fixture	4		X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	LT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Peeling/Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Community Room	10.0%	Ceiling - Bulging/Buckling	4			X	
	10.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

	10.0%	Ceiling - Peeling/Needs Paint	1	X	X		
	10.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	10.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	10.0%	Doors - Damaged Surface (Holes/Paint/Rusting/Glass)	3	X	X	X	
	10.0%	Doors - Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	10.0%	Doors - Deteriorated/Missing Seals (Entry Only)	4			X	
	10.0%	Doors - Missing Door	5	X	X	X	NLT
	10.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	10.0%	Electrical - Burnt Breakers	4			X	NLT
	10.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	10.0%	Electrical - Frayed Wiring	5			X	
	10.0%	Electrical - Missing Breakers	5			X	LT
	10.0%	Electrical - Missing Covers	5			X	LT
	10.0%	Floors - Bulging/Buckling	4			X	
	10.0%	Floors - Floor Covering Damagedd	4	X	X	X	
	10.0%	Floors - Missing Flooring/Tiles	4	X	X	X	
	10.0%	Floors - Peeling/Needs Paint	1	X	X		
	10.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	10.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	10.0%	HVAC - Misaligned Chimney/Ventilation System	5			X	LT
	10.0%	HVAC - Inoperable	5			X	
	10.0%	HVAC - Noisy/Vibrating/Leaking	4	X			
	10.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2			X	
	10.0%	HVAC - General Rust/Corrosion	2	X	X	X	
	10.0%	Lighting - Missing/IDamaged/noperable Fixture	4		X	X	
	10.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	LT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	10.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	10.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	10.0%	Walls - Bulging/Buckling	4			X	
	10.0%	Walls - Damaged	3	X	X	X	
	10.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	10.0%	Walls - Peeling/Needs Paint	1	X	X		
	10.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	10.0%	Windows - Damaged Window Sill	4	X	X		
	10.0%	Windows - Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	10.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	10.0%	Windows - Peeling/Needs Paint	1	X			
	10.0%	Windows - Security Bars Prevent Egress	5			X	LT
Day Care	10.0%	Ceiling - Bulging/Buckling	4			X	
	10.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	10.0%	Ceiling - Peeling/Needs Paint	1	X	X		
	10.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	10.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	10.0%	Doors - Damaged Surface (Holes/Paint/Rusting/Glass)	3		X	X	
	10.0%	Doors - Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	10.0%	Doors - Deteriorated/Missing Seals (Entry Only)	4			X	
	10.0%	Doors - Missing Door	5	X	X	X	
	10.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	10.0%	Electrical - Burnt Breakers	4			X	NLT
	10.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	10.0%	Electrical - Frayed Wiring	5			X	
	10.0%	Electrical - Missing Breakers	5			X	LT
	10.0%	Electrical - Missing Covers	5			X	LT
	10.0%	Floors - Bulging/Buckling	4			X	
	10.0%	Floors - Floor Covering Damagedd	4	X	X	X	
	10.0%	Floors - Missing Flooring/Tiles	4	X	X	X	
	10.0%	Floors - Peeling/Needs Paint	1	X	X		
	10.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	10.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	10.0%	HVAC - Misaligned Chimney/Ventilation System	5			X	LT
	10.0%	HVAC - Inoperable	5			X	
	10.0%	HVAC - Noisy/Vibrating/Leaking	4	X			
	10.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2			X	
	10.0%	HVAC - General Rust/Corrosion	2	X	X	X	
	10.0%	Lighting - Missing/IDamaged/noperable Fixture	4		X	X	
	10.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	LT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	10.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	10.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	10.0%	Walls - Bulging/Buckling	4			X	
	10.0%	Walls - Damaged	3	X	X	X	
	10.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	10.0%	Walls - Peeling/Needs Paint	1	X	X		
	10.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	10.0%	Windows - Damaged Window Sill	4	X	X		
	10.0%	Windows - Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	10.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

	10.0%	Windows - Peeling/Needs Paint	1	X			
	10.0%	Windows - Security Bars Prevent Egress	5			X	LT
Halls/Corridors/Stairs	10.0%	Ceiling - Bulging/Buckling	4			X	
	10.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	10.0%	Ceiling - Peeling/Needs Paint	1	X	X		
	10.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	10.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	10.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3		X	X	
	10.0%	Doors - Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	10.0%	Doors - Deteriorated/Missing Seals (Entry Only)	4			X	
	10.0%	Doors - Missing Door	5	X	X	X	
	10.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	10.0%	Electrical - Burnt Breakers	4			X	NLT
	10.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	10.0%	Electrical - Frayed Wiring	5			X	
	10.0%	Electrical - Missing Breakers	5			X	LT
	10.0%	Electrical - Missing Covers	5			X	LT
	10.0%	Floors - Bulging/Buckling	4			X	
	10.0%	Floors - Floor Covering Damagedd	4	X	X	X	
	10.0%	Floors - Missing Flooring/Tiles	4	X	X	X	
	10.0%	Floors - Peeling/Needs Paint	1	X	X		
	10.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	10.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	10.0%	Graffiti	4	X	X	X	
	10.0%	HVAC - Misaligned Chimney/Ventilation System	5			X	LT
	10.0%	HVAC - Inoperable	5			X	
	10.0%	HVAC - Noisy/Vibrating/Leaking	4	X			
	10.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2			X	
	10.0%	HVAC - General Rust/Corrosion	2	X	X	X	
	10.0%	Lighting - Missing/IDamaged/noperable Fixture	4		X	X	
	10.0%	Mailbox - Missing/Damaged	2			X	
	10.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	LT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	10.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	10.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	10.0%	Walls - Bulging/Buckling	4			X	
	10.0%	Walls - Damaged	3	X	X	X	
	10.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	10.0%	Walls - Peeling/Needs Paint	1	X	X		
	10.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Windows - Damaged Window Sill	4	X	X		
	10.0%	Windows - Deteriorated/Missing Caulking/Seals	5		X	X	
	10.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	10.0%	Windows - Peeling/Needs Paint	1	X			
	10.0%	Windows - Security Bars Prevent Egress	5			X	LT
	10.0%	Pedestrian/Wheelchair Ramp	3		X	X	
Health & Safety	10.0%	Air Quality - Mold and/or Mildew Observed	3			X	NLT
	10.0%	Air Quality - Propane/Nat'l Gas/Methane Gas Detected	5			X	LT
	10.0%	Air Quality - Sewer Odor Detected	3			X	NLT
	10.0%	Electrical Hazards - Exposed Wires/Open Panels	5			X	LT
	10.0%	Electrical Hazards - Water Leaks on/near Electrical Equipment	5			X	LT
	10.0%	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	3			X	LT
	10.0%	Emergency Fire Exits - Missing Exit Signs	3			X	NLT
	10.0%	Flammable Materials - Improperly Stored	3			X	NLT
	10.0%	Garbage and Debris - Indoors	3			X	NLT
	10.0%	Garbage and Debris - Outdoors	3			X	NLT
	10.0%	Hazards - Other	3			X	NLT
	10.0%	Hazards - Sharp Edges	3			X	NLT
	10.0%	Hazards - Tripping	3			X	NLT
	10.0%	Infestation - Insects	3			X	NLT
	10.0%	Infestation - Rats/Mice/Vermin	3			X	NLT
Kitchen	10.0%	Cabinets - Missing/Damaged	2		X	X	
	10.0%	Call for Aid - Inoperable	3			X	NLT
	10.0%	Ceiling - Bulging/Buckling	4			X	
	10.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	10.0%	Ceiling - Peeling/Needs Paint	1	X	X		
	10.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Countertops - Missing/Damaged	2		X		
	10.0%	Dishwasher/Garbage Disposal - Inoperable	2		X		
	10.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	10.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	10.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3		X	X	
	10.0%	Doors - Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	10.0%	Doors - Deteriorated/Missing Seals (Entry Only)	4			X	
	10.0%	Doors - Missing Door	5	X	X	X	
	10.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	10.0%	Electrical - Burnt Breakers	4			X	NLT
	10.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	10.0%	Electrical - Frayed Wiring	5			X	
	10.0%	Electrical - Missing Breakers	5			X	LT

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

	10.0%	Electrical - Missing Covers	5			X	LT
	10.0%	Range Hood/Exhaust Fans - Excessive Grease/Inoperable	2	X		X	NLT
	10.0%	Floors - Bulging/Buckling	4			X	
	10.0%	Floors - Floor Covering Damagedd	4	X	X	X	
	10.0%	Floors - Missing Flooring/Tiles	4	X	X	X	
	10.0%	Floors - Peeling/Needs Paint	1	X	X		
	10.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	10.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	10.0%	GFI - Inoperable	5			X	NLT
	10.0%	HVAC - Misaligned Chimney/Ventilation System	5			X	LT
	10.0%	HVAC - Inoperable	5			X	
	10.0%	HVAC - Noisy/Vibrating/Leaking	4	X			
	10.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2			X	
	10.0%	HVAC - General Rust/Corrosion	2		X		
	10.0%	Lighting - Missing/IDamaged/noperable Fixture	4		X	X	
	10.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	LT
	10.0%	Plumbing - Clogged Drains	4	X		X	NLT
	10.0%	Plumbing - Leaking Faucet/Pipes	3	X		X	NLT
	10.0%	Range/Stove - Missing/Damaged/Inoperable	3	X	X	X	
	10.0%	Range Hood /Exhaust Fans - Excessive Grease/Inoperable	2	X		X	
	10.0%	Refrigerator - Damaged/Inoperable	3	X		X	
	10.0%	Sink - Damaged/Missing	5	X		X	NLT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	10.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	10.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	10.0%	Walls - Bulging/Buckling	4			X	
	10.0%	Walls - Damaged	3	X	X	X	
	10.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	10.0%	Walls - Peeling/Needs Paint	1	X	X		
	10.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	10.0%	Windows - Damaged Window Sill	4	X	X		
	10.0%	Windows - Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	10.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	10.0%	Windows - Peeling/Needs Paint	1	X			
	10.0%	Windows - Security Bars Prevent Egress	5			X	LT
Laundry Room	10.0%	Ceiling - Bulging/Buckling	4			X	
	10.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	10.0%	Ceiling - Peeling/Needs Paint	1	X	X		
	10.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	10.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	10.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3		X	X	
	10.0%	Doors - Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	10.0%	Doors - Deteriorated/Missing Seals (Entry Only)	4			X	
	10.0%	Doors - Missing Door	5	X	X	X	
	10.0%	Dryer Vent -Missing/Damaged/Inoperable	3			X	
	10.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	10.0%	Electrical - Burnt Breakers	4			X	NLT
	10.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	10.0%	Electrical - Frayed Wiring	5			X	
	10.0%	Electrical - Missing Breakers	5			X	LT
	10.0%	Electrical - Missing Covers	5			X	LT
	10.0%	Floors - Bulging/Buckling	4			X	
	10.0%	Floors - Floor Covering Damagedd	4	X	X	X	
	10.0%	Floors - Missing Flooring/Tiles	4	X	X	X	
	10.0%	Floors - Peeling/Needs Paint	1	X	X		
	10.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	10.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	10.0%	GFI - Inoperable	5			X	NLT
	10.0%	HVAC - Misaligned Chimney/Ventilation System	5			X	LT
	10.0%	HVAC - Inoperable	5			X	
	10.0%	HVAC - Noisy/Vibrating/Leaking	4	X			
	10.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2			X	
	10.0%	HVAC - General Rust/Corrosion	2	X	X	X	
	10.0%	Lighting - Missing/IDamaged/noperable Fixture	4		X	X	
	10.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	LT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	10.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	10.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	10.0%	Walls - Bulging/Buckling	4			X	
	10.0%	Walls - Damaged	3	X	X	X	
	10.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	10.0%	Walls - Peeling/Needs Paint	1	X	X		
	10.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	10.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	10.0%	Windows - Damaged Window Sill	4	X	X		
	10.0%	Windows - Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	10.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	10.0%	Windows - Peeling/Needs Paint	1	X			
	10.0%	Windows - Security Bars Prevent Egress	5			X	LT
Lobby	5.0%	Ceiling - Bulging/Buckling	4			X	

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Peeling/Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3		X	X	
	5.0%	Doors - Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals (Entry Only)	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5				LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damagedd	4	X	X	X	
	5.0%	Floors - Missing Flooring/Tiles	4	X	X	X	
	5.0%	Floors - Peeling/Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	HVAC - Misaligned Chimney/Ventilation System	5			X	LT
	5.0%	HVAC - Inoperable	5			X	
	5.0%	HVAC - Noisy/Vibrating/Leaking	4	X			
	5.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2			X	
	5.0%	HVAC - General Rust/Corrosion	2	X	X	X	
	5.0%	Lighting - Missing/IDamaged/noperable Fixture	4		X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	LT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Peeling/Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Office	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Peeling/Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3		X	X	
	5.0%	Doors - Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals (Entry Only)	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damagedd	4	X	X	X	
	5.0%	Floors - Missing Flooring/Tiles	4	X	X	X	
	5.0%	Floors - Peeling/Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	HVAC - Misaligned Chimney/Ventilation System	5			X	LT
	5.0%	HVAC - Inoperable	5			X	
	5.0%	HVAC - Noisy/Vibrating/Leaking	4	X			
	5.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2			X	
	5.0%	HVAC - General Rust/Corrosion	2	X	X	X	
	5.0%	Lighting - Missing/IDamaged/noperable Fixture	4		X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	LT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Peeling/Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

	5.0%	Windows - Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Other Community Spaces	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Peeling/Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3		X	X	
	5.0%	Doors - Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals (Entry Only)	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damagedd	4	X	X	X	
	5.0%	Floors - Missing Flooring/Tiles	4	X	X	X	
	5.0%	Floors - Peeling/Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	HVAC - Misaligned Chimney/Ventilation System	5			X	LT
	5.0%	HVAC - Inoperable	5			X	
	5.0%	HVAC - Noisy/Vibrating/Leaking	4	X			
	5.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2			X	
	5.0%	HVAC - General Rust/Corrosion	2	X	X	X	
	5.0%	Lighting - Missing/IDamaged/noperable Fixture	4		X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	LT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Peeling/Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Patio/Porch/Balcony	5.0%	Baluster/Side Railings - Damaged	3			X	
	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Peeling/Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3		X	X	
	5.0%	Doors - Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals (Entry Only)	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damagedd	4	X	X	X	
	5.0%	Floors - Missing Flooring/Tiles	4	X	X	X	
	5.0%	Floors - Peeling/Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	Lighting - Missing/IDamaged/noperable Fixture	4		X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	LT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Peeling/Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

	5.0%	Windows - Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Pools and Related Structure	5.0%	Fencing - Damaged/Not Intact	5			X	
	5.0%	Pool - Not Operational	2			X	
Restrooms/Pool Structures	5.0%	Call for Aid - Inoperable	3			X	NLT
	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Peeling/Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3		X	X	
	5.0%	Doors - Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals (Entry Only)	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damagedd	4	X	X	X	
	5.0%	Floors - Missing Flooring/Tiles	4	X	X	X	
	5.0%	Floors - Peeling/Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	GFI - Inoperable	5			X	NLT
	5.0%	HVAC - Misaligned Chimney/Ventilation System	5			X	LT
	5.0%	HVAC - Inoperable	5			X	
	5.0%	HVAC - Noisy/Vibrating/Leaking	4	X			
	5.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2			X	
	5.0%	HVAC - General Rust/Corrosion	2	X	X	X	
	5.0%	Lavatory Sink - Damaged/Missing	3	X		X	NLT
	5.0%	Lighting - Missing/IDamaged/noperable Fixture	4		X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	LT
	5.0%	Plumbing - Clogged Drains	5	X		X	NLT
	5.0%	Plumbing - Leaking Faucet/Pipes	4	X		X	NLT
	5.0%	Restroom Cabinet - Damaged/Missing	2	X			
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Shower/Tub - Damaged/Missing	4		X	X	
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Ventilation/Exhaust System - Inoperable	4		X		
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Peeling/Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Water Closet/Toilet - Damaged/Clogged/Missing	5		X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Storage	5.0%	Ceiling - Bulging/Buckling	4			X	
	5.0%	Ceiling - Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	5.0%	Ceiling - Peeling/Needs Paint	1	X	X		
	5.0%	Ceiling - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Doors - Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	5.0%	Doors - Damaged Hardware/Locks	3	X	X	X	
	5.0%	Doors - Damaged Surface (Holes/Paint/Rusting)	3		X	X	
	5.0%	Doors - Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	5.0%	Doors - Deteriorated/Missing Seals (Entry Only)	4			X	
	5.0%	Doors - Missing Door	5	X	X	X	
	5.0%	Electrical - Blocked Access to Electrical Panel	3			X	NLT
	5.0%	Electrical - Burnt Breakers	4			X	NLT
	5.0%	Electrical - Evidence of Leaks/Corrosion	5			X	NLT
	5.0%	Electrical - Frayed Wiring	5			X	
	5.0%	Electrical - Missing Breakers	5			X	LT
	5.0%	Electrical - Missing Covers	5			X	LT
	5.0%	Floors - Bulging/Buckling	4			X	
	5.0%	Floors - Floor Covering Damagedd	4	X	X	X	
	5.0%	Floors - Missing Flooring/Tiles	4	X	X	X	
	5.0%	Floors - Peeling/Needs Paint	1	X	X		
	5.0%	Floors - Rot/Deteriorated Subfloor	4		X	X	
	5.0%	Floors - Water Stains/Water Damage/Mold/Mildew	2		X	X	
	5.0%	HVAC - Misaligned Chimney/Ventilation System	5			X	LT

Appendix 1 - Item Weights and Criticality Levels
Area: Common Area

	5.0%	HVAC - Inoperable	5			X	
	5.0%	HVAC - Noisy/Vibrating/Leaking	4	X			
	5.0%	HVAC - Convection/Radiant Heat System Covers Missing/Damaged	2			X	
	5.0%	HVAC - General Rust/Corrosion	2	X	X	X	
	5.0%	Lighting - Missing/IDamaged/noperable Fixture	4		X	X	
	5.0%	Outlets/Switches/Cover Plates - Missing/Broken	3	X		X	LT
	0.0%	Smoke Detector - Missing/Inoperable	5			X	LT
	5.0%	Stairs - Broken/Missing Hand Railing	3			X	NLT
	5.0%	Stairs- Broken/Damaged/Missing Steps	3			X	NLT
	5.0%	Walls - Bulging/Buckling	4			X	
	5.0%	Walls - Damaged	3	X	X	X	
	5.0%	Walls - Damaged/Deteriorated Trim	1	X	X	X	
	5.0%	Walls - Peeling/Needs Paint	1	X	X		
	5.0%	Walls - Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
	5.0%	Windows - Cracked/Broken/Missing Panes	3	X		X	NLT
	5.0%	Windows - Damaged Window Sill	4	X	X		
	5.0%	Windows - Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	5.0%	Windows - Inoperable/Not Lockable	3	X		X	NLT
	5.0%	Windows - Peeling/Needs Paint	1	X			
	5.0%	Windows - Security Bars Prevent Egress	5			X	LT
Trash Collection Areas	5.0%	Chutes - Damaged/Missing Components	3		X		
FHEO - 36" Wide Interior Hallways	0.0%	Multi-story Building Hallways/Common Areas Less Than 36" Wide	5			X	
FHEO - Accessible Outside Common Areas	0.0%	Routes Obstructed or Inaccessible to Wheelchair	5			X	
Note:1.) Nominal item weight assumes that all items for the Common Areas are present. Item weights would be adjusted accordingly when items are not applicable (N/A)							
2.) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 10%							
3.) "X" in the level column indicates which levels are applicable.							
4.) Only level 3 is applied to H&S deficiencies.							
5.) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy.)							

Appendix 1 - Item Weights and Criticality Levels
Area: Unit

Inspectable Item	Nominal Item Weight	Observable Deficiency	Criticality	Level 1	Level 2	Level 3	H&S
Bathroom	15.0%	Bathroom Cabinets - Damaged/Missing	2	X			
	15.0%	Lavatory Sink - Damaged/Missing	3	X		X	NLT
	15.0%	Plumbing - Clogged Drains	5	X		X	NLT
	15.0%	Plumbing - Leaking Faucet/Pipes	4	X		X	NLT
	15.0%	Shower/Tub - Damaged/Missing	4	X	X	X	NLT
	15.0%	Ventilation/Exhaust System - Inoperable	4		X		
	15.0%	Water Closet/Toilet - Damaged/Clogged/Missing	5		X	X	NLT
Call-for-Aid	2.0%	Inoperable	3			X	NLT
Ceiling	4.0%	Bulging/Buckling	4			X	
	4.0%	Holes/Missing Tiles/Panels/Cracks	4	X	X	X	
	4.0%	Peeling/Needs Paint	1	X	X		
	4.0%	Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
Doors	4.5%	Damaged Frames/Threshold/Lintels/Trim	2		X	X	NLT
	4.5%	Damaged Hardware/Locks	3	X	X	X	
	4.5%	Damaged Surface - Holes/Paint/Rusting/Glass	3		X	X	
	4.5%	Damaged/Missing Screen/Storm/Security Door	3	X		X	NLT
	4.5%	Deteriorated/Missing Seals (Entry Only)	4			X	
	4.5%	Missing Door	5	X	X	X	NLT
Electrical System	10.0%	Blocked Access to Electrical Panel	3			X	NLT
	10.0%	Burnt Breakers	4			X	NLT
	10.0%	Evidence of Leaks/Corrosion	5			X	NLT
	10.0%	Frayed Wiring	5			X	
	10.0%	GFI - Inoperable	5			X	NLT
	10.0%	Missing Breakers/Fuses	5			X	LT
	10.0%	Missing Covers	5			X	LT
Floors	4.0%	Bulging/Buckling	4			X	
	4.0%	Floor Covering Damage	4	X	X	X	
	4.0%	Missing Flooring Tiles	4	X	X	X	
	4.0%	Peeling/Needs Paint	1	X	X		
	4.0%	Rot/Deteriorated Subfloor	4		X	X	
	4.0%	Water Stains/Water Damage/Mold/Mildew	2		X	X	
Health & Safety	15.0%	Air Quality - Mold and/or Mildew Observed	3			X	NLT
	15.0%	Air Quality - Sewer Odor Detected	3			X	NLT
	15.0%	Air Quality- Propane/Nat'l Gas/Methane Gas Detected	5			X	LT
	15.0%	Electrical Hazards - Exposed Wires/Open Panels	5			X	LT
	15.0%	Electrical Hazards - Water Leaks on/near Electrical Equipment	5			X	LT
	15.0%	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	5			X	LT
	15.0%	Emergency Fire Exits - Missing Exit Signs	3			X	NLT
	15.0%	Flammable Materials - Improperly Stored	3			X	NLT
	15.0%	Garbage and Debris - Indoors	3			X	NLT
	15.0%	Garbage and Debris - Outdoors	3			X	NLT
	15.0%	Hazards - Other	3			X	NLT
	15.0%	Hazards - Sharp Edges	3			X	NLT
	15.0%	Hazards - Tripping	3			X	NLT
	15.0%	Infestation - Insects	3			X	NLT
	15.0%	Infestation - Rats/Mice/Vermin	3			X	NLT
Hot Water Heater	10.0%	Misaligned Chimney/Ventilation System	5			X	LT
	10.0%	Inoperable Unit/Components	5			X	NLT
	10.0%	Leaking Valves/Tanks/Pipes	4			X	
	10.0%	Pressure Relief Valve Missing	5			X	NLT
	10.0%	Rust/Corrosion	3	X	X	X	NLT
HVAC System	15.0%	Convection/Radiant Heat System Covers Missing/Damaged	2			X	
	15.0%	Misaligned Chimney/Ventilation System	5			X	LT
	15.0%	Inoperable	5			X	
	15.0%	Noisy/Vibrating/Leaking	4	X			
	15.0%	Rust/Corrosion	2	X			
Kitchen	15.0%	Cabinets - Missing/Damaged	2		X	X	NLT
	15.0%	Countertops - Missing/Damaged	2		X		NLT
	15.0%	Dishwasher/Garbage Disposal - Inoperable	2		X		
	15.0%	Plumbing - Clogged Drains	4	X		X	NLT
	15.0%	Plumbing - Leaking Faucet/Pipes	3	X		X	NLT
	15.0%	Range Hood/Exhaust Fans - Excessive Grease/Inoperable	2	X		X	
	15.0%	Range/Stove - Missing/Damaged/Inoperable	3	X	X	X	
	15.0%	Refrigerator-Missing/Damaged/Inoperable	3	X		X	NLT
	15.0%	Sink - Damaged/Missing	5	X		X	NLT
Lighting	2.0%	Missing/Inoperable Fixture	4	X	X	X	NLT
Outlets/Switches	4.0%	Missing	3			X	LT
	4.0%	Missing/Broken Cover Plates	3	X		X	LT
Patio/Porch/Balcony	2.0%	Baluster/Side Railings Damaged	3			X	
Smoke Detector	0.0%	Missing/Inoperable	5			X	LT
Stairs	2.0%	Broken/Damaged/Missing Steps	3			X	NLT

Appendix 1 - Item Weights and Criticality Levels
Area: Unit

	2.0%	Broken/Missing Hand Railing	3			X	NLT
Walls	4.0%	Bulging/Buckling	4			X	
	4.0%	Damaged	3	X	X	X	
	4.0%	Damaged/Deteriorated Trim	1	X	X	X	
	4.0%	Peeling/Needs Paint	1	X	X		
	4.0%	Water Stains/Water Damage/Mold/Mildew	2	X	X	X	
Windows	4.5%	Cracked/Broken/Missing Panes	3	X		X	NLT
	4.5%	Damaged Window Sill	4	X	X		
	4.5%	Missing/Deteriorated Caulking/Seals/Glazing Compound	5		X	X	
	4.5%	Inoperable/Not Lockable	3	X		X	NLT
	4.5%	Peeling/Needs Paint	1	X			
	4.5%	Security Bars Prevent Egress	5			X	LT
Laundry Area (Room)	2.0%	Dryer Vent - Missing/Damaged/Inoperable	3			X	
Note:1.) Nominal item weight assumes that all items for the Units are present. Item weights would be adjusted accordingly when items are not applicable (N/A)							
2.) The Health & Safety item assumes the highest item weight for a particular inspection. Nominally it is equal to 15%							
3.) "X" in the level column indicates which levels are applicable.							
4.) Only level 3 is applied to H&S deficiencies.							
5.) In the H&S column, NLT is non-life threatening H&S and LT (life threatening) is exigent/fire safety (calling for immediate attention or remedy.)							

BILLING CODE 4210–33–C

Appendix 2—Dictionary of Deficiency Definitions

Site Inspectable Items

Items to inspect for ''Site'' are as follows:

- Fencing and Gates
- Grounds
- Mailboxes/Project Signs
- Market Appeal
- Parking Lots/Driveways/Roads
- Play Areas and Equipment
- Refuse Disposal
- Retaining Walls
- Storm Drainage
- Walkways/Steps

Fencing and Gates (Site)

Fence: A structure functioning as a boundary or barrier. An upright structure serving to enclose, divide or protect an area.

Gate: A structured opening in a fence for entrance or exit.

Note: This does not include swimming pool fences. Swimming Pool Fences are covered under Common Areas—Pools and Related Structures.

This inspectable item can have the following deficiencies:

Damaged/Falling/Leaning
Holes
Missing Sections

Damaged/Falling/Leaning (Fencing and Gates)

Deficiency: A fence or gate is rusted, deteriorated, or uprooted which may threaten security, health, or safety.

Note: Gates for swimming pools fences are covered in another section, ''Common Areas—Pools and Related Structures''.

Level of Deficiency: Deficiencies in exterior fences, security fences, and gates are a higher level than interior fences and gates.

Level 1: N/A

Level 2: An interior fence or gate is so damaged that it does not function as it should.

-OR-

An exterior fence, security fence, or gate shows signs of deterioration, but still functions as it should, and it presents no risk to security or safety.

Level 3: An exterior fence, security fence, or gate is no longer there.

-OR-

An exterior fence, security fence, or gate is damaged and does not function as it should or could threaten safety or security.

Holes (Fencing and Gates)

Deficiency: These is an opening or penetration in any fence or gate designed to keep intruders out or children in. Look for holes that could allow animals to enter or could threaten the safety of children.

Note: If the fence or gate is not designed to keep intruders out or children in—such as a rail fence—do not evaluate it for holes.

Level of Deficiency:

Level 1: The hole is smaller than 6 inches by 6 inches.

Level 2: N/A

Level 3: The hole is larger than 6 inches by 6 inches.

Missing Sections (Fencing and Gates)

Deficiency: A section of a fence or gate has been destroyed or removed, and the structure no longer prevents entry or exit.

Level of Deficiency: Deficiencies in exterior fences, security fences, and gates are a higher level than interior fences and gates.

Level 1: An interior fence is missing a section.

Level 2: N/A

Level 3: An exterior fence, security fence, or gate is missing a section, which could threaten safety or security.

Grounds (Site)

The improved land adjacent to or surrounding the housing and related structures. This does not include land not owned or under the control of the housing provider.

This inspectable item can have the following deficiencies:

Erosion/Rutting Areas
Overgrown/Penetrating Vegetation
Ponding/Site Drainage

Erosion/Rutting Areas (Grounds)

Deficiency: Natural processing—weathering, erosion, or gravity—or man-made processes have caused either of these conditions:

—collection or removal of surface material

-OR-

—sunken tracks, ruts, groves, or depressions

Note: This does not include erosion/rutting from a defined storm drainage system or in a play area. These are covered in these sections: ''Site—Storm Drainage'' and ''Site—Play Areas and Equipment''.

Level of Deficiency:

Level 1: N/A

Level 2: Erosion has caused surface material to collect, leading to a degraded surface that would likely cause water to pool in a confined area—especially next to structures, paved areas, or walkways.

-OR-

A rut/grove is 6–8 inches wide and 3–5 inches deep.

Level 3: Runoff has extensively displaced soil, which has caused visible damage or the potential failure of adjoining structures or systems—pipes, pavements, foundations, building, etc.

-OR-

Advanced erosion threatens the safety of pedestrians or makes an area of the grounds unusable.

-OR-

These is a rut larger than 8 inches wide by 5 inches deep.

Overgrown/Penetrating Vegetation (Grounds)

Deficiency: Plant life has spread to unacceptable areas, unintended surfaces, or has grown in areas where it was not intended to grow.

Level of Deficiency:

Level 1: N/A

Level 2: Vegetation is extensive and dense; it is difficult to see broken glass, holes, and other hazards.

-OR-

Vegetation contacts or penetrates an unintended surface—buildings, gutters, fences/walls, roofs, HVAC units, etc.—but you see no visible damage.

-OR-

Extensive, dense vegetation obstructs the intended path of walkways or roads, but the path is still passable.

Level 3: Plants have visibly damaged a component, area, or system of the property or have made them unusable/impassable.

Ponding/Site Drainage (Grounds)

Deficiency: Water or ice has collected in a depression or on ground where ponding was not intended.

Note:

1. This does not include detention/retentionbasins or ponding on paved area; such as parking lots:

—Detention/retentionbasins are covered in ''Site—Storm Drainage''.

—Ponding on paved areas is covered in ''Parking Lots/Driveways/Roads''.

2. If there has been measurable precipitation (1/10 inch or more) during the previous 48 hours, consider the impact on the extent of the ponding. Determine that ponding has occurred only when there is clear evidence of a persistent or long-standing problem.

Level of Deficiency:

Level 1: N/A

Level 2: An accumulation of water (3–5 inches deep) affects the use of a section of the grounds, but the grounds are generally usable.

Level 3: There is an accumulation of more than 5 inches deep.

-OR-

Accumulation has made a large section of the grounds—more than 20%—unusable for its intended purpose. (For example, ponding has made a recreational field unusable.)

Mailboxes/ProjectSigns (Site)

Mailbox is a public container where mail is deposited for distribution and collection. This does not include mailboxes owned and maintained by the US Postal Service, such as the ''Blue Boxes''. Project signs are boards, posters, or placards displayed in a public place to advertise, impart information, or give directions. This does not include signs owned and maintained by the city.

This inspectable item can have the following deficiences:

Mailbox Missing/Damaged

Signs Damaged

Mailbox Missing/Damaged (Mailboxes/ProjectSigns)

Deficiency: The U.S. Postal Service resident/unit mailbox is either missing or so damaged that it does not function properly.

Note:

Do not inspect commercial deposit boxes—FedEx, UPS, etc.—or U.S. Postal Service ''blue boxes''.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The U.S. Postal Service resident/unitmailbox cannot be locked.

—OR—

The U.S. Postal Service resident/unitmailbox is missing.

Signs Damaged (Mailboxes/ProjectSigns)

Deficiency: The project sign is not legible or readable because of deterioration or damage.

Level of Deficiency:

Level 1: The sign is damaged, vandalized, or deteriorated, and cannot be read from a reasonable distance (for example, 20 feet).

Level 2: N/A

Level 3: N/A

Market Appeal (Site)

Evaluate only those areas or structures that are under the control of the housing provider.

This inspectable item can have the following deficiences:

Graffiti

Litter

Graffiti (Market Appeal)

Deficiency: You see crude inscriptions or drawings scratched, painted, or sprayed on a building surface, retaining wall, or fence that the public can see from 30 feet away.

Note: There is a difference between art forms and graffiti. Do not consider full wall murals and other art forms as graffiti.

Level of Deficiency:

Level 1: You see graffiti in one place.

Level 2: You see graffiti in 2–5 places.

Level 3: You see graffiti in 6 or more places.

Litter (Market Appeal)

Deficiency: There is a disorderly accumulation of objects on the property—especially carelessly discarded trash.

Note: Judge litter as you would judge the condition of a city park in America. Do not include these as litter.

—litter left behind in the path of a recent garbage collection

—litter that maintenance personnel are collecting and removing during your inspection

Level of Deficiency:

Level 1: N/A

Level 2: You see a excessive litter on the property.

Level 3: N/A

Parking Lots/Driveways/Roads(Site)

An area for parking motorized vehicles begins at the curbside and includes all parking lots, driveways or roads within the property lines that are under the control of the housing provider.

This inspectable item can have the following deficiencies:

Cracks

Ponding

Potholes/Loose Material

Settlement/Heaving

Cracks (Parking Lots/Driveways/Roads)

Deficiency: There are visible faults in the pavement: longitudinal, lateral, alligator, etc.

Note:

1. Do not include cracks on walkways/steps. For this to be a level 2 deficiency, 5% of the parking lots must be impacted—50 out of 1,000 square feet, for example.

2. Relief joints are there by design; do not consider them cracks.

3. When observing traffic ability, consider the capacity to support people on foot, in wheelchairs, and using walkers—and the potential for problems and hazards.

4. For parking lots only, note a deficiency if you see cracks on more than 5% of the parking spaces.

5. For driveways/roads, note a deficiency if you see cracks on more than 5% of the driveways/roads.

Level of Deficiency:

Level 1: N/A

Level 2: Cracks greater than 3/4 inch, hinging/tilting, or missing section(s) that affect traffic ability over more than 5% of the property's parking lots/driveways/roads.

Level 3: N/A

Comments

Level 2: If the height differential is greater than 3/4 inch, consider this a safety hazard. If the condition of the surface could cause tripping or falling, you must manually record this deficiency as ''Health and Safety: Hazards.''

Ponding (Parking Lots/Drivways/Roads)

Deficiency: Water or ice has accumulated in a depression on an otherwise flat plane.

Note:

1. Consider the impact of any measurable precipitation—1/10 inch or more—during the last 48 hours. Note the deficiency only if there is a clear evidence that the ponding is a persistent or long-standing problem.

2. For parking lots only, note a deficiency if you see ponding on more than 5% of the parking spaces.

3. For driveways/roads, note a deficiency if you see ponding on more than 5% of the driveways/roads.

Level of Deficiency:

Level 1: N/A

Level 2: Less than 3 inches of water has accumulated, affecting the use of 5% or more of a parking lot/driveway; the parking lot/driveway is passable.

Level 3: Three inches of water—or more—has accumulated 5% or more of a parking lot/driveway unusable or unsafe.

Potholes/Loose Material (Parking Lots/Driveways/Roads)

Deficiency:

—a hole caused by road surface failure

-OR-

—loose, freestanding aggregate material caused by deterioration

Level of Deficiency:

Level 1: Potholes or loose material have caused the pavement to fail, exposing the subsurface.

Level 2: N/A

Level 3: Potholes or loose material have made a parking lot/driveway unusable/impassable for vehicles and/or pedestrians.

Comments

Level 3: If the excessively irregular surface could cause tripping or falling, you must manually record this deficiency as ''Health and Safety: Hazards.''

Settlement/Heaving (Parking Lots/Driveways/Roads)

Deficiency: The pavement sinks or rises because of the failure of subbase materials.

Note: If you see that water or ice has collected in the depression, record this under Ponding.

Level of Deficiency:

Level 1: Cracks and deteriorated surface material give evidence of settlement/heaving.

Level 2: N/A

Level 3: Settlement/heaving has made a parking lot/driveway unusable/impassable or creates unsafe conditions for pedestrians and vehicles.

Comments

Level 3: If the excessively irregular surface could cause tripping or falling, you must manually record this deficiency as ''Health and Safety: Hazards.''

Play Areas and Equipment (Site)

An outdoor area set aside for recreation or play, especially one containing equipment such as seesaws and swings.

This inspectable item can have the following deficiencies:

Damaged/Broken Equipment

Deteriorated Play Area Surface

Damaged/Broken Equipment (Play Areas and Equipment)

Deficiency: Equipment is broken into pieces, shattered, incomplete, or inoperable.

Note: Do not evaluate equipment that the authority states has been withdrawn from service, except when safety is still a concern—sharp edges, dangerous leaning, etc. For example, if the authority removed the net and hoop from a basketball backboard and the backboard poses no safety hazards, it is not a deficiency.

Level of Deficiency:

Level 1: You see that some of the equipment—20–50%—does not operate as it should, but poses no safety risk.

Level 2: You see that most of the equipment—more than 50%—does not operate as it should, but poses no safety risk.

Level 3: You see equipment that poses a threat to safety and could cause injury.

Deteriorated Play Area Surface (Play Areas and Equipment)

Deficiency: You see damage to a play area cused by cracking, heaving, settling, ponding, potholes, loose materials, erosion, rutting, etc.

Level of Deficiency:

Level 1: N/A

Level 2: 20–50% of the total surveyed play area surface shows deterioration.

Level 3: More than 50% of the surveyed play are surface shows deterioration:

Comments

Level 3: If the play area surface could cause tripping or falling, you must manually record this deficiency as ''Health and Safety: Hazards.''

Refuse Disposal (Site)

Collection areas for trash/garbage common pick-up.

This inspectable item can have the following deficiency:

Broken/Damaged Enclosure-Inadequate Outside Storage Space

Broken/Damaged Enclosure-Inadequate Outside Storage Space (Refuse Disposal)

Deficiency: The outdoor enclosed area used as a trash/refuse site is:

—broken or damaged, including the walls

-OR-

—too small to property store refuse until disposal

Note: This does not include areas that are not designed as trash/refuse enclosures, such as curb pick-up. Address the condition of the slab under Parking Lots/Driveways/Roads.

Level of Deficiency:

Level 1: N/A

Level 2: A single wall or gate of the enclosure has collapsed or is leaning and is in danger of falling.

-OR-

Trash cannot be stored in the designated area because it is too small to store refuse until disposal.

Level 3: N/A

Retaining Walls (Site)

A wall built to support or prevent the advance of a mass of earth or water.

This inspectable item can have the following deficiency:

Damaged/Falling/Leaning

Damaged/Falling/Leaning (Retaining Walls)

Deficiency: A retaining wall structure is deteriorated, damaged, falling, or leaning.

Level of Deficiency:

Level 1: N/A

Level 2: A retaining wall shows some signs of deterioration, but it still functions as it should, and it is not a safety risk.

Level 3: A retaining wall is damaged and does not function as it should or is a safety risk.

Storm Drainage (Site)

System used to collect and dispose of surface runoff water through the use of culverts, underground structures, or natural drainage features, e.g., swales, ditches, etc.

This inspectable item can have the following deficiency:

Damaged/Obstructed

Damaged/Obstructed (Storm Drainage)

Deficiency: If the storm drains are structurally unsound, are blocked by accumulated debris, or present other safety hazards.

Level of Deficiency:

Level 1: N/A.

Level 2: The system is partially blocked by a large quantity of debris, causing backup into adjacent area(s).

Level 3: The system is completely blocked or a large segment of the system has failed because a large quantity of debris has caused:

—backups into adjacent area(s)

-OR-

—runoffs into areas where runoffs are not intended

Walkways/Steps (Site)

Passages for walking and the structures that allow for changes in vertical orientation.

This inspectable item can have the following deficiencies:

Broken/Missing Hand Railing

Cracks/Settlement/Heaving

Spalling

Broken/Missing Hand Railing (Walkways/Steps)

Deficiency: The hand rail is damaged or missing.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The hand rail for four or more stairs is missing, damaged, loose, or otherwise unusable.

Cracks/Settlement/Heaving (Walkways/Steps)

Deficiency:

—visible faults in the pavement: longitudinal, lateral, alligator, etc.

-OR-

—pavement that sinks or rises because of the failure of subbase materials

Note:

1. Do not include cracks on parking lots/driveways or roads.

2. For this to be a level 2 deficiency, 5% of the walkways must be impacted—50 out of 1,000 square feet, for example.

3. Relief joints are there by design; do not consider them cracks.

4. When observing traffic ability, consider the capacity to support pedestrians, wheelchairs, and people using walkers.

Level of Deficiency:

Level 1: N/A

Level 2: Cracks greater than ¾″, hinging/titling, or missing section(s) that affect traffic ability over more than 5% of the property's walkways/steps.

Level 3: N/A

Comments

Level 2: If the walkways or steps could cause tripping or falling, you must manually record this deficiency as ''Health and Safety: Hazards.''

Spalling (Walkways/Steps)

Deficiency: A concrete or masonry walkway is flaking, chipping, or crumbling—possibly exposing underlying reinforcing material. This is a defect if 5% or more of the property's walkways/steps are affected (50 square feet out of 1,000 square feet, for example).

Note: When observing traffic ability, consider the capacity to support people on foot, in wheelchairs, and using walkers.

Level of Deficiency:

Level 1: More than 5% of the walkway/steps have small areas of spalling—4 inches or less.

Level 2: More than 5% of the walkway/steps have large areas of spalling—larger than 4 inches by 4 inches—and this affects traffic ability.

Level 3: N/A

Building Exterior Inspectable Items

Items to inpect for ''Building Exterior'' are as follows:

- Doors
- FHEO
- Fire Escapes
- Foundations

- Lighting
- Roofs
- Walls
- Windows

Doors (Building Exterior)

Means of access to the interior of a building or structure. Doors provide privacy, control passage, maintain security, provide fire and weather resistance. Includes entry to maintenance areas, boiler and mechanical rooms, electrical vaults, storage areas, etc.

Note: This does not include unit doors.

This inspectable item can have the following deficiencies:

Damaged Frames/Threshold/Lintels/Trim
Damaged Hardware/Locks
Damaged Surface (Holes/Paint/Rusting/Glass)
Damaged/Missing Screen/Storm/Security Door
Deteriorated/Missing Caulking/Seals
Missing Door

Damaged Frames/Threshold/Lintels/Trim (Doors)

Deficiency: You see a frame, header, jamb, threshold, lintel, or trim that is warped, split, cracked, or broken.

Note: If you see damage to a door's hardware—locks, hinges, etc.—record this under ''Doors-Damage Hardware/Locks''.

Level of Deficiency:

Level 1: N/A
Level 2: At least one door is not functioning or cannot be locked because of damage to the frame, threshold, lintel, or trim.
Level 3: At least one entry door or fire/emergency door is not functioning or cannot be locked because of damage to the frame, threshold, lintel, or trim.
Comments
Level 3: If the condition is a health and safety concern, you must record it manually as ''Health and Safety: Hazards.''

Damaged Hardware/Locks (Doors)

Deficiency: The attachments to a door that provide hinging, hanging, opening, closing, or security are damaged or missing. These include locks, panic hardware, overhead door tracks, springs and pulleys, sliding door tracks and hangers, and door closures.

Note:
1. If a door is designed to have locks, the locks should work.
2. If a door is designed to have locks, do not record a deficiency for not having a lock.

Level of Deficiency:

Level 1: N/A
Level 2: One door does not function as it should or cannot be locked because of damage to the door's hardware.
Level 3: One door's panic hardware does not function as it should.
-OR-
One entry door or fire/emergency door does not function as it should or cannot be locked because of damage to the door's hardware.
Comments
Level 3: If the condition is a health and safety concern, you must record it manually as ''Health and Safety: Hazards''

Damaged Surface (Holes/Paint/Rusting/Glass) (Doors)

Deficiency: You see damage to the door surface that:

—may affect either the surface protection or the strength of the door
-OR-
—may compromise building security

This includes holes, peeling/cracking/no paint, broken glass, and significant rust.

Level of Deficiency:

Level 1: N/A
Level 2: One door has a hole or holes with a diameter ranging from ¼ inch to 1 inch.
Level 3: One door has a hole or holes larger than 1 inch in diameter, significant peeling/cracking/no paint, rust that affects the integrity of the door surface, or broken/missing glass.
-OR-
One entry door or fire/emergency door has a hole or holes with a diameter ranging from ¼ inch to 1 inch.

Damaged/Missing Screen/Storm/Security Door (Doors)

Deficiency: You see damage to surfaces, including screens, glass, frames, hardware, and door surfaces.

Level of Deficiency:

Level 1: At least one screen door or storm door is damaged or is missing screens or glass—shown by an empty frame or frames.
Level 2: N/A
Level 3: A security door is not functioning or missing. (''Missing'' applies only if a security door that should be there is not there.)

Deteriorated/Missing Caulking/Seals (Doors)

Deficiency: Sealant and stripping designed to resist weather or caulking is missing or deteriorated.

Note: This applies only to entry doors that were designed with seals. If a door shows evidence that a seal was never part of its design, do not record a deficiency.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: The seals/caulking is missing on one entry door, or they are so damaged that they do not function as they should.

Missing Door (Doors)

Deficiency: A door is missing.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: A single missing building exterior door is a Level 3 deficiency.
Comments
Level 3: If the condition is a health and safety concern, you must record it manually as ''Health and Safety: Hazards.''

FHEO—32″ Wide Main Entrance (Building Exterior)

Main Entrance Less Than 32″ Wide (FHEO—32″ Wide Main Entrance)

Deficiency: Verify that the main entrance for each building inspected is at least 32″ wide, measured from between the face of the door and the opposite door stop.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: The distance between the face of the door and the opposite doorstop is not 32″ wide.

FHEO—Accessibility to Main Floor Entrance (Building Exterior)

Obstructed or Missing Accessibility Route (FHEO—Accessibility to Main Floor Entrance)

Deficiency: Verify that there is an accessible route to and from the main ground floor entrance for every building inspected. Accessible routes include level surface to the door, ramps, etc.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: There is not an accessible route.

Fire Escapes (Building Exterior)

All buildings must have acceptable fire exits. This includes both stairway access doors & external exits. These can include external fire escapes, fire towers, operable windows on the lower floors with easy access to the ground or a back door opening onto a porch with a stairway leading to the ground.

Blocked Egress/Ladders
Visibly Missing Components

Blocked Egress/Ladders (Fire Escapes)

Deficiency: Any part of the fire escape—including ladders—is blocked, limiting or restricting people from exiting.

Note: This includes fire escapes, fire towers, and windows on the ground floor that would be used in an emergency.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: Stored items or other barriers or block people from exiting.

Visibly Missing Components (Fire Escapes)

Deficiency: You see that any of the components that affect the function of the fire escape are missing.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: You see that any of the functional components that affect the function of the fire escape—one section of a ladder or a railing, for example—are missing.

Foundations (Building Exterior)

Lowest level structural wall or floor responsible for transferring the building's load to the appropriate footings and soil. Materials may include concrete, stone, masonry and wood.

This inspectable item can have the following deficiencies:

Cracks/Gaps
Spalling/Exposed Rebar

Cracks/Gaps (Foundations)

Deficiency: You see a split in the exterior of the lowest structural wall.

Note: Cracks that show evidence of water penetration should be evaluated here.

Level of Deficiency:

Level 1: N/A

Level 2: You see cracks more than ⅛ inch wide by ⅛ inch deep by 6 inches long.
-OR-
You see large pieces—many bricks, for example—that are separated or missing from the wall or floor.

Level 3: You see large cracks or gaps more than ⅜ inch wide by ⅜ inch deep by 6 inches long—a possible sign of a serious structural problem.
-OR-
You see cracks that are the full depth of the wall, providing opportunity for water penetration.
-OR-
You see sections of the wall or floor that are broken apart.
Comments

Level 3: If you have any doubt about the severity of the problem, request an inspection by a structural engineer.

Spalling/Exposed Rebar (Foundations)

Deficiency: A concrete or masonry wall is flaking, chipping, or crumbling—possibly exposing underlying reinforcing material (rebar).

Level of Deficiency:

Level 1: N/A

Level 2: You see obvious, large spalled area(s) affecting 10–50% of any foundation wall.

Level 3: You see obvious, significant spalled area(s) affecting 50% or more of any foundation wall.
-OR-
You see spalling that exposes any reinforcing material—rebar or other.
Comments

Level 3: If you have any doubt about the severity of the problem, request an inspection by a structural engineer.

Lighting (Building Exterior)

System to provide illumination of building exteriors and surrounding grounds. Includes fixtures, lamps, stanchions, poles, supports, and electrical supply that are associated with the building itself.

Note: This does not include site lighting.

This inspectable items can have the following deficiency:
Broken Fixtures/Bulbs

Broken Fixtures/Bulbs (Lighting)

Deficiency: This covers all or part of the lighting associated with the building, including lighting attached to the building used to light the site. If you see lighting that is not directly attached to a specific building, assign it to the nearest building.

Note: If a damaged fixture or bulb presents a safety hazard, rate it as Level 3, and record it manually as a health and safety concern. This includes broken fixtures and bulbs that could fall on pedestrians or could lead to electrocution.

Level of Deficiency:

Level 1: N/A

Level 2: 20–50% of the lighting fixtures and bulbs surveyed are broken or missing, but this does not constitute an obvious safety hazard.

Level 3: More than 50% of the lighting fixtures and bulbs surveyed are broken or missing.
-OR-
The condition constitutes an obvious safety hazard.
Comments

Level 3: If the condition is a health and safety concern, you must record it manually in ''Health and Safety Hazards: Electrical Hazards.''

Roofs (Building Exterior)

Roof system consists of the structural deck, weathering surface, flashing, parapet, and drainage system. They may be flat or pitched.

This inspectable item can have the following deficiencies:
Damaged/Clogged Drains
Damaged Soffits/Fascia
Damaged Vents
Damaged/Torn Membrane/Missing Ballast
Missing/Damaged Components from Downspout/Gutter
Missing/Damaged Shingles
Ponding (Roofs)

Damaged/Clogged Drains (Roofs)

Deficiency: The drainage system does not effectively remove water. Generally, this deficiency applies to flat roofs.

Note:

1. This does not include gutters and downspouts. For these, see ''Building Exterior—Roofs—Missing Components from Downspouts/Gutters''.

2. If these has been measurable precipitation (1/10 inch or more) during the previous 48 hours, consider the impact on the extent of the ponding. Determine that ponding has occurred only when there is clear evidence of a persistent or long-standing problem.

Level of Deficiency:

Level 1: N/A

Level 2: You see debris around or in a drain, but no evidence of ponding.
-OR-
The drain is damaged or partially clogged with debris, but the drain system still functions and you see no evidence of ponding.

Level 3: The drain is so damaged or clogged with debris that the drain no longer functions—as shown by ponding.
Comments

Level 3: If you have any doubt about the severity of the condition, an inspection by a roofing specialists is recommended.

Damaged Soffits/Fascia (Roofs)

Deficiency: You see damage to soffit fascia, soffit vents, or associated components that may provide opportunity for water penetration or other damage from natural elements.

Level of Deficiency:

Level 1: You see damage to soffits or fascia, but no obvious opportunities for water penetration.

Level 2: N/A

Level 3: Soffits or fascia that should be there are missing or so damaged that water penetration is visibly possible.
Comments

Level 3: If you have any doubt about the severity of the condition, an inspection by a roofing specialist is recommended.

Damaged Vents (Roofs)

Deficiency: Damaged vents on or extending through the roof surface or components are damaged or missing. Vents include ridge vents, gable vents, plumbing vents, gas vents, and other.

Note: This does not include exhaust fans on the roof or soffit vents:

—Exhaust fans are covered under ''Building Systems—Exhaust.''

—Soffit vents are covered under ''Roofs-Damaged Soffits/Fascia.''

Level of Deficiency:

Level 1: The vents are visibly damaged, but do not present an obvious risk to promote further roof damage.

Level 2: N/A

Level 3: Vents are missing or so visibly damaged that further roof damage is possible.

Damaged/Torn Membrane/Missing Ballast (Roofs)

Defiency: In the membrane or flashing, you see a rip or tear—including punctures, holes, cracks, blistering, and separated seams. PVC, rubber, bitumen, and similar materials are all subject to tears and punctures.

Level of Deficiency:

Level 1: N/A

Level 2: Ballast has shifted and no longer functions as it should.

Level 3: You see signs of damage to the membrane that may result in water penetration.
Comments

Level 3: If the condition warrants further inspection, inspection by a roofing specialist is recommended.

Missing/Damaged Components From Downspout/Gutter (Roofs)

Deficiency: You see that components of the drainage system—including gutters, leaders, downspouts, splashblocks, and drain openings—are missing or damaged.

Note: This does not include clogged drains, For clogged drains, see ''Building Exterior—Roofs—Clogged Drains.''

Level of Deficiency:

Level 1: Splashblocks are missing or damaged.

Level 2: You see that drainage system components are missing or damaged, but there is no visible damage to the roof, structure, exterior wall surface, or interior.

Level 3: You see that drainage system components are missing or damaged, causing visible damage to the roof, structure, exterior wall surface, or interior.

Missing/Damaged Shingles (Roofs)

Deficiency: Shingles are missing or damaged, including cracking, warping, cupping, and other deterioration.

Note: A square is 100 square feet.

Level of Deficiency:

Level 1: Up to one square material or shingles is missing from roof areas you survey.

Level 2: One to two squares of surface material or shingles are missing from surveyed roof areas.

Level 3: More than two squares of shingles are missing from surveyed roofing areas.

Comments

Level 3: If you have any doubt about the severity of the condition, an inspection by a roofing specialist is recommended.

Ponding (Roofs)

Deficiency: You see evidence of areas of standing water—roof depression, mold ring, or effervescence water ring.

Note: If there has been measurable precipitation (1/10 inch or more) during the previous 48 hours, consider the impact on the extent of the ponding. Determine that ponding has occurred only when there is clear evidence of a persistent of long-standing problem.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see evidence of standing water on the roof, causing potential or visible damage to roof surface or underlying materials.

Comments

Level 3: If you have any doubt of the severity of the condition, an inspection by a roofing specialist is recommended.

Walls (Building Exterior)

The exterior enclosure of the building or structure. Materials for construction include concrete, masonry block, brick, stone, wood, glass block. Surface finish materials include metal, wood, vinyl, stucco.

Note: This does not include foundation walls.

This inspectable item can have the following deficiencies:

Cracks/Gaps
Damaged Chimneys
Missing Pieces/Holes/Spalling
Missing/Damaged Caulking/Mortar
Stained/Peeling/Needs Paint

Cracks/Gaps (Walls)

Deficiency: You see a split, separation, or gap in the exterior walls.

Note: If you see both cracks/gaps and missing pieces/holes/spalling, do not record both. If you see both deficiencies, record only one of the two.

Level of Deficiency:

Level 1: N/A

Level 2: You see a crack that is more than 1/8 inch deep by 6 inches long.

-OR-

You see pieces—many bricks, for example that are separated from the wall.

Level 3: You see a large crack or gap that is more than 3/8 inch wide or deep and 6 inches long, possibly a sign of a serious structural problem.

-OR-

You see a crack that is the full depth of the wall, providing opportunity for water penetration.

-OR-

You see sections of the wall that are broken apart.

Comments

Level 3: If you have any doubt of the severity of the condition, request an inspection by a structural engineer.

Damaged Chimneys (Walls)

Deficiency: The chimney, including the part that extends above the roof line, has separated from the wall or has cracks, spalling, missing pieces, or broken sections.

Level of Deficiency:

Level 1: N/A

Level 2: The surface of the chimney shows surface damage or more than one piece of wall—a few bricks or a section of siding, for example.

-OR-

The surface of the chimney has holes that affect an area larger than 4 inches by 4 inches.

Level 3: Part or all of the chimney has visibly separated from the adjacent wall.

-OR-

There are cracked or fallen pieces or sections.

-OR-

There is a risk that falling pieces could create a safety hazard.

Comments

Level 3: If the conditions is a health and safety concern, you must record it manually as ''Health and Safety Hazards.''

Missing Pieces/Holes/Spalling (Walls)

Deficiency: You see deterioration of the exterior wall surface, including missing pieces, holes, or spalling. This may also be attributed to:

—materials that are rotting

-OR-

—a concrete, stucco, or masonry wall that is flaking, chipping, or crumbling

Level of Deficiency:

Level 1: N/A

Level 2: You see that there is a missing piece—a single brick or section of siding, for example—or a hole larger than 1/2 inch in diameter.

-OR-

You see deterioration that affects an area up to 8 1/2 inches by 11 inches.

Level 3: You see deterioration that exposes any reinforcing material (re-bar).

-OR-

You see more than one missing piece—a few bricks or a section of siding, for example—or holes that affect an area larger than 8 1/2 inches by 11 inches.

-OR-

You see a hole of any size that completely penetrates the exterior wall.

Comments

Level 3: If you have any doubt about the severity of the condition, request an inspection by a structural engineer.

Missing/Damaged Caulking/Mortar (Walls)

Deficiency: Caulking designed to resist weather or mortar is missing or deteriorated.

Note: This does not include caulking relative to doors and windows; they are covered in other areas. Address all other caulking here.

Level of Deficiency:

Level 1: Mortar is missing around a single masonry unit.

-OR-

Deteriorated caulk is confined to less than 12 inches.

Level 2: Mortar is missing around more than one contiguous masonry unit.

-OR-

You see deteriorated caulking in an area longer than 12 inches.

Level 3: N/A

Stained/Peeling/Needs Paint (Walls)

Deficiency: Paint is cracking, flaking, or otherwise deteriorated. Water damage or related problems have stained the paint.

Note: This does not include walls that are not intended to have paint, such as most brick walls, etc.

Level of Deficiency:

Level 1: You observe that less than 50% of a single building exterior wall is affected.

Level 2: You observe that more than 50% of a single building exterior wall is affected.

Level 3: N/A

Windows (Building Exterior)

Window systems provide light, security, and exclusion of exterior noise, dust, heat, and cold. Frame materials include wood, aluminum, vinyl, etc.

Note: This does not include windows that have defects noted from inspection from inside the unit.

This inspectable item can have the following deficiencies:

Broken/Missing/Cracked Panes
Damaged/Missing Screens
Damaged Sills/Frames/Lintels/Trim
Missing/Deteriorated Caulking/Seals/Glazing Compound
Peeling/Needs paint
Security Bars Prevent Egress

Broken/Missing/Cracked Panes (Windows)

Deficiency: A glass pane is broken, missing, or cracked.

Level of Deficiency:

Level 1: A glass pane is cracked, but you see no sharp edges.

Level 2: N/A

Level 3: A glass pane is missing or broken.

Damaged/Missing Screens (Windows)

Deficiency: Screens are punctured, torn, otherwise damaged, or missing.

Level of Deficiency:

Level 1: Three or more screens in one building are punctured, torn, otherwise damage, or missing.

Level 2: N/A

Level 3: N/A

Damaged Sills/Frames/Lintels/Trim (Windows)

Deficiency: Window sills, frames, sash lintels, or trim are damaged by decay, rust, rot, corrosion, or other deterioration.

Note: Damage does not include scratches and cosmetic deficiencies.

Level of Deficiency:

Level 1: You see damage to sills, frames, lintels, or trim, but nothing is missing. The inside of the surrounding wall is not exposed. You see no impact on either the functioning of the window or weather tightness.

Level 2: Sills, frames, lintels, or trim are missing or damaged, exposing the inside of the surrounding walls and compromising its weather tightness.

Level 3: N/A

(Missing/Deteriorated Caulking/Seals/ Glazing Compound (Windows)

Deficiency: The caulking or glazing compound that resists weather is missing or deteriorated.

Note:

1. This also includes Thermopane or insulated windows that have failed.

2. Caulk and seals are considered to be deteriorated when two or more seals for any window have lost their elasticity. (If the seals crumble and flake when touched, they have lost their elasticity.)

Level of Deficiency:

Level 1: N/A

Level 2: Most of the window shows missing or deteriorated caulk or glazing compound, but there is no evidence of damage to the window or surrounding structure.

Level 3: There are missing or deteriorated caulk or seals—with evidence of leaks or damage to the window or surrounding structure.

Peeling/Needs Paint (Windows)

Deficiency:

—Paint covering the window assembly or trim is cracking, flaking, or otherwise failing.

-OR-

—The window assembly or trim is not painted or is exposed to the elements.

Note: This does not include windows that are not intended to be painted.

Level of Deficiency:

Level 1: You see peeling paint or a window that needs paint.

Level 2: N/A

Level 3: N/A

Security Bars Prevent Egress (Windows)

Deficiency: Exiting (egress) is severely limited or impossible, because security bars are damaged or improperly constructed or installed.

Note: This does not include windows that are not intended for exiting.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The ability to exit through the window is limited by security bars that do not function properly and, therefore, pose safety risks.

Building Systems Inspectable Items

Items to inspect for ''Building Systems'' are as follows:

- Domestic Water
- Electrical System
- Elevators
- Emergency Power
- Exhaust System
- Fire Protection
- HVAC
- Sanitary System

Domestic Water (Building Systems)

Portion of the building system that provides potable water conditioning, heating, and distribution taking its source from outside the building and terminating in domestic plumbing fixtures. The system typically consists of water conditioners (filters and softeners), water heaters, transfer and circulating pumps, strainers, and connecting piping, fittings, valves, and supports.

Note: This does not include portion of water supply that connects to the heating and cooling system. Also, the delivery points of the system such as sinks and faucets in units or common areas.

This inspectable item can have the following deficiencies:

Leaking Central Water Supply
Misaligned/Damaged Ventilation System
Missing Pressure Relief Valve
Rust/Corrosion on Heater Chimney
Water Supply Inoperable

Leaking Central Water Supply (Domestic Water)

Deficiency: You see water leaking from any water system component, including valve flanges, stems, bodies, hose bids, or any domestic water tank or its pipe or pipe connections.

Note:

1. This includes both hot and cold water systems, but does not include fixtures. Address fixtures in dwelling units or common areas.

2. Some pumps and valves are designed to leak as a normal function, particularly in fire pumps, water pressure pumps, and large circulating pumps, and should be considered accordingly.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see that water is leaking.

Comments

Level 4: If leading water is a health and safety concern (i.e., is leaking on or near electrical equipment), you must record it manually in ''Health and Safety Electrical Hazards.''

Misaligned Chimney/Ventilation System (Domestic Water)

Deficiency: The ventilation system on a gas-fired or oil-fired water heater is misaligned.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 1: You see any misalignment that may cause improper or dangerous venting of exhaust gases.

Missing Pressure Relief Valve (Domestic Water)

Deficiency: The pressure relief valve on the central hot water heating system is missing or does not extend to the floor.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: There is not pressure relief valve.

-OR-

The pressure relief valve does not extend to the floor.

Rust/Corrosion on Heater Chimney (Domestic Water)

Deficiency: The water heater chimney shows evidence of flaking, discoloration, pitting, or crevices.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The water heater chimney shows evidence of flaking, discoloration, pitting, or crevices that may create holes that could allow toxic gases to leak from the chimney.

Water Supply Inoperable (Domestic Water)

Deficiency: Water is not available.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: There is no running water in any area of the building.

Electrical System (Building Systems)

Portion of the building system that safety provides electrical power throughout the building. Including equipment that provides control, protection, metering, and service.

Note: This does not include transformers or metering that belongs to the providing utility. Equipment that is part of any emergency power generating system. Terminal equipment such as receptacles, switches, or panelboards that are located in the units or common areas.

This inspectable item can have the following deficiencies:

Blocked Access/Improper Storage
Burnt Breakers
Evidence of Leaks/Corrosion
Frayed Wiring
Missing Breakers/Fuses
Missing Covers

Blocked Access/Improper Storage (Electrical System)

Deficiency: A fixed obstruction or item of sufficient size and weight can delay or prevent access to any panel board or main power switch in an emergency.

Note: If the panel board or main power switch is locked but authorized personnel can quickly gain access, do not record it as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: One or more fixed items or items of sufficient size and weight impede

access to the building system's electrical panel during an emergency.
Comments
Level 3: If the condition is a Health and Safety concern, you must record it manually as ''Health and Safety: Flammable Materials.''

Burnt Breakers (Electrical System)

Deficiency: Breakers have carbon on the plastic body, or the plastic body is melted and scarred.
Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: You see any carbon residue, melted breakers, or arcing scars.

Evidence of Leaks/Corrosion (Electrical System)

Deficiency: You see liquid stains, rust marks, or other signs of corrosion on electrical enclosures or hardware.

Note: Do not consider surface rust a deficiency if it does not affect the condition of the electrical enclosure.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: Any corrosion that affects the condition of the components that carry current.
-OR-
Any stains or rust on the interior of electrical enclosures.
-OR-
Any evidence of water leaks in the enclosure or hardware.

Frayed Wiring (Electrical System)

Deficiency: You see nicks, abrasions, or fraying of the insulation that expose wires that conduct current.

Note: Do not consider this a deficiency for wires that are not intended to be insulated, such as grounding wires.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: You see any nicks, abrasions, or fraying of the insulation that expose any conducting wire.
Comments
Level 3: If the condition is a Health and Safety concern, you must record it manually as ''Health and Safety: Electrical Hazards.''

Missing Breakers/Fuses (Electrical System)

Deficiency: In a panel board, main panel board, or other electrical box containing circuit breakers, you see an open circuit breaker position that is not appropriately blanked off.
Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: You see an open breaker port.

Missing Covers (Electrical System)

Deficiency: The cover is missing from any electrical device box, panel box, switch gear box, or control panel with exposed electrical connections.

Note: If the accompanying authority identifies abandoned wiring, capped wires do not pose a risk; therefore, do not record this as a deficiency.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: A cover is missing, which results in exposed visible electrical connections.

Elevators (Building Systems)

Vertical conveyance systems for moving personnel, equipment, materials, household goods, etc.
This inspectable item can have the following deficiency:
Not Operable

Not Operable (Elevators)

Deficiency:
—The elevator will not ascend or descend.
-OR-
—The elevator door will not open or close.
-OR-
—The elevator door opens when the cab is not there.

Note: Some elevators are designed/programmed for special applications—stopping at every floor, for example. For these special cases, the elevator is serving its designed purpose and is therefore not deficient.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: The elevator does not function at all.
-OR-
The elevator doors open when the cab is not there.

Emergency Power (Building Systems)

Standby/backup equipment intended to supply illumination or power or both, (battery or generator set) during utility outage.
This inspectable item can have the following deficiencies:
Auxiliary Lighting Inoperable
Run-Up Records/Documentation Not Available

Auxiliary Lighting Inoperable (Emergency Power)

Deficiency: Emergency lighting that provides illumination during power outages does not function as it should.
Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: Auxiliary lighting does not function.

Run-Up Records/Documentation Not Available (Emergency Power)

Deficiency: Records are not properly maintained or available.
Level of Deficiency:
Level 1: N/A
Level 2: Current records—from the last 12 months—are lost, but older records are properly maintained and available.
Level 3: No records are available.

Exhaust System (Building Systems)

The system used to primarily exhaust stale air from the building. Primarily from the kitchen and bathroom areas.

Note: This does not include elements related to the HVAC system.

This inspectable item can have the following deficiencies:
Roof Exhaust Fans Inoperable

Roof Exhaust Fans Inoperable (Exhaust System)

Deficiency: The ventilation system to exhaust kitchen or bathroom air does not function.
Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: The roof exhaust fan unit does not function.

Fire Protection (Building Systems)

Building System designed to minimize the effects of a fire. May include the following: Fire walls and doors portable fire extinguishers, and permanent sprinkler systems.

Note: This does not include fire detection, alarm, and control devices.

This inspectable item can have the following deficiencies:
Missing Sprinkler Head
Missing/Damaged/Expired Extinguishers

Missing Sprinkler Head (Fire Protection)

Deficiency: You see that a sprinkler head—or its components—connected to the central fire protection system is either missing, visibly disabled, painted over, blocked, or capped.

Note: Components include test plugs, drains, and test fittings.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: Any sprinkler head is missing, visibly disabled, painted over, blocked, or capped.

Missing/Damaged/Expired Extinguishers (Fire Protection)

Deficiency: A portable fire extinguisher is not where it should be, is damaged, or the extinguisher certification has expired.

Note:
1. This includes missing/damaged fire hoses where there are fire cabinets.
2. For buildings with multiple fire control systems—standpipes, sprinklers, etc.—5% or less of the extinguishers for a given building may be missing, damaged, and/or expired. In such cases do not record as a deficiency.
3. If the inspection tag is missing during the REAC inspection, the accompanying authority may produce proof that the fire extinguisher certification is current. If you see such proof, do not record a deficiency for a missing tag.

Level of Deficiency:
Level 1: For a building with only one fire control system, 5% or less of the fire extinguishers are missing, damaged, or expired.

Level 2: For all buildings, 5–10% of the fire extinguishers are missing, damaged, or expired.
Level 3: For all buildings, more than 10% of the fire extinguishers are missing, damaged, or expired.
-OR-
There is not an operable/non-expired fire extinguisher on each floor.

HVAC (Building Systems)

Portion of the building system that provides ability to heat or cool the air within the building. Includes equipment such as boilers, burners, furnaces, fuel supply, hot water and steam distribution, and associated piping, filters, and equipment. Also includes air handling equipment and associated ventilation ducting.

This inspectable item can have the following deficiencies:
Boiler/Pump Leaks
Fuel Supply Leaks
Misaligned Chimney/Ventilation System
General Rust/Corrosion

Boiler/Pump Leaks (HVAC)

Deficiency: Water or steam is escaping from unit casing or system piping.

Note:
1. This does not include fuel supply leaks. See Building Systems—HVAC fuel supply leaks.
2. Also, do not include steam escaping from pressure relief valves.

Level of Deficiency:
Level 1: You see water or steam leaking in piping or pump packing.
Level 2: N/A
Level 3: Water or steam is leaking in piping or pump packing to the point that the system or pumps should be shut down.
Comments
Level 3: If the condition is a Health and Safety concern, you must record it manually as ''Health and Safety; Hazards.''

Fuel Supply Leaks (HVAC)

Deficiency: There is evidence that fuel is escaping from a fuel storage tank or fuel line.
Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: Any amount of fuel is leaking from the supply tank or piping.

Misaligned Chimney/Ventilation System (HVAC)

Deficiency: The exhaust system on a gas-fired or oil-fired unit is misaligned.
Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: You see a misalignment of an exhaust system on a gas-fired or oil-fired unit that cause improper or dangerous venting of gases.

General Rust/Corrosion (HVAC)

Deficiency: The equipment or associated piping and ducting shows evidence of flaking, discoloration, pitting, or crevices.
Level of Deficiency:
Level 1: N/A
Level 2: You see significant formations of metal oxides, significant flaking, discoloration, or the development of a noticeable pit or crevice.
Level 3: The equipment or piping does not function because of this condition.
Comments
Level 3: If the condition is a health and safety concern, you must record it as ''Health and Safety; Hazards.''

Sanitary System (Building Systems)

Portion of the building system that provides for the disposal of waste products with discharge to the local sewage system. Can include sources such as domestic plumbing fixtures, floor drains, and other drains. Consists of floor drains and traps, collection sumps, sewage ejectors, sewage pumps, and collection piping, fittings, valves, and supports.

Note: This does not include site storm drainage. Refer to Site—Storm Drainage.

This inspectable item can have the following deficiencies:
Broken/Leaking/Clogged Pipes or Drains (Sanitary Systems)
Missing Drain/Cleanout/Manhole Covers

Broken/Leaking/Clogged Pipes or Drains (Sanitary System)

Deficiency: You see that a drain is clogged or that components of the sanitary system are leaking.
Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: You see active leaks in or around the system components.
-OR-
You see evidence of standing water, puddles, or ponding—a sign of leaks or clogged drains.

Missing Drain/Cleanout/Manhole Covers (Sanitary System)

Deficiency: You see that a protective cover is missing.

Note: This also includes covers you see while walking the site.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: A protective cover is missing.
Comments
Level 3: If the condition is a health and safety concern, you must record it manually as ''Health and Safety: Air Quality.''

Common Areas Inspectable Items

Items to inspect for ''Common Areas'' are as follows:

Basement/Garage/Carport (Common Areas)

Basement: the lowest habitable story of a building, usually below ground level. Garage: a building or wing of a building in which to park a car.

Carport: a roof projecting from the side of a building or free standing, used to shelter an automobile.

Closet/Utility/Mechanical (Common Areas)

An enclosed room or closet housing machines and/or equipment that service the building.

Community Room (Common Areas)

Meeting place used by members of a community for social, cultural, or recreational purposes.

Day Care (Common Area)

Place that provides daytime supervision, training, and medical services for preschool children or for the elderly.

Halls/Corridors/Stairs (Common Areas)

Passageway in a building, which organizes its rooms, apartments and staircases.

Kitchen (Common Areas)

A place where food is cooked or prepared. The facilities and equipment used in preparing and serving food.

Laundry Room (Common Areas)

Place where soiled clothes and linens or washed and/or dried.

Lobby (Common Areas)

A foyer, hall, or waiting room at or near the entrance of a building.

Office (Common Areas)

Place in which business, professional, or clerical activities are conducted.

Other Community Spaces (Common Areas)

Patio/Porch/Balcony (Common Areas)

Covered entrance to a building, usually with a separate roof or a recreation area that adjoins common areas.

Pools and Related Structures (Common Areas)

Swimming pools and related structures including fencing, etc.

Restrooms/Pool Structures (Common Areas)

A room equipped with a water closet or toilet, tub and/or shower, sink, cabinet(s) and/or closet. This includes locker rooms or bathhouses associated with swimming pools.

Storage (Common Areas)

A room in which items are kept for future use.

Trash Collection Areas (Common Areas)

Collection areas for trash/garbage common pick-up.

Outlets/Switches/Cover Plates (Common Areas)

The receptacle connected to a power supply or method to control the flow of electricity. Includes two & three prong outlets, ground fault interrupters, pull cords, two & three pole switches, and dinner switches.

Smoke Detector (Common Areas)

Sensor to detect the presence of smoke and activate an alarm. May be battery operated or hard-wired to electrical system. May provide visual signal, audible signal, or both.

Call-for-Aid (Common Areas)

System to summon help. May be visual, audible, or both. May be activated manually or automatically when pre-programmed conditions are met.

This inspectable item can have the following deficiency:

Inoperable

Call-for-Aid—Inoperable (Common Areas)

Deficiency: The system does not function as it should.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The system does not function as it should.

Ceiling (Common Areas)

The visible overhead structure lining the inside of a room or area.

This inspectable item can have the following deficiencies:

Bulging/Buckling

Holes/Missing Tiles/Panels/Cracks

Peeling/Needs Paint

Water Stains/Water Damage/Mold/Mildew

Ceiling—Bulging/Buckling (Common Areas)

Deficiency: A ceiling is bowed, deflected, sagging, or is no longer aligned horizontally.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see bulging, buckling, sagging, or a lack of horizontal alignment.

Comments

Level 3: If you have any doubt the severity of the condition, request an inspection by a structural engineer.

Ceiling—Holes/Missing Tiles/Panels/Cracks (Common Areas)

Deficiency:

—The ceiling surface has punctures that may or may not penetrate completely.

-OR-

—Panels or tiles are missing or damaged.

Level of Deficiency:

Level 1: You see small holes that are not larger than a sheet of paper—8½ inches by 11 inches.

-OR-

No hole penetrates the area above.

-OR-

You see that no more than 3 tiles or panels are missing.

Level 2: You see a hole that is larger than a sheet of paper—8½ inches by 11 inches—but it does not penetrate the area above. (You cannot see through it.)

-OR-

You see that more than 3 tiles or panels are missing.

-OR-

You see a crack more than ⅛ inch wide and 11 inches long.

Level 3: You see a hole that penetrates the area above; you can see through it.

Comments

Level 3: If a hole is a health and safety concern, you must record it manually in ''Health and Safety: Hazards.''

Ceiling—Peeling/Needs Paint (Common Areas)

Deficiency: You see paint that is peeling, cracking, flaking, or otherwise deteriorated on ceilings in common areas.

Level of Deficiency:

Level 1: You see peeling paint on 1–4 ceilings in common areas.

Level 2: You see more than 4 ceilings in common areas that have peeling paint or need paint.

Level 3: N/A

Ceiling—Water Stains/Water Damage/Mold/Mildew (Common Areas)

Deficiency: You see evidence of water infiltration, mold, or mildew that may have been caused by saturation or surface failure.

Level of Deficiency:

Level 1: On one ceiling, you see evidence of a leak, mold, or mildew—such as a darkened area—over a small area (more than 1 square foot but less than 4 square feet). You estimate that less than 10% of the ceiling surface area is affected. You may or may not see water.

Level 2: On one ceiling, you see evidence of a leak mold or mildew—such as a darkened area—over a large area (more than 4 square feet). You may or may not see water.

-OR-

You estimate that 10–50% of the ceiling area has

Level 1 damage.

Level 3: On one ceiling, you estimate that a large portion—50% of its surface—has been substantially saturated or damaged by water, mold, or mildew. You see cracks, moist areas, mold, or mildew.

The ceiling surface may have failed.

-OR-

You estimate that more than 50% of the ceiling area shows Level 1 damage from stains, mold, or mildew.

Comments

Level 3: If the condition is a health and safety concern, you must record it manually in ''Health and Safety: Air Quality.''

Doors (Common Areas)

Means of access to the interior of a unit. Doors provide privacy and security, control passage, provide fire and weather resistance.

This inspectable item can have the following deficiencies:

Damage Frames/Threshold/Lintels/Trim

Damaged Hardware/Locks

Damaged/Missing Screen/Storm/Security Door

Damaged Surface—Holes/Paint/Rusting/Glass

Deteriorated/Missing Seals (Entry Door—

Missing Door

Doors—Damaged Frames/Threshold/Lintels/Trim (Common Areas)

Deficiency: You see a frame, header, jamb, threshold, lintel, or trim that is warped, split, cracked, or broken.

Note: If you see damage to a door's hardware—locks, hinges, etc.—record this under ''Doors-Damage Hardware/Locks''.

Level of Deficiency:

Level 1: N/A.

Level 2: At least one door is not functioning or cannot be locked because of damage to the frame, threshold, lintel, or trim.

Level 3: At least one restroom door, entry door, or fire is not functioning or cannot be locked because of damage to the frame, threshold, lintel, or trim.

Comments

Level 3: If the condition is a health and safety concern, you must record it manually as ''Health and Safety: Hazards.''

Doors—Damaged Hardware/Locks (Common Areas)

Deficiency: The attachments to a door that provide hinging, hanging, opening, closing, or security are damaged or missing. These include locks, panic hardware, overhead door tracks, springs and pulleys, sliding door tracks and hangers, and door closures.

Note:

1. If a door is designed to have a lock, the lock should work. If a door is designed without locks, do not record it as a deficiency.

2. If a lock has been removed from an interior door, do not record this as a deficiency.

3. 504 units have had locks removed. Before you start the inspection, you should be given a list of units relative to 504/FH/ADA. Do not record these missing locks as deficiencies.

Level of Deficiency:

Level 1: A closet door does not function as it should because of damage to the door's hardware.

-OR-

A closet door that requires locking cannot be locked because of damage to the door's hardware.

Level 2: A door does not function as it should because of damage to the door's hardware.

-OR-

A door that requires locking cannot be locked because of damage to the door's hardware.

Level 3: A restroom door, entry door, or fire door does not function as it should because of damage to the door's hardware.

-OR-

A restroom door, entry door, or fire door that requires locking cannot be locked because of damage to the door's hardware.

Doors—Damaged/Missing Screen/Storm/Security Door (Common Areas)

Deficiency: Visible damage to surfaces including screens, glass, frames, hardware, and door surface.

Level of Deficiency:

Level 1: One or more screen/storm doors has damage or door is missing screens/glass as evidenced by empty frame.

Level 2: N/A

Level 3: A single security door is inoperable or missing. (Missing only applies to those situations where a security door is supposed to be present but it observed not to be there.)

Doors—Damaged Surface—Holes/Paint/Rusting/Glass (Common Areas)

Deficiency: You see damage to the door surface that:

—may affect either the surface protection or the strength of the door

-OR-

—May compromise building security

This includes holes, peeling/cracking/no paint, broken glass, and significant rust.

Note: If the door is a restroom, fire door, or entry door, this is a Level 3 deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: One door has a hole or holes with a diameter ranging from ¼ inch to 1 inch.

Level 3: One door has a hole or holes larger than 1 inch in diameter, significant peeling/cracking/no paint, rust that affects the integrity of the door surface, or broken/missing glass.

Comments

Level 3: If the condition is a health and safety concern, you must record it manually in ''Health and Safety: Hazards.''

Doors—Deteriorated/Missing Seals (Entry Only) (Common Areas)

Deficiency: The seals and stripping around the entry door(s) to resist weather and fire are damaged or missing.

Note: This defect applies only to entry doors that were designed with seals. If a door shows evidence that a seal was never part of its design, do not record it as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The seals are missing on one entry door, or they are so damaged that they do not function as they should.

Doors—Missing Door (Common Areas)

Deficiency: A door is missing.

Note: If a restroom door, entry door, or fire door, record this as a Level 3 deficiency.

Level of Deficiency:

Level 1: A door is missing, but it is not a restroom door, entry door, or fire door.

Level 2: Two doors or up to 50% of the doors are missing, but they are not restroom doors, entry doors, or fire doors, and the condition presents no hazard.

Level 3: A restroom door, entry door, or fire door is missing.

-OR-

You estimate that more than 50% of the doors are missing.

Comments

Level 3: If the condition is a health and safety concern, you must record it manually as ''Health and Safety: Hazards.''

Electrical (Common Areas)

Portion of the common area that safely provides electrical power throughout the building. Including equipment that provides control, protection, metering, and service.

This inspectable item can have the following deficiencies:

Blocked Access to Electrical Panel
Burnt Breakers
Evidence of Leaks/Corrosion
Frayed Wiring
Missing Breakers
Missing Covers

Electrical—Blocked Access to Electrical Panel (Common Areas)

Deficiency: A fixed obstruction or item of sufficient size and weight can delay or prevent access to any panel board switch in an emergency.

Note: If you see an item that is easy to remove, like a picture, do not note this as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: One or more fixed items or items of sufficient size and weight can impede access to the unit's electrical panel during an emergency.

Electrical—Burnt Breakers (Common Areas)

Deficiency: Breakers have carbon on the plastic body, or the plastic body is melted and scarred.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see any carbon residue, melted breakers, or arcing scars.

Electrical—Evidence of Leaks/Corrosion (Common Areas)

Deficiency: You see liquid stains, rust marks, or other signs of corrosion on electrical enclosures or hardware.

Note: Do not consider surface rust a deficiency if it does not affect the condition of the electrical enclosure.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: Any corrosion that affects the condition of the components that carry current.

-OR-

Any stains or rust on the interior of electrical enclosures.

-OR-

Any evidence of water leaks in the enclosure or hardware.

Electrical—Frayed Wiring (Common Areas)

Deficiency: You see nicks, abrasions, or fraying of the insulation that expose wires that conduct current.

Note: Do not consider this a deficiency for wires that are not insulated, such as grounding wires.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see any nicks, abrasions, or fraying of the insulation that expose any conducting wire.

Comments

Level 3: If the condition is a health and safety concern, you must record it manually as ''Health and Safety: Electrical Hazards.''

Electrical—Missing Breakers (Common Areas)

Deficiency: In a panel board, main panel board, or other electrical box that contains circuit breakers/fuses, you see an open circuit breaker position that is not appropriately blanked-off.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see an open breaker port.

Electrical—Missing Covers (Common Area)

Deficiency: The cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., with exposed electrical connections.

Note: If an accompanying authority has identified abandoned wiring, capped wires do not pose a risk. Do not record this as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: A cover is missing, and you see exposed electrical connections.

FHEO—36″ Wide Interior Hallways (Common Areas)

Multi-story Building Hallways/Common Areas Less Than 36″ Wide (FHEO—36″ Wide Interior Hallways) (Common Areas)

Deficiency: For multi-story buildings that are inspected, verify that the interior hallways to the inspected units and common areas are at least 36″ wide.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The interior hallways are less than 36″ wide.

FHEO—Accessible Outside Common Areas (Common Areas)

Routes Obstructed or Inaccessible to Wheelchair Routes Obstructed or Inaccessible to Wheelchair (FHEO—Accessible Outside Common Areas (Common Areas)

Deficiency: Verify that routes to all outside common areas are accessible to wheelchairs (i.e.; there are curb cuts, ramps, and sufficient (36″) width).

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The route is obstructed or not accessible route.

Floors (Common Areas)

The visible horizontal surface system within a room or area underfoot; the horizontal division between two stories of a structure.

This inspectable item can have the following deficiencies:

Bulging/Buckling
Floor Covering Damaged
Missing Flooring/Tiles
Peeling/Needs Paint
Rot/Deteriorated Subfloor
Water Stains/Water Damage/Mold/Mildew

Floors—Bulging/Buckling (Common Areas)

Deficiency: The floor is bowed, deflected, sagging, or is no longer aligned horizontally.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see bulging, buckling, sagging, or a problem with alignment.

Comments

Level 3: If you have any doubt about the severity of the condition, request an inspection by a structural engineer.

Floors—Floor Covering Damaged (Common Areas)

Deficiency: You see damage to carpet tiles, wood, sheet vinyl, or other floor covering.

Level of Deficiency:

Level 1: You estimate that only 5–10% of the floor covering has stains, surface burns, shallow cuts, small holes, tears, loose areas, or exposed seams. The covering is fully functional, and there is no safety hazard.

Level 2: You estimate that 10–50% of the floor covering has stains, surface burns, shallow cuts, small holes, tears, loose areas, or exposed seams. The covering is fully functional, and there is no safety hazard.

Level 3: For a single floor, you estimate that more than 50% of the floor covering is damaged

-OR-

Damage to the floor covering exposes the underlying material.

Comments

Level 3: If this condition is a health and safety concern, you must record it manually in ''Health and Safety: Hazards.''

Floors—Missing Flooring/Tiles (Common Areas)

Deficiency: You see that flooring—terrazo, hardwood, ceramic tile, or other flooring material—is missing.

Level of Deficiency:

Level 1: For a single floor, you see small holes in areas of the floor surface. You estimate that 5–10% of the floors are affected, and there are no safety problems.

Level 2: You estimate that 10–50% of the floors have small holes in areas of the floor surface, but there are no safety problems.

Level 3: You estimate that more than 50% of the floors are affected by Level 1 holes/damage.

-OR-

The condition causes a safety problem.

Comments

Level 3: If you have just one concern that safety is compromised, classify the floor system as a Level 3 deficiency.

Floors—Peeling/Needs Paint (Common Areas)

Deficiency: For floors that are painted, you see paint that is peeling, cracking, flaking, or otherwise deteriorated.

Level of Deficiency:

Level 1: The area affected is more than 1 square foot, but less than 4 square feet.

Level 2: The area affected is more than 4 square feet.

Level 3: N/A

Floors—Rot/Deteriorated Subfloor (Common Areas)

Deficiency: The subfloor has decayed or is decaying.

Level of Deficiency:

Level 1: N/A

Level 2: You see small areas of rot—1–4 square feet.

Level 3: You see large areas of rot—more than 4 square feet—and applying weight causes noticeable deflection.

Comments

Level 3: If you have any doubt about the severity of this condition, request an inspection by a structural engineer.

Floors—Water Stains/Water Damage/Mold/Mildew (Common Areas)

Deficiency: You see evidence of water infiltration, mold, or mildew that may have been caused by saturation or surface failure.

Level of Deficiency:

Level 1: N/A

Level 2: You see evidence of water stain, mold, or mildew—such as a darkened area—over a small area of floor (1–4 square feet). You may or may not see water. You estimates that less than 10% of the floors are affected.

Level 3: You estimate that a large portion of one of more floors—more than 4 square feet—has been substantially saturated or damaged by water, mold, or mildew. You see cracks, mold, and flaking, and the floor surface may have failed.

Comments

Level 3: If this condition is a health and safety concern, you must record it manually as ''Health and Safety: Air Quality.''

HVAC (Common Areas)

System to provide heating, cooling and ventilation to the unit.

This does not include building heating or cooling system deficiencies such as boilers, chillers, circulating pumps, distribution lines, fuel supply, etc., OR occupant owned or supplied heating sources.

Convection/Radiant Heat System Covers Missing/Damaged

General Rust/Corrosion

Inoperable

Misaligned Chimney/Ventilation System

Noisy/Vibrating/Leaking

HVAC—Convection/Radiant Heat System Covers Missing/Damaged (Common Areas)

Deficiency: A cover on the convection/radiant heat system is missing or damaged, which could cause a burn or related injury.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: At least one cover is missing or substantially damaged, allowing contact with heating/surface elements or associated fans.

Comments

Level 3: When the system is operational during an inspection and you see a Level 3 deficiency—a real-time hazard exists—you must record it manually in ''Health and Safety: Hazards.''

HVAC—General Rust/Corrosion (Common Areas)

Deficiency: The equipment or associated piping/ducting shows evidence of flaking, oxidation, discoloration, pitting or crevices.

Level of Deficiency:

Level 1: You see superficial surface rust.

Level 2: You see significant formations of metal oxides, flaking, or discoloration—or a pit or crevice.

Level 3: Because of this condition, the equipment or piping do not function.

HVAC—Inoperable (Common Areas)

Deficiency: The heating, cooling, or ventilation system does not function.

Note:

1. If the HVAC system is not functioning because it is not the right season, do not record this as a deficiency.

2. Statement may be validated by resident survey process.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The HVAC does not function; it does not provide the heating or cooling it should. The system does not respond when the controls are engaged.

Comments

Level 3: If this condition is a health and safety concern, you must record it manually in ''Health and Safety: Hazards''

HVAC—Misaligned Chimney/Ventilation System (Common Areas)

Deficiency: The exhaust system on a gas-fired or oil-fired unit is misaligned.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see any misalignment that may cause improper or dangerous venting of gases.

HVAC—Noisy/Vibrating/Leaking (Common Areas)

Deficiency: The HVAC distribution components, including fans, are the source of abnormal noise, unusual vibrations, or leaks.

Level of Deficiency:

Level 1: The HVAC system shows signs of abnormal vibrations, other noise, or leaks when engaged. The system still provides enough heating or cooling to maintain a minimum temperature range in the major living areas.

Level 2: N/A

Level 3: N/A

Stairs/Hand Railings Damaged (Common Areas)

Series of 4 or more steps or flights of steps joined by landings connecting levels of a common area. Includes supports, frame, treads, handrails.

This inspectable item can have the following deficiencies:

Broken/Missing Hand Railing

Broken/Damaged/Missing Steps

Stairs—Broken/Missing Hand Railing (Common Areas)

Deficiency: The hand-rail is damaged or missing.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The hand-rail for four or more stairs is either missing, damaged, loose, or otherwise unusable.

Stairs—Broken/Damaged/Missing Steps (Common Areas)

Deficiency: The horizontal tread or stair surface is damaged or missing.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: A step is broken or missing.

Walls (Common Areas)

The enclosure of the unit and rooms. Materials for construction include concrete, masonry block, brick, wood, glass block, plaster, sheet-rock. Surface finish materials include paint, wall-coverings.

This inspectable item can have the following deficiencies:

Bulging/Buckling
Damaged/Deteriorated Trim
Damaged
Peeling/Needs Paint
Water Stains/Water Damage/Mold/Mildew

Walls—Bulging/Buckling (Common Areas)

Deficiency: A wall is bowed, deflected, sagging, or is no longer aligned horizontally.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see bulging, buckling, sagging, or a lack of horizontal alignment.

Comments

Level 3: If you have any doubt about the severity of the condition, request an inspection by a structural engineer.

Walls—Damaged/Deteriorated Trim (Common Areas)

Deficiency: Cove molding, chair rail, base molding, or other decorative trim is damaged or has decayed.

Note: Before the inspection starts, you should be given a list of 504/FH/ADA buildings/units. For the buildings/units on this list, do not record superficial surface/paint damage caused by wheelchairs, walkers, or medical devices as a deficiency.

Level of Deficiency:

Level 1: You see small areas of deterioration in the trim surfaces, and you estimate that 5–10% of the wall area is affected.

Level 2: You see large areas of deterioration in the trim surfaces, and you estimate that 10–50% of the wall area is affected.

Level 3: You see significant areas of deterioration in the wall surfaces, and you estimate that more than 50% of the wall area is affected.

Walls—Damaged (Common Areas)

Deficiency: You see punctures in the wall surface that may or may not penetrate completely. Panels or tiles may be missing or damaged.

Note: This does not include small holes from hanging pictures, ets.

Level of Deficiency:

Level 1: In a wall, you find a hole, missing tile or panel, or other damage that is between 1 inch and 8½ inches by 11 inches. The hole does not penetrate the adjoining room; you cannot see through it.

Level 2: In a wall, you find a hole, missing tile or panel, or other damage that is larger than a sheet of paper—8½ inches by 11 inches.

-OR-

You find a crack greater than ⅛ inch wide and at least 11 inches long.

Level 3: You find a hole of any size that penetrates an adjoining room; you can see through the hole.

-OR-

Two or more walls have Level 2 holes.

Walls—Peeling/Needs Paint (Common Areas)

Deficiency: Paint is peeing, cracking, flaking, or otherwise deteriorated.

Note: Before the inspection starts, you should be given a list of 504/FH/ADA buildings/units. For the buildings/items on this list, do not record as a deficiencies any superficial surface/paint damage caused by wheelchairs, walers, or medical devices.

Level of Deficiency:

Level 1: The affected area affected is 1–4 square feet on 2 or more walls.

Level 2: The affected area is more than 4 square feet on any wall or walls.

Level 3: N/A

Walls—Water Stains/Water Damage/Mold/Mildew (Common Areas)

Deficiency: Walls are not watertight. You see evidence of water infiltration, mold, or mildew—or damage caused by saturation or surface failure.

Level of Deficiency:

Level 1: You see evidence of a leak, mold, or mildew—such as a darkened area—over a small area (more than 1 square foot but less than 4 square feet). You may or may not see water.

Level 2: You see evidence of a leak, mold, or mildew—such as a darkened area—over a large area (more than 4 square feet). You probably see water.

Level 3: On one or more walls, you estimate that a large portion—50% of the surface—has been substantially saturated or damaged by water, mold, or mildew. You see cracks, moist areas, mold, or flaking. The wall surface may have failed.

-OR-

In any one unit, you estimate that more than 50% of the walls shows Level 1 damage from stains, mold, or mildew.

Comments

Level 3: If the condition is a health and safety concern, you must record it manually in ''Health and Safety: Hazards.''

Windows (Common Areas)

Window systems provide light, security, and exclusion of exterior noise, glare, dust, heat, and cold. Frame materials include wood, aluminum, and vinyl.

This inspectable item can have the following deficiencies:

Cracked/Broken/Missing Panes
Damaged Window Sill
Deteriorated/Missing Caulking/Seals
Inoperable/Not Lockable
Peeling/Needs Paint
Security Bars Prevent Egress

Windows—Cracked/Broken/Missing Panes (Common Areas)

Deficiency: A glass pane is cracked, broken, or missing from the window sash.

Level of Deficiency:

Level 1: You see a cracked window pane.

Level 2: N/A

Level 3: You see that a glass pane is broken or missing from the window sash.

Windows—Damaged Window Sill (Common Areas)

Deficiency: The sill—the horizontal part of the window that bears the upright portion of the frame—is damaged.

Note: When looking for damage to window sills, do not include scratches and cosmetic deficiencies.

Level of Deficiency:

Level 1: A sill is damaged, but still there. The inside of the surrounding wall is not exposed, and you see no impact on the operation or functioning of the window or on its weather tightness.

Level 2: A sill is missing or damaged enough to expose the inside of the surrounding walls and compromise its weather tightness.

Level 3: N/A

Windows—Inoperable/Not Locable (Common Areas)

Deficiency: A window cannot be opened or closed because of damage to the frame, faulty hardware, or another cause.

Note:

1. If a window is not designed to lock, do not record this as a deficiency.

2. Windows that are accessible from the outside—a ground level window, for example—must be lockable.

Level of Deficiency:

Level 1: A window is not functioning, but can be secured. Other windows in the immediate area are functioning.

Level 2: N/A

Level 3: A window is not functioning, but cannot be secured. In the immediate area, there are no other windows that are functioning properly.

Windows—Missing/Deteriorated Caulking/Seals (Common Areas)

Deficiency: The caulking or seals that resists weather is missing or deteriorated.

Note:

1. This includes Thermopane and insulated windows that have failed.

2. Caulk and seals are considered to be deteriorated when two or more seals for any window have lost their elasticity. (If the seals crumble and flake when touched, they have lost their elasticity.)

Level of Deficiency:

Level 1: N/A
Level 2: Most of the window shows missing or deteriorated caulk, but there is no evidence of damage to the window or surrounding structure.
Level 3: There are missing or deteriorated caulk or seals—with evidence of leaks or damage to the window or surrounding structure.

Windows—Peeling/Needs Paint (Common Areas)

Deficiency: Paint covering the window assembly or trim is cracking, flaking, or otherwise failing.
Level of Deficiency:
Level 1: You see peeling paint or a window that needs paint.
Level 2: N/A
Level 3: N/A

Windows—Security Bars Prevent Egress (Common Areas)

Deficiency: Exiting by window is severely limited or impossible because security bars are damaged or improperly constructed or installed.

Note: This does not include windows that were not designed for exiting.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: Security bars are not functioning as they should, limiting the ability to exit through the window and posing safety risks.

Lighting—Missing/Damaged/Inoperable Fixture (Common Areas)

Deficiency: Lighting fixture is damaged, not functional, or missing.

Note: To conserve energy during daytime or in low-use areas, many facilities use alternate lights that are triggered by either a sensor or a timer. If you see these kinds of lights, ask the accompanying authority to verify that these conservation systems are in place.

Level of Deficiency:
Level 1: N/A
Level 2: 20%–50% of the permanent lighting fixtures are missing or damaged so they do not function. This results in inadequate lighting in the common area(s).
Level 3: More than 50% of the permanent lighting fixtures are missing or damaged so they do not function. This results in inadequate lighting in the common area(s).

Outlets/Switches/Cover Plates—Missing/Broken (Common Areas)

Deficiency:
—The flush plate that covers the opening around a switch or outlet is damaged or missing.
-OR-
—A switch or outlet is missing.
Level of Deficiency:
Level 1: An outlet or switch has a broken cover plate over a junction box, but it does not result in exposed wiring.
Level 2: N/A
Level 3: An outlet or switch is missing.
-OR-
A cover plate is missing or broken, resulting in exposed wiring.

Smoke Detector—Missing/Inoperable (Common Areas)

Deficiency:
—A smoke detector will not activate.
-OR-
—A hardwired smoke detector is missing.

Note:
1. If a smoke detector is there, it must function as it should.
2. ''Missing'' means that evidence suggests that unauthorized personnel have removed a hardwired smoke detector that should be there.
3. If 2 or more smoke detectors are on the same level in visible proximity, at least one of the smoke detectors must function as it should.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: A single smoke detector is missing or does not function as it should.

Pedestrian/Wheelchair Ramp (Common Areas)

Deficiency: A pedestrian walkway or wheelchair ramp is damaged or does not function as it should.
Level of Deficiency:
Level 1: N/A
Level 2: A walkway or ramp shows signs of deterioration and requires repair, but it can be used by people on foot, in wheelchairs, or using walkers.
Level 3: A walkway or ramp is damaged and cannot be used by people on foot, in wheelchairs, or using walkers.

Mailboxes—Missing/Damaged (Common Areas)

Deficiency: The U.S. Postal Service resident/unit mailbox is either missing or so damaged that it does not function properly.

Note: Do not inspect commercial deposit boxes—FedEx, UPS, etc.—or U.S. Postal Service ''blue boxes''.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: The U.S. Postal Service resident/unit mailbox cannot be locked.
-OR-
The U.S. Postal Service resident/unit mailbox is missing.

Graffiti (Common Areas)

Deficiency: You see crude inscriptions or drawings scratched, painted, or sprayed on a building surface, retaining wall.

Note: There is a difference between art forms and graffiti. Do not consider full wall murals and other art forms as graffiti.

Level of Deficiency:
Level 1: You see graffiti in one place.
Level 2: You see graffiti in 2–5 places.
Level 3: You see graffiti in 6 or more places.

Countertops—Missing/Damaged (Common Areas)

Deficiency: A flat work surface in a kitchen often integral to lower cabinet space is missing or deteriorated.
Level of Deficiency:
Level 1: N/A
Level 2: 20% or more of the countertop working surface is missing, deteriorated, or damaged below the laminate—not a sanitary surface to prepare food.
Level 3: N/A

Cabinets—Missing/Damaged (Common Areas)

Deficiency: Cabinets are missing or the laminate is separating. This includes cases, boxes, or pieces of furniture with drawers, shelves, or doors—primarily used for storage—mounted on walls or floors.
Level of Deficiency:
Level 1: N/A
Level 2: You see that 10–50% of the cabinets, doors, or shelves are missing or the laminate is separating.
Level 3: You see that more than 50% of the cabinets, doors, or shelves are missing or the laminate is separating.

Dishwasher/Garbage Disposal—Inoperable (Common Areas)

Deficiency: A dishwasher or garbage disposal, if provided, does not function as it should.
Level of Deficiency:
Level 1: N/A
Level 2: The dishwasher or garbage disposal does not function as it should.
Level 3: N/A

Range Hood/Exhaust Fans—Excessive Grease/Inoperable (Common Areas)

Deficiency: The apparatus that draws out cooking exhaust does not function as it should.
Level of Deficiency:
Level 1: An accumulation of dirt threatens the free passage of air.
Level 2: N/A
Level 3: The exhaust fan does not function.
-OR-
You estimate that the flue may be completely blocked.

GFI—Inoperable (Common Areas)

Deficiency: The GFI does not function.

Note: To determine whether the GFI is functioning, you must press the self-test button in the GFI unit.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: The GFI does not function.
Comments
Level 3: If this condition is a health and safety concern, you must record it as ''Health and Safety: Electrical Hazards.''

Fencing—Damaged/Not Intact (Common Areas)

Deficiency: You see that fencing around the swimming pool is damaged.
Level of Deficiency:
Level 1: N/A

Level 2: N/A
Level 3: You see any damage that could compromise the integrity of the fence.

Pool—Not Operational (Common Areas)

Deficiency: The pool was not in operation during the inspection.

Note: If the pool is open for the season, it should be operational. If the pool is closed for the season, do not record this is a deficiency.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: The pool is not operational.
-OR-
You see unsafe conditions at the pool/pool area that could cause an injury.

Lavatory Sink—Damaged/Missing (Common Areas)

Deficiency: A sink, faucet, or accessories are missing, damaged, or not functioning.

Note: If you see that a stopper is missing from a common area, do not record this as a deficiency.

Level of Deficiency:
Level 1: You see extensive discoloration or cracks in over 50% of the basin, but the sink can be used.
Level 2: N/A
Level 3: The sink or associated hardware have failed or are missing. The sink cannot be used.

Plumbing—Clogged Drains (Common Areas)

Deficiency: Water does not drain adequately from the shower, sink, tub, or basin.

Level of Deficiency:
Level 1: Water does not drain freely, but the fixture can be used.
Level 2: N/A
Level 3: The drain is completely clogged or has suffered extensive deterioration. The fixture cannot be used.

Plumbing—Leaking Faucet/Pipes (Common Areas)

Deficiency: You see that the sink faucet or piping is leaking.

Level of Deficiency:
Level 1: You see a leak or drip that is contained by the basin and pipes, and the faucet can be used.
Level 2: N/A
Level 3: You see a steady leak that is adversely affecting the surrounding area.
-OR-
The faucet/pipe cannot be used.

Range Hood/Exhaust Fans—Excessive Grease/Inoperable (Common Areas)

Deficiency: The apparatus that draws out cooking exhaust does not function as it should.

Level of Deficiency:
Level 1: An accumulation of dirt threatens the free passage of air.
Level 2: N/A
Level 3: The exhaust fan does not function.
-OR-
You estimate that the flue may be completely blocked.

Range/Stove—Missing/Damaged/Inoperable (Common Areas)

Deficiency: The unit is missing or damaged.

Level of Deficiency:
Level 1: The operation of doors or drawers is impeded, but the stove is functioning. On gas ranges, flames are not distributed equally. The pilot light is out on one or more burners.
Level 2: One burner is not functioning.
Level 3: The unit is missing.
-OR-
2 or more burners are not functioning.
-OR-
The oven is not functioning.
Comments
Level 3: If this condition is a health and safety concern, you must record it manually as ''Health and Safety: Hazards.''

Refrigerator—Damaged/Inoperable (Common Areas)

Deficiency: The refrigerator is missing or does not cool adequately to store food safety.

Level of Deficiency:
Level 1: The refrigerator has an excessive accumulation of ice.
-OR-
The seals around the doors are deteriorated.
Level 2: N/A
Level 3: The refrigerator is missing.
-OR-
The refrigerator does not cool adequately for the safe storage of food.

Sink—Damaged/Missing (Common Areas)

Deficiency: A sink, faucet, or accessories are missing, damaged, or not functioning.

Note: If a stopper is missing, do not record it as a deficiency.

Level of Deficiency:
Level 1: You see extensive discoloration or cracks in 50% or more of the basin, but the sink and hardware can still be used to prepare food.
Level 2: N/A
Level 3: The sink or hardware is either missing or not functioning.

Dryer Vent—Missing/Damaged/Inoperable (Common Areas)

Deficiency: There is no adequate way to vent heat and lint to the outside.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: The dryer vent is missing or you see that it is not functioning because it is blocked. Dryer exhaust is not effectively vented to the outside.

Baluster/Side Railings—Damaged (Common Areas)

Deficiency: The baluster or side railing on the exterior improvement is loose, damaged, or not functioning—limiting the safe use of this area.

Level of Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: The baluster or side rails enclosing the areas are loose, damaged, or missing, limiting the safe use of this area.

Restroom Cabinet—Damaged/Missing (Common Areas)

Deficiency: You see damaged or missing cabinets, vanity tops, drawers, shelves, doors, medicine cabinets, or vanities.

Level of Deficiency:
Level 1: You see damaged or missing shelves, vanity tops, drawers, or doors that are not functioning as they should for storage or their intended purpose.
Level 2: N/A
Level 3: N/A

Shower/Tub—Damaged/Missing (Common Areas)

Deficiency: The shower, tub, or components are damaged or missing.

Note: A missing stopper in a common area is not a deficiency.

Level of Deficiency:
Level 1: N/A
Level 2: The shower or tub can be used, but you see cracks or extensive discoloration in more than 50% of the basin.
Level 3: The shower or tub cannot be used for any reason. The shower, tub, faucets, drains, or associated hardware is missing or has failed.

Ventilation/Exhaust System—Inoperable (Common Areas)

Deficiency: The apparatus used to exhaust air has failed.

Note: If there was never a bathroom fan, do not record this as a deficiency.

Level of Deficiency:
Level 1: N/A
Level 2: An exhaust fan is not functioning.
-OR-
A bathroom window cannot be opened.
Level 3: N/A

Water Closet/Toilet—Damaged/Clogged/Missing (Common Areas)

Deficiency: A water closet/toilet is damaged or missing.

Level of Deficiency:
Level 1: N/A
Level 2: Fixture elements—seat, flush handle, cover etc—are missing or damaged.
-OR-
The toilet are cracked, or the hinge is broken.
Level 3: The bowl is fractured or broken and cannot retain water.
-OR-
The water closet/toilet is missing.
-OR-
There is a hazardous condition.
-OR-
The water closet/toilet cannot be flushed, because of obstruction or another defect.

Chutes Damaged/Missing Components (Common Areas)

Deficiency: The structure that directs garbage into the appropriate storage container is missing or damaged. This includes the chute, chute door, and other components.

Note: Do not evaluate the door that leads to the trash room.

Level of Deficiency:

Level 1: N/A

Level 1: Garbage has backed up into chutes, because the collection structure is missing or broken. Compactors or components—chute, chute door, and other components—have failed.

Level 3: N/A

Unit Inspectable Items

Items to inspect for ''Unit'' are as follows:

- Bathroom
- All-for-Aid
- Ceiling
- Doors
- Electrical System
- Floors
- Hot Water Heater
- HVAC System
- Kitchen
- Laundry Area
- Lighting
- Outlets/Switches
- Patio/Porch/Balcony
- Smoke Detector
- Stairs
- Walls
- Windows

Bathroom (Unit)

A room equipped with a water closet or toilet, tub and/or shower, sink, cabinet(s) and/or closet.

This inspectable item can have the following deficiencies:

Bathroom Cabinets—Damaged/Missing
Lavatory Sink—Damaged/Missing
Plumbing—Clogged Drains
Plumbing—Leaking Faucet/Pipes
Shower/Tub—Damaged/Missing
Ventilation/Exhaust System—Inoperable
Water Closet/Toilet—Damaged/Clogged/Missing

Bathroom Cabinets—Damaged/Missing (Bathroom)

Deficiency: You see damaged or missing cabinets, vanity tops, shelves, doors, medicine cabinets, or vanities.

Level of Deficiency:

Level 1: You see damaged or missing shelves, vanity tops, drawers, or doors that are not functioning as they should for storage or their intended purpose.

Level 2: N/A

Level 3: N/A

Lavatory Sink—Damaged/Missing (Bathroom)

Deficiency: A basin (sink) is missing or shows signs of deterioration or distress.

Note: If you see the stopper near the shower/tub area, do not record it as a deficiency.

Level of Deficiency:

Level 1: The sink can be used, but you see either of these:

There are cracks or extensive discoloration in more than 50% of the basin.

-OR-

A stopper is missing.

Level 2: N/A

The sink cannot be used, because the sink or associated hardware is missing or has failed.

Plumbing—Clogged Drains (Bathroom)

Deficiency: Water does not drain adequately in the shower, or basin (sink).

Level of Deficiency:

Level 1: Water does not drain freely, but the fixtures can be used.

Level 2: N/A

Level 3: The fixtures are not usable, because the drain is completely clogged or shows extensive deterioration.

Pluming—Leaking Faucet/Pipes (Bathroom)

Deficiency: You see that a basin, shower, water closet, tub faucet, or associated pipes are leaking water.

Level of Deficiency:

Level 1: You see a leak or drip that is contained by the basin, and the faucet or pipe can be used.

Level 2: N/A

Level 3: You see a steady leak that is adversely affecting the area around it.

-OR-

The faucet or pipe cannot be used.

Shower/Tub—Damaged/Missing (Bathroom)

Deficiency: The shower, tub, or components are damaged or missing. This includes associated hardware—grab bars, shower doors, etc.

Note:

1. This does not include leaking faucets and pipes.

2. If you see the stopper near the shower/tub area, do not record it as a deficiency.

Level of Deficiency:

Level 1: A stopper is missing.

Level 2: The shower or tub can be used, but you see cracks or extensive discoloration in more than 50% of the basin.

Level 3: The shower or tub cannot be used for any reason. The shower, tub, faucets, drains, or associated hardware is missing or has failed.

Ventilation/Exhaust System—Inoperable (Bathroom)

Deficiency: The apparatus used to exhaust air has failed.

Note:

1. If a resident has blocked an exhaust fan but it can function properly, do not record this as a deficiency.

2. If a resident has disconnected a fan, consider it functional if it can be immediately reconnected for your inspection.

3. If there was never a bathroom fan, do not record this as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: An exhaust fan is not functioning.

-OR-

A bathroom window cannot be opened.

Level 3: N/A

Water Closet/Toilet—Damaged/Clogged/Missing (Bathroom)

Deficiency: A water closet/toilet is damaged or missing.

Level of Deficiency:

Level 1: N/A

Level 2: Fixture elements—seat, flush handle, cover etc.—are missing or damaged.

-OR-

The toilet seat is cracked, or the hinge is broken.

Level 3: The bowl is fractured or broken and cannot retain water.

-OR-

The water closet/toilet is missing.

-OR-

There is a hazardous condition.

-OR-

The water closet/toilet cannot be flushed, because of obstruction or another defect.

Call-for-Aid (Unit)

System to summon help. May be visual, audible, or both. May be activated manually or automatically when pre-programmed conditions are met.

This inspectable item can have the following deficiency:

Inoperable.

Inoperable (Call-for-Aid)

Deficiency: The system does not function as it should.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The system does not function as it should.

Ceiling (Unit)

The visible overhead structure lining the inside of a room or area.

This inspectable item can have the following deficiencies:

Bulging/Buckling
Holes/Missing Tiles/Panels/Cracks
Peeling/Needs Paint
Water Stains/Water Damage/Mold/Mildew

Bulging/Buckling (Ceiling)

Deficiency: The ceiling is bowed, deflected, sagging, or is no longer aligned horizontally.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see bulging, buckling, sagging, or a problem with alignment.

Comments

Level 3: If there is any doubt about the severity of the condition, request an inspection by a structural engineer.

Holes/Missing Tiles/Panels/Cracks (Ceiling)

Deficiency:

—The ceiling surface has punctures that may or may not penetrate completely.

-OR-

—Panels or tiles are missing or damaged.

Level of Deficiency:

Level 1: You see small hole that are no larger than a sheet of paper—8½ inches by 11 inches.

-OR-

No hole penetrates the area above.

-OR-

You see that no more than 3 tiles or panels are missing.

Level 2: You see a hole that is larger than a sheet of paper—8½ inches by 11 inches—but it does not penetrate the area above. (You cannot see through it).

-OR-

You see that more than 3 tiles or panels are missing.

-OR-

You see a crack more than ⅛ inch wide and 11 inches long.

Level 3: You see a hole that penetrates the area above; you can see through it

Comments

Level 3: If a hole is a health and safety concern, you must record it manually in ''Health and Safety Hazards.''

Peeling/Needs Paint (Ceiling)

Deficiency:

—You see paint that is peeling, cracking, flaking, or otherwise deteriorated.

-OR-

—You see a surface that is not painted.

Level of Deficiency:

Level 1: The affected area is larger than 1 square foot, but smaller than 4 square feet.

Level 2: The affected area is larger than 4 square feet.

Level 3: N/A

Water Stains/Water Damage/Mold/Mildew (Ceiling)

Deficiency: You see evidence of water infiltration, mold, or mildew that may have been caused by saturation or surface failure.

Level of Deficiency:

Level 1: On one ceiling, you see evidence of a leak, mold, or mildew—such as a darkened area—over a small area (more than 1 square foot but less than 4 square feet). You estimate that less than 10% of the ceiling surface area is affected. You may or may not see water.

Level 2: On one ceiling, you see evidence of a leak mold or mildew—such as a darkened area—over a large area (more than 4 square feet). You may or may not see water.

-OR-

You estimate that 10–50% of the ceiling areas has Level 1 damage.

Level 3: On one ceiling, you estimate that a large portion—50% of its surface—has been substantially saturated or damaged by water, mold, or mildew. You see cracks, moist areas, mold, or mildew.

The ceiling surface may have failed.

-OR-

In any one unit, you estimate that more than 50% of the ceiling shows Level 1 damage from stains, mold, or mildew.

-OR-

Level 3: If the condition is a health and safety concerns, you must record it manually in ''Health and Safety: Air Quality.''

Doors (Unit)

Means of access to the interior of a unit, room within the unit, or closet. Doors provide privacy and security, control passage, provide fire and weather resistance.

This inspectable item can have the following deficiencies:

Damaged Surface Holes/Paint/Rusting/Glass

Damaged Frames/Threshold/Lintels/Trim

Damaged Hardware/Locks

Damaged/Missing Screen/Storm/Security Door

Deteriorated/Missing Seals (Entry Only)

Missing Door

Damaged Surface—Holes/Paint/Rusting/Glass (Doors)

Deficiency: You see damage to the door surface that:

—may affect either the surface protection or the strength of the door

-OR-

—may compromise building security

This includes holes, peeling/cracking/no paint, broken glass, and significant rust.

Note: If the door is a bathroom door or entry door, this is a Level 3 deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: One interior door—not a bathroom or entry door—has a hole or holes with a diameter ranging from ¼ inch to 1 inch.

Level 3: One door has a hole or holes larger than 1 inch in diameter, significant peeling/cracking/no paint, rust that affects the integrity of the door surface, or broken/missing glass.

-OR-

If a bathroom door or entry door has Level 2 damage.

Comments

Level 3: If the condition is a health and safety concern, you must record it manually in ''Health and Safety: Hazards.''

Damaged Frames/Threshold/Lintels/Trim (Doors)

Deficiency: You see a frame, header, jamb, threshold, lintel, or trim that is warped, split, cracked, or broken.

Note: If you see damage to a door's hardware—locks, hinges, etc.—record this under ''Doors-Damage Hardware/Locks''.

Level of Deficiency:

Level 1: N/A

Level 2: At least one door is not functioning or cannot be locked because of damage to the frame, threshold, lintel, or trim.

Level 3: At least one bathroom door or entry door is not functioning or cannot be locked because of damage to the frame, threshold, lintel, or trim.

Comments

Level 3: If the condition is a health and safety concern, you must record it manually as ''Health and Safety: Hazards.''

Damaged Hardware/Locks (Doors)

Deficiency: The attachments to a door that provide hinging, hanging, opening, closing, surface protection, or security are damaged or missing. These include locks, panic hardware, overhead door tracks, springs and pulleys sliding door tracks and hangers, and door closures.

Note:

1. If a door is designed to have a lock, the lock should work. If a door is designed without locks, do not record it as a deficiency.

2. If a lock has been removed from an interior door, do not record this as a deficiency.

3. 504 units have had locks removed. Before you start the inspection, you should be given a list of units relative to 504/FH/ADA. Do not record these missing locks as deficiencies.

4. For public housing, if a lock on a bedroom door is missing or damaged, do not record it as a deficiency.

Level of Deficiency:

Level 1: A closet door does not function as it should because of damage to the door's hardware.

-OR-

A closet door that requires locking cannot be locked because of damage to the door's hardware.

Level 2: A door does not function as it should because of damage to the door's hardware.

-OR-

A door that requires locking cannot be locked because of damage to the door's hardware.

Level 3: A bathroom door or entry door does not function as it should because of damage to the door's hardware.

-OR-

A bathroom door or entry door that requires locking cannot be locked because of damage to the door's hardware.

Damaged/Missing Screen/Storm/Security Door (Doors)

Deficiency: You see damage to surfaces, including screens, glass, frames, hardware, and door surfaces.

Level of Deficiency:

Level 1: At least one screen door or storm door is damaged or is missing screens or glass—shown by an empty frame or frames.

Level 2: N/A

Level 3: A security door is not functioning or missing.

Comments

Level 3: ''Missing'' applies only if a security door that should be there is not there.

Deteriorated/Missing Seals (Entry Only) (Doors)

Deficiency: The seals and stripping around the entry door(s) to resist weather and fire are damaged or missing.

Note: This defect applies only to entry doors that were designed with seals. If a door shows evidence that a seal was never part of its design, do not record it as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The seals are missing on one entry door, or they are so damaged that they do not function as they should.

Missing Door (Doors)

Deficiency: A door is missing.

Note:

1. If a bathroom or entry door is missing, record this as a Level 3 deficiency.

2. If a bedroom door has been removed to improve access for an elderly or handicapped resident, do not record this as a deficiency.

Level of Deficiency:

Level 1: A door is missing, but it is not a bathroom door or entry door.
Level 2: Two doors or up to 50% of the doors are missing, but they are not bathroom doors or entry doors, and the condition presents no hazard.
Level 3: A bathroom door or entry door is missing.
-OR-
You estimate that more than 50% of the unit doors—not including bathroom doors and entry doors—are missing.

Electrical System (Unit)

Portion of the unit that safely provides electrical power throughout the building. Includes equipment that provides control, protection, metering and service.

This inspectable item can have the following deficiency:

Blocked Access to Electric Panel
Burnt Breakers
Evidence of Leaks Corrosion
Frayed Wiring
GFI Inoperable
Missing Breakers/Fuses
Missing Covers

Blocked Access to Electrical Panel (Electrical System)

Deficiency: A fixed obstruction or item of sufficient size and weight can delay or prevent access to any panel board switch in an emergency.

Note: If you see an item that is easy to remove, like a picture, do not note this as a deficient.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: One or more fixed items of sufficient size and weight can impede access to the unit's electrical panel during an emergency.

Burnt Breakers (Electrical System)

Deficiency: Breakers have carbon on the plastic body, or the plastic body is melted and scarred.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: You see any carbon residue, melted breakers, or arcing scars.

Evidence of Leaks/Corrosion (Electric System)

Deficiency: You see liquid stains, rust marks, or other signs of corrosion on electrical enclosures or hardware.

Note: Do not consider surface rust a deficiency if it does not affect the condition of the electrical enclosure.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: Any corrosion that affects the condition of the components that carry current.
-OR-
Any stains or rust on the interior of electrical enclosures.
-OR-
Any evidence of water leaks in the enclosure or hardware.

Frayed Wiring (Electrical System)

Deficiency: You see nicks, abrasions, or fraying of the insulation that expose wires that conduct current.

Note: Do not consider this a deficiency for wires that are not intended to be insulated, such as grounding wires.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: You see any nicks, abrasions, or fraying of the insulation that expose any conducting wire.
Comments
Level 3: If the condition is a health and safety concern, you must record it manually as ''Health and Safety: Electrical Hazards.''

GFI—Inoperable (Electrical System)

Deficiency: The GFI does not function.

Note: To determine whether the GFI is functioning, you must press the self-test button in the GFI unit.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: The GFI does not function.
Comments
Level 3: If this condition is a health and safety concern, you must record it as ''Health and Safety: Electrical Hazards.''

Missing Breakers/Fuses (Electrical System)

Deficiency: In a panel board, main panel board, or other electrical box that contains circuit breakers/fuses, you see an open circuit breaker position that is not appropriately blanked-off.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: You see an open breaker port.

Missing Covers (Electrical System)

Deficiency: The cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., with exposed electrical connections.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: A cover is missing, and you see exposed electrical connections.

Floors (Unit)

The visible horizontal surface system within a room or area underfoot; the horizontal division between two stories of a structure.

This inspectable item can have the following deficiencies:

Bulging/Buckling
Floor Covering Damage
Missing Flooring/Tiles
Peeling/Needs Paint
Rot/Deteriorated Subfloor
Water Stains/Water Damage/Mold/Mildew

Bulging/Buckling (Floors)

Deficiency: A floor is bowed, deflected, sagging, or is no longer aligned horizontally.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: You see bulging, buckling, sagging, or a lack of horizontal alignment.
Comments
Level 3: If you have any doubt about the severity of this condition, request an inspection by a structural engineer.

Floor Covering Damage (Floors)

Deficiency: You see damage to carpet tiles, wood, sheet vinyl, or other floor covering.

Level of Deficiency:

Level 1: You estimate that only 5–10% of the floor covering has stains, surface burns, shallow cuts, small holes, or tears in non-traffic areas; loose areas; or exposed seams. The covering is fully functional, and there is no safety hazard.
Level 2: You estimate that 10–50% of the floor covering has burn marks, cuts, tears, holes, or large sections of exposed seams that expose the underlying material. There is no safety hazard.
Level 3: You estimate that more than 50% of the floor covering has burn marks, cuts, tears, holes, or large sections of exposed seams that expose the underlying material.
Comments
Level 3: If this condition is a health and safety concern, you must record it manually in ''Health and Safety: Hazards.''

Missing Flooring/Tiles (Floors)

Deficiency: VCT, sheet, vinyl, carpet, or other flooring material is missing.

Note: If you have a single concern about compromised safety, record this as a Level 3 deficiency.

Level of Deficiency:

Level 1: For a single floor, small areas of the floor surface are missing. You estimate that more than 5% but less than 10% of the floors are affected and that this does not cause a safety problem.
Level 2: You estimate that 10–50% of the floors have missing or broken flooring and that this does not cause a safety problem.
Level 3: You estimate that more than 50% of the floors are affected by missing or broken flooring
-OR-
Missing or broken flooring causes a single safety problem.
Comments
Level 3: If this condition is a health and safety concern, you must record it manually in ''Health and Safety: Hazards.''

Peeling/Needs Paint (Floors)

Deficiency: For floors that are painted, you see paint that is peeling, cracking, flaking, or otherwise deteriorated.

Level of Deficiency:

Level 1: The area affected is more than 1 square foot, but less than 4 square feet.
Level 2: The area affected is more than 4 square feet.
Level 3: N/A

Rot/Deteriorated Subfloor (Floors)

Deficiency: The subfloor has decayed or is decaying.

Level of Deficiency:

Level 1: N/A

Level 2: You see small areas of rot or spongy flooring—more than 1 square foot, but less than 4 square feet.

Level 3: You see large areas of rot—more than 4 square feet—and applying weight causes noticeable deflection.

Comments

Level 3: If you have any doubt about the severity of this condition, request an inspection by a structural engineer.

Water Stains/Water Damage/Mold/Mildew (Floors)

Deficiency: You see evidence of water infiltration, mold, or mildew that may have been caused by saturation or surface failure.

Level of Deficiency:

Level 1: N/A

Level 2: You see evidence of a water stain, mold, or mildew—such as a darkened area—over a small area of floor (1–4 square feet). You may or may not see water.

Level 3: You estimate that a large portion of floor—more than 4 square feet—has been substantially saturated or damaged by water, mold, or mildew. You see cracks, mold, and flaking, and the floor surface may have failed.

Comments

Level 3: If this condition is a health and safety concern, you must record it manually as ''Health and Safety: Air Quality.''

Hot Water Heater (Unit)

This inspectable item can have the following deficiencies:

Misaligned Chimney/Ventilation System
Inoperable Unit/Components
Leaking Valves/Tanks/Pipes
Pressure Relief Valve Missing
Rust/Corrosion

Misaligned Chimney/Ventilation System (Hot Water Heater)

Deficiency: The exhaust system on a gas-fired or oil-fired unit is misaligned.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see any misalignment that may cause improper or dangerous venting of gases.

Inoperable Unit/Components (Hot Water Heater)

Deficiency: Hot water supply is not available, because the system or system components have malfunctioned.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: After running, water from the hot water taps is not warmer than room temperature.

Leaking Valves/Tanks/Pipes (Hot Water Heater)

Deficiency: You see water leaking from any hot water system component, including valve flanges, stems, bodies, domestic hot water tank, or its piping.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see water leaking.

Comments

Level 3: If this condition is a health and safety concern, you must record it manually in ''Health and Safety Hazards.''

Pressure Relief Valve Missing (Hot Water Heater)

Deficiency: The pressure relief valve on the unit water heating system is missing or does not extend to the floor.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see that the pressure relief valve on the unit water heating system is either missing or does not extend to the floor.

Rust/Corrosion (Hot Water Heater)

Deficiency: The equipment or associated piping/ducting shows evidence of flaking, oxidation, discoloration, pitting, or crevices.

Level of Deficiency:

Level 1: You see superficial surface rust.

Level 2: You see significant formations of metal oxides, flaking, or discoloration—or a pit or crevice.

Level 3: Because of this condition, the equipment or piping do not function.

HVAC System (Unit)

System to provide heating, cooling and ventilation to the unit.

This does not include building heating or cooling system deficiencies such as boilers, chillers, circulating pumps, distribution lines, fuel supply, etc., or occupant owned or supplied heating sources.

This inspectable item can have the following deficiencies:

Convection/Radiant Heat System Covers Missing/Damaged
General Rust/Corrosion
Inoperable
Misaligned Chimney/Ventilation System
Noisy/Vibrating/Leaking

Convection/Radiant Heat System Covers Missing/Damaged (HVAC)

Deficiency: A cover on the convection/radiant heat system is missing or damaged, which could cause a burn or related injury.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: At least one cover is missing or substantially damaged, allowing contact with heating/surface elements or associated fans.

Comments

Level 3: When the system is operational during an inspection and you see a Level 3 deficiency—a real-time hazard exits—you must record it manually in ''Health and Safety: Hazards.''

General Rust/Corrosion (HVAC)

Deficiency: You see a component of the system with deterioration from oxidation or corrosion of system parts.

Level of Deficiency:

Level 1: You see deterioration from rust and corrosion on the HVAC units in the dwelling unit. The system still provides enough heating or cooling.

Level 2: N/A

Level 3: N/A

Inoperable (HVAC)

Deficiency: The heating, cooling, or ventilation system does not function.

Note: If the HVAC system does not operate because of seasonal conditions, do not record this as a deficiency.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The HVAC does not function; it does not provide the heating or cooling it should. The system does not respond when the controls are engaged.

Comments

Level 3: If this condition is a health and safety concern, you must record it manually in ''Health and Safety: Hazards.''

Misaligned Chimney/Ventilation System (HVAC)

Deficiency: The exhaust system on a gas-fired unit is misaligned.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see any misalignment that may cause improper or dangerous venting of gases.

Noisy/Vibrating/Leaking (HVAC)

Deficiency: The HVAC distribution components, including fans, are the source of abnormal noise, unusual vibrations, or leaks.

Level of Deficiency:

Level 1: The HVAC system shows signs of abnormal vibrations, other noise, or leaks when engaged. The system still provides enough heating or cooling to maintain a minimum temperature range in the major living areas.

Level 2: N/A

Level 3: N/A

Kitchen (Unit)

A place where food is cooked or prepared. The facilities and equipment used in preparing and serving food. This inspectable item can have the following deficiencies:

Cabinets—Missing/Damaged
Countertops—Missing/Damaged
Dishwasher/Garbage Disposal—Inoperable
Plumbing—Clogged Drains
Plumbing—Leaking Faucets/Pipes
Range Hoods/Exhaust Fans—Excessive Grease/Inoperable
Range/Stove—Missing/Damaged/Inoperable
Refrigerator—Missing/Damaged/Inoperable
Sink—Missing/Damaged

Cabinets—Missing/Damaged (Kitchen)

Deficiency: Cabinets are missing or the laminate is separating. This includes cases, boxes, or pieces of furniture with drawers, shelves, or doors—primarily used for storage—mounted on walls or floors.

Level of Deficiency:

Level 1: N/A

Level 2: You see that 10–50% of the cabinets, doors, or shelves are missing or the laminate is separating.
Level 3: You see that more than 50% of the cabinets, doors, or shelves are missing or the laminate is separating.

Countertops—Missing/Damaged (Kitchen)

Deficiency: A flat work surface in a kitchen often integral to lower cabinet space is missing or deteriorated.
Level of Deficiency:
Level 1: N/A
Level 2: 20% or more of the countertop working surface is missing, deteriorated, or damaged below the laminate—not a sanitary surface to prepare food.
Level 3: N/A

Dishwasher/Garbage Disposal—Inoperable (Kitchen)

Deficiency: A dishwasher or garbage disposal, if provided, does not function as it should.
Level of Deficiency:
Level 1: N/A
Level 2: The dishwasher or garbage disposal does not function as it should.
Level 3: N/A

Plumbing—Clogged Drains (Kitchen)

Deficiency: The water does not drain adequately.
Level of Deficiency:
Level 1: The basin does not drain freely.
Level 2: N/A
Level 3: The drain is completely clogged or has suffered extensive deterioration.

Plumbing–Leaking Faucets/Pipes (Kitchen)

Deficiency: You see that a basin faucet or drain connections leak.
Level of Deficiency:
Level 1: You see a leak or drip that is contained by the basin or pipes, and the faucet is functioning as it should.
Level 2: N/A
Level 3: You see a steady leak that is having an adverse affect on the surrounding area, and the faucet or pipe is not usable.

Range Hood/Exhaust Fans—Excessive Grease/Inoperable (Kitchen)

Deficiency: The apparatus that draws out cooking exhaust does not function as it should.
Level of Deficiency:
Level 1: An accumulation of dirt threatens the free passage of air.
Level 2: N/A
Level 3: The exhaust fan does not function.
-OR-
You estimate that the flue may be completely blocked

Range/Stove—Missing/Damaged/Inoperable (Kitchen)

Deficiency: The unit is missing or damaged.

Note: Before the inspection starts, you should be given a list of units under 504/FH/ADA. Do not record these disconnected or partially disconnected ranges/stoves as a deficiency.

Level of Deficiency:
Level 1: The operation of doors or drawers is impeded, but the stove is functioning. On gas ranges, flames are not distributed equally. The pilot light is out on one or more burners.
Level 2: One burner is not functioning.
Level 3: The unit is missing.
-OR-
2 or more burners are not functioning.
-OR-
The oven is not functioning.
Comments
Level 3: If this condition is a health and safety concern, you must record it manually as ''Health and Safety: Hazrds.''

Refrigerator—Missing/Damaged/Inoperable (Kitchen)

Deficiency: The refrigerator is missing or does not cool adequately for the safe storage of food.
Level of Deficiency:
Level 1: The refrigerator has an excessive accumulation of ice.
-OR-
The seals around the doors are deteriorated.
Level 2: N/A
Level 3: The refrigerator is missing.
-OR-
The refrigerator does not cool adequately for the safe storage of food.

Sink—Missing/Damaged (Kitchen)

Deficiency: A sink, faucet, or accessories are missing, damaged, or not functioning.

Note: If a stopper is missing, do not record it as a deficiency.

Level of Deficiency:
Level 1: You see extensive discoloration or cracks in 50% or more of the basin, but the sink and hardware can still be used to prepare food.
Level 2: N/A
Level 3: The sink of hardware is either missing or not functioning.

Laundry Area (Room) (Unit)

Place where soiled clothes and linens are washed and/or dried.
This inspectable item can have the following deficiency:
Dryer Vent Missing/Damaged/Inoperable

Dryer Vent Missing/Damaged/Inoperable (Laundry Area (Room))

Deficiency: Inadequate means is available to vent accumulated heat/lint to the outside.
Level of deficiency:
Level 1: N/A
Level 2: N/A
Level 3: Dryer vent is missing or is visually determined to be inoperable (blocked). Dryer exhaust is not effectively vented to the outside.

Lighting (Unit)

System to provide illumination to a room or area. Includes fixtures, lamps, and supporting accessories.
This inspectable item can have the following deficiency:
Missing/Inoperable Fixture

Missing/Inoperable Fixture (Lighting)

Deficiency: A lighting fixture is missing or does not function as it should. The malfunction may be in the total system or components—excluding light bulbs.
Level of Deficiency:
Level 1: In one room in a unit, a permanent lighting fixture is missing or not functioning, and no other switched light source is functioning in the room.
Level 2: In two rooms, a permanent lighting fixture is missing or not functioning, and no other switched light source is functioning in the rooms.
Level 3: In more than two rooms, a permanent light fixture is missing or not functioning, and no other switched light sources are functioning in the rooms.

Outlets/Switches (Unit)

The receptacle connected to a power supply or method to control the flow of electricity. Includes two & three prong outlets, ground fault interrupters, pull cords, two & three pole switches, and dimmer switches.
This inspectable item can have the following deficiencies:
Missing
Missing/Broken Cover Plates

Missing (Outlets/Switches)

Deficiency: An outlet, switch, or both are missing.

Note: This does not apply to empty junction boxes that were not intended to contain an outlet or switch.

Level or Deficiency:
Level 1: N/A
Level 2: N/A
Level 3: An outlet, switch, or both are missing.
Comments
Level 3: If this condition is a health and safety concern, you must record it manually as a ''Health and Safety: Electrical Hazards.''

Missing/Broken Cover Plates (Outlets/Switches)

Deficiency: The flush plate used to cover the opening around a switch or outlet is damaged or missing.
Level of Deficiency:
Level 1: An outlet or switch has a broken cover plate over a junction box, but this does not cause wires to be exposed.
Level 2: N/A
Level 3: A cover plate is missing, which causes wires to be exposed.

Patio/Porch/Balcony (Unit)

Adjoining patio, porch, or balcony.
This inspectable item can have the following deficiency:
Baluster/Side Railings Damaged

Baluster/Side Railings Damaged (Patio/Porch/Balcony)

Deficiency: A baluster or side rails on the porch/patio/balcony is loose, damaged, or does not function, which limits the safe use of this area.
Level of Deficiency:
Level 1: N/A
Level 2: N/A

Level 3: The baluster or side rail enclosing this area are loose, damaged, or missing, limiting the safe use of this area.

Smoke Detector (Unit)

Sensor to detect the presence of smoke and activate an alarm. May be battery operated or hard-wired to electrical system. May provide visual signal, audible signal or both.

This inspectable item can have the following deficiency:

Missing/Inoperable

Missing/Inoperable (Smoke Detector)

Note: 1. There must be at least one smoke detector on each level.

2. If 2 or more smoke detectors are on the same level in visible proximity, at least one of the smoke detectors must function as it should.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: A single smoke detector is missing or does not function as it should.

Stairs (Unit)

Series of 4 or more steps or flights of steps joined by landings connecting levels of a unit. Includes supports, frame, treads, handrails.

This inspectable item can have the following deficiencies:

Broken/Missing Hand Railing

Broken/Damaged/Missing Steps

Broken/Missing Hand Railing (Stairs)

Deficiency: The hand-rail is damaged or missing.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: The hand-rail for four or more stairs is either missing, damaged, loose, or otherwise unusable.

Broken/Damaged/Missing Steps (Stairs)

Deficiency: The horizontal tread or stair surface is damaged or missing.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: A step is broken or missing.

Walls (Unit)

The enclosure of the unit and rooms. Materials for construction include concrete, masonry block, brick, wood, glass block, plaster, sheet-rock. Surface finish materials include paint, wall-coverings.

This inspectable item can have the following deficiencies:

Bulging/Buckling

Damaged

Damaged/Deteriorated Trim

Peeling/Needs Paint

Water Stains/Water Damage/Mold/Mildew

Bulging/Buckling (Walls)

Deficiency: A wall is bowed, deflected, sagged, or is no longer vertically aligned.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: You see bulging, buckling, sagging, or that the wall is not longer vertically aligned.

Comments

Level 3: If you have any doubt about the severity of the condition, request an inspection by a structural engineer.

Damaged (Walls)

Deficiency: You see punctures in the wall surface that may or may not penetrate completely. Panels or tiles may be missing or damaged.

Note: This does not include small holes created by hanging pictures, etc.

Level of Deficiency:

Level 1: In a wall, you find a hole, missing tile or panel, or other damaged that is between 1 inch and 8½ inches by 11 inches. The hole does not penetrate the adjoining room; you cannot see through it.

Level 2: In a wall, you find a hole, missing tile or panel, or other damage that is larger than a sheet of paper—8½ inches by 11 inches.

-OR-

You find a crack greater than L inches wide and at least 11 inches long.

Level 3: You find a hold of any size that penetrates an adjoining room; you can see through the hole.

-OR-

Two or more walls than Level 2 holes.

Damaged/Deteriorated Trim (Walls)

Deficiency: Cove molding, chair rail, base molding, or other decorative trim or damaged or has decayed.

Note: Before the inspection starts, you should be given a list of 504/FH/ADA building/units. For the buildings/units on this list, do not record superficial surface/paint damage caused by wheelchairs, walkers, or medical devices as a deficiency.

Level of Deficiency:

Level 1: You see small areas of deterioration in the trim surfaces, and you estimate that 5–10% of the wall area is affected.

Level 2: You see large areas of deterioration in the trim surfaces, and you estimate that 10–50% of the wall area is affected.

Level 3: You see significant areas of deterioration in the wall surfaces, and you estimate that more than 50% of the wall area is affected.

Peeling/Needs Paint (Walls)

Deficiency:

—Paint is peeling, cracking, flaking, or otherwise deteriorated.

-OR-

—A surface is not painted.

Note: Before the inspection starts, you should be given a list of 504/FH/ADA buildings/units. For the buildings/items on this list, do not record as deficiencies any superficial surface/paint damage caused by wheelchairs, walkers, or medical devices.

Level of Deficiency:

Level 1: The affected area affected is more than 1 square foot but less than 4 square feet.

Level 2: The affected ares is more than 4 square feet.

Level 3: N/A

Water Stains/Water Damage/Mold Mildew (Walls)

Deficiency: Walls are not watertight. You see evidence of water infiltration, mold, or mildew—or damage caused by saturation or surface failure.

Level of Deficiency:

Level 1: You see evidence of a leak, mold, or mildew—such as a darkened area—over a small area (more than 1 square foot but less than 4 square feet). You may or may not see water.

Level 2: You see evidence of a leak, mold, or mildew—such as a darkened area—over a large area (more than 4 square feet). You probably see water.

Level 3: On one or more walls, you estimate that a large portion—50% of the surface—has been substantially saturated or damaged by water, mold, or mildew. You see cracks, moist areas, mold, or flaking. The wall surface may have failed.

-OR-

In any one unit, you estimate that more than 50% of the walls shows Level 1 damage from stains, mold, or mildew.

Comments

Level 3: If the condition is a health and safety concern, you must record it manually in ''Health and Safety: Air Quality.''

Windows (Unit)

Window systems provide light, security, and exclusion of exterior noise, dust, heat, and cold. Frame materials include wood, aluminum, and vinyl.

This inspectable item can have the following deficiencies:

Cracked/Broken/Missing Panes

Damaged Window Sill

Inoperable/Not Lockable

Missing/Deteriorated Caulking/Seals

Peeling/Needs Paint

Security Bars Prevent Egress

Cracked/Broken/Missing Panes (Windows)

Deficiency: A glass pane is cracked, broken, or missing from the window sash.

Level of Deficiency:

Level 1: You see a cracked window pane.

Level 2: N/A

Level 3: You see that a window pane is broken or missing from the window sash.

Damaged Window Sill (Windows)

Deficiency: The sill-the horizontal part of the window that bares the upright portion of the frame—is damaged.

Note: When looking for damage to window sills, do not include scratches and cosmetic deficiencies.

Level of Deficiency:

Level 1: A sill is damaged, but still there. The inside of a surrounding wall is not exposed, and you see no impact on the operation or functioning of the window or on its weather tightness.

Level 2: A sill is missing or damaged enough to expose the inside of the

surrounding walls and compromise its weather tightness.
Level 3: N/A

Inoperable/Not Lockable (Windows)

Deficiency: A window cannot be opened or closed because of damage to the frame, faulty hardware, or another cause.

Note:
1. If a window is not designed to lock, do not record this as a deficiency.
2. Windows that are accessible from the outside—a ground level window, for example—must be lockable.

Level of Deficiency:

Level 1: A window is not functioning, but can be secured. Other windows in the immediate area are functioning.
Level 2: N/A
Level 3: A window is not functioning, but cannot be secured. In the immediate area, there are not other windows that are functioning properly.

Missing/Deteriorated Caulking/Seals (Windows)

Deficiency: The caulking or seals that resists weather is missing or deteriorated.

Note:
1. This includes Thermopane and insulated windows that have failed.
2. Caulk and seals are considered to be deteriorated when two or more seals for any window have lost their elasticity. (If the seals crumble and flake when touched, they have lost their elasticity.)

Level of Deficiency:

Level 1: N/A
Level 2: Most of the window shows missing or deteriorated caulk, but there is no evidence of damage to the window or surrounding structure.
Level 3: There are missing or deteriorated caulk or seals—with evidence of leaks or damage to the window or surrounding structure.

Peeling/Needs Paint (Windows)

Deficiency: Paint covering the window assembly or trim is cracking, flaking, or otherwise failing.

Level of Deficiency:

Level 1: You see peeling paint or a window that needs paint.
Level 2: N/A
Level 3: N/A

Security Bars Prevent Egress (Windows)

Deficiency: Exiting by window is severely limited or impossible because security bars are damaged or improperly constructed or installed.

Note: This does not include windows that were not designed for exiting.

Level of Deficiency:

Level 1: N/A
Level 2: N/A
Level 3: Security bars are not functioning as they should, limiting the ability to exit through the window and posing safety risks.

Health and Safety Inspectable Items

Items to inspect for ''Health and Safety'' are as follows:

- Air Quality
- Electrical Hazards
- Elevator
- Emergency/Fire Exits
- Flammable Materials
- Garbage and Debris
- Hazards
- Infestation

Air Quality (Health and Safety)

Indoor/Outdoor spaces must be free from high levels of sewer gas, fuel gas, mold, mildew, or other harmful pollutants. Indoors must have adequate ventilation.

The following deficiencies can be noted:
Mold and/or Mildew Observed
Propane/Natural Gas/Methane Gas Detected
Sewer Odor Detected

Mold and/or Mildew Observed (Air Quality)

Deficiency: You see evidence of mold or mildew, especially in bathrooms and air outlets.

Propane/Natural Gas/Methane Gas Detected (Air Quality)

Deficiency: You detect strong propane, natural gas, or methane gas odors that could:
—pose a risk of explosion/fire
—pose a health risk if inhaled

Sewer Odor Detected (Air Quality)

Deficiency: You detect sewer odors that could pose a health risk if inhaled for prolonged periods.

Electrical Hazards (Health and Safety)

Any hazard that poses a risk of electrical fires, electrocution, or spark/explosion.

The following deficiencies can be noted:
Exposed Wires/Open Panels
Water Leaks On or Near Electrical Equipment

Exposed Wires/Open Panels (Electrical Hazards)

Deficiency: You see exposed bare wires or openings in electrical panels.

Note: If the accompanying authority has identified abandoned wiring, capped wires do not pose a risk and should not be recorded as a deficiency.

Water Leaks On or Near Electrical Equipment (Electrical Hazards)

Deficiency: You see water leaking, puddling, or ponding on or immediately near any electrical apparatus. This could pose a risk of fire, electrocution, or explosion.

Elevator (Health and Safety)

Vertical conveyance system for moving personnel, equipment, materials, household goods, etc.

The following deficiency can be noted:
Tripping

Tripping (Elevator)

Deficiency: An elevator is misaligned with the floor by more than ¾ inch. The elevator does not level as it should, which causes a tripping hazard.

Emergency/Fire Exits (Health and Safety)

All buildings must have acceptable fire exits that are also properly marked and operational. (This would include fire towers, stairway access doors, & external exits.). These can include operable windows on the lower floors with easy access to the ground or a back door opening onto a porch with a stairway leading to the ground.

Note: This does not apply to individual units.

The following deficiencies can be noted:
Blocked/Unusable
Missing Exit Signs

Blocked/Unusable (Emergency/Fire Exits)

Deficiency: The exit cannot be used or exit is limited because a door or window is nailed shut, a lock is broken, panic hardware is chained, debris, storage, or other conditions.

Missing Exit Signs (Emergency/Fire Exits)

Deficiency:

—Exit signs that clearly identify all emergency exits are missing.
-OR-
—There is no illumination in the area of the sign.

Flammable Materials (Health and Safety)

Any substance that is either known to be combustible or flammable or is stored in a container identifying it as such.

The following deficiency can be noted:
Improperly Stored

Improperly Stored (Flammable Materials)

Deficiency: Flammable materials are improperly stored, causing the potential risk of fire or explosion.

Garbage and Debris (Health and Safety)

Accumulation of garbage and debris exceeding the capacity of the storage area or not stored in an area sanctioned for such use.

The following deficiencies can be noted:
Indoors
Outdoors

Indoors (Garbage and Debris)

Deficiency:

—Too much garbage has gathered, more than the planned storage capacity.
-OR-
—Garbage has gathered in an area that is not sanctioned for staging or storing garbage or debris.

Note: This does not include garbage and debris improperly stored outside. For this deficiency, see Garbage and Debris—Outdoors.

Outdoors (Garbage and Debris)

Deficiency:

—Too much garbage has gathered—more than the planned storage capacity.
-OR-
—Garbage has gathered in an area not sanctioned for staging or storing garbage or debris.

Note: This does not include garbage improperly stored indoors. For this deficiency, see Garbage and Debris—Indoors.

Hazards (Health and Safety)

Physical hazards that pose risk of bodily injury.

The following deficiencies can be noted:
Other

Sharp Edges
Tripping

Other (Hazards)

Deficiency: If you see any general defects or hazards that pose risk of bodily injury, you must note them.

Note: This includes hazards that are not specifically defined elsewhere.

Sharp Edges (Hazards)

Deficiency: You see any physical defect that could cause cutting or breaking human skin or other bodily harm—generally in commonly used or traveled areas.

Tripping (Hazards)

Deficiency: You see any physical defect that poses a tripping risk, generally in walkways or other traveled areas.

Note: This does not include tripping hazards from elevators that do not level properly. For this deficiency, see Elevator—Tripping under Health and Safety.

Infestation (Health and Safety)

Presence of rats, or severe infestation by mice or insects such as roaches or termites.

The following deficiencies can be noted:
Insects
Rats/Mice/Vermin

Insects (Infestation)

Deficiency: You see evidence of infestation of insects—including roaches and ants—throughout a unit or room, especially in food preparation and storage areas.

Note:

1. This does not include infestation from rats/mice. For this deficiency, see Infestation—Rats/Mice/Vermin under Health and Safety.

2. If you see baits, traps, and sticky boards that show no presence of insects, do not record this as a deficiency.

Rats/Mice/Vermin (Infestation)

Deficiency: You see evidence of rats or mice—sightings, rat or mouse holes, or droppings.

Note:

1. This does not include infestation from insects. For this deficiency, see Infestation—Insects under Health and Safety.

2. If you see baits, traps, or sticky boards that show no presence of vermin, do not record this as a deficiency.

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Federal Register

Monday,
November 26, 2001

Part V

Department of Housing and Urban Development

Public Housing Assessment System (PHAS); Financial Condition Scoring Process Interim Assessments; Notice

Department of Housing and Urban Development

[Docket No. FR 4710–N–03]

Public Housing Assessment System (PHAS); Financial Condition Scoring Process Interim Assessments

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice is an update of the Financial Condition Indicator scoring notice that was published on December 21, 2000, and takes into consideration public comment received from PHAs, public housing industry and resident groups, and other interested Federal and Congressionally-chartered agencies. This notice describes an interim scoring process for public housing agencies (PHAs) on the Financial Condition Indicator of PHAS. This interim process is effective for PHAs with fiscal year ends (FYEs) of September 30, 2001, December 31, 2001, March 31, 2002, June 30, 2002, and September 30, 2002. After the interim period, the Department will use the scoring process described in the Financial Condition Scoring notice published December 21, 2000 to determine a PHA's PHAS Financial Condition Indicator score.

The changes made to the Financial Condition scoring process for PHAs with fiscal years ending on or after September 30, 2001, are discussed in the Supplementary Information section of this notice.

DATES: Comments Due Date: December 26, 2001.

FOR FURTHER INFORMATION CONTACT: For further information contact the Real Estate Assessment Center (REAC), Attention: Wanda Funk, U.S. Department of Housing and Urban Development, 1280 Maryland Avenue, SW, Suite 800, Washington, DC 20024: telephone REAC's Customer Service Center at (888) 245–4860 (this is a toll free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Additional information is available from the REAC web site at *http://www.hud.gov/reac/.*

SUPPLEMENTARY INFORMATION:

1. Purpose of this Notice

The purpose of this notice is to provide additional information about the scoring process for PHAS Indicator #2, Financial Condition, during the interim assessment period commencing with PHAs for FYEs of September 30, 2001. This notice specifically addresses changes to the scoring methodology for two components of the PHAS Financial Indicator: component #1, Current Ratio, and component #2, Number of Months Expendable Fund Balance. The objective of the Financial Condition Indicator is to measure the financial condition of a PHA for the purpose of evaluating whether it has sufficient financial resources and is capable of managing those financial resources effectively to support the provision of housing that is decent, safe, sanitary and in good repair.

The majority of the information provided in this notice was published on May 13, 1999 (64 FR 26222), and republished on June 23, 1999 (64 FR 33700), June 28, 2000 (65 FR 40008), and December 21, 2000 (65 FR 80686). This Financial Condition Scoring Process notice has been revised to reflect the public comments received on the previous notices and takes into consideration public comments received from PHAs, public housing industry groups, resident groups, and other interested Federal and Congressionally-chartered agencies as a result of meetings held with these entities.

This notice also provides the basis for scoring PHAs based on the values of the financial condition components, as well as audit and internal control flags as provided in the PHAS final rule published January 11, 2000 (65 FR 1712), and the technical corrections made on June 6, 2000 (65 FR 36042), as codified in 24 CFR part 902.

This Financial Condition Scoring notice is applicable only to PHAs with FYEs of September 30, 2001, December 31, 2001, March 31, 2002, June 30, 2002, and September 30, 2002.

2. Current Financial Indicator Scoring Process

The current Financial Condition Indicator consists of scoring six major financial components. The chart below shows the six components that constitute the Financial Condition Indicator and their assigned points.

FINANCIAL CONDITION INDICATOR

Scoring components	Measurement	Points
Current Ratio (CR)	Liquidity	9.0
Number of Months Expendable Fund Balance (MEFB)	Adequacy of Reserves	9.0
Tenant Receivables Outstanding (TRO)	Ability to collect payments of tenant receivables	4.5
Occupancy Loss (OL)	Ability to maximize rental income	4.5
Expense Management/Utility Consumption (EM/UC)	Ability to maintain expense ratios at a reasonable level relative to peers (adjusted for size and region).	1.5
Net Income or Loss as a percentage of Expendable Fund Balance (NI).	Effect of current year operations on PHA's viability	1.5

The values of the six components of the Financial Condition Indicator calculated from the financial data comprise the overall financial assessment of the PHA. The components and their relative importance to the total financial score are the result of studies of PHA financial performance and of industry portfolio management techniques to identify the most appropriate financial measures to gauge a PHA's financial position. These components represent measures that are appropriate benchmarks in any residential real estate environment. The score assigned to each component is based on the distribution of that component's values and the relative relationship between the components and the PHA's overall financial performance.

Financial Assessment Focus

The PHAS financial assessment is based on the entity-wide operations of a PHA, which includes, in addition to public housing, financial information on Section 8, Community Development Block Grants, and other HUD funding in its calculations, as well as funds from non-HUD sources.

Scoring Approach

Under PHAS, the components of the PHAS Financial Condition Indicator were developed to both fairly and accurately assess a PHA's financial performance and financial management. As part of the development, the

components were tested to establish the correlation between a PHA's performance under each component and the fiscal health of a PHA. PHAs were evaluated and assigned scores based on a PHA's performance relative to its peers. In other words, all PHAs as a group determine the mean score and each PHA is then ranked accordingly.

3. Current Scoring Process

A. GAAP-Based Data

PHAs are required to submit financial reports electronically via the Financial Data Schedule (FDS) using generally accepted accounting principles (GAAP). PHAs were informed of the conversion to GAAP with the issuance of the PHAS proposed rule on June 30, 1998, and the PHAS final rule published on September 1, 1998, codified at 24 CFR part 902.

GAAP-based scores are produced using data contained in the FDS. The GAAP-based financial data is first used to calculate the six financial ratios that measure various aspects of financial health, such as short-term liquidity, Expense Management/Utility Consumption (EM/UC), and collection of tenant receivables. The six financial ratios are calculated into component values. Each component value is converted into a score based on the value relative to the PHA's peers.

B. Statistical Distributions/Thresholds

The PHA is evaluated and assigned a score based on its financial performance on an entity-wide basis and relative to its peers. In other words, all PHAs as a group determine the mean score and each PHA is then ranked accordingly. Scoring thresholds were developed to make the peer grouping assessment possible. The thresholds are estimated by examining the distributions of component values by peer group. For the four most significant components (Current Ratio, Number of Months Expendable Fund Balance, Tenant Receivables Outstanding, and Occupancy Loss), thresholds are set such that approximately 50 percent of the distribution receives the maximum number of points, as long as 50 percent of the distribution has acceptable values for the component. Thus, the highest number of points is awarded to the PHAs whose financial measures are most reasonable both relative to their peers and in an absolute business sense. The specific percentiles that make this 50 percent of PHAs are established by identifying natural break points along the distributions. The remaining two components (Expense Management and Net Income as a Percentage of Fund Balance) assign zero points to PHAs that fall only in the extreme outer ranges of the distribution of values, and award 1.5 points to the remaining PHAs. Thresholds identify a point below which component values are clearly financially unacceptable; thus component values beyond these thresholds result in a score of zero. For component values within the acceptable range, a PHA would receive a score based on its performance relative to its peers. This is determined by its position in the distribution of values for each component and peer group represented by percentiles. For those components on a 4.5 point scale, the cutpoints are set at the 50th and 95th percentiles. For those components on a 9.0 point scale, the cutpoints are set at the 30th, 80th, and 95th percentiles. For example, on the Current Ratio component, a large PHA (i.e., a PHA administering 1,250 to 9,999 Federally-funded units) would receive zero points for a ratio that is less than one, while it would receive 9.0 points for a ratio between 1.8 and 3.9. If a large PHA's Current Ratio component value is between 1.0 and 1.8, a component score is developed based on the component value that was assigned to the PHA. Therefore, the PHA receives a score between 1.0 and 9.0 points. The current threshold for each component is described in the PHAS Financial Condition Scoring notice dated December 21, 2000.

In addition, there is a penalty of up to 1.5 points for PHAs with excess liquidity or excess reserves, defined as a Current Ratio or Months Expendable Fund Balance value beyond the 80th percentile. However, no points are deducted under the Current Ratio or Months Expendable Fund Balance components for a PHA that has excess liquidity or excess reserves if the PHA has achieved at least 90 percent of the points available under the Physical Condition Indicator, and is not required to prepare a follow-up survey plan under the Resident Service and Satisfaction Indicator.

C. Business Principles

Scoring of certain components follows generally recognized business principles. These principles indicate that there are certain absolute thresholds below which component values are clearly financially unacceptable and component values below that point should result in a score of zero. These principles are used in scoring the Current Ratio and Number of Months Expendable Fund Balance components. For both of these components, a value of less than one is financially unacceptable, regardless of PHA size, and therefore merits a score of zero.

D. Size-Based Peer Grouping

Peer groupings are established according to the size of the PHA, based on the total number of units operated by the PHA for all programs and activities. The current size peer groupings are as follows:
Very Small (0–49 units)
Small (50–249 units)
Low Medium (250–499 units)
High Medium (500–1,249 units)
Large (1,250–9,999 units)
Extra-Large (10,000+ units)

E. Region-Based Peer Grouping

The EM/UC component score is based on public housing low-rent information only, whereas the other five FASS components are based on entity-wide information. In addition, in order to have a more equitable assessment of a PHA's expenses relative to its peers, the REAC developed regional peer groupings for the EM/UC component, to supplement the size-based peer groups. Thus, a PHA is scored on EM/UC against a threshold that is calculated from all expense data in that PHA's similar size group and region. The regions are based on the first number of the PHA's zip code, and are divided as follows:

Region	States
0	CT, MA, ME, NH, NJ, RI, VT.
1	DE, NY, PA.
2	DC, MD, NC, SC, VA, WV.
3	AL, FL, GA, MS, TN, RQ, VQ.
4	IN, KY, MI, OH.
5	IA, MN, MT, ND, SD, WI.
6	IL, KS, MO, NE.
7	AR, LA, OK, TX.
8	AZ, CO, ID, NM, NV, UT, WY.
9	AK, CA, HI, OR, WA, GQ.

For the EM/UC component, the size-based peer groups were combined into three groups (small, medium and large) for analysis purposes because there are not sufficient statistical observations to differentiate all six size-based peer groups.

4. Interim Financial Indicator Scoring Process

As a result of the recent meeting held with PHAs, public housing industry, resident groups, and other interested Federal and Congressional-chartered agencies, the Financial Condition scoring process during the interim period will remain the same except for component #1, Current Ratio, and component #2, Number of Months Expendable Fund Balance. Under the interim scoring process, the score for Current Ratio and Number of Months

Expendable Fund Balance will not be based on peer groups but only based on business principles. PHAs with a Current Ratio or Months Expendable Fund Balance value of less than one will receive zero points for these two components. If the values for Current Ratio and Months Expendable Fund Balance are equal to or greater than one, then PHAs, regardless of size, will receive the full nine points. This means that for Current Ratio, a value equal to or greater than one indicates current resources must be equal to current obligations to receive the full nine points. For the Months Expendable Fund Balance, a value equal to or greater than one indicates that at least one month of reserves is sufficient to receive the full nine points. There will be no scores other than zero or nine for Current Ratio and Months Expendable Fund Balance under the interim scoring process. The interim scoring process is illustrated in the table below.

INTERIM FINANCIAL INDICATOR SCORING PROCESS

Components	Value <1	Value ≥ 1
Current Ratio	0 points. ...	9 points.
Months Expendable Fund.	0 points. ...	9 points.
Balance	.....	

5. Audit Adjustments

Pursuant to 902.63(b), the REAC calculates a revised FASS score after audited financial information is received. The revised FASS score, which is based on the audited information, can either increase or decrease the initial score that was based on the unaudited financial information. There are two types of adjustments to the audited score that relate to financial audit information. The first type deals with the audit flags and reports that result from the audit itself. Reportable conditions and material weaknesses are considered to be audit flags, alerting the REAC to an internal control weakness or an instance of noncompliance with Federal laws and regulations. The second adjustment deals with significant differences between the unaudited and audited financial information reported to HUD pursuant to 902.63(b).

Audit Opinion and Flags

As part of the analysis of the financial health of a PHA, including assessment of the potential or actual waste, fraud or abuse at a PHA, HUD will look to the Audit Report to provide an additional basis for accepting or adjusting financial component scores. The information collected from the annual audit report pertains to the type of audit opinion, details of the audit opinion, and the presence of reportable conditions and material weaknesses.

If the auditor's opinion is anything other than unqualified, points will be deducted from the PHA's audited financial score. The REAC will review audit flags to determine their significance as it directly pertains to the assessment of the PHA's financial condition. If the flag has no effect on the financial components or the overall financial condition of the PHA as it relates to the PHAS assessment, the audited score will not be adjusted. However, if the flags have an impact on the PHAS assessment, the PHA's audited score will be adjusted, in accordance with the seriousness of the reported finding.

These flags are collected by using the OMB A–133 Data Collection Form. The PHA completes this form for both the unaudited and audited submissions. At the time of the unaudited submission the form is used as a self-assessment tool and should reflect the PHA's knowledge of their financial and internal control condition and should acknowledge their understanding of what the auditor will report.

If the OMB A–133 Data Collection Form indicates that the auditor's opinion will be anything other than unqualified, points will be deducted from the PHAS score. The points have been established by the REAC using a three-tier system. The tiers are meant to give consideration to the seriousness of the audit qualification and to limit the deducted points to a reasonable portion of the PHA's total, actual score. The tiers, as established by the REAC, are defined below.

AUDIT FLAG TIERS

Tier	PHAS points deducted
Tier 1	100 percent of the PHA's total unadjusted FASS score.
Tier 2	10 percent of the PHA's adjusted FASS score.
Tier 3	Maximum of 5 percent of the PHA's adjusted FASS score. This maximum is cumulative and not to be assessed for each Tier 3 audit or internal control flag.

Each tier is applied sequentially beginning with Tier 1; subsequent tier deductions are based on the initial score less any preceding tier deductions. Tier 3 audit flags are divided into levels that reflect the seriousness of the audit qualification and result in scoring adjustments based on the following criteria:

- Level 1—0.15 points per occurrence not to exceed three occurrences (.45 maximum point deduction).
- Level 2—0.15 points per occurrence not to exceed four occurrences (.6 maximum point deduction).
- Level 3—0.075 points per occurrence not to exceed six occurrences (.45 maximum point deduction).

Please refer to the table at the end of this section, titled ''Audited Flags and Tier Classification,'' that lists audit flags and associated tier classifications.

Review of Audited Versus Unaudited Submission

The purpose of a comparison of the ratios and scores resulting from the current year's unaudited Financial Data Schedule submission to the ratios and scores resulting from the current year's audited submission is to:

1. Identify significant changes in ratio calculation results and/or scores from the unaudited submission to the audited submission;

2. Identify PHAs that consistently provide significantly different data from their unaudited submission to their audited submission;

3. Assess or alleviate penalties associated with the inability to provide reasonably accurate unaudited data within the required time period.

This review process will only be performed for the audited submission.

Materiality and Penalty Assessment

The REAC views the transmission of significantly inaccurate unaudited financial data as a serious condition. Therefore, PHAs are encouraged to assure financial data is as reliable as possible for their unaudited submissions.

A significant change penalty will be assessed for significant differences between the unaudited and audited submissions. A significant difference is considered to be an overall FASS score decrease of three or more points from the unaudited to audited submission. The PHAS system automatically deducts the significant change penalty from the audited score and this reduction triggers the REAC analyst's review.

REAC may waive the significant change penalty if the PHA provides reasonable documentation explaining the significant difference in its submission. A significant change penalty is considered a Tier 3, level 2 audit flag, and will result in a reduction of points as associated with all other Tier 3 audit flags.

The table below summarizes the audit flags and associated tier classifications.

AUDIT FLAGS AND TIER CLASSIFICATIONS

Audit flag	Tier classification
Unqualified opinion	None.
No audit opinion	Tier 1.
Adverse opinion	Tier 1.
Disclaimer of opinion	Tier 1.
Qualified opinion:	
1. GAAP qualifications:	
A. Change in accounting principle	Tier 3, Level 1.
B. Change in accounting estimate	Tier 3, Level 1.
C. Change in accounting method	Tier 3, Level 1.
D. Departures from GAAP	Tier 2.
(1) Financial statements using basis other than GAAP	Tier 1.
(2) Exclusion of alternate accounting for an account or group of accounts	Tier 2.
(3) Inconsistently applied GAAP	Tier 2.
(4) Omissions/Inadequate Disclosure	Tier 2.
2. GASS—Scope Limitations	Tier 2.
A. Imposed by management	Tier 2.
B. Imposed by circumstance	Tier 3, Level 1.
C. Year 2000 (add back)	Tier 3, Level 1.
3. Report on major program compliance	Tier 3, Level 1.
4. Report on internal control	Tier 3, Level 1.
Accounting principles used caused the financial statements to be materially misstated	Tier 2.
Inadequate records	Tier 2.
Going concern	Tier 1.
Material noncompliance disclosed	Tier 2.
1. Internal control weakness	Tier 3, Level 2.
2. Compliance	Tier 3, Level 2.
3. Opinion on Supplemental schedules	Tier 3, Level 2.
Reportable condition:	
1. Internal control	Tier 3, Level 3.
2. Compliance	Tier 3, Level 3.
Material Change Penalty	Tier 3, Level 2.

Appendices

The graphs shown in Appendix 1 depict the approximate scoring functions used for each of the six components of the Financial Indicator for the Interim Financial Indicator Scoring Process. Appendix 2 provides threshold values and associated scores for the Tenant Receivables Outstanding, Occupancy Loss, and Expense Management/Utility Consumption components and peer group, based on the GAAP data pool as of October 15, 2000.

Dated: November 19, 2001.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

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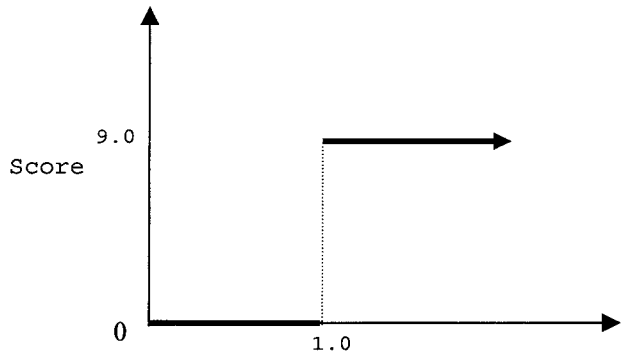
Appendix 1 - Graphs of Financial Condition Indicator Components

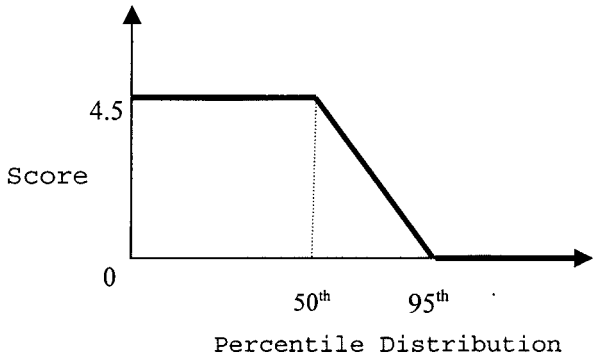
Graph 1: ***Financial Condition Components #1 & #2: Current Ratio & Months Expendable Fund Balance***



For Current Ratio and Months Expendable Fund Balance components, a PHA can receive either zero or 9.0 points.

PHAs with a Current Ratio or Months Expendable Fund Balance value of less than one will receive zero points for these two components. If the values for Current Ratio and Months Expendable Fund Balance are equal to or greater than one, then PHAs, regardless of size, will receive the full 9.0 points.

Graph 2: ***Financial Condition Components #3 & #4: Occupancy Loss & Tenant Receivables Outstanding***

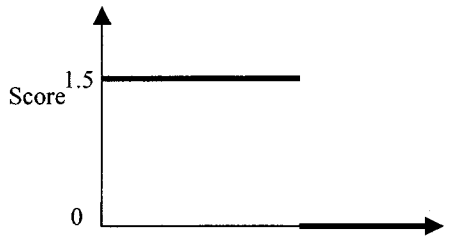


For Occupancy Loss (OL) and Tenant Receivables Outstanding (TRO), the maximum number of possible points is 4.5, which is received up to approximately the 50th percentile. For values beyond approximately the 95th percentile, the PHA receives zero points.

For the OL calculation, the PHA may exclude the vacant units approved

by HUD to be taken off-line for ongoing modernization, conversion, non-dwelling purposes, or demolition.

Graph 3: *Financial Condition Component #5: Expense Management*



For Expense Management (EM), a PHA can receive either 1.5 or zero points.

There are six expense categories that comprise EM. A PHA's per unit, per month expense amount in each category is multiplied by the weights listed below, and summed to produce a weighted average. This summed number is compared to the threshold for that PHA's size and regional peer group. Each cross-section of size and region has one threshold that is set at 1.645 standard deviations (approximately the 95th percentile) from the mean of the distribution in that group. If the PHA's weighted average expense amount falls below the threshold, it receives 1.5 points; above the threshold, it receives zero points. With this weighted average methodology, a PHA may have high expenses in one category, for example, but may still receive 1.5 points if its other expense categories are reasonable relative to its peers. The weights are as follows:

Expenses	Percent Weight
Administrative Expense	34%
General Expense	33%
Tenant Service Expense	10%
Protective Service Expense	10%
Maintenance & Operation Expense	10%
Utilities Expense	3%
Total	100%

For example: The following PHA is in the Extra Large size category, is geographically located in region 0, and has the following expense totals:

Expense	Amount	Weighted Average
Administrative Expense	$115	.34 * $115 = $39.10
General Expense	$105	.33 * $105 = $34.65
Tenant Services	$15	.10 * $15 = $1.50
Protective Service Expense	$20	.10 * $20 = $2.00
Maintenance & Operation Expense	$45	.10 * $45 = $4.50
Utilities Expense	$150	.03 * $150 = $4.50
TOTAL		**$86.25**

The threshold for an Extra Large PHA in Region 0 is $107. Because the PHA has a weighted average expense total that is less than the applicable threshold, the PHA receives the full 1.5 points.

Graph 4: ***Financial Condition Component #6: Net Income***

	Negative Reserves	Positive Reserves
Positive Profits	I. Positive Profits and Negative Reserves Score = 1.5	III. Positive Profits and Positive Reserves Score = 1.5
Negative Profits	II. Negative Profits and Negative Reserves Score = 0	IV. Negative Profits and Positive Reserves If there is at least $5 of Reserves for every $1 of Loss, score = 1.5. If there is less than $5 of Reserves for every $1 of Loss, score = 0.

For Net Income (NI), a PHA can receive either 1.5 or zero points.

All PHAs that have a net income for the year receive the full score. If a PHA reports a net loss for the year, and has a positive Expendable Funds Balance, as long as the loss does not exceed 20% of the EFB, the PHA will also receive the full score. This 20% threshold does not vary by region or size.

Appendix 2 - Threshold Tables for Interim Scoring

These tables can be interpreted in the following manner:

- Identify a size category for an indicator;
- The rows under that size category identify ranges of possible values for that indicator; and
- The column to the right labeled "Score" identifies the score or range of scores that is awarded to each range of indicator value for that size category.
- The thresholds presented here have been rounded for presentation purposes, whereas those used to calculate scores at REAC are not rounded.

Tenant Receivables Outstanding (TRO)							
Very Small	Score	Small	Score	Low Medium	Score	High Medium	Score
TRO ≤ 1	4.5	TRO ≤ 2	4.5	TRO ≤ 4	4.5	TRO ≤ 5	4.5
1<TRO<37	4.5>Score>0	2<TRO<26	4.5>Score>0	4<TRO<31	4.5>Score>0	5<TRO<29	4.5>Score>0
TRO≥37	0	TRO≥26	0	TRO≥31	0	TRO≥29	0

Tenant Receivables Outstanding (TRO)			
Large	Score	Extra Large	Score
TRO ≤ 7	4.5	TRO ≤ 13	4.5
7<TRO<33	4.5>Score>0	13<TRO<81	4.5>Score>0
TRO≥33	0	TRO≥81	0

Occupancy Loss (OL)							
Very Small	Score	Small	Score	Low Medium	Score	High Medium	Score
OL≤1%	4.5	OL≤3%	4.5	OL≤5%	4.5	OL≤5%	4.5
1<OL<18%	4.5> Score>0	3<OL<21%	4.5 >Score>0	5<OL<21%	4.5 >Score>0	5<OL<21%	4.5 >Score>0
OL≥18%	0	OL≥21%	0	OL≥21%	0	OL≥21%	0

Occupancy Loss (OL)			
Large	Score	Extra Large	Score
OL≤6%	4.5	OL≤7%	4.5
6<OL<20%	4.5> Score>0	7<OL<22%	4.5 >Score>0
OL≥20%	0	OL≥22%	0

Expenses	Percent Weight
Administrative Expense	34%
General Expense	33%
Tenant Service Expense	10%
Protective Service Expense	10%
Maintenance & Operation Expense	10%
Utilities Expense	3%
Total	100%

Each Expense Management category will be weighted according to the table above. Non-tenant related expense categories are assigned higher weight to encourage PHAs to allocate resources to tenant-related expenses.

To calculate a score, the weighted thresholds for all six categories are summed. PHAs that have expenses per unit per month of less than the total threshold will receive 1.5 points. The Expense Management thresholds are expressed in dollars per unit per month and are organized by regional peer groupings.

Expense Management (EM)							
Region	Very small	Small	Low Medium	High Medium	Large	Extra Large	Score
0	EM<$103.30	EM<$103.30	EM<$77.82	EM<$77.82	EM<$107.26	EM<107.26	1.5
0	EM≥$103.30	EM≥$103.30	EM≥$77.82	EM≥$77.82	EM≥$107.26	EM≥107.26	0
1	EM<$83.27	EM<$83.27	EM<$85.85	EM<$85.85	EM<$83.68	EM<83.68	1.5
1	EM≥$83.27	EM≥$83.27	EM≥$85.85	EM≥$85.85	EM≥$83.68	EM≥83.68	0
2	EM<$68.36	EM<$68.36	EM<$65.68	EM<$65.68	EM<$71.45	EM<71.45	1.5
2	EM≥$68.36	EM≥$68.36	EM≥$65.68	EM≥$65.68	EM≥$71.45	EM≥71.45	0
3	EM<$57.94	EM<$57.94	EM<$53.79	EM<$53.79	EM<$67.57	EM<67.57	1.5
3	EM≥$57.94	EM≥$57.94	EM≥$53.79	EM≥$53.79	EM≥$67.57	EM≥67.57	0
4	EM<$60.29	EM<$60.29	EM<$72.93	EM<$72.93	EM<$95.24	EM<95.24	1.5
4	EM≥$60.29	EM≥$60.29	EM≥$72.93	EM≥$72.93	EM≥$95.24	EM≥95.24	0
5	EM<$55.13	EM<$55.13	EM<$64.00	EM<$64.00	EM<$86.65	EM<86.65	1.5
5	EM≥$55.13	EM≥$55.13	EM≥$64.00	EM≥$64.00	EM≥$86.65	EM≥86.65	0
6	EM<$53.65	EM<$53.65	EM<$63.60	EM<$63.60	EM<$82.95	EM<82.95	1.5
6	EM≥$53.65	EM≥$53.65	EM≥$63.60	EM≥$63.60	EM≥$82.95	EM≥82.95	0
7	EM<$51.91	EM<$51.91	EM<$52.51	EM<$52.51	EM<$62.65	EM<62.65	1.5
7	EM≥$51.91	EM≥$51.91	EM≥$52.51	EM≥$52.51	EM≥$62.65	EM≥62.65	0
8	EM<$59.00	EM<$59.00	EM<$72.74	EM<$72.74	EM<$78.67	EM<78.67	1.5
8	EM≥$59.00	EM≥$59.00	EM≥$72.74	EM≥$72.74	EM≥$78.67	EM≥78.67	0
9	EM<$77.48	EM<$77.48	EM<$89.04	EM<$89.04	EM<$99.45	EM<99.45	1.5
9	EM≥$77.48	EM≥$77.48	EM≥$89.04	EM≥$89.04	EM≥$99.45	EM≥99.45	0

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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 ''PLUS'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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S. 1447/P.L. 107–71

Aviation and Transportation Security Act (Nov. 19, 2001; 115 Stat. 597)

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1, 2 (2 Reserved)	(869–044–00001–6)	6.50	[4]Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101)	(869–044–00002–4)	36.00	[1] Jan. 1, 2001
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Complete 2000 CFR set		1,094.00	2000
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Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained..