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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

INS No. 2072–00; AG Order No. 2540–2001

RIN 1115–AF61

Adjustment of Certain Fees of the Immigration Examinations Fee Account

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adjusts the fee schedule of the Immigration Examinations Fee Account (IEFA) for certain immigration and naturalization applications and petitions, as well as the fee for the fingerprinting of applicants who apply for certain immigration and naturalization benefits. Fees collected from persons filing these applications and petitions are deposited into the IEFA and used to fund the full cost of processing immigration and naturalization applications and petitions and associated support benefits; the full cost of providing similar benefits to asylum and refugee applicants; and the full cost of similar benefits provided to other immigrants, as specified in the regulation, at no charge. This rule ensures that the fees will allow the Immigration and Naturalization Service (Service) to process applications and petitions that it expects to receive in fiscal year (FY) 2002 and FY 2003 and to provide funding to other programs that receive IEFA funds.

DATES: This final rule is effective February 19, 2002. Applications or petitions mailed, postmarked, or otherwise filed, on or after this date require the new fee.

FOR FURTHER INFORMATION CONTACT: Paul Schlesinger, Chief, Immigration Services Branch, Office of Budget, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536, telephone (202) 314–3410.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Service published a proposed rule in the **Federal Register** on August 8, 2001, at 66 FR 41456, to adjust certain fees of the IEFA. The fee adjustments are necessary to comply with specific federal immigration laws and the federal user fee statute and corresponding regulations and guidance, which require federal agencies to charge a fee for services when such services provide special benefits to recipients that do not accrue to the public at large. The revised fees are calculated to recover the full costs of providing these special benefits. The proposed rule was published with a 60-day comment period, which closed on October 9, 2001. The Service received 467 comments pertaining to the increases to the fees of the IEFA. The final rule implements the fee structure as outlined in the proposed rule, without change. Any applications or petitions mailed, postmarked, or otherwise filed, on or after February 19, 2002 will require the new fee.

Comments were received from a broad spectrum of individuals and organizations, including 5 refugee and immigrant service organizations, 17 public policy and advocacy groups, 5 attorney organizations, 129 past and present adopting parents, and 311 concerned citizens or prospective citizens. All of the comments were carefully considered before preparing this final rule. The following is a discussion of these comments and the Service's response.

II. Summary of Comments

A. Form I–600/600A, Petition To Classify an Orphan as an Immediate Relative/Application for Advance Processing of Orphan Petitions

One hundred and thirty comments were received expressing dissatisfaction with the fee increases associated with Forms I–600 and I–600A, Petition to Classify an Orphan as an Immediate Relative, and the Application for Advance Processing of Orphan Petition, respectively. All 130 comments received were similar in nature. The commenters indicated that these fees discriminated against United States citizens who wished to adopt abandoned children living in orphanages around the world.

For the Service, adjudication of the I–600 and I–600A ''orphan petitions'' has been a priority. This commitment is established in the regulations at 8 CFR 204.3(a)(2). Specifically, orphan petitions are filed at District Offices and adjudicated by senior District Adjudication Officers. This is due to both the complexity of the international adoption process in general and the process of adjudication required by law and regulation. In addition, because of the sensitivity of international adoptions, handling these cases in District Offices by experienced officers allows for personalized customer service.

The Service may be in constant contact with the petitioner throughout the process of a U.S. citizen's effort to adopt a child from abroad. The earliest contact may be a request for information and forms, followed by the filing of the I–600A and the home study. The adjudication of the I–600A petition requires knowledge of state law requirements regarding adoptions, including pre-adoption requirements in certain states, such as counseling. Each petition must be accompanied by a home study, for which there are state requirements as well as federal requirements. Since there is no single national standard, it makes sense to handle these in District Offices that are better able to stay on top of ever-changing state requirements and establish effective local liaisons.

The home study process is complex and often the adjudicator needs to request that additional information be provided in the home study. When the child to be adopted is identified, further information and contact may ensue. Documentation is usually added to the petition as the adoption process progresses. It is not unusual for a case to be with the Service for many months, demanding an intense and protracted level of customer service. There is a great deal of communication in person, telephonically, and in writing, between the Service, adoption agencies, social workers, prospective adoptive parents, and, often, congressional offices on these cases.

The home study review makes this petition particularly labor-intensive.

The adjudicator is tasked with the careful review of the home study, perhaps 10–20 pages long, addressing a number of issues including, any history of abuse and history of arrests. This information is carefully compared against Federal Bureau of Investigation (FBI) fingerprint checks. If necessary, the officer must request and review the arrest dispositions of petitioners with criminal records. When there are discrepancies, the home study must be revised or supplemented to include the new information and consider the impact it has on the placement.

The I–600 petition establishes eligibility of a child as an orphan. Adjudication of these petitions requires the Service to determine if the child meets the regulatory definition of an orphan. Accordingly, the adjudicator must develop and maintain a level of expertise in the laws and processes governing adoption in countries from which children are adopted. This assessment may require working with the Department of State or Service offices to verify the validity of documents and interpretation of laws regarding international adoptions in countries other than the United States.

Finally, the I–600 adjudication also includes an I–604 investigation. The I–604, Request for and Report on Overseas Orphan Investigation, is used to document the investigations that must be completed in every orphan case before the I–600 can be approved. This includes: the child's birth name, and date/place of birth; where the child lives, and if the child lives at an orphanage or with someone other than the biological parent(s), how and why that placement occurred; the child's physical and mental condition, and information about any known physical or mental illnesses (e.g. is the child a special needs child); if the child has siblings and, if so, if the child lives with the brothers or sisters; information concerning the child's biological parents and the determination that the child is an orphan because he/she has a ''remaining parent'', ''sole parent'' or ''surviving parent'' (as defined in the regulations); and any other pertinent facts that the investigation uncovers. The purpose of the investigation is to verify that the child is an orphan, address specific concerns articulated by the adjudicating officer or consular officer that can only be resolved by an investigation, and resolve significant differences between the facts presented in the advanced processing application (Form I–600A or an I–600 approved by an INS office in the United States). The investigation is conducted at the overseas visa-issuing post by INS, or by the Department of State if there is no INS office at that U.S. Embassy or Consulate. An I–604 investigation often entails travel to a remote location to establish whether or not a child is actually an orphan. In many countries, a field investigation may require 2 or 3 days away from the office. Not every case requires a field investigation, however, a certain percentage of cases must have one, if only as an auditing tool.

Since the Service relies on fees to recover the full cost of processing immigration and naturalization benefits, the increase in fees for the I–600 and I–600A to $460 is necessary to recover the full costs associated with processing orphan petitions. Accordingly, the Service will charge a fee of $460 for processing Forms I–600 and I–600A.

B. How Will INS Improve Service?

One hundred and twenty-three comments were received opposing the increase in the fees given the current level of services provided by the Service. Many people noted the lengthy waiting times to process their benefit applications as well as the need to improve overall customer service.

Although the Service has made significant progress in improving productivity in the areas of naturalization and adjustment of status applications over the last few years, the Service continues to work toward improving efficiencies in all aspects of its service. At his confirmation hearing before the Senate Judiciary Committee, Commissioner James W. Ziglar clearly stated his commitment to improving customer service:

> If I am confirmed for this position, my primary goal will be to insure that every person who comes into contact with the Immigration and Naturalization Service (INS), regardless of their citizenship, the circumstances of their birth or any other distinguishing characteristic, and regardless of the circumstances under which they find themselves within the ambit of the INS, will be treated with respect and dignity, and without any hint of bias or discrimination. The first impression is a lasting impression and we have only one opportunity to make a first impression—the first impression of America should be that of a compassionate, caring, and open nation of opportunity.

The Service is committed to building and maintaining an immigration services system that provides immigration information and benefits in a timely, accurate, consistent, courteous, and professional manner. To support this commitment, the Service has developed a plan to eliminate backlogs and obtain a 6-month processing time standard for all applications and petitions. The plan outlines an aggressive 5-year strategy to reduce the backlogs. By the end of FY 2003, the Service expects to reach a national average processing time of 6 months or less for all applications and petitions. By the end of FY 2004, the Service intends to reduce the processing times to 6 months or less at every Service office. The Service will use the remaining 2 years to continue improving the infrastructure to ensure that backlogs do not recur in the future. The Service is committed to improve the current information technology and business processes to eliminate all backlogs.

To achieve these results, the Service will: (1) Set backlog reduction milestones by application for every office, (2) assign staffing resources to offices based on a comprehensive workload analysis, (3) monitor office accomplishments of the backlog reduction milestones, and (4) establish performance incentives for individual offices to meet and exceed the backlog reduction milestones.

The Service is applying a $5 surcharge to each application and petition to recover information technology and quality assurance costs associated with application processing. These costs were not included previously. The Service believes that this approach will ensure the resources necessary to support streamlined business processes, including on-line filing and case status inquiry via telephone or on-line; and expand quality assurance efforts to ensure the accurate and consistent adjudication of benefits.

It is also important to note that restructuring of the Service will result in improved services by clearly separating its conflicting missions of service and enforcement, clarifying its priorities, and ensuring adequate resources to carry out its mission.

C. Why INS Believes the Fee Increases Are Reasonable

One hundred and forty-nine comments stated that the fee increase was either too high or too burdensome on those applying for immigration and naturalization benefits. Many commenters noted that the Service only recently increased the majority of fees.

The Service is increasing fees by an average of $20 per application/petition, or 17 percent. The current fees, which were most recently increased in 1998, were based on a fee review that began in 1996 and was completed in 1997. Those fee levels reflected costs in 1997.

Other than the $5 per application surcharge for quality assurance and information technology, the fee

schedule is based solely on the recovery of costs for general cost-of-living increases since 1997, not from the period in which the fees were implemented. Bearing this in mind, the increase in fees on an annual basis equates to a less than 4 percent average increase. In this context, the Service believes the fee increases are reasonable.

With regard to the fingerprint fee, this is the first time the fee was ever reviewed for the purpose of full cost recovery. As stated in the proposed rule, Congress directed the Service to implement changes to its fingerprint process in a short timeframe. To the extent that the revised fee may be viewed by some as a significant increase over the current fee, such an increase is both necessary and justified in an effort to recover the full cost of providing the service in accordance with applicable fee setting laws, regulations, and guidance.

The Service does have the ability to waive fees on a case-by-case basis. Any applicant or petitioner who has an inability to pay the fees may request a fee waiver from either a District or Service Center Director depending on where the petition/application is to be filed. Service regulations at 8 CFR 103.7(c) concerning the granting of fee waivers is posted on the Service Web site at www.ins.usdoj.gov.

D. Why INS Is Raising the Fees Instead of Seeking Additional Sources of Funding

Thirty-eight of the commenters encouraged the Service to seek additional sources of funding from Congress instead of relying solely on fees. From FY 1989 to FY 1998, the fees collected and deposited into the IEFA have been the sole source of funding for immigration and naturalization benefits. In creating the IEFA, Congress intended that the activities supported by this account be self-sustaining, and not be funded by tax dollars (P.L. 100–459). The Service has been managing this account consistent with federal law and congressional direction. In the past, however, fees did not recover the full costs of processing applications and petitions. In an effort to eliminate the backlog this created, Congress provided additional appropriated resources. With this support, the Service dramatically improved productivity for naturalization and adjustment of status benefit applications.

The President included $100 million in the FY 2002 budget request as the first installment of a multi-year effort to support elimination of backlogs and overall improvements in service. The funding sources for the $100 million installment are $20 million from the Premium Processing fee and $80 million in appropriations. In contrast to the new fees that will recover the full costs of processing newly filed immigration benefit applications, the $100 million budget request will provide funding for reduction and elimination of the current backlog of immigration benefit applications. The Service will use this supplemental funding for the backlog elimination plan primarily to finance the costs of term staffing increases. Without this additional staff, the Service cannot process enough immigration benefit applications to meet the processing time goals and backlog reduction milestones. The Service will also use this supplemental funding to recover the costs to develop a performance incentives program for all Service offices.

E. How Will INS Provide Consistent Service?

Five of the commenters opposed increasing fees when service varies so greatly from office to office. The Service recognizes the need for a consistent level of service among offices. As previously stated, the Service's backlog elimination plan includes a two-step effort to achieve processing time goals for all immigration benefit applications. In the first step, the Service will reduce national average processing times to 6 months or less by the end of FY 2003. In the second step, the Service will achieve the processing time goals of 6 months or less in every Service office by the end of FY 2004. This fee schedule will begin to bring consistency of processing at all field offices, as well as ensure that backlogs do not recur in the future.

F. Why INS Believes the Fee Methodology Captures Full Costs

Two of the commenters objected to the methodology used to calculate the proposed fees. Some of the commenters felt that the activity-based costing methodology calculated fees based upon inefficient practices.

The fee review adhered to the guidance contained in the Office of Management and Budget (OMB) Circular A–25, User Charges, which requires that user charges imposed recover the full cost to the Government for providing a special benefit. In addition, the Federal Accounting Standards Advisory Board (FASAB) provides additional guidance on the meaning of full-cost recovery. In FASAB Statement No. 4, full cost is defined as:

> The total amount of resources used to produce the output. This includes direct and indirect costs that contribute to the output regardless of funding sources. It also includes costs of supporting services provided by other responsibility segments or entities.

The fees reflect the full cost of processing immigration and naturalization benefits. The review was conducted consistent with the requirements of subsection 205(a)(8) of the Chief Financial Officers Act of 1990, Pub. L. 101–576, 104 Stat. 2838 (1990) (31 U.S.C. 902(a)(8)), which requires a biennial review of user fees to ensure that full costs are being recovered.

G. Why Do the Fees Pay for Unrelated Expenses?

Two of the commenters opposed the use of the applicant fees to pay for expenses that they perceived to be for unrelated services, such as the running of the asylum, refugee, parole, and the Cuban-Haitian Entrant programs. In the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991, Pub. L. 101–515, 104 Stat. 2101 (1990), Congress authorized the Service to provide certain immigration and naturalization services at no cost to the applicants. Subsection 210(d)(2) of Public Law 101–515 states that ''fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees may also be set at a level that will recover any additional costs associated with the administration of the fees collected.'' (8 U.S.C. 1356(m)). As a result of this legislation, Congress no longer provided the Service with an appropriation to cover the costs of asylum and refugee services, and directed the Service to fund these costs with revenue from the IEFA.

In FY 1996, Congress also authorized the Service to pay for the cost of the Cuban-Haitian Entrant Resettlement Program from the IEFA. *See* H.R. Conf. Rep. No. 104–378, at 83 (1995). In FY 1997, Congress transferred the cost of other asylum and refugee services that had been paid from the Violent Crime Trust Fund to the IEFA. *See* Pub. L. 104–208, 110 Stat. 3009 (1996). Through explicit legislative language and subsequent appropriation action, Congress has signaled its desire that certain asylum and refugee services should be provided at no charge to the recipient. The revenue to pay for these costs must be recovered from the fees charged to other applicants for immigration and naturalization benefits. All expenses being included for cost

recovery are consistent with federal law and federal accounting standards.

Many of these commenters also opposed the Service paying for costs that are unusual or atypical when compared to the usual costs in a normal processing year. They claimed that the type of organizational activities that the Service is currently engaged in, such as infrastructure building, should not be funded by current applications and must not be included in the fee calculation. Proper accounting treatment requires inclusion of unusual or atypical costs, such as improvement of automation activities or upgrading of records management. These types of costs were assigned a useful life, and the cost of these projects amortized or depreciated over the assigned useful life. Therefore, a portion of the unusual or atypical cost has been included in the fee calculation framework for the current year and treated like any other cost based on the useful life assigned to that asset.

H. Fee Increases Are Necessary

Seventeen comments were received in favor of the fee increases. Commenters noted several reasons for this:

(1) Current fees are too low given the benefit received;

(2) taxpayers should not pay for the increasing costs of providing immigration and naturalization benefits; (3) fee increases are justified given the increasing demand for immigration and naturalization benefits over the last several years; and (4) fee increases are necessary in order to increase the current level of services.

I. Separate Versus Blended Fee Schedule

In the proposed rule, the Service requested comments on whether it should set separate fee schedules for FY 2002 and FY 2003 versus the proposed single, blended schedule effective for both years. The Service also noted that commenters might want to consider whether changing fee schedules would unduly confuse applicants and petitioners.

The Service received one comment on this subject. The commenter was in favor of a separate year fee schedule. The commenter noted that a separate, single year fee schedule will allow applicants to follow fee increases in relation to yearly inflation figures, making it easier to understand why fees increased more in one year versus another. The Service respectfully disagrees. Upon consideration of the issue, the Service has decided that changing fees every year will create unnecessary confusion with applicants and practitioners. Therefore, the Service will proceed with the single, blended fee schedule.

J. Review of the Fee for LIFE Act Adjustment of Status Applications (I–485)

In the proposed rule, the Service questioned whether it should change the established $330 fee for filing legalization applications under section 1104 of the Legal Immigration Family Equity Act, Pub. L. 106–553, 114 Stat. 2762 (2000) (LIFE Act). In establishing the fee, on an interim final basis on June 1, 2001, the Service first identified the adjustment of status application (Form I–485) process as most similar to the new legalization application process. 66 FR 29661, 29667 (June 1, 2001). The Service then referred to the 1999 fee review, which identified an estimated full cost of the Form I–485 to be $330. *Id.* at 29,668.

The Service questioned the methodology and limited nature of the 1999 fee review and proposed that the Form I–485 fee be $255. *Id.* The Service then said it would review the $330 fee established for filing legalization applications. *Id.*

Although no comments were received on this subject, the Service has reviewed the Form I–485 fee for legalization applications and has deemed it fair and reasonable to reduce the fee from $330 to $255, and refund the difference to those who have already paid the $330 fee. The Service will undertake a separate rulemaking to notify the public of the timing for this action.

III. Fee Adjustments

The fee adjustments, as adopted in this rule, are shown as follows:

IMMIGRATION EXAMINATIONS FEE ACCOUNT/FEE SCHEDULE

Form No.	Description	Fee
I–17	Petition for Approval of School for Attendance by Non-Immigrant Students	$230
I–90	Application to Replace Alien Registration Card	130
I–102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Document	100
I–129	Petitions for Nonimmigrant Worker	130
I–129F	Petition to Classify Nonimmigrant as Fiancé	110
I–130	Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa	130
I–131	Application for Travel Document	110
I–140	Immigrant Petition for Alien Worker	135
I–191	Application for Advance Permission to Return to Unrelinquished Domicile	195
I–192	Application for Advance Permission to Enter as a Nonimmigrant	195
I–193	Application for Waiver of Passport and/or Visa	195
I–212	Application to Reapply for Admission into the U.S. After Deportation	195
I–360	Petition for Amerasian, Widow(er), or Special Immigrant	130
I–485	Application to Register Permanent Residence or Adjust Status	255
I–506	Application for Change of Nonimmigrant Classification	85
I–526	Immigrant Petition by Alien Entrepreneur	400
I–539	Application to Extend/Change Nonimmigrant Status	140
I–600/600A	Petition to Classify Orphan as an Immediate Relative/Application for Advance Processing of Orphan Petition.	460
I–601	Application for Waiver on Grounds of Excludability	195
I–612	Application for Waiver of the Foreign Residence Requirement	195
I–751	Petition to Remove the Conditions on Residence	145
I–765	Application for Employment Authorization	120
I–817	Application for Voluntary Departure under the Family Unity Program	140
I–824	Application for Action on an Approved Application	140
I–829	Petition by Entrepreneur to Remove Conditions	395
N–300	Application to File Declaration of Intention	60
N–336	Request for Hearing on a Decision in Naturalization Procedures	195

IMMIGRATION EXAMINATIONS FEE ACCOUNT/FEE SCHEDULE—Continued

Form No.	Description	Fee
N–400	Application for Naturalization	260
N–470	Application to Preserve Residence for	95
N–565	Application for Replacement of Naturalization/Citizenship Document	155
N–600	Application for Certification of Citizenship	185
N–643	Application for Certification of Citizenship in Behalf of an Adopted Child	145
	For Fingerprinting by the Service	50

Regulatory Flexibility Act

The Attorney General, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and by approving it has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The majority of applications and petitions are submitted by individuals and not small entities as that term is defined in 5 U.S.C. 601(6). The Service acknowledges, however, that a number of small entities, particularly those filing business-related applications and petitions, such as Forms I–140, Immigrant Petition for Alien Worker; I–526, Immigrant Petition by Alien Entrepreneur; and I–829, Petition by Entrepreneur to Remove Conditions may be affected by this rule. For FY 2001, the Service projects approximately 130,000 Forms I–140, 400 Forms I–526, and 400 Forms I–829 will be filed. However, this volume represents petitions filed by a variety of businesses, ranging from large multi-national corporations to small domestic businesses. The Service does not collect data on the size of the businesses filing petitions, and therefore does not know the number of small businesses that may be affected by this rule. Even if all of the employers applying for benefits met the definition of small businesses, the resulting degree of economic impact would not require a Regulatory Flexibility Analysis to be performed.

Unfunded Mandates Reform Act of 1995

This rule will not impose a mandate of enforceable duty on State, local, and tribal governments in the aggregate, or on the private sector, and it will not significantly or uniquely affect small governments. Accordingly, no further actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is a major rule as defined by the Small Business Regulatory Enforcement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996). Based on the data included in the proposed rule, this rule will result in an annual effect on the economy of $169 million, in order to generate the revenue necessary to fund the increased expenses of processing the Service's immigration and naturalization applications and petitions. The increased fees will be paid by persons who file applications or petitions to obtain immigration benefits.

Executive Order 12866

This rule is considered by the Department of Justice to be an economically ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, because it will have an annual effect on the economy of over $100 million. Without the fee adjustments, the Service estimates that it will collect approximately $815 million in fees for immigration and naturalization benefits in FY 2002. If the fee adjustments become effective on January 1, 2002, the Service anticipates collecting approximately $942 million in FY 2002—$127 million in additional revenue.

The projected increase in revenues may overstate the actual receipt of applications and petitions since fewer applications and petitions may be filed due to the implementation of the higher fees. The decrease in volume due to the higher fees has a real economic effect in that there may be fewer people applying for and receiving benefits paid for by the Service's user fees.

This increase in revenue will be used to fund the processing of immigration and naturalization applications and petitions. The revenue increase is based on the Service's costs and workload volumes. The volume of applications and petitions filed is projected based on a regression analysis of a 5-year history of actual applications and petitions received by the Service. The regression analysis is adjusted for any anticipated or actual changes in laws, policies, or procedures that may affect future filing patterns. The proposed fees will be paid by an estimated 6.6 million individuals and businesses filing immigration and naturalization applications and petitions. Accordingly, this regulation has been reviewed by the Office of Management and Budget (OMB).

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (1995), all Departments are required to submit to OMB, for review and approval, any reporting or recordkeeping requirements inherent in a final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

However, it should be noted that the Service solicited public comments on the change of fees in the proposed rule which was published in the **Federal Register** on August 8, 2001. It should also be noted that the changes to the fees will require changes to the application/petition forms to reflect the new fees. As a result of the changes to the forms, the Service will be submitting the forms to OMB for its approval.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of Information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, part 103 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by revising the entry ''For fingerprinting by the Service'' and by revising the entries for the following forms. The revisions read as follows:

§ 103.7 Fees.

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(b) * * *

(1) * * *

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For fingerprinting by the Service. A service fee of $50 will be charged by the Service for any individual who is required to be fingerprinted in connection with an application or petition for certain immigration and naturalization benefits (other than asylum), and whose residence is in the United States as defined in section 101(a)(38) of the Act.

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Form I–17. For filing an application for school approval, except in the case of a school or school system owned or operated as a public educational institution or system by the United States or a state or political subdivision thereof—$230.00.

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Form I–90. For filing an application for a Permanent Resident Card (Form I–551) in lieu of an obsolete card or in lieu of one lost, mutilated, or destroyed, or for a change in name—$130.00.

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Form I–102. For filing a petition for an application (Form I–102) for Arrival/Departure Record (Form I–94) or Crewman's Landing (Form I–95), in lieu of one lost, mutilated, or destroyed—$100.00.

Form I–129. For filing a petition for a nonimmigrant worker, a base fee of $130. For filing an H–1B petition, a base fee of $130 plus an additional $1,000 fee in a single remittance of $1,130. The remittance may be in the form of one or two checks (one in the amount of $1,000 and the other in the amount of $130). Payment of this additional $1,000 fee is not waivable under § 103.7(c)(1). Payment of this additional $1,000 fee is not required if an organization is exempt under § 214.2(h)(19)(iii) of this chapter, and this additional $1,000 fee also does not apply to certain filings by any employer as provided in § 214.2(h)(19)(v) of this chapter.

Form I–129F. For filing a petition to classify nonimmigrant as fiancée or fiancé under section 214(d) of the Act—$110.00.

Form I–130. For filing a petition to classify status of alien relative for issuance of immigrant visa under section 204(a) of the Act—$130.00.

Form I–131. For filing an application for travel documents—$110.00.

Form I–140. For filing a petition to classify preference status of an alien on the basis of profession or occupation under section 204(a) of the Act—$135.00.

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Form I–191. For filing applications for discretionary relief under section 212(c) of the Act—$195.00.

Form I–192. For filing an application for discretionary relief under section 212(d)(3) of the Act, except in an emergency case, or where the approval of the application is in the interest of the United States Government—$195.00.

Form I–193. For filing an application for waiver of passport and/or visa—$195.00.

Form I–212. For filing an application for permission to reapply for an excluded, deported or removed alien, an alien who has fallen into distress, an alien who has been removed as an alien enemy, or an alien who has been removed at Government expense in lieu of deportation—$195.00.

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Form I–360. For filing a petition for an Amerasian, Widow(er), or Special Immigrant—$130.00, except there is no fee for a petition seeking classification as an Amerasian.

Form I–485. For filing an application for permanent resident status or creation of a record of lawful permanent residence—$255.00 for an applicant 14 years of age or older; $160.00 for an applicant under the age of 14 years; no fee for an applicant filing as a refugee under section 209(a) of the Act.

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Form I–506. For filing an application for change of nonimmigrant classification under section 248 of the Act—$85.00.

Form I–526. For filing a petition for an alien entrepreneur—$400.00.

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Form I–539. For filing an application to extend or change nonimmigrant status—$140.00.

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Form I–600. For filing a petition to classify orphan as an immediate relative for issuance of immigrant visa under section 204(a) of the Act. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.)—$460.00.

Form I–600A. For filing an application for advance processing of orphan petition. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.)—$460.00.

Form I–601. For filing an application for waiver of ground of inadmissibility under section 212(h) or (i) of the Act. (Only a single application and fee shall be required when the alien is applying simultaneously for a waiver under both those subsections.)—$195.00.

Form I–612. For filing an application for waiver of the foreign-residence requirement under section 212(e) of the Act—$195.00.

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Form I–751. For filing a petition to remove the conditions on residence, based on marriage—$145.00.

Form I–765. For filing an application for employment authorization pursuant to 8 CFR 274a.13—$120.00.

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Form I–817. For filing an application for voluntary departure under the Family Unity Program—$140.00.

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Form I–824. For filing for action on an approved application or petition—$140.00.

Form I–829. For filing a petition by entrepreneur to remove conditions—$395.00.

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Form N–300. For filing an application for declaration of intention—$60.00.

Form N–336. For filing a request for hearing on a decision in naturalization proceedings under section 366 of the Act—$195.00.

Form N–400. For filing an application for naturalization—$260.00.

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Form N–470. For filing an application for section 316(b) or 317 of the Act benefits—$95.00.

Form N–565. For filing an application for a certificate of naturalization or declaration of intention in lieu of a certificate or declaration alleged to have been lost, mutilated, or destroyed; for a certificate of citizenship in a changed name under section 343(c) of the Act; or for a special certificate of naturalization to obtain recognition as a citizen of the United States by a foreign state under section 343(b) of the Act—$155.00.

Form N–600. For filing an application for a certificate of citizenship under section 309(c) or section 341 of the Act—$185.00.

Form N–643. For filing an application for a certificate of citizenship on behalf of an adopted child—$145.00.

* * * * *

Dated: December 17, 2001.

John Ashcroft,

Attorney General.

[FR Doc. 01–31452 Filed 12–18–01; 12:09 pm]

BILLING CODE 4410–10–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, Extensions of Credit by Federal Reserve Banks to reflect its approval of a decrease in the basic discount rate at each Federal

Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

DATES: The amendments to part 201 (Regulation A) were effective December 11, 2001. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board, at (202)452-3259, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The ''basic discount rate'' is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit for up to 30 days. In decreasing the basic discount rate from 1.5 percent to 1.25 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. The 25-basis-point decrease in the discount rate was associated with a similar decrease in the federal funds rate approved by the Federal Open Market Committee (FOMC) and announced at the same time.

In a joint press release announcing these actions, the FOMC and the Board of Governors stated that economic activity remains soft, with underlying inflation likely to edge lower from relatively modest levels. To be sure, weakness in demand shows signs of abating, but those signs are preliminary and tentative. The Committee continues to believe that, against the background of its long-run goals of price stability and sustainable economic growth and of the information currently available, the risks are weighted mainly toward conditions that may generate economic weakness in the foreseeable future. Although the necessary reallocation of resources to enhance security may restrain advances in productivity for a time, the long-term prospects for productivity growth and the economy remain favorable and should become evident once the unusual forces restraining demand abate.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering price stability and sustainable economic growth. The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 201 is amended as set forth below:

PART 201 —EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 C.F.R. part 201 continues to read as follows:

Authority: Authority: 12 U.S.C. 343 et seq., 347a, 347b, 347c, 347d, 348 et seq., 357, 374,374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository instituions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	1.25	December 11, 2001
New York	1.25	December 11, 2001
Philadelphia ..	1.25	December 11, 2001
Cleveland	1.25	December 13, 2001
Richmond	1.25	December 13, 2001
Atlanta	1.25	December 13, 2001
Chicago	1.25	December 11, 2001
St. Louis	1.25	December 12, 2001
Minneapolis ...	1.25	December 13, 2001
Kansas City ..	1.25	December 13, 2001
Dallas	1.25	December 13, 2001
San Francisco	1.25	December 11, 2001

By order of the Board of Governors of the Federal Reserve System.

December 17, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–31433 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 500, 505, 506, 516, 517, 541, 543, 544, 545, 546, 552, 556, 560, 561, 563, 563d, 563g, 565, 568, 570, 573, 583, and 590

[No. 2001–84]

Technical Amendments

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its regulations to incorporate a number of technical and conforming amendments. They include clarifications, updated statutory and other references, and corrections of typographical errors.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Marilyn K. Burton, Senior Paralegal (Regulations), (202) 906–6467, or Karen A. Osterloh, Assistant Chief Counsel, (202) 906–6639, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS is amending its regulations to incorporate a number of technical and conforming amendments. These changes are outlined below.

OTS is changing the headings for several parts to more accurately reflect the contents. The following chart illustrates the changes made by this rule:

Part	Old title	New title
500	Organization and Channeling of Functions	Agency Organization and Functions
516	Application Processing Guidelines and Procedures	Application Procedures Processing
517	The Minority, Women, and Individuals with Disabilities Outreach Program: Contracting for Goods and Services.	Contracting Outreach Programs
541	Definitions	Definitions for Regulations Affecting Federal Savings Associations
543	Incorporation, Organization, and Conversion of Federal Mutual Associations.	Federal Mutual Associations Savings—Incorporation, Organization, and Conversion
544	Charter and Bylaws	Federal Mutual Savings Associations—Charter and Bylaws
545	Operations	Federal Savings Associations—Operations
546	Merger, Dissolution, Reorganization, and Conversion	Federal Mutual Savings Associations—Merger, Dissolution, Reorganization, and Conversion
552	Incorporation, Organization, and Conversion of Federal Stock Associations.	Federal Stock Associations—Incorporation, Organization, and Conversion
561	Definitions	Definitions for Regulations Affecting All Savings Associations
563	Operations	Savings Associations—Operations
568	Security Procedures	Security Procedures under the Bank Protection Act
570	Submission and Review of Safety and Soundness Compliance Plans and Issuance of Orders to Correct Safety and Soundness Deficiencies.	Safety and Soundness Guidelines and Compliance Procedures
583	Definitions	Definitions for Regulations Affecting Savings and Loan Holding Companies

In addition, OTS makes the following miscellaneous changes:

• *Part 505—Freedom of Information Act (FOIA).* The final rule revises §§ 505.1 to 505.4, which describe the availability of materials under FOIA and the procedures for requests for records and administrative appeals. The final rule indicates that materials are available through the Dissemination Branch, General Law Division and the Public Reading Room, and that the Public Reading Room is available only by appointment. The final rule also provides that requests for records and administrative appeals of initial determinations to deny records must be submitted to the Dissemination Branch, General Law Division.

• *Part 506—Information Collection Requirements under the Paperwork Reduction Act (PRA).* The final rule updates the table displaying the OMB control numbers assigned to various OTS regulations under the PRA by inserting additional references to the control numbers and by correcting minor typographical errors. *See* 12 CFR 506.1(b).

• *Part 516—Application Processing Guidelines and Procedures.* The final rule updates § 516.40 to include current addresses for OTS Regional Offices.

• *Part 556—Statements of Policy.* This final rule moves the statement of policy on branching at 12 CFR 556.5 to 12 CFR 545.93. This provision will now directly follow OTS rules on branch offices and branch office applications at 12 CFR 545.92. The only remaining provision in part 556 is the policy statement on receipt of interest expressed as a percentage of other income. *See* 12 CFR 556.13. This policy statement has limited applicability and is adequately addressed in various OTS legal opinions. *See* Op. Chief Counsel (May 3, 1996). OTS has concluded that it is unnecessary to continue to include this policy statement in its rules. Accordingly, this final rule deletes part 556.

• *Part 560—Lending and Investment.* The final rule corrects the indentation in the supervisory loan-to-value limits chart in the Appendix to § 560.101.

• *Part 563d—Securities of Savings Associations and Part 563g—Securities Offerings.* The final rule updates the filing requirements at §§ 563d.1, 563d.2, 563g.5, and 563g.18.

• *Part 565—Prompt Corrective Action.* The final rule corrects a statutory citation in § 565.4(b)(1)(iv).

• *Part 568—Security Procedures.* The final rule corrects the authority citation for this part.

• *Part 573—Privacy of Consumer Financial Information.* The final rule adds a phrase that was inadvertently omitted from § 573.15(a)(7)(ii). This change conforms this section to the text of the rule published on 65 FR 35162 (June 1, 2000).

• *Part 590—Preemption of State Usury Laws.* OTS is correcting a grammatical error in § 590.3(c).

Administrative Procedure Act; Riegle Community Development and Regulatory Improvement Act of 1994

OTS finds that there is good cause to dispense with prior notice and comment on this final rule and with the 30-day delay of effective date mandated by the Administrative Procedure Act.[1] OTS believes that these procedures are unnecessary and contrary to public interest because the rule merely corrects and clarifies existing provisions. Because the amendments in the rule are not substantive, these changes will not detrimentally affect savings associations.

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 provides that regulations that impose additional reporting, disclosure, or other new requirements may not take effect before the first day of the quarter following publication.[2] This section does not apply because this final rule imposes no additional requirements and makes only technical changes to existing regulations.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act,[3] the OTS Director certifies that this technical corrections regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

OTS has determined that this rule is not a ''significant regulatory action'' for purposes of Executive Order 12866.

[1] 5 U.S.C. 553.

[2] Pub. L. 103–325, 12 U.S.C. 4802.

[3] Pub. L. 96–354, 5 U.S.C. 601.

Unfunded Mandates Reform Act of 1995

OTS has determined that the requirements of this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995.

List of Subjects

12 CFR Part 500

Organization and functions (Government agencies).

12 CFR Part 505

Freedom of information.

12 CFR Part 506

Reporting and recordkeeping requirements.

12 CFR Part 516

Administrative practice and procedure, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 517

Government contracts, Individuals with disabilities, Minority businesses, Women.

12 CFR Parts 541, 556, and 561

Savings associations.

12 CFR Parts 543, 544, and 546

Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Parts 552 and 563g

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 560

Consumer protection, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 563d

Authority delegations (Government agencies), Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 565

Administrative practice and procedure, Capital, Savings associations.

12 CFR Part 568

Reporting and recordkeeping requirements, Savings associations, Security measures.

12 CFR Part 570

Accounting, Administrative practice and procedure, Bank deposit insurance, Holding companies, Reporting and recordkeeping requirements, Savings associations, Safety and soundness.

12 CFR Part 573

Consumer protection, Privacy, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 583

Holding Companies, Savings associations.

12 CFR Part 590

Banks, banking, Loan programs—housing and community development, Manufactured homes, Mortgages, Savings associations.

Accordingly, the Office of Thrift Supervision hereby amends title 12, chapter V of the Code of Federal Regulations, as set forth below.

PART 500—AGENCY ORGANIZATION AND FUNCTIONS

1. Revise the part heading for part 500 to read as shown above.

2. The authority citation for part 500 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

PART 505—FREEDOM OF INFORMATION ACT

3. The authority citation for part 505 continues to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 1462a, 1463, 1464.

4. Revise the third sentence of § 505.1(b) to read as follows:

§ 505.1 Basis and Scope.

* * * * *

(b) * * * Procedures for requests for records are set forth in § 505.3 of this part. * * *

5. Revise § 505.2 to read as follows:

§ 505.2 Public Reading Room.

OTS will make materials available for review on an ad hoc basis when necessary. Contact the Dissemination Branch, General Law Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, or you may visit the Public Reading Room at 1700 G Street, NW., by appointment only. To make an appointment for access, call (202) 906–5922, send an E-mail to *publicinfo@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755. (Please identify the materials you would like to inspect, to assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive your request.

6. Revise the first two sentences of § 505.3 to read as follows:

§ 505.3 Requests for records.

The Manager, Dissemination Branch or a designated official will make the initial determination under 31 CFR 1.5(g) whether to grant a request for OTS records. Requests may be mailed to: Freedom of Information Act Request, Dissemination Branch, General Law Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, or marked ''FOIA'' and delivered in person to the Public Reading Room, Dissemination Branch, General Law Division, 1700 G Street, NW., Washington, DC 20552. * * *

7. Revise the first and third sentences of § 505.4 to read as follows:

§ 505.4 Administrative appeal of initial determination to deny records.

The Deputy Chief Counsel for General Law or a designated official will make appellate determinations under 31 CFR 1.5(h) with respect to OTS records. * * * Appeals may be delivered personally to the Dissemination Branch, General Law Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552. * * *

PART 506—INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT

8. The authority citation for part 506 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

9. Amend § 506.1(b) by revising the entry for part 516, removing the entry for § 516.1(c), adding new entries for §§ 533.4, 533.6 and 533.7 in numerical order, and revising the entry for § 545.92 to read as follows:

§ 506.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display.*

12 CFR part or section where identified and described	Current OMB control No.
* * * * *	
Part 516	1550–0056
* * * * *	
533.4	1550–0105
533.6	1550–0105
533.7	1550–0105

12 CFR part or section where identified and described	Current OMB control No.
* * * * *	
545.92	1550–0004 and 1550–0006
* * * * *	

PART 516—APPLICATION PROCESSING PROCEDURES

10. Revise the part heading for part 516 to read as shown above.

11. The authority citation for part 516 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462a, 1463, 1464, 2901 *et seq.*

12. Revise § 516.40(a)(2) to read as follows:

§ 516.1 Where do I file my application?

(a) * * *

(2) The addresses of each Regional Office and the states covered by each office are:

Region	Office address	States served
Northeast	Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey, 07302.	Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia.
Southeast	Office of Thrift Supervision, 1475 Peachtree Street, NE., Atlanta, Georgia 30309. Mail to: PO Box 105217, Atlanta, Georgia 30348–5217.	Alabama, District of Columbia, Florida, Georgia, Maryland, North Carolina, Puerto Rico, South Carolina, Virginia, the Virgin Islands
Central	Office of Thrift Supervision, One South Wacker Drive, Suite 2000, Chicago, Illinois 60606.	Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, Wisconsin
Midwest	Office of Thrift Supervision, 225 E. John Carpenter Freeway, Suite 500, Irving, Texas 75062–2326. Mail to: PO Box 619027, Dallas/Ft. Worth, Texas 75261–9027.	Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas
West	Office of Thrift Supervision, Pacific Plaza, 2001 Junipero Serra Boulevard, Suite 650, Daly City, California, 94014–1976. Mail to: PO Box 7165, San Francisco, California 94120–7165.	Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Northern Mariana Islands, Oregon, Utah, Washington, Wyoming

* * * * *

PART 517—CONTRACTING OUTREACH PROGRAMS

13. Revise the part heading for part 517 to read as shown above.

14. The authority citation for part 517 continues to read as follows:

Authority: 12 U.S.C. 1833(e); 42 U.S.C. 12101 *et seq.*

PART 541—DEFINITIONS FOR REGULATIONS AFFECTING FEDERAL SAVINGS ASSOCIATIONS

15. Revise the part heading for part 541 to read as shown above.

16. The authority citation for part 541 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

PART 543—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—INCORPORATION, ORGANIZATION, AND CONVERSION

17. Revise the part heading for part 543 to read as shown above.

18. The authority citation for part 543 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

PART 544—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—CHARTER AND BYLAWS

19. Revise the part heading for part 544 to read as shown above.

20. The authority citation for part 544 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

PART 545—FEDERAL SAVINGS ASSOCIATIONS—OPERATIONS

21. Revise the part heading for part 545 to read as shown above.

22. The authority citation for part 545 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828.

23. Revise § 545.92(d)(2) to read as follows:

§ 545.92 Branch offices.

* * * * *

(d) * * *

(2) *Submission of application or notice.* A Federal savings association must comply with § 545.93 of this part and must file its application or notice within the time frame in § 516.60 of this chapter.

* * * * *

PART 546—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

24. Revise the part heading for part 546 to read as shown above.

25. The authority citation for part 546 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

PART 552—FEDERAL STOCK ASSOCIATIONS—INCORPORATION, ORGANIZATION, AND CONVERSION

26. Revise the part heading for part 552 to read as shown above.

27. The authority citation for part 552 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

PART 556—STATEMENTS OF POLICY [REMOVED]

§ 556.5 [Redesignated as § 545.93]

28. Redesignate § 556.5 as § 545.93.

Part 556 [Removed]

28a. Remove part 556.

PART 560—LENDING AND INVESTMENT

29. The authority citation for part 560 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1701j-3, 1828, 3803, 3806; 42 U.S.C. 4106.

30. Amend the Appendix to § 560.101 by revising the Supervisory Loan-to-Value Limits table to read as follows:

§ 560.101 Real estate lending standards.

* * * * *

Appendix to § 560.101—Interagency Guidelines for Real Estate Lending Policies

* * * * *

Supervisory Loan-to-Value Limits

* * * * *

Loan category	Loan-to-value limit (percent)
Raw land	65
Land development	75
Construction:	
Commercial, multifamily,[1] and other nonresidential	80
1- to 4-family residential	85
Improved property	85
Owner-occupied 1- to 4-family and home equity	([2])

[1] Multifamily construction includes condominiums and cooperatives.

[2] A loan-to-value limit has not been established for permanent mortgage or home equity loans on owner-occupied, 1- to 4-family residential property. However, for any such loan with a loan-to-value ratio that equals or exceeds 90 percent at origination, an institution should require appropriate credit enhancement in the form of either mortgage insurance or readily marketable collateral.

* * * * *

PART 561—DEFINITIONS FOR REGULATIONS AFFECTING ALL SAVINGS ASSOCIATIONS

31. Revise the part heading for part 561 to read as shown above.

32. The authority citation for part 561 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

PART 563—SAVINGS ASSOCIATIONS—OPERATIONS

33. Revise the part heading for part 563 to read as shown above.

34. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1820, 1828, 1831o, 3806; 42 U.S.C. 4106.

PART 563d—SECURITIES OF SAVINGS ASSOCIATIONS

35. The authority citation for part 563d continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464; 15 U.S.C. 78c(b), 78l, 78m, 78w, 78d–1.

36. Revise the fourth sentence of § 563d.1 to read as follows:

§ 563d.1 Requirements under certain sections of the Securities Exchange Act of 1934.

* * * All filings with respect to securities issued by savings associations required by those rules and regulations to be made with the Commission shall be made with the Business Transactions Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by submitting such filings to the Securities Filing Desk at the above address, except as noted in § 563d.2 of this part. * * *

37. Revise the third sentence of § 563d.2 to read as follows:

§ 563d.2 Mailing requirements for securities filings.

* * * The originally-signed copy and all remaining copies of each filing shall be sent to the Business Transactions Division by submitting such filings to the Securities Filing Desk at the address specified in § 563d.1 of this part. * * *

PART 563g—SECURITIES OFFERINGS

38. The authority citation for part 563g continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464; 15 U.S.C. 78c(b), 78l, 78m, 78n, 78p, 78w.

39. Revise § 563g.5(b)(1) introductory text, (b)(1)(i), and (b)(2) to read as follows:

§ 563g.5 Filing and signature requirements.

* * * * *

(b) * * * (1) Unless otherwise required, any filing under this part shall include nine copies of the document to be filed with the Business Transactions Division, Chief Counsel's Office, as follows:

(i) Seven copies, which shall include one manually signed copy with exhibits, three conformed copies with exhibits, and three conformed copies without exhibits, to the Securities Filing Desk, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; and

* * * * *

(2) Within five days after the effective date of an offering circular or the commencement of a public offering after the effective date, whichever occurs later, nine copies of the offering circular used shall be filed with OTS, as follows: seven copies to the Securities Filing Desk, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and two copies to the Regional Director.

* * * * *

40. Revise the last sentence of § 563g.18(a) to read as follows:

§ 563g.18 Current and periodic reports.

(a) * * * The duty to file under this section shall also be automatically suspended as to any fiscal year, other than the fiscal year within which such offering circular became effective, if, at the beginning of such fiscal year, the securities of each class to which the offering circular relates are held of record by less than three hundred persons and upon the filing of a Form 15.

* * * * *

PART 565—PROMPT CORRECTIVE ACTION

41. The authority citation for part 565 continues to read as follows:

Authority: 12 U.S.C. 1831o.

42. Revise § 565.4(b)(1)(iv) is revised to read as set forth:

§ 565.4 Capital measures and capital category definitions.

* * * * *

(b) * * *

(1) * * *

(iv) Is not subject to any written agreement, order, capital directive, or prompt corrective action directive issued by OTS under section 8 of the FDI Act, the International Lending Supervision Act of 1983 (12 U.S.C. 3907), the Home Owners' Loan Act (12 U.S.C. 1464(t)(6)(A)(ii)), or section 38 of the FDI Act, or any regulation thereunder, to meet and maintain a specific capital level for any capital measure.

* * * * *

PART 568—SECURITY PROCEDURES UNDER THE BANK PROTECTION ACT

43. Revise the part heading for part 568 to read as shown above.

44. Revise the authority citation for part 568 to read as follows:

Authority: Secs. 2–5, 82 Stat. 294–295 (12 U.S.C. 1881–1884).

PART 570—SAFETY AND SOUNDNESS GUIDELINES AND COMPLIANCE PROCEDURES

45. Revise the part heading for part 570 to read as shown above.

46. The authority citation for part 570 continues to read as follows:

Authority: 12 U.S.C. 1831p–1.

PART 573—PRIVACY OF CONSUMER FINANCIAL INFORMATION

47. The authority citation for part 573 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828; 15 U.S.C. 6801 *et seq.*

48. Revise § 573.15 (a)(7)(ii) to read as follows:

§ 573.15 Other exceptions to notice and opt out requirements.

(a) * * *

(7) * * *

(ii) To comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by Federal, State, or local authorities; or

* * * * *

PART 583—DEFINITIONS FOR REGULATIONS AFFECTING SAVINGS AND LOAN HOLDING COMPANIES

49. Revise the part heading for part 583 to read as shown above.

50. The authority citation for part 583 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1468.

PART 590—PREEMPTION OF STATE USURY LAWS

51. The authority citation for part 590 continues to read as follows:

Authority: 12 U.S.C. 1735f–7a.

52. Revise 590.3(c) to read as follows:

§ 590.3 Operation.

* * * * *

(c) Nothing in this section preempts limitations in state laws on prepayment charges, attorneys' fees, late charges or other provisions designed to protect borrowers.

Dated: December 11, 2001.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 01–31053 Filed 12–20–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 559 and 560

[No. 2001–82]

RIN 1550–AB37

Lending and Investment

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (''OTS'') is revising and clarifying its lending and investment regulations to give savings associations greater flexibility in a changing marketplace. Today's regulatory amendments are intended to help thrifts take better advantage of the flexibility available under the Home Owners' Loan Act (''HOLA''), to provide low-cost credit to their customers, and to invest in their communities while still operating safely and soundly.

EFFECTIVE DATE: This rule is effective on January 1, 2002.

FOR FURTHER INFORMATION CONTACT: William J. Magrini, Senior Project Manager, Supervision Policy, (202) 906–5744; Karen Osterloh, Assistant Chief Counsel, Regulations and Legislation Division, (202) 906–6639, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

OTS periodically reviews its lending and investment regulations to ensure that they enhance safe and sound lending, implement statutory requirements, protect consumers, minimize regulatory burden, and are clearly written. OTS lending and investment regulations have been considerably modified over time as savings associations, their markets, their competition, and the economy have changed. For the most part, OTS has taken a contract and market-based approach to provide flexibility for thrifts and their customers and to encourage innovations in lending to help make credit more available.

OTS last substantively revised its lending regulations and subordinate organizations regulations in 1996.[1] Since that time, the markets in which thrifts operate have changed substantially. In the primary market, savings associations now compete with other mortgage lenders to offer potential borrowers a wide variety of options besides the traditional 30-year fixed-rate purchase money mortgage. The secondary market continues to narrow the interest-rate spread on high quality mortgages.

As the residential mortgage market has evolved, thrifts have increasingly begun to explore offering other types of credit needed in their communities, including consumer lending and small business lending. A variety of community-related investment opportunities offer thrifts new ways to serve and to participate in the economic development of their communities. Thrifts have asked whether and how such loans and investments may be made by either the thrift itself or through an operating subsidiary or service corporation.

This evolving environment made it appropriate for OTS to again re-examine and update its lending and investment and subordinate organizations regulations. Accordingly, on November 1, 2001, OTS published a proposed rule intended to help thrifts take better advantage of the flexibility available under the Home Owners' Loan Act (''HOLA''), to provide low-cost credit to their customers, and to invest in their communities while still operating safely and soundly. 66 FR 55131 (Nov. 1, 2001).

II. Analysis of Comments

OTS received eight public comments from three Federal savings associations, three trade associations, a community group, and an individual. Seven commenters supported the rule, but recommended modifications. The commenter opposing the rule incorrectly believed that the rule applied to institutions with a common bond (*i.e.*, credit unions), rather than thrifts. The remaining comments are summarized below.

Small Business Loans

Existing § 560.3 provides two alternatives for determining whether a particular loan qualifies as a small business loan.[2] First, a loan of any size qualifies if the loan is made to a business that meets the size standards established by the Small Business Administration. Second, a loan qualifies if a savings association makes a loan to a business and the amount of the loan is less than $1 million, or makes a loan to a farm and the amount of the loan is less than $500,000. OTS proposed to raise this safe harbor amount to $2 million for both small business and farm loans.

Most commenters supported the increase. One commenter, however, noted that the existing definition is more consistent with an emphasis on serving the smallest businesses and farms and with the Community Reinvestment Act (CRA) definition of small business and farm loan. This commenter feared that the proposed increase could cause thrifts to neglect the smallest businesses.

[1] *See* Lending and Investment Final Rule, 61 FR 50951 (Sept. 30, 1996); Subsidiaries and Equity Investments, 61 FR 66561 (Dec. 18, 1996).

[2] Sections 5(c)(2)(A) and 10(m)(4)(E) specifically authorize the Director to define the terms ''small business loans'' and ''small business'' for purposes of HOLA investment limits and the Qualified Thrift Lender test, respectively.

The proposed changes were designed to define the scope of a Federal savings association's lending and investment powers, rather than to assess the adequacy of its CRA performance. OTS believes that the additional flexibility afforded by the proposed modification will enable more savings associations to provide a broader range of small business customers with credit products tailored to their needs, particularly in higher price geographic areas. OTS will continue to assess an institution's record of meeting the credit needs of the local communities, including small business lending, under the CRA and CRA implementing regulations at 12 CFR part 563e.[3]

To satisfy the safe harbor under the current and proposed rules, a savings association must make the loan to ''a business or farm.'' Several commenters noted that commercial loans are often made to individuals who use the proceeds for their own small businesses. To accommodate this lending, commenters suggested that OTS should apply the $2 million safe harbor if loan proceeds are used for business or commercial purposes. OTS has always believed that such loans fall within the definition, but has modified the safe harbor in the final rule to make clear that it applies to loans that are for ''commercial, corporate, business, or agricultural purposes.'' *See* 12 U.S.C. 1464(c)(2)(A).

De Minimis Investments

Existing § 560.36 permits a Federal savings association to invest the greater of one-fourth of one percent of its total capital or $100,000 in community development investments of the type permitted under 12 CFR part 24. OTS proposed to increase these limits to the greater of one percent of an association's total capital or $250,000. One commenter urged OTS to increase this limit to the national bank limit (five percent of capital stock paid in and five percent of unimpaired surplus). *See* 12 U.S.C. 24 (Eleventh) and 12 CFR part 24.

The proposed increase to the community development investment limits attempts to give thrifts authority as comparable to that of banks as possible, given the different statutory authority.[4] Because Federal thrifts have other community development investment options that are not available to national banks, OTS is not inclined to increase the *de minimis* authority beyond the proposed amount at this time.

In addition to the *de minimis* authority, Federal savings associations are permitted to invest in certain community development and charitable activities through service corporations.[5] One commenter requested clarification that the authority to invest in public welfare investments under the *de minimis* authority in § 560.36 is not contingent on the balance of public welfare investments made under the service corporation authority. OTS has consistently stated that if a loan or investment is authorized under more than investment authority, a Federal savings association may designate the section under which the loan or investment is made. *See* 12 CFR 560.31.[6] Section 559.3(i) also specifically provides that investments made at the service corporation level are not aggregated with those made at the thrift level when calculating HOLA investment limitations. *Compare* § 559.3(i)(1) (operating subsidiaries) *with* § 559.3(i)(2) (service corporations). Thus, the amount a savings association may invest directly in public welfare investments under § 560.36 is not contingent on the balance of public welfare investments made through a service corporation.

Commercial Paper and Corporate Debt Securities

Existing § 560.40 reiterates HOLA's grant of statutory authority to Federal thrifts to invest in commercial paper and corporate debt securities and sets out limitations on that authority.[7] Recently, some Federal savings associations have purchased complex investment securities with nonstandard ratings, ratings that only apply to the principal amount rather than both the principal and interest, or payment features such as residuals. These investments tend to be speculative in nature, and their likelihood of producing a particular rate of return is difficult to assess even where they may be partially guaranteed or rated investment grade. These investments are clearly not intended to hedge interest rate risk or credit risk. Rather, their potential purchase creates risks that highlight the need for savings associations to perform thorough underwriting analyses. To address issues raised by these types of investments, OTS proposed changes to § 560.40 to codify the agency's existing expectations about the circumstances under which these investments may be made.

Among other requirements, OTS proposed that a Federal savings association must determine whether an investment security is safe and sound and suitable for the association before committing to acquire the security. The proposed rule indicated that a Federal savings association must consider, as appropriate, the interest rate, credit, liquidity, price, transaction, and other risks associated with the investment activity. One commenter supported this provision, but requested confirmation that an investment need not be reasonable under each separate criterion. The risks of each investment should be evaluated on an overall basis. Individual risk factors may impact the overall safety and soundness of a particular investment so significantly that they may not be offset by other strengths of the investment. On the other hand, a slight deviation in one area may not have such an impact on the overall safety and soundness of an investment. These determinations are inherently case-by-case. As a result, OTS cannot provide the requested confirmation.

The preamble to the proposed rule indicated that a savings association has

[3] Another commenter asked OTS to conform the definitions of ''small business loan'' set out in the CRA regulations and in the Thrift Financial Report (TFR) to include the $2 million safe harbor threshold. Revisions to the CRA regulations are beyond the scope of this rulemaking. However, OTS is working on an interagency basis to update and amend the CRA regulations. *See* Advance Notice of Proposed Regulations published July 19, 2001 (66 FR 37602). The agencies may consider revisions to the CRA definition of ''small business loan'' in that rulemaking. In addition, OTS continually reevaluates the TFR and the instructions to the TFR to ensure that the terms used appropriately reflect OTS regulations, and will review these documents in light of the changes made in today's final rule.

[4] The HOLA does not contain a provision paralleling the authority of 12 U.S.C. 24 (Eleventh). However, OTS has long recognized that a Federal savings association may make community development related investments to raise its profile in its market as a form of advertising.

[5] In the proposed rule, OTS revised the service corporation regulation at § 559.4(h) to clarify that these service corporation investments include those that ''designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs.)'' This modification clarified that Federal savings association service corporations have the same authority as national banks and state member banks to make investments to promote the public welfare (*see* 12 U.S.C. 24 (Eleventh) and 12 U.S.C. 338a, respectively). One commenter noted that the amount that national banks may invest in public welfare investments is limited to five percent of capital stock paid in plus five percent of unimpaired surplus. The commenter asked OTS to clarify whether these national bank limits also restrict the amount of the service corporation public welfare investment. The proposed modification to § 559.4 was intended to define the scope of permissible investments, not the limits on the amount of the investment. OTS existing regulations define the limits on the amount of a thrift's investment in service corporations at 12 CFR 559.5. This regulation does not incorporate the national bank limitation on public welfare investments.

[6] *See generally* Thrift Bulletin 78 ''Classifying Commercial and Other Loans under the Home Owners' Loan Act'' (October 5, 2001).

[7] 12 U.S.C. 1464(c)(2)(D).

an ongoing responsibility to monitor its investments in commercial paper and debt securities. One commenter observed that the rule text does not incorporate a review requirement or indicate what factors should be addressed in this analysis. OTS believes that the ongoing review responsibilities should be left to each institution based on the level and complexity of its investment activity. OTS has issued guidance concerning appropriate initial and continuing underwriting criteria.[8]

The commenter also noted that the rule does not address the actions required of an institution if an investment fails to meet the original assumptions or suitability requirements subsequent to its acquisition. Depending on the circumstances of each case, OTS may, as a part of its ongoing supervision and oversight, criticize an institution's investments, its investment activities, or its investment policies, and will require appropriate remedial action as necessary.

Loan Purchases

One commenter asked OTS to add a new provision requiring savings associations to screen loan purchases for abusive and predatory features. This request addresses important issues beyond the scope of the proposal and is not an area OTS believes appropriate to address in this final rule without further public input and analysis. Nonetheless, a Federal savings association must determine the safety, soundness, and suitability of any investment or purchase, and should consider the reputation of the seller and the quality and underwriting standards of the loans it purchases.

III. Effective Date

In the proposed rule, OTS stated that it intended to publish a final rule that will be effective on January 1, 2002. *See* 66 FR 55131, at 55135 (Nov. 1, 2001). Section 553 of the Administrative Procedure Act (APA), however, provides that a final rule must not be made effective before 30 days after its publication, 5 U.S.C. 553(b)(B), unless the rule grants or recognizes an exemption or relieves a restriction.

Today's final rule relieves restrictions by enhancing savings associations' flexibility to offer a greater range of products, to invest in activities that support their local communities, and to compete more effectively with other financial institutions. It also relieves restrictions by permitting savings associations to make a greater amount of community development investments. Finally, the final rule rewrites certain provisions using plain language drafting techniques, which will make it easier for all savings associations to comply with OTS regulations. Accordingly, OTS has concluded that the final rule relieves restrictions and that the APA does not require OTS to delay its effective date for 30 days.

This rule is effective on January 1, 2002. This date is consistent with section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA), which requires final rules to take effect on the first day of a calendar quarter that begins on or after the date of publication of the rule. 12 U.S.C. 4802.

IV. Executive Order 12866

The Director of OTS has determined that this final rule does not constitute a ''significant regulatory action'' for purposes of Executive Order 12866.

V. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (''Unfunded Mandates Act''), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. OTS has determined that the final rule will not result in expenditures by state, local, or tribal governments or by the private sector of $100 million or more. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act of 1995.

VI. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, OTS certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The final rule makes certain changes that reduce burden on all savings associations, including small institutions. The final rule reduces burden on all savings associations by enhancing thrifts' flexibility to offer a greater range of products, to invest in activities that support their local communities, and to compete more effectively with other financial institutions. The final rule allows small savings associations to make a greater amount of community development investments. Finally, the final rule revises § 560.42 into plain language, which will make it easier for all savings associations to comply with the regulation. Accordingly, OTS concludes that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Part 559

Reporting and recordkeeping requirements, Savings associations, Subsidiaries.

12 CFR Part 560

Consumer protection, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision amends 12 CFR chapter V, as follows.

PART 559—SUBORDINATE ORGANIZATIONS

1. The authority citation for part 559 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1828.

2. Section 559.4 introductory text, and paragraphs (g)(3), (h)(2) and (3), and (i) are revised; and § 559.4(j) is added to read as follows:

§ 559.4 What activities are preapproved for service corporations?

This section sets forth the activities that have been preapproved for service corporations. Section 559.3(e)(2) of this part sets forth the procedures for engaging in a broader scope of activities on a case-by-case basis. You should read these two sections together to determine whether you must file a notice with OTS under § 559.11 of this part, or whether you must file an application under part 516 of this chapter and receive prior written OTS approval for your service corporation to engage in a particular activity. To the extent permitted by § 559.3(e)(2) of this part, a service corporation may engage in the following activities:

* * * * *

(g) * * *

[8] *E.g.,* Memorandum for Chief Executives 130 dated October 23, 2000. This memorandum indicates that management has an ongoing responsibility to monitor the investment, including cash flows, collateral quality, and the performance of the underlying assets of the security at least quarterly to determine the effect of any changes on the association's investment. Thrift Bulletin 13a also provides guidance on the fundamental underwriting standards thrifts should use in this area.

(3) Small business investment companies and new markets venture capital companies licensed by the U.S. Small Business Administration; and

* * * * *

(h) * * *

(2) Investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as providing housing, services, or jobs);

(3) Investments in low-income housing tax credit and new markets tax credit projects and entities authorized by statute (e.g., community development financial institutions) to promote community, inner city, and community development purposes; and

* * * * *

(i) Activities conducted on behalf of a customer on an other than ''as principal'' basis.

(j) Activities reasonably incident to those listed in paragraphs (a) through (i) of this section if the service corporation engages in those activities.

PART 560—LENDING AND INVESTMENT

3. The authority citation for part 560 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1701j-3, 1828, 3803, 3806; 42 U.S.C. 4106.

4. Section 560.3 is amended by revising the first sentence in the definition of ''*Real estate loan*'' and by revising the definition of ''*Small business loans and loans to small businesses*'' as follows:

§ 560.3 Definitions.

* * * * *

Real estate loan, for purposes of this part, is a loan for which the savings association substantially relies upon a security interest in real estate given by the borrower as a condition of making the loan. * * *

* * * * *

Small business loans and *loans to small businesses* include any loan to a small business as defined in this section; or a loan that does not exceed $2 million (including a group of loans to one borrower) and is for commercial, corporate, business, or agricultural purposes.

5. Section 560.30 is revised to read as follows:

§ 560.30 General lending and investment powers of Federal savings associations.

Pursuant to section 5(c) of the Home Owners' Loan Act (''HOLA''), 12 U.S.C. 1464(c), a Federal savings association may make, invest in, purchase, sell, participate in, or otherwise deal in (including brokerage or warehousing) all loans and investments allowed under section 5(c) of the HOLA including, without limitation, the following loans, extensions of credit, and investments, subject to the limitations indicated and any such terms, conditions, or limitations as may be prescribed from time to time by OTS by policy directive, order, or regulation:

LENDING AND INVESTMENT POWERS CHART

Category	Statutory authorization [1]	Statutory investment limitations (Endnotes contain applicable regulatory limitations)
Bankers' bank stock	5(c)(4)(E)	Same terms as applicable to national banks.
Business development credit corporations	5(c)(4)(A)	The lesser of .5% of total outstanding loans or $250,000.
Commercial loans	5(c)(2)(A)	20% of total assets, provided that amounts in excess of 10% of total assets may be used only for small business loans.
Commercial paper and corporate debt securities	5(c)(2)(D)	Up to 35% of total assets.[2] [3]
Community development loans and equity equity investments.	5(c)(3)(A)	5% of total assets, provided equity investments do not exceed 2% of total assets.[4]
Construction loans without security	5(c)(3)(C)	In the aggregate, the greater of total capital or 5% of total assets.
Consumer loans	5(c)(2)(D)	Up to 35% of total assets.[2] [5]
Credit card loans or loans made through credit card accounts.	5(c)(1)(T)	None.[6]
Deposits in insured depository institutions	5(c)(1)(G)	None.[6]
Education loans	5(c)(1)(U)	None.[6]
Federal government and government-sponsored enterprise securities and instruments.	5(c)(1)(C), 5(c)(1)(D), 5(c)(1)(E), 5(c)(1)(F).	None.[6]
Finance leasing	5(c)(1)(B), 5(c)(2)(A), 5(c)(2)(B), 5(c)(2)(D).	Based on purpose and property financed.[7]
Foreign assistance investments	5(c)(4)(C)	1% of total assets.[8]
General leasing	5(c)(2)(C)	10% of assets.[7]
Home improvement loans	5(c)(1)(J)	None.[6]
Home (residential) loans [9]	5(c)(1)(B)	None.[6] [10]
HUD-insured or guaranteed investments	5(c)(1)(O)	None.[6]
Insured loans	5(c)(1)(I), 5(c)(1)(K)	None[6]
Liquidity investments	5(c)(1)(M)	None.[6]
Loans secured by deposit accounts	5(c)(1)(A)	None.[6] [11]
Loans to financial institutions, brokers, and dealers	5(c)(1)(L)	None.[6] [12]
Manufactured home loans	5(c)(1)(J)	None.[6] [13]
Mortgage-backed securities	5(c)(1)(R)	None.[6]
National Housing Partnership Corporation and related partnerships and joint ventures.	5(c)(1)(N)	None.[6]
New markets venture capital companies	5(c)(4)(F)	5% of total capital.
Nonconforming loans	5(c)(3)(B)	5% of total assets.
Nonresidential real property loans	5(c)(2)(B)	400% of total capital.[14]
Open-end management investment companies [15]	5(c)(1)(Q)	None.[6]
Service corporations	5(c)(4)(B)	3% of total assets, as long as any amounts in excess of 2% of total assets further community, inner city, or community development purposes.[16]
Small business investment companies	15 U.S.C. 682(b)(2)	5% of total capital.

LENDING AND INVESTMENT POWERS CHART—Continued

Category	Statutory authorization [1]	Statutory investment limitations (Endnotes contain applicable regulatory limitations)
Small-business-related securities	5(c)(1)(S)	None.[6]
State and local government obligations	5(c)(1)(H)	None for general obligations. Per issuer limitation of 10% of capital for other obligations.[6 17]
State housing corporations	5(c)(1)(P)	None.[6 18]
Transaction account loans, including overdrafts	5(c)(1)(A)	None.[6 19]

Endnotes

1. All references are to section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) unless otherwise indicated.

2. For purposes of determining a Federal savings association's percentage of assets limitation, investment in commercial paper and corporate debt securities must be aggregated with the Federal savings association's investment in consumer loans.

3. A Federal savings association may invest in commercial paper and corporate debt securities, which includes corporate debt securities convertible into stock, subject to the provisions of § 560.40 of this part. Amounts in excess of 30% of assets, in the aggregate, may be invested only in obligations purchased by the association directly from the original obligor and for which no finder's or referral fees have been paid.

4. The 2% of assets limitation is a sublimit for investments within the overall 5% of assets limitation on community development loans and investments. The qualitative standards for such loans and investments are set forth in HOLA section 5(c)(3)(A) (formerly 5(c)(3)(B), as explained in an opinion of the OTS Chief Counsel dated May 10, 1995 (available at *www.ots.treas.gov*)).

5. Amounts in excess of 30% of assets, in the aggregate, may be invested only in loans made by the association directly to the original obligor and for which no finder's or referral fees have been paid. A Federal savings association may include loans to dealers in consumer goods to finance inventory and floor planning in the total investment made under this section.

6. While there is no statutory limit on certain categories of loans and investments, including credit card loans, home improvement loans, education loans, and deposit account loans, OTS may establish an individual limit on such loans or investments if the association's concentration in such loans or investments presents a safety and soundness concern.

7. A Federal savings association may engage in leasing activities subject to the provisions of § 560.41 of this part.

8. This 1% of assets limitation applies to the aggregate outstanding investments made under the Foreign Assistance Act and in the capital of the Inter-American Savings and Loan Bank. Such investments may be made subject to the provisions of § 560.43 of this part.

9. A home (or residential) loan includes loans secured by one-to-four family dwellings, multi-family residential property, and loans secured by a unit or units of a condominium or housing cooperative.

10. A Federal savings association may make home loans subject to the provisions of §§ 560.33, 560.34, and 560.35 of this part.

11. Loans secured by savings accounts and other time deposits may be made without limitation, provided the Federal savings association obtains a lien on, or a pledge of, such accounts. Such loans may not exceed the withdrawable amount of the account.

12. A Federal savings association may only invest in these loans if they are secured by obligations of, or by obligations fully guaranteed as to principal and interest by, the United States or any of its agencies or instrumentalities, the borrower is a financial institution insured by the Federal Deposit Insurance Corporation or is a broker or dealer registered with the Securities and Exchange Commission, and the market value of the securities for each loan at least equals the amount of the loan at the time it is made.

13. If the wheels and axles of the manufactured home have been removed and it is permanently affixed to a foundation, a loan secured by a combination of a manufactured home and developed residential lot on which it sits may be treated as a home loan.

14. Without regard to any limitations of this part, a Federal savings association may make or invest in the fully insured or guaranteed portion of nonresidential real estate loans insured or guaranteed by the Economic Development Administration, the Farmers Home Administration, or the Small Business Administration. Unguaranteed portions of guaranteed loans must be aggregated with uninsured loans when determining an association's compliance with the 400% of capital limitation for other real estate loans.

15. This authority is limited to investments in open-end management investment companies that are registered with the Securities and Exchange Commission under the Investment Company Act of 1940. The portfolio of the investment company must be restricted by the company's investment policy (changeable only if authorized by shareholder vote) solely to investments that a Federal savings association may, without limitation as to percentage of assets, invest in, sell, redeem, hold, or otherwise deal in. Separate and apart from this authority, a Federal savings association may make pass-through investments to the extent authorized by § 560.32 of this part.

16. A Federal savings association may invest in service corporations subject to the provisions of part 559 of this chapter.

17. This category includes obligations issued by any state, territory, or possession of the United States or political subdivision thereof (including any agency, corporation, or instrumentality of a state or political subdivision), subject to § 560.42 of this part.

18. A Federal savings association may invest in state housing corporations subject to the provisions of § 560.121 of this part.

19. Payments on accounts in excess of the account balance (overdrafts) on commercial deposit or transaction accounts shall be considered commercial loans for purposes of determining the association's percentage of assets limitation.

6. Revise 560.36 to read as follows:

§ 560.36 De minimis investments.

A Federal savings association may invest in the aggregate up to the greater of 1% of its total capital or $250,000 in community development investments of the type permitted for a national bank under 12 CFR part 24.

7. Amend § 560.40 by adding the words ''as to the portion of the security in which the association is investing'' after ''categories'' in § 560.40(a)(2)(ii) and by adding § 560.40(c) to read as follows:

§ 560.40 Commercial paper and corporate debt securities.

* * * * *

(c) *Underwriting.* Before committing to acquire any investment security, a Federal savings association must determine whether the investment is safe and sound and suitable for the association. The Federal savings association must consider, as appropriate, the interest rate, credit, liquidity, price, transaction, and other risks associated with the investment activity. The Federal savings association must also determine that the issuer has adequate resources and the willingness to provide for all required payments on its obligations in a timely manner.

8. Revise 560.42 to read as follows:

§ 560.42 State and local government obligations.

(a) *What limitations apply?* Pursuant to HOLA section 5(c)(1)(H), a Federal savings association (''you'') may invest in obligations issued by any state, territory, possession, or political subdivision thereof (''governmental entity''), subject to appropriate underwriting and the following conditions:

	Aggregate limitation	Per-issuer limitation
(1) General obligations	None	None.
(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.	None	10% of total capital.
(3) Obligations of a governmental entity that do not qualify under any other paragraph but are approved by your Regional Director.	As approved by your Regional Director	10% of total capital.

(b) *What is a political subdivision? Political subdivision* means a county, city, town, or other municipal corporation, a public authority, or a publicly-owned entity that is an instrumentality of a state or a municipal corporation.

(c) *What is a general obligation of a state or political subdivision?* A *general obligation* is an obligation that is guaranteed by the full faith and credit of a state or political subdivision that has the power to tax. Indirect payments, such as through a special fund, may qualify as general obligations if a state or political subdivision with taxing authority has unconditionally agreed to provide funds to cover payments.

(d) *What is appropriate underwriting for this type of investment?* In the case of a security rated in one of the four highest investment grades by a nationally recognized rating agency, your assessment of the obligor's credit quality may be based, in part, on reliable rating agency estimates of the obligor's performance. For all other securities, you must perform your own detailed analysis of credit quality. In doing so, you must consider, as appropriate, the interest rate, credit, liquidity, price, transaction, and other risks associated with the investment activity and determine that such investment is appropriate for your institution. You must also determine that the obligor has adequate resources and willingness to provide for all required payments on its obligations in a timely manner.

Dated: December 11, 2001.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–78–AD; Amendment 39–12560; AD 2001–25–07]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS 332C, L, L1, and L2 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that applies to Eurocopter France Model AS 332C, L, L1, and L2 helicopters. That AD requires conducting a filter clogging warning test, and, if necessary, replacing a jammed valve with an airworthy valve. This amendment requires the same actions as the existing AD but references a revision to the previously referenced service information; adds fuel filter part numbers to the applicability; and clarifies other provisions throughout the AD. This amendment is prompted by jammed fuel filter by-pass valves. The actions specified by this AD are intended to prevent power loss due to fuel starvation, engine flameouts, and a subsequent forced landing.

DATES: Effective January 25, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 25, 2002.

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

FOR FURTHER INFORMATION CONTACT: Paul Madej, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 by superseding AD 99–13–02, Amendment 39–11195 (64 FR 32399, June 17, 1999), which applies to Eurocopter France Model AS 332C, L, L1, and L2 helicopters, was published in the **Federal Register** on April 14, 2000 (65 FR 20104). That action proposed to require the same actions as AD 99–13–02 but would have added another fuel filter part number to the applicability.

After issuing that notice of proposed rulemaking (NPRM), Eurocopter France issued Alert Service Bulletin No. 01.00.56, dated January 16, 2001 (ASB), which changed the compliance and operational procedures and added a part number to the affected fuel filters. The Direction Generale De L'Aviation Civile, which is the airworthiness authority for France, classified that ASB as mandatory and issued AD Nos. 1998–318–071(A)R6 and 1998–319–012(A)R6, both dated April 18, 2001, to ensure the continued airworthiness of these helicopters in France. The FAA determined that the actions and all the fuel filter part numbers specified in the SB should be included in the proposal. Because the changes expanded the scope of the originally proposed rule, the FAA determined that it was necessary to reopen the comment period to provide additional opportunity for public comment and issued a supplemental NPRM on August 17, 2001 (66 FR 45651, August 29, 2001).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for a minor editorial change in Note 2 of the AD. The word ''bulletin'' is inserted to reference the applicable service information. This change neither increases the economic burden on any operator nor increases the scope of the AD.

The FAA estimates that one helicopter of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $180, assuming no valve needs to be replaced.

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 39–11195 (64 FR 32399, June 17, 1999), and by adding a new airworthiness directive (AD), Amendment 39–12560, to read as follows:

2001–25–07 Eurocopter France: Amendment 39–12560. Docket No. 99–SW–78–AD. Supersedes AD 99–13–02, Amendment 39–11195, Docket No. 99–SW–17–AD.

Applicability: Eurocopter France Model AS 332C, L, L1, and L2 helicopters, with any of the following part-numbered fuel filters installed, certificated in any category:

Vendor part no.	Eurocopter France part no.
–4020P25	(704A44620031)
–4020P25–1	(704A44620034)
–4020P25–2	(704A44620035)
–4020P25–3	(704A44620036)
–4020P25–4	(704A44620044)
–4020P25–11	(704A44620037)

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

Note 2: This AD does not apply to aircraft modified per Eurocopter MOD 0726087 or in compliance with Eurocopter AS 332 Service Bulletin No. 28.00.38, dated March 15, 2001.

Compliance: Required as indicated, unless accomplished previously.

To prevent power loss due to fuel starvation, an engine flameout, and a subsequent forced landing, accomplish the following:

(a) Within 25 hours time-in-service (TIS), after any subsequent flight during which either fuel filter pre-clogging caution light illuminates, and after each installation of a new fuel filter assembly or filter element:

(1) Verify that the fuel filter by-pass valve (valve) correctly closes for each engine fuel filter in accordance with the Accomplishment Instructions, paragraph 2.B.1. of Eurocopter France Alert Service Bulletin Number 01.00.56, Revision 1, dated March 15, 2001 (ASB).

(2) Conduct a filter pre-clogging warning test in accordance with paragraph 2.B.2. of the ASB.

(3) If a blocked fuel filter element (open or closed) is detected during the pre-clogging warning test, clean the filter assembly in accordance with paragraph 2.B.4. of the ASB. After cleaning the filter assembly, repeat the requirements of paragraph (a)(2) of this AD.

(4) When the pre-clogging warning test result is satisfactory, repeat the requirements of paragraph (a)(1) of this AD.

(b) Within 25 hours TIS, insert a copy of this AD into the Rotorcraft Flight Manual (RFM), or make the following pen and ink addition to the RFM Emergency Procedure for fuel filter clogged caution light illumination: ''If both fuel filter clogged caution lights illuminate, land as soon as possible.''

(c) If both filter clogged caution lights illuminate in flight, after landing, either:

(1) Accomplish the requirements of paragraphs (a)(1) through (a)(4) of this AD before further flight, or,

(2) Replace both fuel filter elements with airworthy fuel filter elements and conduct a one-time direct flight to a location where the requirements of paragraphs (a)(1) through (a)(4) of this AD can be accomplished before further flight.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Regulations Group.

(e) Special flight permits will not be issued.

(f) The inspections, tests, and cleaning shall be done in accordance with the Accomplishment Instructions, paragraphs 2.B.1., 2.B.2., and 2.B.4., of Eurocopter France Alert Service Bulletin Number 01.00.56 Revision 1, 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.

(g) This amendment becomes effective on January 25, 2002.

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD's 1998–318–071(A)R6 and 1998–319–012(A)R6, both dated April 18, 2001.

Issued in Fort Worth, Texas, on December 11, 2001.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–31040 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–77–AD; Amendment 39–12563; AD 2001–25–10]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that supersedes Airworthiness Directive (AD) 99–19–32, which applies to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. AD 99–19–32 currently requires you to inspect the flap actuator internal gear system for correct end-play and backlash measurements and accomplish any corrective adjustments, as necessary. Pilatus has identified modifications for the flap system and designed and manufactured a new flap control and warning unit (FCWU) that permits the flap power drive-unit circuit breaker to close during flight. This AD requires you to modify the flap control wiring and install a flap power drive-unit field control panel. The actions specified by this AD are intended to allow the flap power drive-unit circuit breaker to close during flight and prevent current surges in the flap control system. If the pilot cannot close the circuit breaker during flight, the flight control and warning unit (FCWU) would not sense a worn actuator. Current surges in the flap control system could decrease the electrical life of the flap power drive-unit motor contactor. Both conditions have the potential for flap system failure with consequent reduced or loss of control of the airplane.

DATES: This AD becomes effective on January 25, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of January 25, 2002.

ADDRESSES: You may get the service information referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–77–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: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

Reports of excessive backlash in the flap actuators of the internal gear system on certain Pilatus Models PC–12 and PC–12/45 airplanes caused FAA to issue AD 99–19–32, Amendment 39–11319 (64 FR 50439, September 17, 1999).

AD 99–19–32 currently requires you to inspect the flap actuator internal gear system for correct end-play and backlash measurements and accomplish any corrective adjustments, as necessary.

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA of the need to change AD 99–19–32. The FOCA reports that Pilatus has identified modifications for the flap system and designed and manufactured a new flap control and warning unit (FCWU) that permits the flap power drive-unit circuit breaker to close during flight.

The previous FCWU does not allow the pilot to close the flap power drive-unit circuit breaker during flight and the FCWU cannot sense when a single actuator becomes worn. This could result in flap panel distortion. The incorporation of these modifications to the flap system and the installation of the new design FCWU, Pilatus part number FCWU 99–3, make the current end-play and backlash measurement procedures incorrect.

Pilatus has also identified quality deficiencies with serial numbers less than 100,001 of Pilatus part number FCWU 99–3.

In addition, the FOCA reports that electrical surges in the flap system can decrease the electrical life of the flap power drive-unit motor contactor. At the 40-degree flaps position, the flaps-down limit switch (S035) operates before the flap control warning unit can stop the extend command, which causes the flap power drive-unit's Up/Down relay (K32) to change from the extend to the retract position. The current in the field winding then goes in the opposite direction while a current still flows to the motor. Electrical current to the flap power drive-unit motor and field windings remains when the circuit breaker (CB034) closes and the motor contactor (K31 or K670) stays closed.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Pilatus PC–12 and PC–12/45 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on September 20, 2001 (66 FR 48381). The NPRM proposed to supersede AD 99–19–32 and proposed to require you to accomplish the following:

—Repetitively inspect the flap actuator internal gear system for correct end-play and backlash measurements with any necessary corrective adjustments;

—Incorporate certain modifications to the flap system and install a new design FCWU with a serial number of 100,001 or higher, or FAA-approved equivalent part number; and

—Modify the flap control wiring and install a flap power drive-unit field control panel.

Accomplishment of these proposed actions as specified in the NPRM would be required in accordance with the following:

—Pilatus PC–12 Service Bulletin No. 27–008, which incorporates the following pages:

Effective pages	Revision level	Date
1, 2, and 11	2	September 13, 2000.
3 through 10 and 12 through 114	1	June 26, 2000

—Pilatus PC–12 Service Bulletin No. 27–012, dated September 13, 2000;
—Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–13, dated April 30, 2000; and
—Pilatus PC–12 Service Bulletin No. 27–011, Revision No. 1, dated January 26, 2001.

Note: We added to the final rule Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–14 (which superseded Temporary Revision No. 27–13), dated December 4, 2000, and Pilatus PC–12 Aircraft Maintenance Manual 27–50–03, pages 601 through 608, dated April 30, 2000.

What Is the Potential Impact if FAA Took No Action?

These conditions, if not corrected, could cause the flap power drive-unit circuit breaker to not close during flight and cause current surges in the flap control system. Both conditions have the potential for flap system failure with consequent reduced or loss of control of the airplane.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: The AD Is not Necessary

What is the commenter's concern? Several commenters state that the AD is not necessary and the actions that are currently required by AD 99–19–32 are sufficient. The commenters request that FAA withdraw the NPRM.

What is FAA's response to the concern? We do not concur that this AD is not necessary. As previously discussed, the unsafe conditions specified in this document, if not corrected, could cause the flap power drive-unit circuit breaker to not close during flight and cause current surges in the flap control system. If the pilot cannot close the circuit breaker during flight, the flight control and warning unit (FCWU) would not sense a worn actuator. Current surges in the flap control system could decrease the electrical life of the flap power drive-unit motor contactor. Both conditions have the potential for flap system failure with consequent reduced or loss of control of the airplane.

We are not changing the final rule as a result of these comments.

Comment Issue No. 2: Change the Compliance Time

What is the commenter's concern? One commenter suggests that FAA change the repetitive inspection interval for the actuator backlash from 100 hours time-in-service (TIS) to 600 hours TIS. This would coincide with Pilatus PC–12 Service Bulletin No. 27–008 and Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–14 (which superseded Temporary Revision No. 27–13), dated December 4, 2000, or Pilatus PC–12 Aircraft Maintenance Manual 27–50–03, pages 601 through 608, dated April 30, 2000.

What is FAA's response to the concern? We concur with this comment. Our intent was to make the repeat inspections at 600-hour TIS intervals once the improved design actuators were installed.

We are changing the final rule to reflect:

—The change in repeat inspections from 100-hour TIS to 600-hour TIS intervals; and
—Reference to Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–14 (which superseded Temporary Revision No. 27–13), dated December 4, 2000, or Pilatus PC–12 Aircraft Maintenance Manual 27–50–03, pages 601 through 608, dated April 30, 2000.

FAA's Determination

What Is FAA's Final Determination on This Issue?

We carefully reviewed all available information related to the subject presented above and determined that air safety and the public interest require the adoption of the rule as proposed except for the changes discussed above and minor editorial questions. We have determined that these changes and minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and
—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 135 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the initial inspection of the flap actuator internal gear system for end-play and backlash measurements. We have no way of determining the number of corrective adjustments each owner/operator of the affected airplanes would need to accomplish, the nature of such adjustments, or the number of repetitive inspections each owner/operator would incur. Therefore, the cost estimate only takes into account the cost of the proposed initial inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
6 workhours × $60 per hour = $360.	Not Applicable	$360	$48,600

We estimate the following costs to incorporate certain modifications to the flap system and install a new design FCWU with a serial number of 100,001 or higher:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
70 workhours × $60 per hour = $4,200	Pilatus will provide parts at no cost to the owner/operator.	$4,200	$567,000

We estimate the following costs to modify the flap control wiring and install a flap power drive-unit field control panel:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
5 workhours × $60 per hour = $300	Pilatus will provide parts at no cost to the owner/operator.	$300	$40,500

Regulatory Impact

Does This AD Impact Various Entities?

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.

Does This AD Involve a Significant Rule or Regulatory Action?

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 copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 99–19–32, Amendment 39–11319 (64 FR 50439, September 17, 1999), and adding a new AD to read as follows:

2001–25–10 Pilatus Aircraft Ltd.: Amendment 39–12563; Docket No. 2000–CE–77–AD. Supersedes AD 99–19–32, Amendment 39–11319.

(a) *What airplanes are affected by this AD?* This AD affects Models PC–12 and PC–12/45 airplanes, all serial numbers, that are certificated in any category. Carefully check paragraphs (d)(1) through (d)(6) of this AD for the specific actions that apply to each airplane. All airplanes will be affected by multiple actions specified in these paragraphs.

(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 the AD are intended to allow the flap power drive-unit circuit breaker to close during flight and prevent current surges in the flap control system. If the pilot cannot close the circuit breaker during flight, the flight control and warning unit (FCWU) would not sense a worn actuator. Current surges in the flap control system could decrease the electrical life of the flap power drive-unit motor contactor. Both conditions have the potential for flap system failure with consequent reduced or 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) For airplanes that incorporate a manufacturer serial number (MSN) in the range of 101 through 320, accomplish the following:. (i) Do the modifications and installations to the flap system, as specified in the service information. (ii) Install a new design flap control and warning unit (FCWU) (Pilatus part number FCWU 99–3) with a serial number of 100,001 or higher, or FAA-approved equivalent part number.	Within the next 50 hours time-in-service (TIS) after January 25, 2002 (the effective date of this AD), unless already accomplished.	In accordance with the Accomplishment Instructions section of Pilatus PC–12 Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000; and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000. Pilatus PC–12 Service Bulletin 27–012, dated September 13, 2000, also relates to this subject.
(2) If you accomplished the modifications required by paragraph (d)(1) of this AD in accordance with Pilatus PC–12 Service Bulletin 27–008, all pages at the Revision 1 level, dated June 26, 2000, you only have to install a new design FCWU (Pilatus part number FCWU 99–3) with a serial number of 100,001 or higher, or FAA-approved equivalent part number..	Within the next 50 hours TIS after January 25, 2002 (the effective date of this AD), unless already accomplished.	In accordance with the Accomplishment Instructions section of Pilatus PC–12 Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000; and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000. Pilatus PC–12 Service Bulletin 27–012, dated September 13, 2000, also relates to this subject.

Actions	Compliance	Procedures
(3) For airplanes that incorporate an MSN in the range of 321 through 331, 333, 335, 336, 338 through 341, 343, or 345, install a new design FCWU (Pilatus part number FCWU 99–3) with a serial number of 100,001 or higher, or FAA-approved equivalent part number..	Within the next 50 hours TIS after January 25, 2002 (the effective date of this AD), unless already accomplished.	In accordance with the Accomplishment Instructions section of Pilatus PC–12 Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000; and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000. Pilatus PC–12 Service Bulletin 27–012, dated September 13, 2000, also relates to this subject.
(4) For airplanes that incorporate an MSN in the range of 101 through 400, modify the flap control wiring and install a flap power drive-unit field control panel..	Within the next 50 hours TIS after January 25, 2002 (the effective date of this AD).	In accordance with the Accomplishment Instructions section of Pilatus PC–12 Service Bulletin No. 27–011, Revision No. 1, dated January 26, 2001.
(5) For all MSN airplanes, inspect the flap actuator internal gear system for correct end-play and backlash measurements and make any necessary corrective adjustments..	Inspect initially within the next 50 hours TIS after January 25, 2002 (the effective date of this AD) and thereafter at intervals not to exceed 600 hours TIS. Accomplish corrective adjustments prior to further flight after the inspection where deficiencies are detected.	In accordance with the instructions in Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–14 (which superseded Temporary Revision No. 27–13), dated December 4, 2000, or Pilatus PC–12 Aircraft Maintenance Manual 27–50–03, pages 601 through 608, dated April 30, 2000, as applicable.
(6) For all MSN airplanes, do not install any Pilatus part number FCWU 99–3 that has a serial number of 100,000 or less..	As of January 25, 2002 (the effective date of this AD).	Not Applicable.

Note 1: The FAA recommends that you incorporate the most up-to-date Pilatus reports and revisions pertaining to this subject into the Pilatus PC–12 Pilot's Operating Handbook. The most up-to-date documents as of the issue date of this AD are Temporary Revision No. 15, Report No. 01973–001, Issued: April 3, 2000, Sections 3 and 7; and Temporary Revision No. 32, Report No. 01973–001, Issued: January 8, 2001, Sections 2 and 3.

(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 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 Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(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) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Pilatus PC–12 Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000, and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000; Pilatus PC–12 Service Bulletin 27–012, dated September 13, 2000; Pilatus PC–12 Service Bulletin No. 27–011, Revision No. 1, dated January 26, 2001; Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–14 (which superseded Temporary Revision No. 27–13), dated December 4, 2000; and Pilatus PC–12 Aircraft Maintenance Manual 27–50–03, pages 601 through 608, dated April 30, 2000. 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 Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You can look at copies at the 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 January 25, 2002.

Issued in Kansas City, Missouri, on December 11, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–31102 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–28–AD; Amendment 39–12570; AD 2001–26–06]

RIN 2120–AA64

Airworthiness Directives; CFE Company Model CFE738–1–1B Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to CFE Company model CFE738–1–1B turbofan engines. This action requires the removal of certain fan rotor disks from service. This amendment is prompted by a report from a forging manufacturer, of a metallurgical inclusion (contaminant) found in a forging made from a certain

ingot of titanium. Fan rotor disks for model CFE738–1–1B engines have been manufactured from this same ingot and are suspect for metallurgical inclusions. The actions specified in this AD are intended to remove from service affected fan rotor disks, which if not removed, could result in uncontained engine failure and damage to the airplane.

DATES: Effective January 7, 2002.

Comments for inclusion in the Rules Docket must be received on or before February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–28–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. The service information referenced in this AD may be obtained from CFE Company, Data Distribution, MS 64–03/2101–201, P.O. Box 52170, Phoenix, AZ 85972–2170; telephone (602) 365–2493, fax (602) 365–5577.

FOR FURTHER INFORMATION CONTACT: Keith Mead, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7744, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA was recently notified of a report from a forging manufacturer of a metallurgical inclusion (contaminant) found by ultrasonic inspection in a certain forged part. This part was made from a certain ingot of titanium. The engine manufacturer also reports that CFE738 fan rotor disks were manufactured from this same ingot and are, therefore, suspected of containing these metallurgical inclusions. Metallurgical inclusions are known to be crack initiation sites in highly stressed engines parts. Cracks that have initiated from inclusions in disk material have caused uncontained disk failures. The FAA has therefore determined that these suspect fan rotor disks could fail as a result of having metallurgical inclusions. This condition, if not corrected, could result in uncontained engine failure and damage to the airplane.

Requirements of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other CFE Company model CFE738–1–1B turbofan engines of the same type design, this AD is being issued to remove from service affected fan rotor disks, which if not removed, could result in uncontained engine failure and damage to the airplane. This AD requires the removal from service of certain fan rotor disks, either before further flight or by an engine cycle schedule, based on fan rotor disk serial number.

Immediate Adoption of This AD

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 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, 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 action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001-NE–28-AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

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

The FAA has 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. 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:

2001–26–06 CFE Company: Amendment 39–12570. Docket 2001–NE–28–AD.

Applicability: This airworthiness directive (AD) is applicable to CFE Company model CFE738–1–1B turbofan engines that contain fan rotor disks part number (P/N) 3050745–2, serial numbers (SN's) 000322903511 through 000322903536, and 000322903538 through 000322903541. These engines are

installed on, but not limited to Dassault Aviation Falcon 2000 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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: Compliance with this AD is required as indicated, unless already done.

To remove from service affected fan disks, which if not removed, could result in uncontained engine failure and damage to the airplane, do the following:

(a) Remove from service before further flight, the following serial number (SN) fan rotor disks listed in Table 1:

TABLE 1. SN'S OF FAN ROTOR DISKS REQUIRING REMOVAL BEFORE FURTHER FLIGHT

000322903512	000322903520	000322903528	000322903535
000322903513	000322903521	000322903529	000322903536
000322903516	000322903523	000322903530	000322903538
000322903517	000322903524	000322903531	000322903539
000322903518	000322903525	000322903533	000322903540
000322903519	000322903527	000322903534	000322903541

(b) Remove from service within 10 engine cycles-in-service after the effective date of this AD, fan rotor disks SN's 000322903511, 000322903515, and 000322903526.

(c) Remove from service within 70 engine cycles-since-new (CSN), fan rotor disk SN 000322903514.

(d) Remove from service within 140 engine CSN, fan rotor disks SN 000322903522 and 000322903532.

(e) The manufacturer's records indicate that fan rotor disks identified in paragraphs (a) through (d) of this AD were installed in, and may still be installed in the engines listed by SN in the following Table 2. This AD, however, applies to any engine with the fan rotor disks installed, identified in paragraphs (a) through (d) of this AD. Table 2 is provided for informational purposes only to assist in locating engines that may be affected. For information on replacing the affected fan rotor disks in this AD, see CFE Company Alert Service Bulletin CFE738-A72–8053, dated July 24, 2001.

105430	105446	105455	105467
105432	105447	105456	105469
105434	105448	105457	105471
105438	105450	105459	105472
105441	105451	105461	105474
105443	105452	105462	105475
105444	105453	105463	
105445	105454	105466	

(f) After the effective date of this AD, do not install any fan rotor disks P/N 3050745–2, SN's 000322903511 through 000322903536, and 000322903538 through 000322903541 onto any engine.

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

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

Special Flight Permits

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

Effective Date

(i) This amendment becomes effective on January 7, 2002.

Issued in Burlington, Massachusetts, on December 14, 2001.

Francis A. Favara,

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

[FR Doc. 01–31326 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AWP–27]

Establishment of a Class E Enroute Domestic Airspace Area, Iron Mountain, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, requests for comments.

SUMMARY: This action establishes a Class E enroute domestic airspace area beginning at 1,200 feet above ground level (AGL) in the vicinity of Iron Mountain, CA, to replace existing Class G uncontrolled airspace.

DATES: *Effective Date:* 0901 UTC February 21, 2002. *Comment Date:* Comments for inclusion in the Rules Docket must be received on or before January 22, 2002.

ADDRESSES: Send comments on the direct final rule in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 01–AWP–27, Air Traffic Division, P.O. Box 92007, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Air Traffic Division, Airspace Specialist, AWP–520, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (301) 725–6613.

SUPPLEMENTARY INFORMATION: This action will establish a Class E enroute domestic airspace area with a base altitude of 1,200 feet AGL in the vicinity of Iron Mountain, CA. A review of the airspace in southern California revealed large areas of uncontrolled (Class G) airspace immediately adjacent to numerous federal airways. Because this airspace is Class G (uncontrolled) below 14,500 feet mean sea level (MSL), the Los Angeles Air Route Traffic Control Center (ARTCC) cannot initiate instrument flight rules (IFR) air traffic services within Class G airspace. IFR services may be provided to aircraft operating in Class G airspace only when the pilot requests such service. This procedure effectively limits the flexibility of Los Angeles ARTCC in providing off route vectors and direct routing to aircraft in these areas. En route domestic airspace areas are intended to create controlled airspace in those areas where there is a requirement, or need, to provide Instrument Flight Rules (IFR) en route air traffic control services but the Federal airway segment is inadequate. The intended effect of this action is to establish Class E controlled airspace within the boundaries of the above-mentioned area, thereby replacing the existing uncontrolled airspace.

Class E enroute domestic airspace areas are published in Paragraph 6006 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, 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 or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this 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, 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 action 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. 01–AWP–27.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 1001, and effective September 16, 2001, is amended as follows:

* * * * *

Paragraph 6006 Enroute Domestic Airspace Areas

* * * * *

Iron Mountain, CA [NEW]

That airspace extending upward from 1200 feet above the surface bounded on the north and east by V135, bounded on the south by V16–372, bounded on the west by V208–514 and V514–538, excluding that airspace within the Needles, Blythe, Parker, and Twentynine Palms Class E airspace areas, and that airspace designated for federal airways.

Issued in Los Angeles, California, on October 29, 2001.

Dawna J. Vicars,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 01–31518 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 744

[Docket No. 010220046–1046–01]

RIN 0694–AC40

Entity List: Removal of Two Russian Entities

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule removes two Russian entities from the Entity List: INOR Scientific Center, Moscow, Russia; and Polyus Scientific Production Association, 3 Ulitsa Vvedenskogo, 117342, Moscow. The Export Administration Regulations (EAR) provide that the Bureau of Export Administration (BXA) may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contain a list of such entities called the Entity List.

EFFECTIVE DATE: This rule is effective December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Eileen M. Albanese, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482–0436.

SUPPLEMENTARY INFORMATION:

Background

Consistent with Section 6 of Executive Order 12938 of November 14, 1994, as amended, this action removes the following Russian entities, their sub-units and successors from the Entity List found in Supplement No 4. to Part 744 of the EAR: INOR Scientific Center, Moscow, Russia; and, Polyus Scientific Production Association, 3 Ulitsa Vvedenskogo, 117342, Moscow.

BXA maintains an Entity List to provide notice to the public of export license requirements for such entities. These two Russian entities were added to BXA's Entity List on July 29, 1998 (63 FR 40363), due to an investigation then underway by the Russian government of these entities for suspected activities involving weapons of mass destruction and missile technology. However, the State Department determined on November 17, 2000, that it is in the foreign policy and national security interests of the United States to remove nonproliferation measures on these two entities. These entities have taken action on the issues that caused the U.S. to impose these measures in 1998. Removing these additional license requirements and restoring the previous license review policy for these entities in light of the action taken by them will support U.S. nonproliferation policy.

Although the Export Administration Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (66 FR 44025, August 22, 2001) continues the Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any 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 of information displays a currently valid Office of Management and Budget Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 45 minutes for a manual submission and 40 minutes for an electronic submission.

3. This rule does not contain policies with Federalism implications as this term is defined under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044, or scook@bxa.doc.gov.

List of Subjects in 15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–799) is amended as follows:

PART 744—[AMENDED]

1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001; Notice of November 9, 2000, 65 FR 68063, 3 CFR, 2000 Comp., p. 408.

2. Supplement No. 4 to part 744 is amended removing the entities ''INOR Scientific Center, Moscow, Russia''; and ''Polyus Scientific Production Association, 3 Ulitsa Vvedenskogo, 117342, Moscow'' listed under ''Russia'' in the table.

Dated: December 17, 2001.

James J. Jochum,

Assistant Secretary for Export Administration.

[FR Doc. 01–31508 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–33–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Child-Resistant Packaging for Certain Over-the-Counter Drug Products; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; correction.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) corrects the rule published in the **Federal Register** of August 2, 2001 that requires child-resistant (CR) packaging of certain previously prescription-only oral drug products approved by the Food and Drug Administration (FDA) for over-the-counter (OTC) sale. Drug products that are the subject of the August 2 rule are members of the category known as ''OTC switched drug products.''

The Commission intended that the August 2 rule apply to an oral drug product that is granted OTC status as

the result of an application to switch the product from prescription to OTC status (an OTC switch application) submitted to the FDA on or after the January 29, 2002 effective date of the CPSC rule, except in the following circumstances. The rule was not intended to cover a drug product that contains only active ingredients covered by prior OTC switch applications submitted by the same or any other applicant before the effective date of the CPSC rule. Since publication of the August 2 rule, the Commission has become aware that a correction is necessary to avoid confusion over this point and is thus issuing a clarifying amendment.

DATES: Effective on January 29, 2002.

FOR FURTHER INFORMATION CONTACT: Suzanne Barone, Ph.D., Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301)504–0477 ext. 1196 or Geri Smith, Office of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301)504–0608 ext. 1160.

SUPPLEMENTARY INFORMATION:

A. The Technical Correction

The Commission published, in the **Federal Register** of August 2, 2001, a regulation to require CR packaging of oral drug products approved by the FDA for OTC sale that contain active ingredients previously available only by prescription. 66 FR 40111. The regulation as proposed and as issued in final form was intended to apply only to an OTC drug product containing one or more previously prescription-only active ingredients first granted OTC status as a result of applications submitted to the FDA on or after the January 29, 2002 effective date of the final OTC-switch rule.

Nevertheless, the August 2, 2001 rule can be read to require CR packaging of a drug product approved for the switch to OTC status after the rule becomes effective on January 29, 2002, even if that drug product contains only an active ingredient or ingredients for which application(s) for OTC switch were submitted to the FDA by any manufacturer(s) prior to the effective date. The CR packaging requirement of the rule could also be interpreted to be triggered by non-prescription active ingredients in previously prescription-only drug products. This was not the intent of the rule.

The following examples are intended to clarify the scope of the rule as corrected today:

Example 1: Manufacturer A submitted an application to the FDA in December 2001 for OTC switch of an oral drug product containing only prescription-only active ingredient X. Manufacturer A's application is approved by the FDA after the January 29, 2002 effective date of this rule. Manufacturer B submits an application to the FDA in February 2002 for OTC switch of another oral drug product containing only the same active ingredient X.

Neither drug product is subject to this rule. Manufacturer A's drug product is not subject to this rule because the OTC switch application was submitted before the January 29, 2002 effective date. Manufacturer B's drug product is not subject to this rule because it contains only formerly prescription-only active ingredients for which an OTC switch application was submitted to the FDA by some manufacturer before the effective date of the rule.[1]

Example 2: Manufacturer A submits an application to the FDA in February 2002 for OTC switch of an oral drug product containing prescription-only oral active ingredient X. Active ingredient X is not the subject of an OTC switch application submitted by any manufacturer prior to the January 29, 2002 effective date of this rule.

Manufacturer A's drug product must be in CR packaging under this rule because no application for OTC switch of prescription-only active ingredient X was submitted to the FDA by any manufacturer prior to the January 29, 2002 effective date of the rule.

Example 3: Manufacturer A obtained FDA approval in December 2001 for OTC switch of an oral drug product containing formerly prescription-only active ingredient X. Manufacturer B submits an application to the FDA in February 2002 for OTC switch of an oral drug product containing active ingredient X and prescription-only active ingredient Y. Active ingredient Y is not the subject of any OTC switch application submitted by any manufacturer prior to the effective date of this rule.

Manufacturer A's drug product is not subject to this rule. Manufacturer B's drug product must be in CR packaging under this rule because no OTC switch application for prescription-only active ingredient Y was submitted to the FDA by any manufacturer prior to the January 29, 2002 effective date of the rule.

Each of these examples pertains only to the scope of this rule. Any other special packaging requirements of 16 CRF 1700.14 otherwise applicable to a drug product remain in full force and effect.

B. The Administrative Procedure Act (APA)

Section 553(b)(3)(B) of the APA authorizes an agency to dispense with certain notice procedures for a rule when it finds ''good cause'' to do so. 5 U.S.C. 553(b)(3)(B). Specifically, under section 553(b)(3)(B), the requirement for notice and an opportunity to comment does not apply when the agency, for good cause, finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' This amendment does not alter the intended scope of the August 2, 2001 rule or otherwise widen its applicability. Accordingly, the Commission hereby finds that notice of, and public comment on, this technical amendment are unnecessary.

C. Other Rulemaking Requirements

Because this amendment makes no change in the intended scope or applicability of the August 2, 2001 rule, the Commission hereby incorporates by reference the findings made with respect to it concerning the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., the National Environmental Policy Act, 42 U.S.C.4321, et seq., and Executive Order No. 12988. See 66 FR 40114–5 (August 2, 2001).

For the foregoing reasons, the Commission corrects rule FR Doc. 01–19225 published in the **Federal Register** on August 2, 2001, (66 FR 40111) by making the following correcting amendment. On page 40115, in the third column, revise paragraph (a)(30)(i) in § 1700.14 to read as follows:

§ 1700.14 Substances requiring special packaging.

(a) * * *

* * * * *

(30) *Over-the-Counter Drug Products.* (i) Any over-the-counter (OTC) drug product in a dosage form intended for oral administration that contains any active ingredient that was previously available for oral administration only by prescription, and thus was required by paragraph (a)(10) of this section to be in special packaging, shall be packaged in accordance with the provisions of § 1700.15(a),(b), and (c). This requirement applies whether or not the amount of that active ingredient in the OTC drug product is different from the amount of that active ingredient in the prescription drug product. This requirement does not apply if the OTC drug product contains only active ingredients of any oral drug product or products approved for OTC marketing based on an application for OTC marketing submitted to the Food and Drug Administration (FDA) by any entity before January 29, 2002. Notwithstanding the foregoing, any special packaging requirement under this § 1700.14 otherwise applicable to an OTC drug product remains in effect.

* * * * *

[1] Of course the situation where the OTC switch application has been submitted to the FDA and also approved prior to the effective date of the CPSC rule is covered by this example.

Dated: December 17, 2001.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 01–31400 Filed 12–20–01; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP TAMPA–01–139]

RIN 2115–AA97

Security Zones; Tampa Bay, Florida

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary fixed security zones in all waters extending 100 feet around all bridge supports and rocky outcroppings at the base of the supports for the Sunshine Skyway Bridge in Tampa Bay. These security zones are needed for national security reasons to protect the bridge and passing marine traffic from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida or his designated representative.

DATES: This regulation is effective at 6 p.m. EST on December 7, 2001 and will remain in effect until 6 p.m. EDT on June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket number COTP Tampa 01–139 and are available for inspection or copying at Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606–3598 between 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David G. McClellan, Coast Guard Marine Safety Office Tampa, at (813) 228–2189 extension 102.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM and delaying the rule's effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. As appropriate the Coast Guard will issue a broadcast notice to mariners and place Coast Guard or other law enforcement vessels in the vicinity of these zones to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Sunshine Skyway Bridge in Tampa Bay, located at approximate position 27° 37′12″ N Latitude, 82° 39′20″ W Longitude. These security zones will encompass all waters extending 100 feet around all bridge supports and rocky outcroppings at the base of the supports for the Sunshine Skyway Bridge in Tampa Bay. Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida or his designated representative.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979) because this will only affect a small group of recreational fisherman that occasionally fish next to the bridge supports and they may be allowed to enter these zones with the permission of the Captain of the Port.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because small entities may be allowed to enter these zones on a case by case basis with the authorization of the Captain of the Port.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–139 is added to read as follows:

§ 165.T07–139 Security Zone; Tampa Bay, Florida.

(a) *Regulated area.* The Coast Guard is establishing temporary fixed security zones in all waters extending 100 feet around all bridge supports and rocky outcroppings at the base of the supports for the Sunshine Skyway Bridge in Tampa Bay, located at approximate position 27° 37′12″ N Latitude, 82°39′20″ W Longitude.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into these zones is prohibited except as authorized by the Captain of the Port, or his designated representative. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 13 and 16 (157.1 MHz).

(c) *Dates.* This section becomes effective at 6 p.m. (EST) on December 7, 2001 and will remain in effect until 6 p.m. (EDT) on June 15, 2002.

(d) *Authority.* The authority for this section is 33 U.S.C. 1226; 49 CFR 1.46.

Dated: December 4, 2001.

A. L. Thompson, Jr.,

Captain, U. S. Coast Guard, Captain of the Port.

[FR Doc. 01–31524 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301184; FRL–6806–7]

RIN 2070–AB78

Fluthiacet-methyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of fluthiacet-methyl in or on field corn grain, field corn forage, field corn stover, pop corn grain, pop corn stover, sweet corn, kernels plus cob husk removed (K+CWHR), sweet corn forage, and sweet corn stover. K-I Chemical, U.S.A. Inc., 11 Martine Avenue, 9th Floor, White Plains, New York 10606 requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation is effective December 21, 2001. Objections and requests for hearings, identified by docket control number OPP–301184, must be received by EPA on or before February 19, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301184 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 305–6224; and e-mail address: miller.joanne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply

to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301184. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of April 14, 1997 (62 FR 18116) (FRL–5599–7), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a as amended by the of FQPA 1996 (Public Law 104–170) announcing the filing of a pesticide petition (PP) for tolerance by K-I Chemical U.S.A., Inc., 11 Martine Avenue, 9th Floor, White Plains, NY 10606. This notice included a summary of the petition prepared by K-I Chemical U.S.A. Inc., the registrant. There were no comments received in response to the notice of filing. In the **Federal Register** of October 6, 1998 (63 FR 53656) (FRL–6033–8), EPA issued a notice pursuant to the same Acts, announcing an amendment to the petition. There were no comments received in response to the notice of filing. Addition tolerances for residues of fluthiacet-methyl per se in or on cottonseed and cotton gin by products were requested; however, a revised Section F to the petition was submitted in which these tolerances were not requested.

The petition requested that 40 CFR 180.551 be amended by establishing a tolerance for residues of the herbicide, fluthiacet-methyl, acetic acid, [2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1H,3H-[1,3,4]thiadiazolo[3,4-α]pyridazin-1-ylidene)amino]phenyl]thio]-methyl ester), in or on corn, field, grain at 0.010 part per million (ppm); corn, field, forage at 0.050 ppm; corn, field, stover at 0.050 ppm; corn, pop, grain at 0.010 ppm; corn, pop, stover at 0.050 ppm; corn, sweet, forage at 0.050 ppm; corn, sweet, K + CWHR at 0.010 ppm; and corn, sweet, stover at 0.050 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue''.

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961) (FRL–5754–7) November 26, 1997.

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for residues of fluthacet-methyl on corn, field, grain at 0.010 ppm; corn, field, forage at 0.050 ppm; corn, field, stover at 0.050 ppm; corn, pop, grain at 0.010 ppm; corn, pop, stover at 0.050 ppm; corn, sweet, forage at 0.050 ppm; corn, sweet, K + CWHR at 0.010 ppm; and corn, sweet, stover at 0.050 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by fluthiacet-methyl are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90–day oral Toxicity, rats and mice	Rats: NOAEL = 6.19 milligrams/kilograms day (mg/kg/day) in males 6.80 mg/kg/day in females LOAEL = 216 mg/kg/day in males 249 mg/kg/day in females Mice: NOAEL = 1.3 mg/kg/day in males 1.6 mg/kg/day in females LOAEL = 66 mg/kg/day in males 83 mg/kg/day in females Based on decreased body weight gains as well as effects on hematology, clinical chemistry, urinalysis parameters, liver weights and microscopic pathology in rats; and on effects on the erythropoietic system and liver in mice.
870.3150	6–week oral toxicity in dogs	NOAEL = 236 mg/kg/day in males 77.7 mg/kg/day in females LOAEL = 709 mg/kg/day in males 232 mg/kg/day in females based on decreased body weight gain.
870.3200	28–day dermal toxicity in rats	NOAEL = 1,000 mg/kg/day, the highest dose tested (HDT).
870.3700	Prenatal developmental in rats and rabbits	Maternal in rats: NOAEL = 1,000 mg/kg/day, HDT Maternal in rabbits: NOAEL = 1,000 mg/kg/day, HDT Developmental in rabbits: NOAEL = 300 mg/kg/day Developmental in rabbits: LOAEL of 1,000 mg/kg/day based on slight non-significant increased incidence of irregularly shaped sternebrae attributed to a delay in fetal development. (See section D., 2.)
870.3800	2-generation Reproduction and fertility effects	Parental/systemic NOAEL = 1.59 mg/kg/day in males LOAEL = 31.8 mg/kg/day in males NOAEL = 1.73 mg/kg/day in females LOAEL = 35.2 mg/kg/day in females based on reduction in male body weights/gains and hepatic pathology Reproductive in males: NOAEL = 31.8 mg/kg/day LOAEL =313 mg/kg/day Reproductive in females: NOAEL = 37.1 mg/kg/day LOAEL = 388 mg/kg/day based on decreases in mean litter body weights.
870.4100	Chronic toxicity dogs	NOAEL in males = 57.6 mg/kg/day LOAEL in males = 582 mg/kg/day NOAEL in females = 30.3 mg/kg/day LOAEL in females = 145 mg/kg/day The LOAELs were based on effects observed in the erythropoietic system and liver.
870.4200	Carcinogenicity rats	NOAEL in males = 2.1 mg/kg/day LOAEL in males = 130 mg/kg/day NOAEL in females = 2.5 mg/kg/day LOAEL in females = 154 mg/kg/dayIn males there were decreased body weight, liver toxicity, pancreatic toxicity and microcytic anemia. In females there were liver toxicity, uterine toxicity and slight microcytic anemia. In males only at 130 and 219 mg/kg/day there was respectively, an increase in the trend toward pancreatic exocrine adenomas and pancreatic islet cell adenomas.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.4300	Carcinogenicity mice	NOAEL in males and females = 0.1 mg/kg/day LOAEL in males and females = 0.1 and 1.2 mg/kg/day, respectively, based on non-neoplastic liver findings. In males, and possibly females, at 10 mg/kg/day for males and 12 mg/kg/day for females; and at 32 gm/kg/day for males and 37 mg/kg/day for females, there was an increase in the number of mice with hepatocellular adenomas, carcinomos and or adenomas/carcinomas.
870.1000	Gene mutation	Flutiacet-methyl was negative for mutagenic/genotoxic effects in bacterial or cultured mammalian cells and did not cause DNA damage in bacterial or primary rat hepatocytes.
870.5375	Cytogenetics	*In vitro* cytogenetic assays performed with two different mammalian cell lines demonstrated that fluthiacet-methyl is clastogenic both in the presence and absence of S9 activation.
870	Other effects	Flutiacet-methyl was negative for micronuclei induction in mouse bone marrow, a significant increase in micronuclei was seen in stimulated rat liver cells following *in vivo* exposure.
870.6200	Acute neurotoxicity screening battery in rats	NOAEL = 2,000 mg/kg/day, with no effects at HDT
870.6200	Subchronic neurotoxicity screening battery in rats	NOAEL in males = 0.576 mg/kg/day (systemic) LOAEL in males = 556 mg/kg/day based on decreased body weight and food consumption NOAEL in females = 1,345 mg/kg/day (HDT) (systemic) NOAEL in males = 1,128 mg/kg/day (neurotoxicity) NOAEL in females = 1,345 mg/kg/day (neurotoxicity)
870.7485	Metabolism and pharmaco-kinetics in rats	Fluthiacet-methyl was absorbed rapidly at both low and high dosages in both male and female rats. Repeated oral dosing had no effect on extent of absorption. Tissue levels of radio active fluthiacet-methyl in single and repeated low dose groups did not exceed 0.018 ppm in any tissue. At the single high dose, female rats showed higher levels of radioactivity in tissues than males except for muscle, brain, fat and plasma. Excretion in males was predominantly in feces for all dose groups, with between 67 to 87% of administered radioactivity excreted by this route. In females, the percentage of administered radioactivity in urine across all dose groups 40 to 48% was approximately equivalent to the percent excreted in feces, 39 to 52%. The greater fecal excretion in males was based on a greater percentage excretion in bile for males, 37% vs. females 19%.
870.7600	Dermal penetration	No dermal penetration studies were submitted.
	Special studies	There were no required special studies

B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the LOAEL of concern are identified, the LOAEL is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose, (acute RfD or chronic RfD), where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of

the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for fluthiacet-methyl used for human risk assessment is shown in the following Table 2:

TABLE 2. —SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR FLUTHIACET-METHYL FOR USE IN HUMAN RISK ASSESSMENT.

Exposure Scenario	Dose (mg/kg/day)	Endpoint	Study
Acute Dietary	None	No appropriate endpoint attributable to a single dose (exposure) was identified in oral toxicity studies. Therefore, an acute reference dose (RfD) was not established. Thus, an acute exposure/risk assessment was not conducted.	None
		NOT REQUIRED	
Chronic Dietary General population	NOAEL = 0.1 mg/kg/day	Non-neoplastic liver findings (increase in absolute and relative liver weights, fatty changes, chronic inflammation, karyomegaly, single cell necrosis and ceroid/lipofuscin pigmentation).	18-month carcinogenicity in the mouse
	UF = 100 FQPA SF = 1	Chronic RfD = 0.001 mg/kg/day Chronic PAD = 0.001 mg/kg/day	
Short-term and intermediate-term (dermal)	None	No dermal or systemic toxicity was seen at the limit-dose following repeated dermal applications to rats.	28–day dermal in the rat
Long-term (dermal) see footnote 1 below table	NOAEL = 0.1 mg/kg/day	Non-neoplastic liver findings (increase in absolute and relative liver weights, fatty changes, chronic inflammation, karyomegaly, single cell necrosis and ceroid/lipofuscin pigmentation).	18–month carcinogenicity in the mouse
Inhalation (Any time period)	None	The LC^{50} for males and females was >5,048 ± 225 mg/m^3 (>5.0 mg/L). Based on the low acute toxicity (Toxicity Category 4), the composition of the end-use product (5.36%) and the application rate (0.0089 lb ai/acre/season or 4.0 g ai/acre/season), an inhalation exposure/risk assessment was not conducted.	None

TABLE 2. —SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR FLUTHIACET-METHYL FOR USE IN HUMAN RISK ASSESSMENT.—Continued

Exposure Scenario	Dose (mg/kg/day)	Endpoint	Study
Cancer (Chronic)	Q_1^* = 2.07E^{-1} (mg/kg/day)$^{-1}$ (In human equivalents)	The HED, CARC (HED Cancer Assessment Review Committee) recommended a linear low-dose approach (Q_1^*) for human risk characterization and determined that extrapolation should be based on the combined hepatocellular tumors (adenomas and carcinomas) in male mice.	78–week carcinogenicity in the mouse

[1]= *Long-term dermal* Since an oral study was selected and there is no dermal absorption study, a 100% dermal absorption factor (default value) was used.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.551) for the residues of fluthiacet-methyl, in or on a variety of raw agricultural commodities. There are presently no tolerances established for meat, milk, poultry and eggs. Based upon the results of a ruminant feeding study and a goat metabolism study, this Agency concluded that there is no reasonable expectation of finite residues in ruminant tissues and milk. Based upon the results of a poultry metabolism study, fluthiacet-methyl and its metabolite (CGA–300403) are unlikely to occur in poultry or eggs. Risk assessments were conducted by EPA to assess dietary exposures from fluthiacet-methyl in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. There were no toxicological effects that could be attributed to a single oral exposure (dose) in an appropriate toxicological study. Thus, an acute exposure/risk assessment was not conducted for fluthiacet-methyl.

ii. *Chronic exposure.* Percent crop treated (PCT), anticipated market share percentages and tolerance level residues were used.

A chronic reference dose (RfD) (0.001 mg/kg/day) was identified for fluthiacet-methyl, based on non-neoplastic liver findings (increase in absolute and relative liver weights, fatty changes, chronic inflammation, karyomegaly, single cell necrosis and ceroid/lipofuscin pigmentation). The chronic PAD is the same as the chronic RfD since the FQPA factor was reduced to 1X. The chronic PAD was used to assess chronic risk.

EPA's Office of Pesticide Programs (OPP) Health Effects Division used Dietary Exposure Evaluation Model (DEEM™), version 7.075) software for conducting a chronic dietary (food) exposure analysis. DEEM ™ is a dietary exposure analysis system developed by Novigen Sciences, Inc. that is used to estimate exposure to pesticide residues in foods comprising the diets of the U.S. population, including population subgroups. DEEM™ contains food consumption data as reported by respondents in the USDA Continuing Surveys of Food Intake by Individuals conducted in 1989–1992.

A Tier 2 chronic DEEM™ analysis was performed. The assumptions of this Tier 2 analysis were tolerance level residues and estimates of PCT for soybeans and projected market-share for corn commodities. The following tolerance levels were used in the analysis: soybeans at 0.01 ppm, sweet corn at 0.01 parts per million (ppm), pop corn at 0.01 ppm, and corn grain (field corn) at 0.01 ppm. These values were also used for corresponding processed commodities since processing studies for soybeans and field corn showed no concentration of residues into processed commodities. Thus, default concentration factors for corn grain, bran; corn grain, endosperm; corn grain, oil; soybean, other; soybeans, sprouted seeds; soybeans, flour (defatted, low fat, and full fat); soybean, oil; and soybean, protein isolate were set to 1X. DEEM™ default processing factors for corn grain/sugar/hfcs (1.5X), and corn grain/sugar-molasses (1.5X) were retained as processing data for these commodities are not available. A PCT value of 1% was used for soybeans and a projected market share value of 1% was used for all types of corn. These estimates of PCT/projected market share were derived based on Agency analysis of information on weed-pests for the use sites.

The chronic dietary exposure (food only) to fluthiacet-methyl for some population subgroups are presented in Table 3. The resulting dietary food exposures occupy <1% of the Chronic PAD for all population subgroups included in the analysis. The results of this dietary exposure analysis should be viewed as partially refined. Refinements such as use of anticipated residue values may yield even lower estimates of chronic dietary exposure.

TABLE 3.—SUMMARY: CHRONIC DIETARY EXPOSURE ANALYSIS BY DEEM (TIER 2)

Population Subgroup[1]	Exposure (mg/kg/day)	% of Chronic PAD[2]
U.S. population (total)	<0.000001	<1.0
All Infants (<1 year)	0.000001	<1.0
Children (1–6 years)	<0.000001	<1.0
Children (7–12 years)	<0.000001	<1.0
Males (20+ years)	<0.000001	<1.0
Females (13–50 years)	<0.000001	<1.0

[1]The subgroups listed are: (1) The U.S. population (total); (2) those for infants and children; and, (3) the most highly exposed of the adult females and males subgroups (in this case, females, 13 to 50 years and males 20+ years).

[2] Percent chronic PAD = (exposure ÷ chronic PAD) x 100%.

Note: There are no other subgroup(s) (other than All Infants) for which the percentage of the Chronic PAD occupied is greater than that occupied by the subgroup U. S. population (total).

iii. *Cancer*. Fluthiacet-methyl has been classified as ''likely to be a human carcinogen'' by EPA. The Office of Pesticide Programs, Heath Effects Division, Cancer Assessment Review Committee recommended a linear low-dose approach (Q_1^*) for human risk assessment. The Q_1^* is 0.207 (mg/kg/day)–1 in human equivalents and is based upon the combined hepatocellular tumors (adenomas and carcinomas) in male mice.

EPA conducted a cancer assessment analysis (food) using DEEM software and Tier 2 chronic dietary exposure assumptions. The assumptions of this Tier 2 chronic dietary analysis are as specified above.

The cancer risk estimate (food only) for the U.S. population (total) is 3.93×10^{-8}. This risk estimate translates to a dietary exposure of 1.90×10^{-7} mg/kg/day. This dietary exposure value was back-calculated based upon the cancer risk estimate and the Q_1^*. As cancer risk = Exposure x Q_1^* Thus, Exposure = cancer risk estimate/ Q_1^* or Exposure = $3.93 \times 10^{-8}/0.207$.

iv. *Anticipated residue and PCT information*. Anticipated residues estimates were not used in the exposure analysis. Tolerance levels were used and a projected market share estimate was used as described in the chronic exposure section above.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows: Percent projected market share: Corn, 1% and soybeans, 1%. Currently the largest market share for a pesticide for control of velvetleaf in corn or cotton is less than 20%. While the Agency does not expect the PCT to exceed 1% for corn or soybeans, it would be highly unlikely that the PCT approach the 20% share. EPA has determined that if PCT was to reach 20% there is still a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to fluthiacet-methyl residues.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. EPA believes the PCT used in this analysis is reasonable based on factors used in the analysis; in particular, the number of acres of corn and soybeans currently treated for the control of the weed pest, velvetleaf, the primary target weed pest for which fluthiacet-methyl will be used. This analysis also included competing currently registered herbicides for this market. EPA estimates that currently about 25 million acres of soybeans and 50 million acres of corn are treated for control of velvetleaf. Corn acres are treated with 41 different herbicidal active ingredients (a.i.), and soybeans acres are treated with 34 different herbicidal a.i.. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which fluthiacet-methyl may be applied in a particular area.

1. *Dietary exposure from drinking water*. The Agency currently lacks sufficient water-related exposure data from monitoring to complete a quantitative drinking water exposure analysis and risk assessment for fluthiacet-methyl. Therefore, the Agency is presently relying on computer-generated estimated environmental concentrations (EECs). The PRZM/EXAMS Index Reservoir (IR) model was used to generate EECs for surface water and the SCI-GROW2 (an empirical model based upon actual monitoring data collected for a number of pesticides that serve as benchmarks) was used to predict EECs in ground water. These models take into account the use patterns and the environmental profile of a pesticide, but do not include consideration of the impact that processing raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for determining that pesticides residues (and its metabolites) in water are not of concern.

For any given pesticide, the SCI-GROW2 model generates a single EEC value of pesticide concentration in ground water. That EEC is used in assessments of both acute and chronic dietary risk. It is not unusual for the ground water EEC to be significantly lower than the surface water EECs. The PRZM/EXAMS IR model generates several time-based EECs of pesticide concentration in surface water for acute exposure (upper 10^{th} percentile of peak values), non-cancer chronic exposure (upper 10^{th} percentile of 90–day values), and cancer exposure (mean annual value).

A drinking water level of comparison (DWLOC) is the concentration of a pesticide in drinking water that would be acceptable as a theoretical upper limit in light of total aggregate exposure to that pesticide from food, water, and residential uses. HED uses DWLOCs internally in the risk assessment process as a surrogate measure of potential exposure associated with pesticide exposure through drinking water. In the absence of monitoring data for a pesticide, the DWLOC is used as a point of comparison against the conservative EECs provided by computer modeling.

EPA, OPP, HED back-calculates DWLOCs by a two-step process: exposure [food + residential (if applicable)] is subtracted from the PAD to obtain the maximum acceptable exposure allowed in drinking water; DWLOCs are then calculated using that value and HED default body weight and drinking water consumption figures. In assessing human health risk, DWLOCs are compared to EECs. When EECs are less than DWLOCs, HED considers the aggregate risk from [food + water + residential (if applicable) exposures] to be acceptable.

2. *Environmental profile*. In soil, fluthiacet-methyl and its metabolites are considered to be mobile and persistent (effective or combined aerobic soil half-life of 305 days). The uncertainty of this half-life is large as indicated by a 95% confidence range of roughly 200 to 1,100 days. Due to the large uncertainty a soil half-life of 915 days was used in the models. Fluthiacet-methyl is expected to be a ground and surface water contaminant.

EPA, HED, Metabolism Assessment Review Committee (MARC) determined that the residues of concern for risk assessment purposes in water are residues that comprised greater than or equal to 10% of the total radioactive residues in the environmental fate studies. These residues include, but are not limited to, CGA–300402, CGA–300404, CGA–330057, component E, CGA–300403, CGA–327066, CGA–327067, CGA–330059, A-CFPSA, and ACA-CFPSA.

3. *Estimated environmental concentrations (EECs)*. The modeling results below are based on the combined concentrations of six chemicals. These chemicals are the parent compound and metabolites CGA–300402, CGA–300403, CGA–327066, CGA–327067, and A-CFPSA. The modeling was conducted based on the environmental profile and two applications at the rate of 0.0045 lbs ai/A (or a seasonal rate of 0.009 lbs ai/A).

The EECs are shown in Table 4.

TABLE 4.—EFED ESTIMATED ENVIRONMENTAL CONCENTRATIONS (EECS)

SCI-GROW2 (µg/L)[1]	PRZM/EXAMS IR Model (µg/L)
0.08 (acute and chronic)	0.8 (for acute exposure) 0.5 (for chronic (non-cancer) exposure) 0.06 (for cancer exposure)

1 µg/L = parts per billion or ppb.

The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for fluthiacet-methyl in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of fluthiacet-methyl.

The Agency uses the First Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The SCI-GROW model is used to predict pesticide concentrations in shallow ground water. For a screening-level assessment for surface water EPA will use FIRST (a tier 1 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop (PC) area factor as an adjustment to account for the maximum PC coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

As the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead DWLOCs are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Because DWLOCs address total aggregate exposure to fluthiacet-methyl they are further discussed in the aggregate risk sections below.

Based on the PRZM/EXAMS and SCI-GROW 2 models the estimated environmental concentrations (EECs) of fluthiacet-methyl for acute exposures are estimated to be 0.8 ppb for surface water and 0.08 ppb for ground water. The EECs for chronic exposures (non-cancer) are estimated to be 0.5 ppb for surface water and 0.08 ppb for ground water. The EEC for chronic (cancer) exposures are estimated to be 0.08 ppb for ground water and 0.06 ppb for surface water.

4. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Fluthiacet-methyl is not registered for use on any sites that would result in residential exposure.

5. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether fluthiacet-methyl has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fluthiacet-methyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fluthiacet-methyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for

Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity*. There was no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or prenatal/postnatal exposure to fluthiacet-mthyl. In rabbits, *in utero* exposure did not result in maternal toxicity at 1,000 mg/kg/day. Developmental toxicity, however, was seen at this dose characterized as an increase in irregular sternebrae (a variation which is reversible). The occurrence of developmental toxicity at which no maternal toxicity was noted indicates an apparent increase in susceptibility. The Office of Pesticide Program's Hazard Identification Assessment Review Committee (HIARC), however, determined that the apparent susceptibility is not convincing because of the equivocal nature of the effect based on: (1) The increased incidence of irregular sternebrae was not statistically significant when compared to concurrent controls; (2) the increase occurred at the Limit-Dose (1,000 mg/kg/day; (3) it was the only anomaly seen (i.e., a single variation); (4) the dose response was not strong because there was only a small increase in the litter incidence between the low- (5 mg/kg/day) and the high-dose (1,000 mg/kg/day), with the mid- and high-dose groups having 8 litters with this variation;, and (5) this endpoint is appropriate to establish a LOAEL and not appropriate for risk assessments. Based on these factors, the HIARC concluded that there is no increased susceptibility in the rabbit study. Therefore, the 10X FQPA safety factor to ensure the protection of infants and children was not applied in the risk assessments.

3. *Conclusion*. There is a complete toxicity data base for fluthiacet-methyl and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The 10X FQPA safety factor to protect infants and children was removed based on the lack of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to this chemical.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water [e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)]. This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. An acute dietary endpoint for fluthiacet-methyl has not been identified; therefore, fluthiacet-methyl is not expected to pose an acute risk.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to fluthiacet-methyl from food will utilize <1% of the cPAD for the U.S. population, <1% of the cPAD for all infants <1 year and <1% of the cPAD for all children. There are no residential uses for fluthiacet-methyl that result in chronic residential exposure to fluthiacet-methyl. Based the use pattern, chronic residential exposure to residues of fluthiacet-methyl is not expected. In addition, there is potential for chronic dietary exposure to fluthiacet-methyl in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO FLUTHIACET-METHYL

Population Subgroup	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	<1.0	0.5	0.08	35
All infant	<1.0	0.5	0.08	1.0
Females (13–20 years)	<1.0	0.5	0.08	30

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO FLUTHIACET-METHYL—Continued

Population Subgroup	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
Males (20 + years)	<1.0	0.5	0.08	35

Chronic PAD (cPAD) in mg/kg/day is 0.001 for all population subgroups.

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Fluthiacet-methyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Fluthiacet-methyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population.* Fluthiacet-methyl has been classified as ''likely to be a human carcinogen'' based upon the combined hepatocellular tumors (adenomas and carcinomas in male mice.

6. *Cancer aggregate risk conclusions.* As summarized previously, the cancer risk estimate (food only) for the U.S. population (total) is 3.93×10^{-8}. This risk estimate translates to an exposure of 1.90×10^{-7} mg/kg/day. The results of this dietary exposure analysis should be viewed as partially refined (health protective). Refinements such as use of anticipated residue values may yield even lower estimates of cancer exposure.

The EECs provided by EFED for assessing cancer risk are 0.08 µg/L (for ground water, based on SCI-GROW2) and 0.06 µg/L (for surface water, based on PRZM/EXAMS IR modeling). The back-calculated DWLOC for assessing cancer aggregate dietary risk is 0.17 µg/L for the U.S. population (total).

The SCI-GROW2 and PRZM/EXAMS cancer EECs are less than the Agency's level of comparison for fluthiacet-methyl residues in drinking water as a contribution to chronic (cancer) aggregate exposure. HED thus concludes with reasonable certainty that residues of fluthiacet-methyl in drinking water will not contribute significantly to the aggregate cancer human health risk and that the chronic (cancer) aggregate exposure from fluthiacet-methyl residues in food and drinking water will not exceed the Agency's level of concern ($1X\ 10^{6}$) for the U.S. population. EPA generally has no concern for exposures below which result in cancer risks in the range of 1×10^{-6}, because it is a level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to the health and safety of any population subgroup. This risk assessment is considered high confidence, very conservative, and protective of human health.

7. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to fluthiacet-methyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (Method AG–603B, MRID No. 442345–02), gas-liquid chromotography with a nitrogen/phosphorus detector, is available to enforce the tolerances for fluthiacet-methyl in or on corn and soybean commodities. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no Codex Alimentarius Commission (Codex), Canadian, or Mexican Maximum Residue Levels (MRLs) for fluthiacet-methyl at this time.

C. Conditions

Conditions for registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) will include Agency monitoring for PCT as addressed within this Final Rule.

V. Conclusion

Tolerances are established for residues of fluthiacet-methyl in or on corn. field, grain at 0.010 ppm; corn, field, forage, at 0.050 ppm; corn, field, stover at 0.050 ppm; corn, pop, grain at 0.010 ppm; corn, pop, stover at 0.050 ppm; corn, sweet, stover at 0.050 ppm; corn, sweet, forage at 0.050 ppm; and corn, sweet, K + CWHR at 0.010 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301184 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 19, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by

marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301184, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, 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). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified in Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have '' substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of

regulatory policies that have tribal implications.'' Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

Dated: December 8, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180— [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.551 is amended by alphabetically adding commodities to the table in paragraph (a) to read as follows:

§ 180.551 Fluthiacet-methyl; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Corn, field, forage	0.050
Corn, field, grain	0.010
Corn, field, stover	0.050
Corn, pop, grain	0.010
Corn, pop, stover	0.050
Corn, sweet, forage	0.050
Corn, sweet, (K + CWHR)	0.010
Corn, sweet, stover	0.050
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[FR Doc. 01–31497 Filed 12–20–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301196; FRL–6811–6]

RIN 2070–AB78

Sodium thiosulfate; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of sodium thiosulfate when used as an inert ingredient (dechlorinator) in or on growing crops, or when applied to raw agricultural commodities after harvest. Eden Bioscience submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996 requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of sodium thiosulfate.

DATES: This regulation is effective December 21, 2001. Objections and requests for hearings, identified by docket control number OPP–301196, must be received by EPA on or before February 19, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301196 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6304; and e-mail address: boyle.kathryn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR

part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301196. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of September 6, 2000 (65 FR 54015) (FRL–6738–4), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP 0E6177) by Eden Bioscience, 11816 Creek Parkway North, Bothell, Washington, 98011–8205. This notice included a summary prepared by the petitioner. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.1001(c) be amended by establishing an exemption from the requirement of a tolerance for residues of sodium thiosulfate penthydrate (CAS Reg. No. 10102–17–7). The petition requested only the use of sodium thiosulfate pentahydrate; however, sodium thiosulfate is also available in an anhydrous form. The two chemical substances differ only in the attachment of the water molecules. The petition specified that sodium thiosulfate should be used at a concentration of 1 to 6% of the formulated product.

The sodium thiosulfate will be used as a pretreatment for the water in tank mixes to remove chlorine or other reactant species, thus functioning as a dechlorinator or reducing agent. When mixed with chlorine-containing water, sodium thiosulfate reacts with the chlorine according to the equation $Na_2S_2O_3 + 4Cl_2 + 5H_2O \rightarrow 2NaHSO_4 + 8HCl$. Sodium thiosulfate also reacts with hydrochloric acid (produced in the previous reaction) to form breakdown products such as sulfur, salt and water: $Na_2S_2O_3 + 2HCl \rightarrow 2NaCl + H_2O + S + SO_2$.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by sodium thiosulfate are discussed in this unit. The information submitted in support of this petition included portions of the Food and Drug Administration (FDA) generally recognized as safe (GRAS) determination (''Evaluation of the Health Aspects of Sodium Thiosulfate as a Food Ingredient''), articles from open literature, and an acute oral toxicity study.

A. Medical Uses

There are medical uses of sodium thiosulfate. It has been used as an antidote for acute cyanide poisoning (intravenous injection), and is an ingredient in various dermally-applied lotion formulations used to treat acne and ringworm.

B. GRAS Determination

Sodium thiosulfate pentahydrate has been classified as GRAS by the FDA when used as a formulation aid or reducing agent in alcoholic beverages (not to exceed 0.00005%) and table salt (not to exceed 0.1%). A GRAS determination means general recognition of safety by experts qualified by scientific training and experience to evaluate the safety of the substance for the specified use pattern. As noted by the limitations stated above, sodium thiosulfate has a very limited use pattern. EPA will use the information evaluated as part of the FDA GRAS determination to inform the Agency's decision.

In its 1975 Evaluation, FDA reported the following information on the sodium thiosulfate absorption and metabolism: Sodium thiosulfate is a normal constituent of human body fluids and is excreted in the urine of man and higher animals. Quantitative studies have demonstrated the consistent presence of 2 to 17 milligrams (mg) of thiosulfate sulfur in 24-hour urine specimens of healthy young adults. Variations in excretion of thiosulfate are related to the extent of protein metabolism, activity of the intestinal flora, and the sulfur-amino

acid content of the diet. The sulfur-containing amino acids of dietary protein are the source of the endogenous thiosulfate pool. Orally administered thiosulfate that is absorbed from the gastrointestinal tract is excreted in the urine unchanged or after oxidation to sulfate. From 5 to 70% of an oral dose of sodium thiosulfate is considered to be absorbed from the gastrointestinal tract of man and the remainder to be excreted in the feces.

According to the Evaluation, sodium thiosulfate was found to cause no mutagenic effects.

The Evaluation also included a summary of the results of developmental studies on rats, mice, and hamsters. It was determined there was no effect on nidation, maternal or fetal survival, or fetal development.

C. Open Literature Articles

Three of the articles from open literature were reviewed to determine if the articles could supply information to the Agency on the genotoxicity of sodium thiosulfate. There is no indication of any mutagenic activity associated with exposure to sodium thiosulfate.

D. Acute Oral Toxicity Study

An acute oral toxicity study in the rat performed with sodium thiosulfate pentahydrate was submitted. The study was classified as acceptable, toxicity category IV. The LD_{50} is greater than 5,050 milligrams/kilograms (mg/kg) (males and females combined).

E. Developmental Toxicity

As part of the information submitted in support of the petition, the petitioner submitted the final reports for the rat, mouse, and hamster developmental studies that were discussed in the FDA Evaluation (dated 1972), as well as the final report for a rabbit developmental toxicity study (dated 1974). These studies were performed using the anhydrous form of sodium thiosulfate. Due to the passage of almost 30 years, as well as the changes in laboratory techniques that have occurred during this time, the data tables in the reports were reviewed to determine if any additional information were contained in the tables.

1.*Mouse.* Animals were tested at the following dose levels: Negative control, positive control, 5.5, 25.5, 118 or 550 mg/kg/day over a 10–day period from day 6 through day 15 of gestation. There was no indication of any effect on maternal or fetal survival, or in incidences of visceral or skeletal abnormalities. The male/female ratio of the fetuses were calculated to be, respectively, 1.08, 0.93, 0.74, 0.90, 0.88, or 0.68. The ratios at the lowest and highest dose levels are lower than the other ratios.

2. *Rat.* Animals were tested at the following dose levels: Negative control, positive control, 4.0, 19.0, 86.0, or 400 mg/kg/day over a 10–day period from day 6 through day 15 of gestation. There was no indication of any effect on maternal or fetal survival, or in incidences of visceral or skeletal abnormalities. The male/female ratio of the fetuses were calculated to be, respectively, 0.84, 0.78, 0.84, 0.98, 0.92, or 0.73. There is an indication of skewing (a lowering) in these ratios at the highest dose level and in the positive control.

3.*Hamster.* Animals were tested at the following dose levels: negative control, positive control, 4.0, 19.0, 86.0, or 400 mg/kg/day over a 5–day period from day 6 through day 10 of gestation. There was no indication of any effect on maternal or fetal survival, or in incidences of visceral or skeletal abnormalities. The male/female ratio of the fetuses were calculated to be, respectively, 0.52, 0.54, 0.59, 0.47, 0.40, or 0.53. These ratios (including those from the controls) are very unusual.

4. *Rabbit.* The results of the rabbit developmental study were not considered in the FDA Evaluation. Animals were tested over a 13–day period from day 6 through day 18 of gestation. There was no indication of any effect on maternal or fetal survival, or in incidences of visceral or skeletal abnormalities at the highest dose level of 580 mg/kg/day. There was no indication of any effect on the male/female ratio of the fetuses since the ratio ranged from 1.13 to 1.26.

F. Information from the Internet

To ascertain whether additional information on sodium thiosulfate were available, the Agency also searched the Tox Net website at the National Library of Medicine (http://www.toxnet.nlm.nih.gov). This website contained only information on sodium thiosulfate anhydrous (CAS. Reg. No. 7772–98–7). The Tox Net website classified sodium thiosulfate as moderately toxic, and generally supported the information presented in the petition. The excerpts and summaries indicated that sodium thiosulfate is not mutagenic.No internet information indicated concerns for carcinogenicity or developmental/reproductive toxicity. One study which investigated the ability of sodium thiosulfate to cross the placenta in sheep, concluded that maternally-administered sodium thiosulfate (50 mg/kg) does not increase fetal plasma thiosulfate concentrations. No information on sodium thiosulfate was available on the National Toxicology Program website, the Agency for Toxic Substances and Disease Registry website, or the Agency's Integrated Risk Information System website. The TSCATs database (http://esc.syrres.com/efdb/TSCATS.htm) did not contain any summaries of any developmental or reproductive studies conducted with sodium thiosulfate.

G. Toxicity of Sodium Thiosulfate

Overall, sodium thiosulfate presents as a chemical with slight to moderate toxicity. It is Category IV for acute oral toxicity (the lowest classification), and there are no indications of mutagenicity. The available developmental data indicates no effect on maternal or fetal survival or increase in incidences of visceral or skeletal abnormalities. The sex ratios (the male/female ratio of the fetuses) should cluster close to 1, indicating equal numbers of males and females. This is evident in the range of ratios in the rabbit study. However, the Agency's re-evaluation of the summary data for the rat and mouse developmental data (two out of four species) suggest the possibility that various doses of sodium thiosulfate may be associated with an apparent skewing (a lowering) of the sex ratio. However, it was also most unusual that this skewing occurred not only for certain dose levels, but also for a positive control. The sex ratios for the hamster are very unusual. Therefore, there is an uncertainty as to what these ratios mean. But, there is the possibility of technician error in sex identification. In the three studies included in the FDA Evaluation (rat, mice, and hamster), the description of the studies included the following: All fetuses were examined grossly for the presence of external congenital abnormalities. One-third of the fetuses of each litter underwent detailed visceral examinations employing 10X magnification. ''The remaining two-thirds were cleared and examined for skeletal defects.'' Thus, there was no chance to correct any mis-sexing. The rabbit study, in which there was no effect on the male/female ratio of the fetuses, was performed in a different manner: ''All fetuses underwent a detailed gross examination for the presence of external congenital abnormalities.'' All were examined for visceral abnormalities. ''All fetuses were then cleared and examined for skeletal defects.'' Thus, the examination of all fetuses apparently allowed for greater accuracy in sexing.

V. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

EPA establishes exemptions from the requirement of a tolerance only in those cases where the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

A. Dietary Exposure

For the purposes of assessing potential exposure under this exemption, EPA considered that sodium thiosulfate could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible.

1. *Food*. Protein, which is composed of various amino acids, is required for human survival. Sodium thiosulfate is produced in the human body during the metabolism of sulfur-containing amino acids. There is an effective self-regulating mechanism to rid the body of excess sodium thiosulfate through excretion in the urine. As previously stated, sodium thiosulfate is considered to be GRAS for a very specific use pattern. In the 1975 Evaluation, it was estimated that the per capita consumption of sodium thiosulfate was 12 micrograms (μg) per day. Considering the use of sodium thiosulfate in pesticide products, as a dechlorinator when mixed with certain proteins such as harpin protein, and given the reactive nature (as a reducing agent) of sodium thiosulfate, this use pattern should not significantly increase the amount of sodium thiosulfate in the food supply above those amounts permitted by FDA.

2. *Drinking water exposure*. Thiosulfate can be produced naturally by the reaction of elemental sulfur with sulfite ion in boiling water. Therefore, thiosulfate occurs naturally in such environments as hot springs, geysers, and marine hydrothermal vents. It can also occur in nature as the result of the biological or chemical oxidation of sulfide, and thus can be found in freshwater and marine sediments, and salt marshes.

Considering that thiosulfate can be metabolized by sulfate-reducing bacteria, and given its ability to react with chlorine (to act as a reducing agent), sodium thiosulfate is unlikely to occur in drinking water.

B. Other Non-Occupational Exposure

The medicinal uses of sodium thiosulfate are also regulated by FDA. There are other industrial uses of sodium thiosulfate which include use as a photographic fixing agent. Sodium thiosulfate is also used to remove chlorine from water used in aquariums.

C. Exposure Estimates

As previously stated, it was estimated that the per capita consumption of sodium thiosulfate was 12 μg per day. This was based on the amount of sodium thiosulfate used by the food industry and assuming a population of 210 million. (The Agency acknowledges that this exposure estimate is almost 30 years old.) If this were converted to mg/kg/day using a 60 kg (female) body weight, then the exposure could be estimated as 0.0002 mg/kg/day. The highest dose levels in each of the developmental toxicity studies (mouse, rat, hamster, and rabbit) were respectively 550, 400, 400, and 580 mg/kg/day. No effects were noted at these levels. The Agency has not attempted to use a safety factor analysis for sodium thiosulfate; however, the 0.0002 mg/kg/day is orders of magnitude lower than the highest dose levels from any of the developmental toxicity studies. Thus, the reported uses of sodium thiosulfate, its use as a GRAS substance and its use as an inert ingredient (a dechlorinator) should result in human exposure far below any dose level that could possibly produce an adverse effect.

VI. Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.'' Sodium thiosulfate is produced in the human body during the metabolism of sulfur-containing amino acids. There is an effective self-regulating mechanism (excretion) to rid the body of excess sodium thiosulfate, so cumulative effects are unlikely as a result of exposure to sodium thiosulfate and a substance sharing a common mechanism of toxicity, assuming such a substance exists. The Agency has not made any conclusions as to whether or not sodium thiosulfate shares a common mechanism of toxicity with any other chemicals, since cumulative effects for sodium thiosulfate and other substances are unlikely.

VII. Determination of Safety for U.S. Population

Based on the low-moderate toxicity of sodium thiosulfate and the low potential for exposure from the EPA regulated uses of sodium thiosulfate, as well as the FDA GRAS uses, the Agency has determined that aggregate exposure to sodium thiosulfate under reasonably foreseeable circumstances will pose no appreciable risks to human health. Accordingly, EPA concludes that there is a reasonable certainty of no harm to the U.S. population from aggregate exposure to residues of sodium thiosulfate and that a tolerance is not necessary.

VIII. Determination of Safety for Infants and Children

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of sodium thiosulfate, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary. The Agency has determined that there is a reasonable certainty of no harm to infants and children from aggregate exposure to residues of sodium thiosulfate and that a tolerance is not necessary.

IX. Other Considerations

A. Endocrine Disruptors

FQPA requires EPA to develop a screening program to determine whether certain substances, including all pesticide chemicals (both inert and active ingredients), ''may have an effect in humans that is similar to an effect

produced by a naturally occurring estrogen, or such other endocrine effect.'' EPA has been working with interested stakeholders to develop a screening and testing program as well as a priority setting scheme. As the Agency proceeds with implementation of this program, further testing of products containing sodium thiosulfate for endocrine effects may be required.

B. Analytical Method(s)

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Existing Exemptions

There are no existing exemptions for sodium thiosulfate anhydrous or sodium thiosulfate pentahydrate.

D. International Tolerances

The Agency is not aware of any country requiring a tolerance for sodium thiosulfate anhydrous or sodium thiosulfate pentahydrate nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

X. Conclusions

Based on the information in this preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to residues of sodium thiosulfate anhydrous or sodium thiosulfate pentahydrate. Accordingly, EPA finds that exempting sodium thiosulfate anhydrous or sodium thiosulfate pentahydrate from the requirement of a tolerance will be safe.

XI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301196 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 19, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301196, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

XII. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance

requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, 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). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled*Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

XIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 6, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. In § 180.1001, the table in paragraph (c) is amended by adding alphabetically the following inert ingredient to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	* * * *	
Sodium thiosulfate anhydrous (CAS Reg. No.7772–98–7 or sodium thiosulfate pentahydrate,CAS Reg. No. 10102–17–7)	Not to exceed 6% of theformulated product	Dechlorinator, reducing agent
* * *	* * * *	

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[FR Doc. 01–31496 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the final regulations in the *Fourteenth Report and Order*, which were published in the **Federal Register** of Tuesday, June 5, 2001, 66 FR 30080. Specifically, this correction revises the language in section 36.605(c)(3)(ii) to make it clear.

DATES: Effective January 22, 2002.

FOR FURTHER INFORMATION CONTACT: Greg Guice, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–0095.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Twenty-Third Order on Reconsideration* in CC Docket No. 96–45 released on July 11, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

I. Introduction

1. In this document, the Commission makes a correction to section 36.605(c)(3)(ii) of its rules adopted in the *Fourteenth Report and Order*, 66 FR 30080, June 5, 2001. The correction concerns the calculation of safety net additive support in the years following qualification for such support and is necessary to make the rule consistent with the text of the underlying order. Specifically, this correction revises the language in section 36.605(c)(3)(ii) to make it clear that rural telephone companies receive the lesser of either: (1) the sum of capped support and the safety net additive support in each year or (2) uncapped support in each year when the cap is not triggered.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and need to be clarified.

List of Subjects in 47 CFR Part 36

Communications common carriers, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Accordingly, 47 CFR part 36 is corrected by making the following correcting amendment:

PART 36—JURISDICTIONAL SEPARATIONS

1. The authority citation for part 36 continues to read as follows:

Authority: 47 U.S.C. §§ 151–154, 201–205, 218–220, 254, 303(r), 403, 405, and 410.

2. Section 36.605(c)(3)(ii) is revised to read as follows:

§ 36.605 Calculation of safety net additive.

* * * * *

(c) * * *

(3) * * *

(ii) Continue to pay safety net additive support in any of the four succeeding years in which the total carrier loop expense adjustment is limited by the provisions of § 36.603. Safety net additive support in the succeeding four years shall be the lesser of:

(A) The sum of capped support and the safety net additive support received in the qualifying year;

or

(B) The rural telephone company's uncapped support.

* * * * *

[FR Doc. 01–31364 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 01–321]

Federal-State Joint Board on Universal Service; Petition for Reconsideration Filed by the United States Telecom Association

AGENCY: Federal Communications Commission.

ACTION: Final rule, denial.

SUMMARY: In this document, the Commission denies the request of the United States Telecom Association to reconsider portions of the *Contribution Interval Order* modifying the methodology used to assess contributions that carriers make to the federal universal service support mechanisms.

FOR FURTHER INFORMATION CONTACT: Richard D. Smith, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in CC Docket No. 96–45 released on November 6, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

I. Introduction

1. In this Order on Reconsideration, we deny the request of the United States Telecom Association (USTA) to reconsider portions of the *Contribution Interval Order*, 66 FR 16145, March 23, 2001, modifying the methodology used to assess contributions that carriers make to the federal universal service support mechanisms. Specifically, we deny USTA's request to reconsider the imposition of additional filing requirements and the method of calculating contributions from carriers that either under-report or over-report quarterly revenue. In so doing, we affirm our prior conclusion that the provision of sufficient and competitively neutral funding for the universal service support mechanisms depends on the timely submission of accurate revenue information from contributors.

II. Discussion

2. We deny the request of USTA to reconsider portions of the *Contribution Interval Order*. We find that USTA has raised no new issues or facts to persuade us to reconsider the decisions made in the *Contribution Interval Order*. Specifically, we conclude that the accurate submission of quarterly revenue data is essential to ensure that sufficient contributions are made to the federal universal service support mechanisms on a competitively neutral basis. The Commission carefully considered the implications of imposing additional reporting requirements on carriers in the *Contribution Interval Order* and concluded that such requirements were necessary. In addition, we conclude that the method adopted by the Commission of calculating contributions from carriers that under-report or over-report revenues provides an appropriate incentive for carriers to accurately report quarterly revenues to USAC.

3. *Reporting Requirements.* We deny USTA's request to reconsider the Commission's decision to increase carriers' reporting requirements. USTA's petition raises no new arguments that would convince us to reconsider the conclusion that the benefits of substantially reducing the contribution interval outweigh any increased

administrative burden on carriers. Although the Commission acknowledged that the prior contribution methodology was competitively neutral and satisfied the requirements of the Act, as discussed, the Commission concluded that revisions were necessary to ensure that the contribution methodology remains competitively neutral in light of recent changes in the telecommunications marketplace, such as the entry of new carriers into the interexchange market and the declining revenue bases faced by some existing carriers. The submission of quarterly revenue data allows us to reduce the interval, from 12 months to six months, between the accrual and assessment of revenues for contribution to the universal service fund. The shortened interval between the accrual and assessment of revenues therefore reduces the possibility that certain carriers will be placed at a competitive disadvantage as they lose market share. As a result, the revised methodology furthers the Commission's goal of maintaining competitive neutrality.

4. *Under and Over-Reporting of Revenues.* We find no basis to reconsider the method adopted by the Commission to calculate refunds from carriers that over-report revenue or the collection of additional contributions from carriers that under-report revenue. Contrary to USTA's contention, we do not find the method of calculating such adjustments to be punitive. A true-up mechanism merely ensures that carriers' contributions to the universal service mechanisms are based on accurate revenue data over the course of the year. Moreover, the Commission allows carriers up to three months after each filing to correct errors that appear on the Form 499–Q. Thus, we find unpersuasive USTA's contention that carriers will be penalized as a result of insufficient time to ensure the complete accuracy of the information submitted. Only if such errors are not corrected in a timely fashion will USAC apply the refund and additional collection rules. Based on the record before us, we have no reason to overturn the prior conclusion that three months should be sufficient time for carriers to compute, and correct if necessary, revenue information.

5. We affirm our conclusion that the methodology adopted in the *Contribution Interval Order* encourages carriers to provide accurate data and discourages ''gaming.'' For example, the methodology will deter carriers that otherwise might be tempted to under-report revenue to reduce their current contributions and free up capital for other uses. A carrier that did so would be forced to contribute additional funds following the annual true-up based on the average of the two highest quarterly contribution factors for the year. We are convinced that assessment of contributions based on this higher contribution rate will reduce the incentive for such conduct while giving carriers ample time to correct honest mistakes.

6. We are not persuaded by USTA's contention that it is sufficient to rely on existing federal law prohibiting willful false statements to protect against abuse of our rules. The methodology set forth in the *Contribution Interval Order* also provides incentives to carriers to avoid negligent or careless errors in reporting revenues to USAC. In order to maintain sufficient and competitively neutral support mechanisms, it is essential that carriers provide accurate revenue information to USAC in a timely manner. For similar reasons, we also decline to adopt USTA's alternative proposal to exclude from this calculation methodology those carriers whose reported quarterly revenues fall within 10 percent of their reported annual revenues. This proposed 10 percent margin of acceptable error may translate into significant contributions for some carriers, who would be able to avoid payment by intentionally under-reporting their revenues by 10 percent or less. Thus, USTA's proposal may provide carriers with a substantial incentive to under-report their revenues. In light of the opportunity provided each quarter to correct such errors, we believe that adopting this proposal would also be contrary to our goal of encouraging carriers to report accurate information.

III. Ordering Clause

1. It is ordered, pursuant to sections 1, 4(i) and 254 of the Communications Act of 1934, as amended, and § 1.429 of the Commission's rules, that the Petition for Reconsideration filed April 23, 2001 by USTA is denied.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–31460 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 66, No. 246
Friday, December 21, 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 ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM02–1–000]

Standardizing Generator Interconnection Agreements and Procedures; Notice of Extension of Time

December 14, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of extension of time.

SUMMARY: On October 25, 2001, the Federal Energy Regulatory Commission issued an Advance Notice of Proposed Rulemaking (ANOPR) seeking comments on a standard generator interconnection agreement and procedures that would be applicable to all public utilities that own, operate or control transmission facilities under the Federal Power Act, 66 FR 55140 (November 1, 2001). The date for filing comments is being extended at the request of various interested parties.

DATES: Comments on the filing of a single consensus document are extended to and including January 11, 2002. Comments on issues posed by the ANOPR shall be filed on or before January 25, 2002.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Linwood A. Watson, Jr., Acting Secretary 888 First Street, NE., Washington, DC 20426 (202) 208–0400.

On December 14, 2001, the Generator Interconnection Coalition [1] (Coalition), on behalf of its members, filed its Status Report on its Consensus Process and (1) an interim draft standard connection agreement and (2) an interim draft standard interconnection procedures document on which Coalition Members have made substantial progress (Status Report), in response to the Commission's Advance Notice of Proposed Rulemaking (ANOPR) issued October 25, 2001, in the above-docketed proceeding. With the Status Report, the Coalition also requested an extension of time to complete the consensus process and to respond fully to the issues raised by the Commission in its ANOPR. In its motion, the Coalition states that finalizing consensus documents will require the continued significant investment of time and resources on the part of the Coalition Members and that an extension would allow Coalition Members to integrate and finalize consensus documents that are consistent with the Commission's mandate in the ANOPR. The motion also states that an extension will allow all stakeholders in the ANOPR process to have the opportunity to seek clarification and comment orally on the draft documents during the plenary meetings.

Upon consideration, notice is hereby given that an extension of time to file a single consensus document is granted to and including January 11, 2002. Comments on issues posed by the ANOPR shall be filed on or before January 25, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31442 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

[1] The Coalition includes representatives from: generators, marketers, transmission owners, industrial power producers, transmission dependent utilities, regional transmission organizations, independent system operators, distributed resources and state commissions. A list of the Coalition Members is included in Attachment 1 of the Coalition's Status Report.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[OK–029–FOR]

Oklahoma Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Oklahoma regulatory program (the Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Oklahoma Department of Mines (Department or Oklahoma) proposes revisions to and additions of rules about areas designated by act of Congress as unsuitable for mining and coal exploration operations. Oklahoma intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Oklahoma program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., c.s.t., January 22, 2002. If requested, we will hold a public hearing on the amendment on January 17, 2002. We will accept requests to speak at a hearing until 4 p.m., c.s.t. on January 7, 2002.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Oklahoma program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday,

excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430, Internet: *mwolfrom@osmre.gov*

Mary Ann Pritchard, Director, Oklahoma Department of Mines, 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, Oklahoma 73105, Telephone: (405) 521–3859, Internet: *maryann@guinan.osmre.gov*

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

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Oklahoma Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act . . .; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Oklahoma program on January 19, 1981. You can find background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Oklahoma program in the January 19, 1981, **Federal Register** (46 FR 4902). You can also find later actions concerning Oklahoma's program and program amendments at 30 CFR 936.15 and 936.16.

II. Description of the Proposed Amendment

By letter dated November 20, 2001 (Administrative Record No. OK–988.02), Oklahoma sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Oklahoma sent the amendment in response to an August 23, 2000, letter (Administrative Record No. OK–988) that we sent to Oklahoma in accordance with 30 CFR 732.17(c). Oklahoma proposes to amend the Oklahoma Administrative Code (OAC) at Subchapter 7 (Areas Designated by Act of Congress as Unsuitable for Mining) and Subchapter 13 (General Requirements for Coal Exploration Operations). Below is a summary of the changes proposed by Oklahoma. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES.**

A. OAC 460:20–7–2 Authority

Oklahoma proposes to revise its authority provision to read as follows:

The Department is authorized by Act to prohibit or limit surface coal mining operations on or near private, Federal, and other public lands, except for those operations which existed on August 3, 1977 or were subject to valid existing rights at the time the land came under the protection of 45 O.S. Section 783 and Section 460:20–7–4.

B. OAC 460:20–7–3 Definitions

Oklahoma proposes to remove its definition of ''surface coal mining operations which exist on the date of enactment.'' Oklahoma also proposes to revise its definition of ''valid existing rights.''

C. OAC 460:20–7–4 Areas Where Surface Coal Mining Operations Are Prohibited or Limited

Oklahoma proposes to revise the introductory paragraph of OAC 460:20–7–4 to read as follows:

No surface coal mining operations shall be conducted on the following lands unless those operations either have valid existing rights, as determined under Section 460:20–7–5, or qualify for the exception for existing operations under Section 460:20–7–4.1.

Oklahoma also proposes minor wording, editorial, and punctuation changes to OAC 460:20–7–4(2) through (5).

D. OAC 460:20–7–4.1 Exception for Existing Operations

Oklahoma proposes to add this new section to describe those surface coal mining operations for which the provisions of OAC 460:20–7–4 do not apply.

E. OAC 460:20–7–5 Procedures

Oklahoma proposes to revise this section to describe the procedures applicants for surface coal mining operation permits must follow when requesting a valid existing rights determination. This section also describes the evaluation procedures and decision-making criteria the regulatory authority will follow when making a valid existing rights determination.

F. OAC 460:20–13–5 Permit Requirements for Exploration Removing More Than 250 Tons of Coal

1. At OAC 460:20–13–5(b)(14), Oklahoma proposes to require applicants for coal exploration permits to include the following information in their applications:

For any lands listed in Section 460:20–7–4 of this Chapter, a demonstration that, to the extent technologically and economically feasible, the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for surface coal mining operations. The application must include documentation of consultation with the owner of the feature causing the land to come under the protection of Section 460:20–7–4 of this Chapter, and, when applicable, with the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of Section 460:20–7–4 of this Chapter.

2. At OAC 460:20–13–5(d)(2)(D), Oklahoma proposes to add the following new requirement that it will use when making decisions on applications for coal exploration permits:

With respect to exploration activities on any lands protected under Section 460:20–7–4 of this Chapter, minimize interference, to the extent technologically and economically feasible, with the values for which those lands were designated as unsuitable for surface coal mining operations. Before making this finding, the Department must provide reasonable opportunity to the owner of the feature causing the land to come under the protection of Section 460:20–7–4 of this Chapter, and when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of Section 460:20–7–4 of this Chapter, to comment on whether the finding is appropriate.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment

period *(see* **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Tulsa Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: [OK–029–FOR]'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581–6430.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their 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 review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t. on January 7, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

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

Executive Order 12866—Regulatory Planning and Review

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

Executive Order 12988—Civil Justice Reform

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

Executive Order 13132—Federalism

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

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

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

Small Business Regulatory Enforcement Fairness Act

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

Unfunded Mandates

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

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 30, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–31536 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AL11

Board of Veterans' Appeals Rules of Practice: Claim for Death Benefits by Survivor

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs' (VA) Rules of Practice at the Board of Veterans' Appeals (Board) to clarify that the general rule that the Board is not bound by prior dispositions during the veteran's lifetime of issues involved in the survivor's claim does not include claims for ''enhanced'' Dependency and Indemnity Compensation (DIC). This amendment is necessary to eliminate confusion between the Board's current rule and another rule relating to DIC for survivors of certain veterans rated totally disabled at the time of death.

DATES: Comments must be received on or before January 22, 2002.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AL11.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: The Board of Veterans' Appeals (Board) is an administrative body that decides appeals from denials of claims for veterans' benefits.

The purpose of this document is to comply with the order of the U.S. Court of Appeals for the Federal Circuit in *National Organization of Veterans' Advocates, Inc.* v. *Secretary of Veterans Affairs*, Nos. 00–7095, 00–7096, 00–7098 (Fed. Cir. Aug. 16, 2001) (''*NOVA*''). That case was a petition challenging VA's January 2000 final rule which amended 38 CFR 3.22, relating to dependency and indemnity compensation (DIC) benefits for survivors of certain veterans rated totally disabled at the time of death. *See* 65 FR 3388 (Jan. 21, 2000).

While the *NOVA* court explicitly declined to invalidate the rule, *NOVA*, slip op. at 42, it did note that there was an apparent conflict between the new rule and 38 CFR 20.1106. The court concluded that those two rules stated conflicting interpretations of two virtually identical statutes. The statutes, 38 U.S.C. 1311(a)(2) and 1318, both provide benefits to the survivor of a veteran who was at the time of death ''in receipt of or entitled to receive'' compensation for a service-connected disability that was continuously rated totally disabling for a specified number of years prior to death. The regulation in 38 CFR 3.22 interprets the phrase ''entitled to receive'' in 38 U.S.C. 1318 to mean that the VA had awarded the veteran a total disability rating for the specified period during his or her lifetime, but for some reason the veteran did not receive payment based on that rating, or that the veteran would have had a total disability rating for that period if not for a clear and unmistakable error by VA during the veteran's lifetime. The *NOVA* court concluded that 38 CFR 20.1106 interprets the same language in 38 U.S.C. 1311(a)(2) to require a posthumous determination of the veteran's ''entitlement'' to compensation without regard to whether VA rating decisions during the veteran's lifetime established such entitlement. Having concluded that VA established conflicting interpretations of the identical language in these two statutes, the *NOVA* court ordered VA to conduct an expedited rulemaking to either explain the basis for the differing interpretations or to revise one of its regulations to remove any inconsistency. *NOVA*, slip op. at 43.

As explained in this notice, VA has not interpreted 38 U.S.C. 1318, and 38 U.S.C. 1311 in inconsistent ways. Nevertheless, to eliminate the potential ambiguity identified in the *NOVA* decision, we are amending 38 CFR 20.1106 to clarify that, as with decisions under 38 U.S.C. 1318, decisions under 38 U.S.C. 1311(a)(2) will be decided taking into consideration prior dispositions made during the veteran's lifetime of issues involved in the survivor's claim. The effect of this change is to make VA's position clear that entitlement to benefits under either 38 U.S.C. 1318 or 38 U.S.C. 1311 must be based on the determinations made during the veteran's lifetime, or challenges to such decisions on the basis of clear and unmistakable error, rather than on de novo posthumous determinations as to whether the veteran hypothetically could have been entitled to certain benefits if he or she had applied for them during his or her lifetime.

Background on Dependency and Indemnity Compensation

Since 1957, survivors of a veteran who died in service or as a result of a service-connected disability have been entitled to a monthly benefit called ''Dependency and Indemnity Compensation'' (DIC). 38 U.S.C. 1310(a), 1311.

DIC and Survivors of Veterans Who Die Other Than as a Result of Service

Until 1978, DIC was payable only if the veteran died in service or as a result of service. In 1978, Pub. L. No. 95–479, 92 Stat. 1564 (1978), amended title 38, United States Code to pay the same benefit as if the veteran had died of a service-connected disability to survivors of a veteran (1) whose death was not caused by service-connected disability, but (2) who, at the time of death, ''was in receipt of (or but for the receipt of retired or retirement pay was entitled to receive)'' compensation for a service-connected disability rated 100 percent disabling for 10 years immediately preceding death, or for a period of at least 5 years extending from date of discharge from service until date of death. That provision was codified in 38 U.S.C. 410(b)(1). In 1979, VA issued 38 CFR 3.22 to implement the statute. 44 FR 22716–22718 (Apr. 17, 1979).

In a 1981 opinion, VA's General Counsel concluded that 38 U.S.C. 410(b)(1) did not permit a DIC award to the survivors of a veteran who was not actually in receipt of compensation for a total disability for a full 10 years prior to death, but who would have been in receipt of such benefits if not for error by VA in a decision rendered during the veteran's lifetime. Op. G.C. 2–81 (Mar. 24, 1981).

In response to that opinion, Congress enacted Public Law 97–306, 96 Stat. 1429 (1982), which revised 38 U.S.C. 410(b)(1), to amend the phrase ''was in receipt of'' to ''was in receipt of *or entitled to receive* * * *'' (emphasis added). The legislative history states that the purpose of this amendment was ''to provide that the requirement that the veteran have been in receipt of compensation for a service-connected disability rated as total for a period of 10 years prior to death (or for 5 years continuously from the date of discharge) is met if the veteran would have been in receipt of such compensation for such period but for a clear and unmistakable error regarding the award of a total disability rating.'' Explanatory Statement of Compromise Agreement, 128 Cong. Rec. H7777 (1982), reprinted in 1982 U.S.C.C.A.N. 3012, 3013. Accordingly, the amended statute, now codified at 38 U.S.C. 1318(b), authorizes payment of DIC in cases where the veteran ''was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive)'' compensation for a service-connected disability rated totally disabling for 10 years immediately preceding death or a period of 5 years from the date of discharge.

In 1983, VA revised 38 CFR 3.22 to state that DIC would be payable under 38 U.S.C. 410(b)(1) (now 38 U.S.C. 1318(b)) when the veteran ''was in receipt of or for any reason (including receipt of military retired or retirement pay or correction of a rating after the veteran's death based on clear and unmistakable error) was not in receipt of but would have been entitled to receive compensation at the time of death'' for service-connected disability rated totally disabling for 10 years prior to death or 5 years continuously from date of discharge to date of death. 48 FR 41160, 41161 (Sep. 14, 1983).

Payment Under DIC; ''Enhanced Benefit''

DIC provides a monthly cash benefit to survivors. Until 1993, surviving spouses received a monthly benefit based on the veteran's pay grade while on active duty.

In the ''Dependency and Indemnity Compensation Reform Act of 1992,'' Pub. L. No. 102–568, Title I, § 102 (Oct. 29, 1992), 106 Stat. 4321, 4322, Congress made substantial changes to the DIC program. The primary change was to the payment system. For deaths occurring subsequent to January 1, 1993, all surviving spouses are paid at the same rate. In addition, the Act provided an ''enhancement'' to the benefits paid to some surviving spouses: If the veteran was in receipt of or was entitled to receive compensation for a service-connected disability rated totally disabling for a continuous period of at least eight years immediately preceding death, the surviving spouse receives an additional monthly benefit, currently $197 per month. 38 U.S.C. 1311(a)(2); 66 FR 28598 (May 23, 2001) (adjusted rate).

In 1993, VA issued a regulation at 38 CFR 3.5(e) to implement 38 U.S.C. 1311(a)(2). That regulation states that the additional DIC amount will be paid ''in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was evaluated as totally disabling for a continuous period of at least eight years immediately preceding death.''

Background on 38 CFR 20.1106

38 CFR 20.1106—''Rule 1106''—is a Rule of Practice at the Board of Veterans' Appeals. Essentially, it sets forth the rule that, in most cases, issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime. Specifically, it provides as follows:

> § 20.1106 Rule 1106. Claim for death benefits by survivor—prior unfavorable decisions during veteran's lifetime.
>
> Except with respect to benefits under the provisions of 38 U.S.C. 1318 and certain cases involving individuals whose Department of Veterans Affairs benefits have been forfeited for treason or for subversive activities under the provisions of 38 U.S.C. 6104 and 6105, issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime.

This particular version of the rule became effective in February 1992, 9 months prior to enactment of Pub. L. No. 102–568.

Rule 1106 was originally proposed in 1989. It was part of a large package of revisions to the Board's rules in the wake of enactment of the Veterans' Judicial Review Act of 1988, Pub. L. No. 100–687, Div. A, 102 Stat. 4105 (1988).

The predecessor to Rule 1106 was Rule 96 (38 CFR 19.196 (1991)). That rule provided as follows:

> Issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime.

When the Board proposed rule 96 in 1980, it explained that the purpose was to ''[a]llow the Board to review ''de novo'' service connection cause of death cases notwithstanding the fact that a final appellate decision had been rendered during the veteran's lifetime.'' 45 FR 56093 (1980). As indicated, the rule was intended to apply in cases where a DIC claim is dependent on a finding that the cause of death was service connected, the most common type of DIC claim. It was not intended to preclude consideration of decisions during the veteran's lifetime in cases where a DIC claim was dependent upon a showing that the veteran was entitled to receive compensation during his or her lifetime for a service-connected disability rated totally disabling for a specified pre-death period. However, it became apparent that the language of Rule 96 could be construed as covering such cases. Accordingly, in 1989, VA proposed to amend Rule 96 with current Rule 1106, explaining:

> The old rule was inconsistent with 38 CFR 3.22(a)(2) which, in effect, requires that it be shown that there was clear and unmistakable error in prior rating decisions which failed to give a veteran a total rating for the required period of time in order to qualify for ''410(b)'' benefits. (Former 38 U.S.C. 410(b) is now 38 U.S.C. 418, see Section 1403 of Public Law 100–687.) 38 U.S.C. 3504(c) forbids the payment of benefits to any person after

September 1, 1959, based on the service of an individual before the date of a treasonous act if that individual's Department of Veterans Affairs benefits have been forfeited for treason. There is a similar prohibition in 38 U.S.C. 3505(a) pertaining to cases involving forfeiture for subversive activities. These provisions are now recognized. 54 FR 34334, 34338 (Aug. 18, 1989)

In February 1992, having received no comments on the proposed rule, VA published Rule 1106 as a final rule (57 FR 4088, 4103 (Feb 3, 1992)).

VA's Interpretation of 38 U.S.C. 1318

In *Wingo* v. *West*, 11 Vet. App. 307 (1998), the United States Court of Appeals for Veterans Claims (CAVC) interpreted 38 CFR 3.22(a) to permit a DIC award in a case where the veteran had never established entitlement to VA compensation for a service-connected total disability and had never filed a claim for such benefits which could have resulted in entitlement to compensation for the required period. The CAVC concluded that the language of § 3.22(a) would permit a DIC award where it is determined that the veteran ''hypothetically'' would have been entitled to a total disability rating for the required period if he or she had applied for compensation during his or her lifetime. 11 Vet. App. at 311.

The CAVC's interpretation of § 3.22(a) did not accurately reflect VA's intent in issuing that regulation. Section 1318 of the statute authorizes DIC where the veteran was ''in receipt of or entitled to receive'' compensation for total service-connected disability for a specified period preceding death. The statute does not authorize VA to award DIC benefits in cases where the veteran merely had hypothetical, as opposed to actual, entitlement to compensation. VA does not have authority to provide by regulation for payment of DIC in a manner not authorized by 38 U.S.C. 1318. Section 3.22(a) is an interpretive rule that was intended to explain the requirements of 38 U.S.C. 1318, and not to establish any substantive rights beyond those authorized by section 1318. However, since the language of § 3.22(a) apparently caused confusion regarding VA's interpretation of 38 U.S.C. 1318, VA revised § 3.22(a) to ensure that it clearly expresses VA's interpretation of section 1318. *See* 65 FR 3388 (Jan. 21, 2000).

Section 1318 authorizes payment of DIC in cases where the veteran was, at the time of death, ''in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive)'' compensation for service-connected disability that ''was continuously rated totally disabling for a period of 10 or more years immediately preceding death'' or was so rated for 5 years continuously from date of discharge to date of death. The phrase ''in receipt of * * * compensation'' unambiguously refers to cases where the veteran was, at the time of death, actually receiving compensation for service-connected disability rated totally disabling for the required period. VA concluded that the phrase ''entitled to receive * * * compensation'' is most reasonably interpreted as referring to cases where the veteran had established a legal right to receive compensation for the required period under the laws and regulations governing such entitlement, but was not actually receiving the compensation.

Under 38 U.S.C. 5101, ''a specific claim in the form prescribed by the Secretary * * * must be filed in order for benefits to be paid or furnished to any individual under the laws administered by the Secretary.'' No person can have a right to receive compensation from VA in the absence of a properly filed claim. *Jones* v. *West*, 136 F.3d 1296, 1299–1300 (Fed. Cir.), *cert. denied*, 119 S. Ct. 90 (1998). Section 5110(a) of title 38, United States Code, provides that an award of compensation may not be made effective earlier than the date of the claimant's application, unless specifically provided otherwise by statute. Accordingly, a person cannot have a right to receive compensation from VA for any period prior to the date of an application for benefits except as expressly authorized by specific statutory provision.

Moreover, as set forth above, the legislative history of Public Law 97–306—which added the phrase ''or entitled to receive'' to what is now 38 U.S.C. 1318—clearly shows that Congress made the amendment to provide that DIC may be paid in cases where the veteran would have been in receipt of compensation for a total service-connected disability for the specified period prior to death if not for a clear and unmistakable error (CUE) by VA. A ''clear and unmistakable error'' is an error in a prior final VA decision which materially affected the outcome of the decision. *See, e.g., Disabled American Veterans* v. *Gober*, 234 F.3d 682, 695–97 (Fed. Cir. 2000), *cert. denied sub nom. Nat'l Org. of Veterans' Advocates* v. *Principi*, 121 S. Ct. 1605 (2001); *Bustos* v. *West*, 179 F.3d 1378, 1381 (Fed. Cir.), *cert. denied* 120 S. Ct. 405 (1999). Pursuant to law and regulation, a decision containing CUE may be revised retroactively, and entitlement to benefits may be established retroactively as if the error had not occurred. 38 U.S.C. 5109A, 7111; 38 CFR 3.105(a), 38 CFR 20.1406(a).

A retroactive award predicated on a finding of CUE is, like all awards of VA benefits, subject to the requirement that the veteran have filed a claim for benefits under 38 U.S.C. 5101(a). Further, the period of the veteran's retroactive entitlement is governed by the effective-date provisions of 38 U.S.C. 5110, and generally may not be earlier than the date of the veteran's claim which resulted in the erroneous decision. In using the phrase ''entitled to receive'' to refer to the specific class of cases where the veteran's entitlement was established by correction of CUE, Congress plainly contemplated that determinations concerning the existence and duration of the veteran's entitlement to benefits would continue to be governed by the requirements of 38 U.S.C. 5101(a) and 5110.

The legislative history also suggests that final decisions concerning a veteran's disability rating and effective date would be binding for purposes of determinations under 38 U.S.C. 1318(b) unless there was CUE in such decisions. Sections 7104(b) and 7105(c) of title 38, United States Code provide that determinations of the Board of Veterans' Appeals and VA regional offices, respectively, are final unless a timely appeal is filed. Such final decisions may be revised only on the basis of CUE. By clearly stating its intent that DIC benefits may be awarded if there was CUE in a prior final decision which prevented the veteran from receiving total disability compensation for the specified period, Congress plainly contemplated that the prior final decision would continue to be binding in the absence of CUE. The extensive discussion of CUE in the legislative history would have been unnecessary and illogical if Congress had intended VA to ignore any final VA decisions during the veteran's lifetime. Accordingly, if a regional office or the Board had rendered a final decision that the veteran was not entitled to a total rating for at least 10 years immediately preceding death (or at least 5 years from date of discharge to date of death), such decision would preclude VA from reaching a contrary conclusion in adjudicating a claim for DIC under 38 U.S.C. 1318(b).

In view of Congress' clear intent, VA has concluded that determinations concerning the existence and duration of the veteran's entitlement to compensation for a service-connected disability rated totally disabling are governed by the generally-applicable provisions of 38 U.S.C. 5101(a), 5110,

7104(b), and 7105(c), governing claim-filing requirements, effective dates of entitlement, and the finality of regional-office and Board decisions. Congress' stated purpose to authorize DIC in cases where clear and unmistakable error was the only obstacle to the veteran's receipt of total disability compensation for the required period fits logically within this well-established statutory scheme.

In contrast, interpreting 38 U.S.C. 1318(b) to permit DIC awards where the veteran ''hypothetically'' could have been entitled to benefits would create a substantially broader rule which would be inconsistent with the general statutory requirements governing a veteran's entitlement to compensation. VA has found no indication in section 1318(b) or its legislative history that Congress intended VA to ignore those established statutory requirements in making determinations regarding the veteran's entitlement to compensation for purposes of section 1318(b). To the contrary, Congress indicated that the purpose of the phrase ''or entitled to receive'' was to authorize DIC awards in a specific class of cases where the veteran's entitlement is established under those generally-applicable statutory requirements.

The language of 38 U.S.C. 1318(b) is consistent with Congress' stated purpose. Section 1318(b) authorizes payment of DIC in cases where the veteran was entitled to receive compensation for a service-connected disability that ''was continuously rated totally disabling for a period of 10 or more years immediately preceding death.'' The requirement that the disability have been ''continuously rated'' totally disabling for the specified period is most reasonably construed as referring to ratings which had actually been assigned by VA for the duration of that period in accordance with the established statutory requirements governing claims, ratings, and effective dates. A contrary interpretation would render the term ''rated'' wholly unnecessary, for Congress could simply have provided that DIC would be payable based on a posthumous determination that the veteran had a service-connected disability that ''was continuously * * * totally disabling for a period of 10 or more years immediately preceding death.'' In cases where a rating is assigned retroactively through correction of CUE, the statutory requirements for a continuous rating and entitlement at death are satisfied, as a matter of law, because Congress has mandated that decisions correcting CUE shall have the same effect as if they had been issued on the date of the erroneous decision.

For the foregoing reasons, we conclude that the meaning of section 1318 is clear from its language, history, and context. Accordingly, given the absence of ambiguity in the statute and in view of Congress' clear intent, there is no ''interpretive doubt * * * to be resolved in the veteran's favor.'' *Brown* v. *Gardner*, 513 U.S. 115, 118 (1994).

This interpretation of 38 U.S.C. 1318(b) is consistent with VA's prior interpretation of that provision. In a 1990 precedent opinion which is binding on all VA officials and employees, the VA General Counsel examined the language and history of section 1318(b) (previously section 410(b)), and concluded that the legislative history clearly indicated that Congress intended to authorize DIC in cases where the veteran had a total service-connected disability rating for the specified period, or would have had such a rating but for clear and unmistakable error by VA. The General Counsel concluded further that VA could not award DIC in cases where the veteran did not have a total service-connected rating for the specified period and there was no clear and unmistakable error which could have provided a basis for retroactively assigning such a rating. VAOPGCPREC 68–90, 55 FR 43255 (Oct. 26, 1990).

Definition of ''Entitled to Receive''

In order to clarify the requirements of 38 U.S.C. 1318, VA revised 38 CFR 3.22 to expressly define the statutory term ''entitled to receive.'' VA defined that term to refer to each specific circumstance where a veteran could have had a service-connected disability rated totally disabling by VA but may not have been receiving VA compensation for such disability at the time of death. The revised regulation provides seven circumstances:

(1) VA was paying the compensation to the veteran's dependents;

(2) VA was withholding the compensation under authority of 38 U.S.C. 5314 to offset an indebtedness of the veteran;

(3) The veteran had applied for compensation but had not received total disability compensation due solely to clear and unmistakable error in a VA decision concerning the issue of service connection, disability evaluation, or effective date;

(4) The veteran had not waived retired or retirement pay in order to receive compensation;

(5) VA was withholding payments under the provisions of 10 U.S.C. 1174(h)(2);

(6) VA was withholding payments because the veteran's whereabouts was unknown, but the veteran was otherwise entitled to continued payments based on a total service-connected disability rating; or

(7) VA was withholding payments under 38 U.S.C. 5308 but determines that benefits were payable under 38 U.S.C. 5309. 38 CFR 3.22(b) (2000).

VA's Interpretation of 38 U.S.C. 1311(a)(2)

Section 1311(a)(2) was enacted in 1992. In view of the nearly identical language in 38 U.S.C. 1311(a)(2) and the earlier-enacted 38 U.S.C. 1318, and the similar purpose of the two statutes, VA believes those statutes should be interpreted in the same manner. The *NOVA* court reached the same conclusion, noting that the well-established rule that identical words used in different parts of a statute are intended to have the same meaning ''applies with equal force where, as here, the words at issue are used in two different sections of a complex statutory scheme and those two sections serve the same purpose, namely, the award of DIC benefits to survivors.'' Slip op. at 23–24.

The legislative history of section 1311(a)(2) makes clear it was modeled on section 1318 and intended to have the same meaning. H.R. Rep. 753, 102d Cong. 17 (1992) (discussing application of sections 1311(a)(2) and 1318).

The legislative history further supports the conclusion that section 1311(a)(2), like section 1318, was intended to require that the veteran's entitlement to total disability ratings be based on ratings during the veteran's lifetime, rather than posthumous determinations regarding the veteran's ''hypothetical'' entitlement to benefits. The joint explanatory statement on the compromise agreement resulting in section 1311(a)(2) explained that it was intended to provide an additional amount of compensation for survivors of veterans who were ''rated totally disabled while married to the surviving spouse.'' 138 Cong. Rec. 17376 (1992).

In 1993, VA issued a regulation to implement 38 U.S.C. 1311(a)(2). That regulation, codified at 38 CFR 3.5(e), states that the additional DIC amount will be paid ''in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was evaluated as totally disabling for a continuous period of at least eight years immediately preceding death.''

For the reasons stated above with respect to 38 U.S.C. 1318, VA has consistently construed 38 U.S.C.

1311(a)(2) and 38 CFR 3.5(e) as requiring that the veteran's entitlement to total disability compensation be established by ratings during the veteran's lifetime or by CUE challenge to a decision or decisions rendered during the veteran's lifetime. Because this construction comports with the language, legislative history, and principles of construction discussed above, VA will continue to interpret both 38 U.S.C. 1311(a)(2) and 38 U.S.C. 1318 in this manner.

The NOVA Case: Revision of Rule 1106

The *NOVA* court concluded that VA has interpreted 38 U.S.C. 1318 and 38 U.S.C. 1311(a)(2) differently because the rule in 38 CFR 20.1106 concerning disregard of decisions during the veteran's lifetime contains an exception for section 1318 but not for section 1311(a)(2). As explained above, VA has consistently interpreted 38 U.S.C. 1311(a)(2) and 1318 in the same manner. The cited inconsistency between 38 CFR 3.22(a) and Rule 1106 is a function of time, not of VA's interpretation of the two statutes at issue in the *NOVA* case.

Despite the court's characterization of Rule 1106 as the ''implementing'' regulation for 38 U.S.C. 1311, *NOVA*, slip op. at 9–10; 37, the fact is that Rule 1106 was proposed three and one-half years before, and published as final 9 months before, the amendments to 38 U.S.C. 1311 were enacted. Simply put, Rule 1106 was not, and could not have been, drafted with the enhanced DIC benefits of 38 U.S.C. 1311(a)(2) in mind. VA implemented 38 U.S.C. 1311(a)(2) in a different regulation, 38 CFR 3.5(e), published in April 1993, *after* enactment of Pub. L. No. 102–568. 58 FR 25561 (Apr. 27, 1993).

Rule 1106 was intended to apply to claims for DIC where the veteran's death is service connected. It was never intended to preclude consideration of decisions during the veteran's lifetime in cases where the veteran's death is not service connected and, therefore, a survivor's entitlement to DIC is dependent upon a showing that the veteran was entitled to receive compensation during his or her lifetime for a service-connected disability rated totally disabling for a specified pre-death period. In view of the purpose of Rule 1106 and the clear requirements of 38 U.S.C. 1311(a)(2) and 38 CFR 3.5(e), VA has not interpreted Rule 1106 to preclude reliance on decisions during the veteran's lifetime in determining entitlement to enhanced DIC benefits.

VA has interpreted 38 CFR 3.22 and 38 CFR 20.1106 to preclude ''hypothetical'' determinations of eligibility for nonservice-connected DIC under 38 U.S.C. 1318, an explicit exclusion in Rule 1106 recognized by the Federal Circuit in *Hix*, 225 F.2d at 1380. In the same way, under Rule 1106, we interpreted the exact same language—''in receipt of or entitled to receive''—in 38 U.S.C. 1311(a)(2) to preclude hypothetical determinations of eligibility for the enhanced DIC benefit. In *Hix*, the court declined to defer to VA's interpretation because Rule 1106 mentions 38 U.S.C. 1318, but does not mention 38 U.S.C. 1311(a)(2). As indicated above, the reason for this omission is that Rule 1106 became final 9 months before the current 38 U.S.C. 1311(a)(2) was enacted. There is, frankly, no basis for concluding that VA meant to exclude a statute that did not yet exist. Although we recognize that further revision of Rule 1106 to include express reference to 38 U.S.C. 1311(a)(2) will help clarify VA's position, this revision does not reflect any change in VA's interpretation of the governing statutes.

Nevertheless, because of the apparent confusion, and in accordance with the court's order in *NOVA*, we propose to amend 38 CFR 20.1106 to add a specific exception for 38 U.S.C. 1311(a)(2). In our view, the statutory language does not support paying either DIC or enhanced DIC benefits where the veteran never made a claim for total disability benefits in his or her lifetime, or where a survivor cannot show clear and unmistakable error in decisions made during the veteran's lifetime.

Comment Period

We are providing a comment period of 30 days for this proposed rule. In its August 16, 2001, order in the *NOVA* case, the Federal Circuit directed VA to issue its final rules on this matter within 120 days after the date of issuance of the court's mandate in that case. The Federal Circuit further ordered VA to stay all proceedings on claims for DIC under 38 U.S.C. 1318 until such final rules are issued. Although the Federal Circuit indicated that VA may request an extension of time, if necessary, we believe that the Court intended that VA would make every effort to issue final rules within the specified 120-day period. A shortened comment period of 30 days is necessary to help us meet the objecive of the Court. Further, we believe that prompt completion of the rulemaking process is necessary to ensure that the court-ordered stay of proceedings does not result in prolonged delays in pending claims that may be affected by this rule.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612, inasmuch as this rule applies to individual claimants for veterans' benefits and does not affect such entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604.

There is no Catalog of Federal Domestic Assistance number for this proposed rule.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Veterans.

Approved: November 26, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, VA proposes amending 38 CFR part 20 as follows:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

2. Section 20.1106 is revised to read as follows:

§ 20.1106 Rule 1106. Claim for death benefits by survivor-prior unfavorable decisions during veteran's lifetime.

Except with respect to benefits under the provisions of 38 U.S.C. 1311(a)(2), 1318, and certain cases involving individuals whose Department of Veterans Affairs benefits have been forfeited for treason or for subversive activities under the provisions of 38 U.S.C. 6104 and 6105, issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime.

Authority: 38 U.S.C. 7104(b).

[FR Doc. 01–31479 Filed 12–20–01; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 01–319; FCC 01–333]

Review of Quiet Zones Application Procedures

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission, pursuant to staff recommendations of the 2000 Biennial Review Report, reviews the application procedures for Quiet Zones to determine whether they can be made more efficient while continuing to ensure that such zones are fully protected from interference. In this document, the Commission seeks comment on whether to certain microwave applicants to initiate conditional operation even if the proposed site is located within a defined distance from a quiet zone. The Commission also seeks comment on whether to expedite application processing where there are Quiet Zone implications; whether to allow parties to provide notification to and begin coordination with Quiet Zone entities in advance of filing an application, and seeks comment on any possible modification of the rule prescribing the procedures for coordination with quiet zones and any specific service rules that implement the Commission's goals regarding protection of Quiet Zones from unwarranted and unacceptable interference.

DATES: Comments are due on or before January 22, 2002; Reply comments are due on or before February 6, 2002.

ADDRESSES: Parties who choose to file comments by paper should send comments to Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW; TW–A325; Washington, D.C. 20554. Comments filed through the Commission's Electronic Comment Filing System (ECFS) can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.*

FOR FURTHER INFORMATION CONTACT: Katherine M. Harris at (202) 418–0609 (Wireless Telecommunications Bureau).

SUPPLEMENTARY INFORMATION: This is a summary of the Notice of Proposed Rulemaking (''NPRM'') in WT Docket No. 01–319, FCC 01–333, adopted November 9, 2001 and released November 21, 2001. The complete text is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12 Street, SW, Washington, DC and also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW, CY–B402, Washington, DC 20554. The document is also available via the Internet at *http://www.fcc.gov/Bureaus/Wireless/Orders/2001/fcc01333.pdf.*

Paperwork Reduction Act

1. The NPRM contains no proposed information collection.

Synopsis of Notice of Proposed Rulemaking

2. This Notice of Proposed Rulemaking (NPRM) is a part of the Commission's biennial regulatory review, pursuant to section 11 of the Communications Act. In particular, this NPRM seeks comments on procedures for streamlining the Commission's rules for the processing of applications potentially affecting areas know as Quiet Zones.

I. Discussion

3. This NPRM seeks comments on procedures for streamlining the Commission's rules for the processing of applications potentially affecting areas known as Quiet Zones, currently set forth in 47 CFR 1.924 of our rules. Quiet Zones are defined as those areas where it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to interference. In seeking comments on these rules, the Commission is responding to concerns that the rules may be burdensome and unnecessarily delay the provision of service to the public. The Commission's purpose is to determine whether the required procedures can be streamlined to reduce the effect on wireless licenses while adequately protecting the operations of Quiet Zones.

4. The Commission seeks comments on whether to allow part 101 applicants to initiate conditional operation under § 101.31(b), notwithstanding the limitation contained in § 101.31(b)(1)(v), if they submit to the Commission written consent from the affected Quiet Zone entity and otherwise are eligible to initiate conditional operations over the proposed facility; whether to expedite application processing where there are Quiet Zone implications if the applicant provides written consent from the Quiet Zone entity; whether to allow parties to provide notification to and begin coordination with Quiet Zone entities in advance of filing an application with the Commission, including the appropriate period of time to prescribe for such advance notification and coordination; and possible modification of 47 CFR 1.924, 90.655, 95.45, 101.1009, and 101.1329 and any other rules that implement the Commission's goals regarding protection of Quiet Zones from unwarranted and unacceptable interference.

II. Filing Procedures

5. Pursuant to 47 CFR 1.415 and 1.419, interested parties may file comments on or before January 22, 2001, and reply comments on or before February 6, 2002. Comments may be filed by using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents Rulemaking Proceeding, at 63 FR 24121 May 1, 1998.

6. Comments filed through ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

7. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW–A325, Washington, DC 20554.

8. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, 445 12th Street, SW, CY–B402, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC 20554. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with 47 CFR 1.49, and all

other applicable sections of the Commission's rules. The Commission also directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of length of their submission.

III. Initial Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act,[1] (RFA) has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible impact on small entities of the proposals in this Notice of Proposed Rulemaking. Written public comments are requested on this IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the NPRM, and they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer Information Bureau, Reference Information Center, will send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.[2] In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.[3]

A. Need for, and Objectives of, the Rules

10. In the *Quiet Zones NPRM,* the Commission seeks comment on a number of proposals to further its ongoing efforts under the Telecommunications Act of 1996 [4] to foster competition in local communications markets. Specifically, the Commission seeks comments on: (1) whether to allow part 101 applicants to initiate conditional operation under 47 CFR 101.31(b), notwithstanding the limitation contained in 101.31(b)(1)(v), if they submit to the Commission written consent from the affected Quiet Zone entity and otherwise are eligible to initiate conditional operations over the proposed facility; (2) whether to expedite application processing where there are Quiet Zone implications if the applicant provides written consent from the Quiet Zone entity; (3) whether to allow parties to provide notification to and begin coordination with Quiet Zone entities in advance of filing an application with the Commission, and the appropriate period of time to prescribe for such advance notification and coordination; and (4) any possible modification of 47 CFR 1.924, 90.655, 95.45, 101.1009, and 101.1329 and any other rules that implement the Commission's goals regarding protection of Quiet Zones from unwarranted and unacceptable interference.

B. Legal Basis

11. The potential actions on which comment is sought in this Quiet Zones NPRM would be authorized under sections 1, 4(i), 11,303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 161, 303(g), and 303(r).

Description and Estimate of the Number of Small Entities to which the Rules Will Apply

12. 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.[5] The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [6] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under section 3 of the Small Business Act.[7] A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[8] A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' [9] Nationwide, as of 1992, there were approximately 275,801 small organizations.[10] ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' [11] As of 1992, there were approximately 85,006 such jurisdictions in the United States.[12] This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.[13] The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,6000 (96 percent) are small entities.

13. In the following paragraphs, we further describe and estimate the number of small entity licensees that may be affected by any streamlining changes in the proposed rules, if adopted. Since this rulemaking proceeding applies to multiple services, we will analyze the number of small entities affected on a service-by-service basis. The number of small entities identified below substantially overestimates the number of small entities that might be affected by any rule change in this docket, since only entities proposing or planning facilities in proximity to any of the Quiet Zones would be affected by any changes in the requirements.

14. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons.[14] According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms that operated during 1992 had 1,000 or more employees.[15] Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Telecommunications Industry Revenue* data, 808 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service, which are

[1] 5 U.S.C. 603.

[2] 5 U.S.C. 603(a).

[3] See id.

[4] Telecommunications Act of 1996, Public Law 104–104, 110 Stat. 56 codified at 47 U.S.C. 151 et seq. (1996 Act). The 1996 Act amended the Communications Act of 1934 (the ''Communications Act'' or the ''Act'').

[5] 5 U.S.C. 603(b)(3).

[6] U.S.C. 601(6).

[7] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such terms which are appropriate to the activities for the agency and publishes such definition(s) in the **Federal Register.**'' 5 U.S.C. 601(3).

[8] 15 U.S.C. 632.

[9] 5 U.S.C. 601(4).

[10] 1992 Economic Census, U.S. Bureau of Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[11] 5 U.S.C. 601(5).

[12] U.S. Dept. of Commerce, Bureau of the Census, ''1992 Census of Governments.''

[13] *Id.*

[14] 13 CFR 121.201, Standard Industrial Code (SIC) code 4812.

[15] *1992 Census, Series UC92–S–1* at Table 5, SIC code 4812.

placed together in the data.[16] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are no more than 808 small cellular service carriers that may be affected by any proposed rules that may be adopted.

15. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to radiotelephone communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.[17] According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees.[18] Therefore, if this general ratio continues, in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

16. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is subject to spectrum auctions. In the *220 MHz Third Report and Order* in PR Docket No. 89–552, GN Docket No. 93–252, PP Docket No. 93–253, 62 FR 16004, April 3, 1997, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions.[19] Two auctions of Phase II licenses have been conducted. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won one of the nationwide licenses, 67 percent of the regional licenses, and 54 percent of the EA licenses. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

17. *700 MHz Guard Band Licenses.* In the *700 MHz Guard Band Order* in CC Docket No. 99–168, 65 FR 17594, April 4, 2000, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned at that time, 96 licenses were sold to 9 bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction began on February 13, 2001, and ended on February 21, 2001. A total of eight licenses were sold to three bidders. One of these bidders was a small business that won a total of two of these licenses.

18. *Paging.* In the *Paging Second Report and Order and Further Notice of Proposed Rulemaking* in WT Docket No. 96–18; PP Docket No. 93–253 at 62 FR 11616, March 12, 1997 and at 64 FR 33762, June 24, 1999, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $15 million. A very small business is defined as an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $3 million. The SBA has approved these definitions.[20] An auction of MEA licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won licenses. In addition, at present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Telecommunications Industry Revenue* data, 172 carriers reported that they were engaged in the provision of either paging or ''other mobile'' services, which are placed together in the data.[21] We are unable at this time to estimate with precision the number of paging carriers that would qualify as small business concerns, particularly among the pre-existing licensees. Consequently, we estimate that there are fewer than, but up to, 172 small paging carriers that may be affected by the proposed rules, if adopted. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

19. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years in a *Report and Order* in WT Docket No. 96–59; GN Docket No. 90–314, 61 FR 33859, July 1, 1996. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in

[16] *See Telecommunications Industry Revenues:* 1999, Industry Analysis Division, Common Carrier Bureau (Sept. 2000).

[17] 13 CFR 121.201, WIC code 4812.

[18] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms; 1992, SIC code 4812 (issued May 1995).

[19] *See* Letter to Daniel B. Phythyon, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration (Jan. 6, 1998).

[20] *See* Letter to Amy J. Zoslov, Chief (Acting), Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, at 3–4 (Dec. 2, 1998).

[21] *Trends in Telephone Service*, Table 19.3 (Feb. 19, 1999).

the context of broadband PCS auctions have been approved by the SBA.[22] No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F.[23] On March 23, 1999, the Commission reauctioned 347 C, D, E, and F block licenses; there were 48 small business winning bidders. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F block broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

20. *Narrowband PCS.* To date, three auctions of narrowband PCS licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, 11 of which were obtained by small businesses. For purposes of the first two auctions that have already been held, small businesses were defined as entities with average gross revenues for the prior three calendar years of $40 million or less in the *Third Memorandum Opinion and Order and Further Notice of Proposed Rulemaking* in PP Docket No. 93–253, 59 FR 44109, August 26, 1994. Four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the then existing rules. To ensure meaningful participation of small business entities in subsequent auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order and Second Further Notice of Proposed Rulemaking* in GN Docket No. 90–314, ET Docket No. 92–100, PP Docket No. 93–253, at 65 FR 35843 and 65 FR 35875, June 6, 2000. A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. These definitions have been approved by the SBA.[24] The third auction closed on October 16, 2001, and involved eight nationwide and 357 Metropolitan Trading Area (MTA) licenses. Five bidders won 317 licenses (309 MTA licenses and the eight nationwide licenses). Three of the five winning bidders were small businesses. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. The Commission assumes, for purposes of this IRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

21. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.[25] A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).[26] We will use the SBA definition applicable to radiotelephone companies, *i.e.,* an entity employing no more than 1,500 persons.[27] There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA definition.

22. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.[28] Accordingly, we will use the SBA definition applicable to radiotelephone companies, *i.e.,* an entity employing no more than 1,500 persons.[29] There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

23. *Specialized Mobile Radio (SMR).* The Commission has defined ''small business'' for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band, as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years.[30] The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions.[31] Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small businesses under the $15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz band qualified as small businesses under the $15 million size standard. An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000, and was completed on September 1, 2000. Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders for licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 EA licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed small business status. In addition, there are numerous incumbent site-by-site SMR licensees in the 800 and 900 MHz bands.

24. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this IRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

[22] *See* Letter to Amy J. Zoslov, Chief (Acting), Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, at 3 (Dec 2, 1998).

[23] *FCC News, Broadband PCS, D,. E and F Block Auction Closes*, No. 71744 (rel. Jan 14, 1997).

[24] *See* Letter to Amy J. Zoslov, Chief (Acting), Auctions and Industry Analysis Division, Wireless Telecommunications Bureau. Federal Communication Commission, from Aida Alvarez, Administrator, Small Business Administration (Dec. 2, 1998).

[25] The service is defined in § 22.99 of the Commission's rules, 47 CFR 22.99.

[26] BETRS is defined in §§ 22.757 and 22.759 of the Commission's rules, 47 CFR 22.757 and 22.759.

[27] 13 CFR 121.201, SIC code 4812.

[28] The service is defined in § 22.99 of the Commission's rules, 47 CFR 22.99.

[29] 13 CFR 121.201, SIC code 4812.

[30] 47 CFR 90.814(b)(1).

[31] *See* Letter to Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration (Aug. 10, 1999) (800 MHz SMR); Letter to Michele C. Farquhar, Acting Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Philip Lader, Administrator, Small Business Administration (July 24, 1996) (900 MHz SMR).

25. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area.

26. The Commission is unable at this time to estimate the number of small businesses that could be impacted by the rules. However, the Commission's 1994 Annual Report on PLMR [32] indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the proposed rules in this context could potentially impact every small business in the United States.

27. *Amateur Radio Service.* All Amateur Radio Service licenses are presumed to be individuals. Accordingly, no small business definition applies for this service.

28. *Aviation and Marine Radio Service.* Small businesses in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter. The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the SBA rules for radiotelephone communications.[33]

29. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of our evaluations and conclusions in this IRFA, we estimate that there may be at least 712,000 potential licensees that are individuals or small entities, as that term is defined by the SBA.

30. *Fixed Microwave Services.* Microwave services include common carrier,[34] private-operational fixed,[35] and broadcast auxiliary radio services.[36] At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, we will utilize the SBA's definition applicable to radiotelephone companies—i.e., an entity with no more than 1,500 persons.[37] We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

31. *Public Safety Radio Services.* Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.[38] There are a total of approximately 127,540 licensees within these services. Governmental entities [39] as well as private businesses comprise the licensees for these services. As indicated supra in paragraph four of this IRFA, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.[40]

32. *Personal Radio Services.* Personal radio services provide short-range, low-power radio for personal communications, radio signaling, and business communications not provided for in other services. The services include the citizen's band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS).[41] Inasmuch as the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. We are unable at this time to estimate the number of other licensees that would qualify as small under the SBA's definition.

33. *Offshore Radiotelephone Service.* This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico.[42] At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition for radiotelephone communications.

34. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years in a *Report and Order* in GN Docket No. 96–228, 62 FR 9636, March 3, 1997. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

[32] Federal Communications Commission, *60th Annual Report, Fiscal Year 1994,* at 116.

[33] 13 CFR 121.201, SIC code 4812.

[34] 47 CFR part 101.

[35] Persons eligible under parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. *See* 47 CFR Parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

[36] Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's rules. *See* 47 CFR 74.501 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV prickups, which relay signals from a remote location back to the studio.

[37] 13 CFR 121.201, SIC 4812.

[38] With the exception of the special emergency service, these services are governed by subpart B of part 90 of the Commission's rules, 47 CFR 90.15–90.27. The police service includes 26,608 licensees that serve state, county, and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile *printed material). The fire radio service includes 22,677 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service is currently comprised of 40,512 licensees that are state, county, or municipal entities that use the radio for official purposes not covered by other public safety services. There are 7,325 licensees within the forestry service, which is comprised of licensees from state departments of conservation and private forest organizations that set up communications networks among fire lookout towers and ground crews. The 9,480 state and local governments are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The 1,460 licensees in the Emergency Medical Radio Service (EMRS)

[39] 47 CFR 1.1162.

[40] 5 U.S.C. 601(5).

[41] Licensees in the Citizens Band (CB) Radio Service, General Mobile Radio Service (GMRS), Radio Control (R/C) Radio Service and Family Radio Service (FRS) are governed by subpart D, subpart A, subpart C, and subpart B, respectively, of part 95 of the Commission's rules. 47 CFR 95.401–95.428; 95.1–95.181; 95.201–95.225; 95.191–95,194.

[42] This service is governed by subpart I of part 22 of the Commission's rules. *See* 47 CFR 22.1001–22.1037.

35. *Local Multipoint Distribution Service.* The Commission held two auctions for licenses in the Local Multipoint Distribution Services (LMDS) (Auction No. 17 and Auction No. 23). For both of these auctions, the Commission defined a small business as an entity, together with its affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $40 million in a *Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rulemaking* in CC Docket No. 92–297, 62 FR 23148, April 29, 1997. A very small business was defined as an entity, together with affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $15 million in a *Second Order on Reconsideration* in CC Docket No. 92–297, 62 FR 48787, September 17, 1997. Of the 144 winning bidders in Auction Nos. 17 and 23, 125 bidders (87 percent) were small or very small businesses.

36. *24 GHz—Incumbent 24 GHz Licensees.* The rules that we may later adopt could affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The Commission did not develop a definition of small entities applicable to existing licensees in the 24 GHz band. Therefore, the applicable definition of small entity is the definition under the SBA rules for the radiotelephone industry, providing that a small entity is a radiotelephone company employing fewer than 1,500 persons.[43] The 1992 Census of Transportation, Communications and Utilities, conducted by the Bureau of the Census, which is the most recent information available, shows that only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees.[44] This information notwithstanding, we believe that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent [45] and TRW, Inc. It is our understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

37. *Future 24 GHz Licensees.* With respect to new applicants in the 24 GHz band, we have defined ''small business'' as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not in excess of $15 million. ''Very small business'' in the 24 GHz band is defined as an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding $3 million for the preceding three years in a *Report and Order* in WT Docket No. 99–327, 66 FR 11113, February 22, 2001.[46] The SBA has approved these definitions.[47] The Commission will not know how many licensees will be small or very small businesses until the auction, if required, is held. Even after that, the Commission will not know how many licensees will partition their license areas or disaggregate their spectrum blocks, if partitioning and disaggregation are allowed.

38. *39 GHz.* The Commission held an auction (Auction No. 30) for fixed point-to-point microwave licenses in the 38.6 to 40.0 GHz band (39 GHz Band).[48] For this auction, the Commission defined a small business as an entity, together with affiliates and controlling interests, having average gross revenues for the three preceding years of not more than $40 million in a *Report and Order* in ET Docket No. 95–183; PP Docket No. 93–253, 63 FR 6079, February 6, 1998 and also in the *Second Notice of Proposed Rulemaking* at 63 FR 3075, January 21, 1998. A very small business was defined as an entity, together with affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these definitions.[49] Of the 29 winning bidders in Auction No. 30, 18 bidders (62 percent) were small business participants.

39. *218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 595 Metropolitan Statistical Area (MSA) licenses. Of the 595 licenses, 557 were won by entities qualifying as a small business. For that auction, we defined a small business as an entity that, together with its affiliates, has no more than a $6 million net worth, and after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years in the *Fourth Report and Order* in PP Docket No. 93–253, 59 FR 25825, May 18, 1994. In the *218–219 MHz Report and Order and Memorandum Opinion and Order* at 64 FR 59656, November 3, 1999, we defined a small business as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $15 million for the preceding three years WT Docket No. 98–169. A very small business is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $3 million for the preceding three years. These definitions have been approved by the SBA.[50] We cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under our rules in future auctions of 218–219 MHz spectrum. Given the success of small businesses in the previous auction, and the prevalence of small business in the subscription television services and message communications industries, we assume for purposes of this IRFA that in future auctions, all of the licenses may be awarded to small businesses.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

40. The *Quiet Zones NPRM* proposes no additional reporting, recordkeeping or other compliance measures.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

41. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of different compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rules for small entities; (3) the

[43] *See* 13 CFR 121.201, SIC code 4812.

[44] *1992 Census at Firm Size* 1–123.

[45] Teligent acquired the DEMS licenses of FirstMark, the only licensee other than TRW in the 24 GHz band whose license has been modified to require relocation to the 24 GHz band.

[46] In the Matter of Amendments to Parts 1, 2, 87 and 101 of the Commission's Rules To License Fixed Services at 24 GHz, *Report and Order,* 15 FCC Rcd at 16967; *see also* 47 CFR 101.538(a)(1).

[47] *See* Letter to Margaret W. Wiener, Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Gary M. Jackson, Assistant Administrator, Small Business Administration (July 28, 2000).

[48] *See* 39 GHz Band Auction Closes; Winning Bidders of 2,173 Licenses Announced, *Public Notice,* DA 00–1035 (May 10, 2000).

[49] *See* Letter to Kathleen O'Brien Ham, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commssion, from Aida Alvarez, Administrator, Small Business Administration (Feb. 4, 1998).

[50] *See* Letter to Daniel B. Phythyon, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration (Jan. 6.1998).

use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

42. The purpose of this rulemaking is to seek comment on possible procedures for streamlining the regulatory obligations associated with wireless applications and facilities that may implicate the Commission's defined Quiet Zones, while still adequately and fully protecting the various operations located in the Quiet Zones. One alternative considered, as suggested by a commenter,[51] is to remove rules and provisions that restrict or limit activities of all entities, including small businesses, in the Quiet Zones. While evaluating this alternative, the Commission has carefully considered the overlying public policy and safety needs that necessitated maintaining the Quiet Zones provisions. Therefore, while the Commission does not intend to alter the basic protection given to Quiet Zones, it is willing to examine and give careful consideration to any proposals that would reduce or alleviate the burdens on small entities, as well as other affected parties.

43. More specifically, the Commission is considering as an alternative resuming processing of an application with Quiet Zone implications if written consent from the affected Quiet Zone entity is provided.[52] This alternative could greatly reduce the processing time for an application submitted by all entities, including small entities. Parties, including small entities, are encouraged to provide additional alternatives for consideration.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

III. Ordering Clause

44. Pursuant to the authority of sections 1, 4(i), 11, 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 161, 303(g), and 303(r), that this Notice of Proposed Rulemaking is ADOPTED.

45. The Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

46. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Sections 603(a) and 604(b) of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164, 5 U.S.C.A. 603(a) and 604(b).

List of Subjects 47 CFR Part 1

Telecommunications.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–31411 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

[51] *See Notice of Proposed Rulemaking,* paragraphs 4–11.

[52] *See id.,* paragraph 9.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2812, MM Docket No. 01–302, RM–10333]

Digital Television Broadcast Service; Fort Wayne, IN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Indiana Broadcasting, LLC, licensee of station WANE–TV, NTSC channel 15, Fort Wayne, Indiana, proposing the substitution of DTV channel 31 for station WANE–TV's assigned DTV channel 4. DTV Channel 31 can be allotted to Fort Wayne, Indiana, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (41–05–38 N. and 85–10–48 W.). However, since the community of Fort Wayne is 400 kilometers within the U.S.-Canadian border, concurrence from the Canadian government must be obtained for this allotment. As requested, we propose to allot DTV Channel 31 to Fort Wayne with a power of 82 and a height above average terrain (HAAT) of 253 meters.

DATES: Comments must be filed on or before January 28, 2002, and reply comments on or before February 12, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: William H. Fitz, Covington & Burling, 1201 Pennsylvania Avenue, NW., Washington, DC 20004 (Counsel for Indiana Broadcasting, LLC).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–302, adopted December 4, 2001, and released December 6, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

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

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

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

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

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

PART 73—TELEVISION BROADCAST SERVICES

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Indiana is amended by removing DTV Channel 4 and adding DTV Channel 31 at Fort Wayne.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–31458 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2856, MM Docket No. 01–332, RM–10334]

Television Broadcast Service; Pueblo, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Zavaletta Broadcasting of Pueblo, an applicant for a construction permit for a new television station to operate on channel 26+ at Pueblo, Colorado, requesting the substitution of channel 48 for channel 26+ at Pueblo. Channel 48 can be allotted to Pueblo, Colorado, with zero offset consistent with the criteria set forth in the Commission's Public Notice, released on November 22, 1999, DA 99–2605. The coordinates for channel 48 are North Latitude 38–21–30 and West Longitude 104–33–24. Pursuant to the Commission's Public Notice, we will not accept competing expressions of interest in the use of television channel 48 at Pueblo.

DATES: Comments must be filed on or before February 4, 2002, and reply comments on or before February 14, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Linda G. Coffin, Skadden, Arps, Slate, Meagher & Flom LLP, 1440 New York Avenue, NW, Washington, DC 20005 (Counsel for Zavaletta Broadcasting of Pueblo).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–332, adopted December 10, 2001, and released December 13, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com*.

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

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

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

PART 73—TELEVISION BROADCAST SERVICES

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Colorado is amended by removing TV Channel 26+ and adding TV Channel 48 at Pueblo.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–31457 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 011130288–1288–01; I.D. 092101C]

RIN 0648-AP64

Endangered and Threatened Species; Transfer of Permits

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

ACTION: Proposed rule; request for public comments.

SUMMARY: NMFS proposes a rule that would allow the transfer of certain permits issued by NMFS under the Endangered Species Act (ESA) of 1973, as amended. This proposed rule would allow the transfer of permits associated with Habitat Conservation Plans, Safe Harbor Agreements with Assurances and Candidate Conservation Agreements with Assurances. Currently, if a permit holder wants to sell property to a new owner, the new owner would need to apply for a separate permit. If regulations are put in place to allow transfers, time and money will be saved for NMFS and the new landowner with no adverse impact on the environment.

DATES: Written comments on the proposed rule must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Eastern Standard Time on February 4, 2002.

ADDRESSES: Comments on this proposed rule should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to (301) 713–0376. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Margaret Lorenz or Lamont Jackson at (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

NMFS is responsible for implementing the ESA, 16 U.S.C. 1531 *et seq.*, with respect to most threatened and endangered marine species.

NMFS' regulation at 50 CFR 222.305 prohibits the transfer of all permits issued under section 10(a) of the ESA. While the restrictions imposed on permit succession and transferability are well justified for most situations (e.g., scientific research permits), they are unnecessary and inappropriate for enhancement and incidental take permits associated with Habitat Conservation Plans, Safe Harbor Agreements with Assurances and Candidate Conservation Agreements with Assurances. These permits involve substantial long-term conservation commitments, and NMFS negotiates these permits recognizing that there may be succession or transfer in ownership during the term of the permit. The U.S. Fish and Wildlife Service (FWS) which also implements the ESA, issued final regulations on June 17, 1999 (64 FR 32706), allowing the transfer of these enhancement and incidental take permits, provided certain conditions are met. On January 22, 2001 (66 FR 6483),

FWS reconfirmed its decision to allow the transfer of these specific permits.

NMFS believes that a blanket prohibition on transferability of incidental take permits under ESA section 10(a)(1)(B) and enhancement permits issued for Safe Harbor Agreements with Assurances and Candidate Conservation Agreements with Assurances under section 10(a)(1)(A) is too constraining, given the context and purpose of these plans and agreements. This proposed rule (revising 50 CFR 222.305) would remove the prohibition on transferability of incidental take and enhancement permits with respect to these named agreements. However, this proposed rule would require NMFS to determine that the transferee has given adequate written assurance to NMFS that it can and will fulfill the obligations of the permit.

Description of Permits

Safe Harbor Agreements with Assurances: Under the Safe Harbor policy, non-Federal property owners with an approved agreement will receive assurances that additional land, water, and/or natural resource use restrictions will not be imposed in exchange for their voluntary conservation actions to benefit listed species covered in the agreement. If the Agreement provides a net conservation benefit to the covered species and the property owner meets all the terms of the Agreement, NMFS will authorize the taking of the covered species to enable the property owner to ultimately return the enrolled property back to agreed upon conditions. These assurances will be provided in the property owner's Safe Harbor Agreement and in an associated Enhancement of Survival permit issued under section 10(a)(1)(A) of the ESA.

Candidate Conservation Agreement with Assurances: Under this policy, non-Federal property owners who commit, through a Candidate Conservation Agreement with Assurances, to implement conservation measures for a candidate or proposed species, or a species likely to become a candidate or proposed in the near future, will receive assurances that additional conservation measures will not be required and additional land, water, or resource use restrictions will not be imposed should the species become listed in the future. These assurances will be provided in the property owner's Candidate Conservation Agreement with Assurances and in an associated Enhancement of Survival permit issued under section 10(a)(1)(A) of the ESA.

Habitat Conservation Plans: The development of a conservation plan (sometimes referred to as a Habitat Conservation Plan (HCP)) is a required element of an application for an incidental take permit, and involves long-term conservation commitments that may ''run with the land,'' or obligate a landowner for the life of the permit. In negotiating such commitments, it is recognized that a succession of owners may purchase or sell the affected property during the term of the permit. Species covered by the conversation measures should not be affected by the change in ownership if the successive owners agree to be bound by the terms of the permit. Property owners are willing to undertake these commitments if they know they can transfer their incidental take authorization (and HCP obligations) to the purchaser. Absent the ability to transfer the permit and thereby obtain long-term assurances of certainty, some landowners may be unwilling to enter into long-term commitments. For many HCPs, both FWS and NMFS issue an incidental take permit. It is confusing and inconsistent if FWS' permits are transferable and NMFS' permits are not.

This proposed rule would alleviate the constraints on permit transferability to allow those who have permits associated with HCPs, Safe Harbor Agreements with Assurances and Candidate Conservation Agreements with Assurances the flexibility to transfer permits to qualified purchasers, and eliminates inconsistency between the regulations of the two agencies administering the ESA.

The proposed rule would allow transfer of these permits only so long as the successor or transferee owners meet the general qualifications for holding the permits and agree to the terms of the HCP, Safe Harbor Agreement with Assurances or Candidate Conservation Agreement with Assurances.

Description/Overview of the Revisions to Permit Regulations

Section 222.305(a) would be revised to allow transferability of permits issued under 50 CFR parts 222, 223, and 224 where NMFS determines the transferee has given adequate written assurance (signing of a contract) that they can and will fulfill the obligations of the permit.

This proposed rule does not apply to scientific research permits issued under ESA section 10(a)(1)(A). It applies only to incidental take permits, and enhancement permits issued under section 10(a)(1)(A) in association with a Safe Harbor Agreement with Assurances or Candidate Conservation Agreement with Assurances. Further, any permits issued by NMFS for scientific research and enhancement for ESA-listed species, including marine mammals (50 CFR 222.308 (b),(c), 216.41) are not transferable (50 CFR 216.35), and this proposed rule will not affect this restriction or the regulations at 50 CFR 216.41 and 222.308(b)(c). These permits are not transferable because they are part of scientific research permits issued under section 10(a)(1)(A), and require that the holder/principal investigator be qualified to conduct the research and enhancement activities described in the original application and permit.

Public Comments Solicited

NMFS requests comments on any aspect of this proposed rule. NMFS particularly would like to hear from individuals who have experience with FWS' rule for transferring incidental take permits.

Classification

NMFS has determined that this proposed rule is consistent with the ESA and with other applicable laws.

National Environmental Policy Act

Since the changes in this proposed rule do not individually or cumulatively have a significant impact on the quality of the human environment, this proposed rule has been determined to be categorically excluded under the National Environmental Policy Act.

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

Regulatory Flexibility Act

This proposed rule will establish the process for transfers of incidental take permits when a new party acquires land subject to an existing, ongoing HCP, Safe Harbor Agreement with Assurances or Candidate Conservation Agreement with Assurances. It will reduce the costs to both the transferees and the agency. Currently, the transfer of an incidental take permit or an enhancement permit to a new landowner can be accomplished only by the new landowner submitting an application for its own permit (using the pre-existing conservation plan or agreement developed by the prior landowner). That permit would then be processed by NMFS and new documents prepared to issue a new permit would be accompanied by a simultaneous surrender of the permit held by the prior landowner. Under this system, the time required for processing a new permit will always result in a lapse in coverage between the date of the acquisition of

the land by the new owner and the issuance of the new permit. Under this proposed rule, the transfer process would be streamlined and paperwork reduced. As long as the new landowner is appropriately qualified, the permit can be transferred by a simple assignment and assumption agreement between NMFS and the new landowner. NMFS would save time and document preparation and processing expenses, as would the landowner involved. This proposed rule would decrease the costs of permit transfers on both large and small businesses alike. Thus, the economic effects of the proposed rule will be positive.

Pursuant to the Regulatory Flexibility Act, the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, since the rule would reduce cost associated with land transfers.

Paperwork Reduction Act

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection-of-information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the PRA. This requirement has been submitted to OMB for approval. Public reporting burden for a permit transfer is estimated to average 40 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; 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, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS (see **ADDRESSES** above), and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC. 20503 (Attention: NOAA Desk Officer).

Executive Order 13132—Federalism

Executive Order 13132 requires that agencies take into account any federalism impacts of regulations under development. It includes specific consultation directives for situations where a regulation will preempt state law or impose substantial direct compliance cost on state and local governments (unless required by statute). Neither of these circumstances is applicable to this proposed rule.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: December 14, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 222 is proposed to be amended as follows:

PART 222—GENERAL ENDANGERED AND THREATENED MARINE SPECIES

1. The authority citation for part 222 continues to read as follows:

Authority: 16 U.S.C. 1531 *et. seq.*; 16 U.S.C. 742a *et. seq.*; 31 U.S.C. 9701. Section 222.403 also issued under 16 U.S.C. 1361 *et. seq.*

2. In § 222.305, paragraph (a)(1) is revised and paragraph (a)(3) is added to read as follows:

§ 222.305 Rights of succession and transfer of permits.

(a)(1) Except as otherwise provided in this section, permits issued pursuant to parts 222, 223, and 224 of this chapter are not transferable or assignable. In the event that a permit authorizes certain business activities in connection with a business or commercial enterprise, which is then subject to any subsequent lease, sale or transfer, the successor to that enterprise must obtain a permit prior to continuing the permitted activity, with the exceptions provided in paragraphs (a)(2) and (a)(3) of this section.

* * * * *

(3) Permits issued under § 222.307 or for an enhancement permit issued under § 222.308, as part of a Safe Harbor Agreement with Assurances or Candidate Conservation Agreement with Assurances, may be transferred in whole or in part through a joint submission by the permittee and the proposed transferee, or in the case of a deceased permittee, the deceased permittee's legal representative and the proposed transferee, provided NMFS determines that:

(i) The proposed transferee meets all of the qualifications under parts 222, 223, or 224 (as applicable) for holding a permit;

(ii) The proposed transferee has provided adequate written assurances that it will provide sufficient funding for the conservation plan or other agreement or plan associated with the permit and will implement the relevant terms and conditions of the permit, including any outstanding minimization and mitigation requirements; and

(iii) The proposed transferee has provided such other information as NMFS determines is relevant to process the transfer.

* * * * *

[FR Doc. 01–31544 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 246
Friday, December 21, 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.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 21, 2002.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, the entities of the Federal Government identified in this Notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Administrative Services

US Attorney's Office-Atlanta, DOJ, 1800 US Courthouse, 75 Spring St, Atlanta, Georgia.
NPA: Bobby Dodd Industries, Inc., Atlanta, Georgia.
Government Agency: U.S. Department of Justice.

Base Supply Center, 950 Otis St, Bldg 666, Peterson Air Force Base, Colorado.
NPA: Envision, Inc., Wichita, Kansas.
Government Agency: Department of the Air Force, Peterson Air Force Base, Colorado.

Janitorial/Custodial

Headquarters Complex, Buildings 1, 1470, 1471, 1840, 1844, Peterson Air Force Base, Colorado.
NPA: Professional Contract Services, Inc., Austin, Texas.
Government Agency: Department of the Air Force, Peterson Air Force Base, Colorado.

Janitorial/Grounds Maintenance/Parking Management

Department of Housing and Urban Development, Washington, DC.
NPA: Melwood Horticultural Training Center, Upper Marlboro, Maryland.
Government Agency: Department of Housing and Urban Development.

Mail and Messenger Service

Department of Housing and Urban Development, Washington, DC.
NPA: Didlake, Inc., Manassas, Virginia.
Government Agency: Department of Housing and Urban Development.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities are proposed for deletion from the Procurement List:

Commodities

Executive/Personal Time Management System
7530–01–458–3146
7530–01–458–3143
7530–01–458–3145
7530–01–458–3130
7530–01–458–3136
7530–01–458–3152
7530–01–458–3159
7530–01–458–3154
7530–01–458–3142
7530–01–458–3161
7530–01–458–3164
7530–01–458–3135
7530–01–458–3139
7530–01–458–3131
7510–01–458–3137
7510–01–458–3141
7510–01–458–3132
7510–01–458–3133
7510–01–458–3147
7510–01–458–3150
7510–01–458–3138

Calendar Pad
7510–01–450–5452

Refill, Appointment Book
7530–01–450–5406

G. John Heyer,

General Counsel.

[FR Doc. 01–31480 Filed 12–20–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–818]

Notice of Final Determination of Sales at Less Than Fair Value: Low Enriched Uranium From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determinations of sales at less than fair value.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Victoria Schepker or Edward Easton, at (202) 482–1756 or (202) 482–3003, respectively; AD/CVD Enforcement, Office 5, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2000).

Final Determination

We determine that low enriched uranium (LEU) from France is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the Continuation of Suspension of Liquidation section of this notice.

Case History

The preliminary determination in this investigation was published on July 13, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Low Enriched Uranium from France*, 66 FR 36743 (July 13, 2001) (*Preliminary Determination*). The petitioners [1] and the respondent, Eurodif, S.A. (Eurodif), the sole producer of the subject merchandise, and its owner, Compagnie Generale des Matieres Nucleaires (Cogema) (collectively, Cogema/Eurodif or the respondent), filed case briefs on antidumping methodological issues on September 28, 2001, and rebuttal briefs on October 9, 2001. A rebuttal brief was also filed by the Ad Hoc Utilities Group (Ad Hoc Utilities Group or AHUG).[2] A public hearing on the antidumping methodological issues was held on October 23, 2001.

On October 22 and 23, 2001, the petitioners, respondent, and the Ad Hoc Utilities Group filed briefs on common scope issues in the antidumping and countervailing duty investigations of low enriched uranium from France, Germany, the Netherlands and the United Kingdom. Rebuttal briefs on these common scope issues were filed on October 29, 2001, and a public hearing on the common scope issues was held on October 31, 2001. In response to a September 28, 2001 submission by the European Commission to Mr. Grant Aldonas, Under Secretary for International Trade, regarding the antidumping duty (AD) and countervailing duty (CVD) investigations of LEU from France, Germany, the Netherlands, and the United Kingdom, and Mr. Aldonas' November 7, 2001 reply to this letter and the November 22, 2001 submission from the European Commission, the petitioners, respondent and the Ad Hoc Utilities Group filed briefs that addressed the content of this correspondence.

This final determination was originally scheduled to be issued on November 26, 2001. On November 6, 2001, the Department tolled the final determination deadlines, until December 13, 2001, to accommodate a delayed verification and briefing and hearing schedule in the companion countervailing duty investigation, due to the events of September 11, 2001.

Amended Scope of Investigation

For purposes of this investigation, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this investigation. Specifically, this investigation does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this investigation. For purposes of this investigation, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of this investigation.

Also excluded from these investigations is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this proceeding is dispositive.

Scope Clarification

For further details, *see* Comment 2 of the ''*Issues and Decision Memorandum for the Antidumping Duty Investigation of Low Enriched Uranium from France*'' (*Decision Memorandum*) from Bernard T. Carreau, Deputy Assistant Secretary

[1] The petitioners in this investigation are USEC, Inc., and its wholly-owned subsidiary, United States Enrichment Corporation (collectively USEC); and the Paper Allied-Industrial, Chemical and Energy Workers International Union, AFL-CIO, CLC, Local 5–550 and Local 5–689 (collectively PACE).

[2] The members of the Ad Hoc Utilities Group are: Arizona Public Service Co., Carolina Power & Light Co., Dominion Generation, Duke Energy Corp., DTE Energy, Entergy Services, Inc., Exelon Corporation, First Energy Nuclear Operating Co., Florida Power Corp., Florida Power and Light Co., Nebraska Public Power District, Nuclear Management Co. LLC (on behalf of certain member companies), PPL Susquehanna LLC, PSEG Nuclear LLC, South Texas Project, Southern California Edison, Southern Nuclear Operating Co., Union Electric Company, and Wolf Creek Nuclear Operating Corp.

for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated concurrently with this notice.

Goods Versus Services

Applicability of AD/CVD Law

The Preliminary Determination

In the preliminary determinations in the LEU investigations, we determined that all LEU entering the United States from Germany, the Netherlands, the United Kingdom, and France is subject to the AD and CVD investigations on LEU regardless of the way in which the sales for such merchandise were structured. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Low Enriched Uranium from Germany and the Netherlands; and Postponement of Final Determinations,* 66 FR 36748, 36750 (July 13, 2001). We based our preliminary determinations on several factors. First, we found, and no party disputed, that LEU entering the United States constitutes a good, the tangible yield of a manufacturing operation. Moreover, under the U.S. Customs regulations, we recognized that any item within a tariff category for the Harmonized Tariff System constitutes merchandise for customs purposes. *See* 19 CFR 141.4 (2000). In this case, LEU is normally classified under HTSUS 2844.20.0020, but also satisfies three other HTSUS classifications described as enriched uranium compounds, enriched uranium, and radioactive elements, isotopes, and compounds.

Second, in our preliminary determinations we found it to be a well-established fact that the enrichment process is a major manufacturing operation for the production of LEU, and that enrichment is a required operation in order to produce LEU. We found that no party disputes that the enrichment process constitutes substantial transformation of the uranium feedstock. We, therefore, preliminarily concluded that the LEU enriched and exported from Germany, the Netherlands, the United Kingdom and France are products of those respective countries, and are subject to these investigations.

Third, we found that there are significant volumes of LEU sold pursuant to contracts that expressly provide separate prices for SWU and feedstock (*i.e.,* contracts for enriched uranium product (EUP)), and that no party disputes that such sales constitute sales of subject merchandise. Rather, it is only those transactions in which utility companies obtain LEU through separate purchases of SWU and feedstock from separate entities that the Ad Hoc Utilities Group (AHUG) contends cannot be subject to the antidumping law. We preliminarily determined that there was little substantive commercial difference between the two types of transactions. We found that, simply because an unaffiliated customer purchases subject merchandise through two transactions, instead of a single transaction, does not mean that the merchandise entering the United States is not subject to the antidumping law.

Fourth, we preliminarily determined that, contrary to respondents' arguments, the tolling regulation does not provide a basis to exclude merchandise from the scope of an investigation. Rather, we found that the purpose of the tolling regulation is to identify the seller of the subject merchandise for purposes of establishing export price, constructed export price, and normal value. Thus, under the tolling regulation, the issue is not whether the LEU in question is subject to the antidumping law, but rather who is the seller of the subject merchandise for determining U.S. price and normal value or, more specifically, what is the appropriate way in which to value subject merchandise and foreign like product. To the extent that sales of subject merchandise are structured as two transactions, we stated that we would combine such transactions to obtain the relevant price of the subject merchandise.

Fifth, we preliminarily determined that enrichers are the sellers of LEU in both types of transactions—either as an exchange of SWU and uranium feedstock for cash, or as an exchange of SWU for cash and a swap of uranium feedstock. We preliminarily determined that regardless of whether the utility company pays in cash or in kind for the natural uranium content, the LEU is delivered under essentially the same contract terms, including warranties and guarantees pertaining to the complete LEU product. Second, enrichers do not use the uranium feedstock provided by the utility companies. Instead, the natural uranium is typically delivered shortly before, or even after, delivery of the LEU, making the delivery of such uranium a payment in kind for the natural uranium component of the LEU. Third, the utility company does not have control over the process used to produce the LEU that the utility company receives. Rather, the enricher controls the manufacture of LEU, as demonstrated by the fact that the product assay under the contract (transactional assay) differs from the product assay produced and delivered by the enricher (operational assay). The enricher makes the decision of the particular product based upon its own operational requirements and inputs costs. We preliminarily determined that, taken together, these facts indicate that enrichers are in effect selling LEU under both types of contractual arrangements.

Discussion

For these final determinations, we have concluded that all LEU from the investigated countries entering the United States for consumption is subject to the AD and CVD laws. We have carefully considered all comments received on this issue in response to our preliminary determinations and, for the reasons stated below, do not find persuasive the arguments that the LEU at issue is exempt from the AD and CVD laws.

For these final determinations, respondents and AHUG are joined by the EC in raising again the issue of whether the AD and CVD laws can be applied to goods sold pursuant to contracts for the provision of enrichment. Respondents and AHUG contend that, under such contracts, LEU is not sold to, or in, the importing country. Respondents contend that, for these transactions, enrichment companies sell enrichment services, which is a component of LEU. Accordingly, for those entries of LEU, sold pursuant to SWU contracts, these parties assert that the AD and CVD laws are not applicable because respondents are not selling subject merchandise and because there is no sale of subject merchandise in the United States.

In our view, respondents and AHUG have confused fundamental concepts concerning the application of the unfair trade laws. The AD and CVD laws were enacted to address trade in goods. Thus, respondents and AHUG have confused what is being sold in a particular transaction with what is being introduced into the commerce of the United States. The Department finds that the issue of whether merchandise entering the United States is subject to the AD and CVD laws depends upon whether the merchandise produced in, and exported from, a foreign country is introduced into the commerce of the United States.

In particular, the language of section 735(a)(1) of the Act states that ''the administering authority shall make a final determination of whether the subject merchandise is being, or is likely to be, sold in the United States at less than fair value.'' *See also* section 731(1) of the Act. We have consistently interpreted these provisions to pertain to merchandise from the investigated

country, and not to companies. *See Jia Farn Mfg. Co.* v. *United States*, 817 F. Supp. 969, 973 (CIT 1993) (''LTFV determinations and antidumping duty orders are rendered upon the subject merchandise from a certain country under the investigation.''). In other words, AD and CVD cases proceed *in rem* (*i.e.*, against the good as entered), rather than *in personam* (*i.e.*, against the parties to the import transaction).

Similarly, in conducting countervailing duty investigations, section 701(a)(1) of the Act requires the Department to impose duties if, *inter alia*, ''the administering authority determines that the government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy with respect to the manufacture, production, or export of a class or kind of merchandise imported, or sold (or likely to be sold) for importation, in the United States.'' We believe the statute is clear that, where merchandise from an investigated country enters the commerce of the United States, the law is applicable to such imports.

In these investigations, no party disputes that the LEU entering the United States constitutes merchandise. As the product yield of a manufacturing operation, the Department continues to find that LEU is a tangible product. Second, it is well established, and no party disputes, that the enrichment process is a major manufacturing operation for the production of LEU, and that enrichment is a required operation in order to produce LEU. Thus, we find that the enrichment process constitutes substantial transformation of the uranium feedstock. We continue to find, therefore, that the LEU enriched in and exported from Germany, the Netherlands, the United Kingdom and France is a product of those respective countries.

Finally, we find, and no party disputes, that the LEU at issue enters into the commerce of the United States. Thus, the question of whether enrichers sell enrichment processing, as compared to LEU, is not relevant to the issue of whether the AD and CVD law is applicable. Rather, it is only relevant in these investigations for purposes of determining how to calculate the dumping margin and how to determine who is the producer/seller of subject merchandise.

In seeking to equate what is being sold with a service that is beyond the scope of the AD and CVD laws, respondents and AHUG assert that the enrichment of uranium is akin to the cleaning of a suit.[3] They contend that a person who takes a suit to a cleaner and picks up a clean suit is merely paying for the service of cleaning. In the case of enrichment, they assert, a person provides natural uranium to an enricher who returns enriched uranium and is paid for the services.

We agree that a cleaner merely provides a service for which one is paid. However, we disagree with the appropriateness of the analogy used for purposes of understanding what is occurring in these cases. In the case of cleaning services, the cleaner merely returns to its customer a cleaned suit; no substantial transformation takes place, and no merchandise is being produced. Enrichment of uranium, however, is a critical step in the production of nuclear fuel. The production of uranium in the nuclear fuel cycle consists of five stages: mining, milling, conversion, enrichment, and fabrication. A distinct product is produced at each stage. Milled uranium is converted into uranium hexafluoride. Uranium hexafluoride is used to produce enriched uranium. Enriched uranium is used to produce fuel rods. And fuel rods are used in nuclear-generating facilities to produce electricity. In the case of enrichment, it is uncontested that enrichment results in the production of two separate products: low enriched uranium and uranium tails (or depleted uranium which can be re-enriched to produce enriched uranium).

Respondents' and AHUG's reference to the term ''services'' in their arguments mischaracterizes the nature of the enrichment operations, and attempts to place a major manufacturing operation which produces merchandise squarely outside the realm of trade in goods, based solely upon the way in which particular sales of such merchandise are structured. We find, however, that regardless of whether the sale is structured as one of enrichment processing or LEU, in all cases the trade in LEU is a trade in goods, as the transactions in question result in the introduction of LEU into the commerce of the United States. Accordingly, the Department determines that all LEU produced in the investigated countries and entering the United States for consumption is subject to these investigations.

AHUG and respondents insist that the AD and CVD laws can only be applied where the sale of LEU occurs in a specific way (*i.e.*, where the merchandise is sold in a single transaction). AHUG further insists that the law is inapplicable because the utility companies cannot be considered the sellers of subject merchandise since they do not sell LEU, but instead sell electricity to U.S. consumers. Accordingly, AHUG and respondents conclude that the law cannot apply because no entity sells the subject merchandise.

We disagree. It does not matter whether the producer/exporter sold subject merchandise as subject merchandise, or whether the producer/exporter sold some input or manufacturing process that produced subject merchandise, as long as the result of the producer/exporter's activities is subject merchandise entering the commerce of the United States. The first, and threshold, question we must ask is whether the merchandise entering the United States is subject merchandise. All else flows from this. The second question is what transaction does the Department look at to determine export price.

Further, we believe Congress intended the law to be applicable where the subject merchandise enters the commerce of the United States, even where the transaction for such merchandise does not take the form of a simple, single chain of commerce involving a solitary manufacturer/exporter, a single sales price, and a single unaffiliated purchaser in the United States. Congress enacted specific provisions that demonstrate a clear intent to make merchandise entering the United States subject to the law even though the sale by the exporter to the first unaffiliated purchaser is not a sale of subject merchandise. In constructed export price transactions involving further manufacturing, for example, subject merchandise enters the United States, but through a process of further manufacturing, is often sold to the first unaffiliated purchaser in the form of non-subject merchandise. The form of the sale, however, does not prohibit the application of the law. To the contrary, to address those situations Congress enacted special provisions that require the Department to determine whether there are dumping margins and to apply duties, as appropriate, to such merchandise. *See* section 772(b) of Act. Even where the first sale to an unaffiliated purchaser is far removed from the subject merchandise that enters the commerce of the United States, such merchandise is covered under the law, and Congress enacted a specific provision establishing a basis for calculating export price. For example, where rollerchain constitutes the subject merchandise and enters the United States, but the first sale to an

[3] *See* Respondents' Joint Case Brief, at 38, 39; *see also* Petitioners' Rebuttal Brief at 26.

unaffiliated purchaser is the sale of a motorcycle that contains the rollerchain, the law is applicable to such entries of rollerchain. *See* section 772(e). *See also* SAA at 825.

While there is no specific statutory provision that dictates how the Department is to calculate the value of subject merchandise and the export price in the circumstances in these LEU investigations, the absence of such a provision does not render the law inapplicable where the facts demonstrate that the product in question enters into the commerce of the United States, as in this case.

Use of the Term ''Enrichment Services'' in Other Legal Contexts

In seeking to demonstrate that for the transactions at issue the enrichment companies provide enrichment services, perform a value-added service, and do not sell the subject merchandise, respondents contend that the U.S. government has advocated on behalf of USEC before U.S. domestic courts that enrichment contracts are contracts for services, and accordingly, that the Uniform Commercial Code (UCC), which only pertains to goods, does not apply to such contracts. Moreover, the parties contend that U.S. courts have ruled in USEC's favor, finding that the UCC did not apply to such transactions because they were sales contracts for services, not for goods. The parties conclude, therefore, that because the U.S. government has recognized that the sales in question are sales of services, to be consistent, the Department cannot apply the AD or CVD law to these transactions.

We do not view those determinations as relevant to the issue of whether LEU that enters the commerce of the United States is subject to the AD and CVD laws. The respondents and AHUG are mixing two entirely different statutory regimes, which play different roles and have different purposes. Other legal or regulatory regimes are not determinative of how the Department is to treat such transactions under the AD and CVD laws. For example, the court's finding in *Florida Power & Light Co.* v. *United States* that the transfer of title of uranium feedstock ''does not rise to the level of 'procurement' or 'disposal' of property'' was made in the specific context of determining the applicability of the Contract Disputes Act to government contracts and is not relevant, much less binding, for purposes of the application of the AD and CVD laws.[4] In *Barseback Kraft AB and Empress Nacional Del Urnaio, S.A.* v. *United States*, the court ruled that the UCC did not apply to the contracts at issue because the UCC does not apply to government contracts.[5] Moreover, the UCC addresses the rights and obligations of the parties to a specific contract, and is therefore not determinative of whether the overall trade is one involving goods or services. As a general principle, different terms can have different meanings under different statutes, and parties are entitled to make their claims pursuant to the case law and precedent of the particular relevant statute, even where those claims appear to be at odds with other claims made pursuant to the case law and precedent of another statute that has an entirely different purpose.

Tolling

Respondents and AHUG also seek to obtain an exemption under the law for the LEU at issue through the application of the Department's tolling regulation, set forth at 19 CFR 351.401(h).

We disagree with respondents'suggested interpretation for several reasons. First, we do not interpret section 351.401(h) of the Department's regulations to be relevant or applicable in determining whether merchandise entering the United States is subject to the AD and/or CVD laws. Instead, section 351.401, including subsection (h) on tolling, was intended to ''establish certain general rules that apply to the calculation of export price, constructed export price and normal value,'' and not for purposes of determining whether the AD and/or CVD laws are applicable. *See* 19 CFR 351.401(a) (2000). Our interpretation that the tolling regulation is intended solely for purposes of calculating dumping margins is further supported by the absence of any parallel provision on tolling in the CVD regulations.

Furthermore, in practice, we have never applied, nor relied upon, section 351.401(h) to exempt merchandise from AD proceedings, nor have we ever applied the provision in CVD proceedings. Moreover, our application of the tolling regulation in *SRAMs from Taiwan* does not support AHUG's or respondents' claim for exemption from the AD and CVD laws.[6] In that case, we applied the tolling regulation, seeking to determine which party made the relevant sale of subject merchandise. We found that the U.S. design house made sales of subject merchandise to unaffiliated purchasers in the United States, and therefore based our determination of U.S. price and normal value upon the transactions made by the U.S. design house. In that case, we applied AD duties to all entries of *SRAMs from Taiwan*, regardless of whether the U.S. design house or the Taiwan exporter made the sale of subject merchandise. Therefore, our decision in *SRAMs from Taiwan* establishes no basis for excluding the LEU in question from these investigations. Further analysis of the tolling regulation in these antidumping investigations for purposes of determining EP, CEP and NV is provided below.

Temporary Import Bonds, Foreign Trade Zones, and American Goods Returned

Respondents also cite the Department's treatment of subject merchandise entering the United States under Temporary Import Bonds (TIBs), into Foreign Trade Zones (FTZs), and as American Goods Returned, as examples of where subject merchandise enters the United States without being subject to duties, and to support their claim that the Department is not authorized to impose duties on subject merchandise unless there is a sale of such merchandise. However, these provisions cited by respondents are not instances in which the merchandise enters the United States for consumption without the imposition of AD and countervailing duties. By operation of law, goods entered under TIBs are prohibited from entering the United States for consumption. For FTZs, where the merchandise enters the United States for consumption, antidumping and countervailing duties are imposed. *See* 15 CFR 400.33(b)(2)(2000). The Department's treatment of goods entering FTZs or under TIBs is, therefore, consistent with the practice that the AD and CVD laws apply to goods that enter the commerce of the United States.

With respect to American Goods Returned (AGR), this provision is only applicable to merchandise that has not been substantially transformed in another country. AGR only applies to U.S. merchandise that is further manufactured in minor respects in another country, such that the product that is returned to the United States is not substantially transformed. As discussed below, this provision is not applicable in this case.

[4] 49 Fed. C1. 656 (2001) (No. 96–644C).

[5] 36 Fed. C1. 691 (1996), *aff'd* 121 F.3d 1475 (Fed. Cir. 1997).

[6] *Static Random Access Memory Semiconductors From Taiwan: Redetermination on Remand*, (May 2, 2000). The text of this determination can be found on the Department's Internet site at http://ia.ita.doc.gov/remands/00–48.htm.

Substantial Transformation and Country of Origin

Respondents also argue that the Department's country-of-origin rationale in this case is contrary to federal and international regulation of transactions involving uranium and enrichment services. Respondents state that the enrichment process does not wipe away the country of origin of the uranium; rather it remains the same for materials tracking purposes after enrichment as it was before enrichment. Respondents conclude that it is irrelevant that enrichment is a major manufacturing process and that the enrichment process constitutes substantial transformation of the uranium feedstock. Accordingly, respondents contend that the Department's conclusion as to the country of origin of the enrichment cannot be used to establish the country of origin of the unitary LEU, because LEU itself has two countries of origin, namely the country of origin of the uranium and that of the separative work unit.

We disagree. The Department's country-of-origin determinations are made pursuant to the agency's authority to determine the scope of its investigations and AD/CVD orders. In contrast, the federal and international regulation of transactions in uranium referred to by respondents reflect requirements adopted for purposes of non-proliferation. Thus, the Nuclear Regulatory Commission (NRC) tracks the origin of natural feedstock for the purpose of tracing the worldwide movement and ultimate disposition of the feedstock, while the U.S. Customs Service and the Department determine the country of origin for the merchandise entering the United States for purposes of tracking international commercial transactions and assessing duties. The NRC has no role in determining the country of origin for customs duty purposes. Moreover, the Department and the Customs Service make country-of-origin determinations for the product entering the United States, which in this case is LEU, not feedstock and SWU, as respondents suggest. Indeed, the Department has in the past determined in other proceedings covering uranium that the process of enrichment constitutes substantial transformation of the uranium, and therefore, that enrichment confers country of origin upon the product entering the United States for AD purposes.

In the current case, petitioners have indicated, and no party has disputed, that the enrichment of uranium accounts for approximately 60 percent of the value of the LEU entering the United States. We find that enrichment processing adds substantial value to the natural uranium and creates a new and different article of commerce and therefore confers a different country of origin upon the product for purposes of the AD and CVD law.

As a final matter, the unfair trade laws must be applicable to merchandise produced through contract manufacturing, just as they are applicable to merchandise manufactured by a single entity. To do otherwise would contravene the intent of Congress by undermining the effectiveness of the AD and CVD laws, which are designed to address practices of unfair trade in goods, as well as have profound implications for the international trading system as a whole. To the extent that contract manufacturing can be used to convert trade in goods into trade in so-called ''manufacturing services,'' the fundamental distinctions between goods and services would be eliminated, thereby exposing industries to injury by unfair trade practices without the remedy of the AD and CVD laws.

While the term ''enrichment services'' is common in the industry, the enrichment of uranium feedstock is no more a ''service,'' as that term is normally understood in the international trading community, than a production process that results in the manufacture of textiles, semiconductors, or corrosion-resistant steel. An importer of textiles who provides yarn to a textile manufacturer may view the transaction as nothing more than the purchase of ''weaving services.'' An importer of semiconductors who provides a patented design mask to a foundry to be pressed into a wafer for purposes of making a microchip may view such a transaction as nothing more than the purchase of ''pressing services.'' Similarly, an importer of corrosion-resistant steel who provides hot-rolled steel to a rolling mill may view the transaction as nothing more than the purchase of ''rolling and coating services.''

Yet, no matter what the purchaser chooses to call the transaction, and no matter what terms may be common in the industry, nothing can change the fundamental facts associated with all of these transactions. In each of these three cases, the purchaser has contracted out for a major production process that adds significant value to the input and that results in the substantial transformation of the input product into an entirely different manufactured product. We simply do not consider a major manufacturing process to be a ''service'' in the same sense that activities such as accounting, banking, insurance, transportation and legal counsel are considered by the international trading community to be services. Instead, we have always considered the output from manufacturing operations that result in subject merchandise being introduced into the commerce of the United States to be a good. The only questions we have grappled with in all these instances is who is the appropriate producer/seller of the merchandise and how to calculate export price and constructed export price.

While respondents and AHUG note that the practice in the uranium industry with respect to the transactions at issue was established long before the Department initiated these investigations, in the Department's view, the issue we are addressing is unfair trade practices. In the Department's view, nothing in the statute in any way indicates that Congress did not intend the AD and CVD laws to be applicable to merchandise based upon the way in which parties structure their transactions for such goods entering the commerce of the United States.

In sum, the application of the AD and CVD laws does not depend upon whether a producer/exporter sells an input to the subject merchandise, or the subject merchandise itself, but rather whether the activities of the producer/exporter result in the subject merchandise being introduced into the commerce of the United States.

Calculating Export Price, Constructed Export Price and Normal Value Comments of the Parties

Respondents and AHUG contend that the Department must base its evaluation of dumping upon sales of the subject merchandise, which should reflect all elements of the merchandise's value. In terms of EP and CEP, these parties contend that the statute refers to the price at which the merchandise is sold by the producer or exporter. In addition, AHUG and respondents cite to the agency's decision in *SRAMs from Taiwan*, where the Department determined that the relevant sale under the tolling regulation must be the sale of subject merchandise reflecting the full value of such merchandise.

AHUG and respondents contend that the principles for determining which sales are relevant, as embodied in the tolling regulation and applied in the *SRAMs* case, are directly pertinent to deciding whether the sale of enrichment services by the respondents, and sales of services in general, can be treated as relevant for purposes of the AD law.

These parties assert that the Department should determine that: (1) The enrichment companies do not produce or take title to the uranium feedstock; rather it is supplied to them in bailment; (2) the sale of enrichment does not constitute the relevant sale for purposes of determining EP and CEP because the sales in question do not reflect the full value of the subject merchandise; and (3) the respondents are not in a position to set the price of the product because such companies have no control over the full cost of LEU for the transactions at issue.

Petitioners respond that the respondents and AHUG place heavy emphasis on the Department's ''relevant sale'' discussion in the *SRAMs* case, which petitioners contend was not intended to provide the guiding precedent in a case where the U.S. customer obtains the raw materials in one transaction and exchanges them for finished goods in another transaction, as in these investigations. The petitioners state that the respondents' and AHUG's position is erroneous in claiming that the Department's redetermination in *SRAMs* compels the conclusion that the enricher does not make the ''relevant sale'' because its price does not include all of the cost components of the finished product. Moreover, they add, even if SWU transactions were tolling transactions, the Department's tolling precedent does not establish that tolling transactions are outside the scope of the AD law.

Petitioners further contend that the fact that enrichers have control over the production process used to produce LEU under SWU contracts is relevant to the Department's determination with respect to the relevant sale, and contrary to the arguments raised by respondents and AHUG. Petitioners add that the issue of who controls the production of the finished product is a key factor in determining whether a party is a producer or toller.

With respect to the sales contracts, in their case brief, petitioners argued that the enrichers are actually sellers of LEU under both SWU and EUP contracts because in both arrangements the LEU is produced at an operating tails assay determined by the enricher, and therefore the enricher determines the amount of feed used, the amount of SWU actually applied, and the assay of the tails that will be produced. Petitioners further noted that, although a customer may designate a transactional tails assay in a SWU contract, but not in an EUP contract, there is not a significant difference. To illustrate this point, petitioners note that, by designating a transactional tails assay in a SWU contract, the customer determines only the amount of uranium feedstock it must provide to the enricher, and the amount per SWU the customer will pay. However, the customer's designation of the transactional tails assay does not determine the amount of uranium feedstock used by the enricher or the amount of SWU actually used by the enricher. Petitioners maintain that this is determined by the operational tails assay used by the enricher in the production of LEU. Petitioners assert that enrichers operate in essentially the same manner when they produce LEU under contracts where the customers supply the uranium feedstock as they do when they produce LEU from their own uranium feedstock.

Respondents reject petitioners' assertion that enrichers are actually sellers of LEU based upon the utility's delivery of uranium feed material as a payment-in-kind of uranium for the natural uranium component of the LEU. Respondents contend that enrichment services contracts contain detailed payment terms, and establish a price for the enrichment services sold, but do not contain any provisions for a payment of uranium in any form. Respondents add that it is virtually impossible for a payment-in-kind to occur because title does not pass to the enricher while the uranium is being enriched. Moreover, they explain that if a payment of uranium were occurring, the enricher would have to recognize it as a payment in its financial statements, which they assert does not occur, as the Department verified. Finally, respondents note that, by adopting the payment-in-kind theory, the Department would create a contractual arrangement between parties that completely differs from the contract itself.

Respondents further dispute the petitioners' conclusion that the enricher's return of different uranium rather than the exact material provided by the customer turns the transaction into a payment-in-kind. Respondents argue that, in determining whether a service is being performed, one must look at the essence of the transaction, and what the customer contracted to purchase, not what material is given back to the utility company. Furthermore, they state, because uranium is fungible, it makes no sense to require firms to identify each atom of uranium transported or processed. They note that, in a previous submission by the petitioners, USEC explicitly stated that uranium is a fungible commodity and that a fabricator may use its own inventory of enriched uranium or have enriched uranium delivered by other utility companies.

In addition, respondents contend that the Department did not base its dumping margin calculations upon the number of SWUs or the price per SWU, but instead treated the sale as if it were a sale of LEU. Respondents note that the Department's price calculation is based upon the quantity of uranium and the quantity of SWUs involved, which has no correlation with the agreed upon price per SWU. Respondents contend that in doing so the Department is changing the material terms fixed on the date of sale into one in which the terms are not fixed until a later date, and then unilaterally, by notification from the customer. Respondents contend that this violates the statutory requirement that the Department base its calculation on the actual costs reflected in the respondent's books and records, ignores the long-standing practice of making AD comparisons on a production or process-neutral basis, and uses a methodology that is completely contrary to the date of sale methodology applied by the Department in the same cases.

Respondents also note that the Department assigned a value to the natural uranium in the Preliminary Determinations where no price was provided, notwithstanding that the uranium provided by the utility company was not a cost to the enricher, and was not charged to the customer at all. Respondents contend that the surrogate uranium cost that the Department used violated the statutory requirement that it base its calculation on the actual costs incurred. They reiterate that the cost of the uranium to the enricher is zero. The respondents add that, although the uranium is processed, it is never paid for by the enricher, nor is it considered revenue, nor does it appear in the enricher's books. Therefore, they contend, uranium may not be treated as a cost when calculating constructed value.

AHUG also contends that the SWU contracts are unequivocally contracts for services, arguing that the enrichers hold the LEU as bailees for their utility customers, and if a particular delivery of LEU does not contain the exact same physical feed as that delivered by the utility, it contains feed delivered to the enricher by another utility. Therefore, AHUG asserts, the fungibility of the feed does not alter the actual commercial terms of the contracts or the nature of the transaction.

AHUG also disagrees with the Department's preliminary determination that there is little commercial difference between EUP and enrichment contracts. AHUG contends that enrichment

contracts require payment for enrichment services, and therefore, the contract does not reflect all elements of the value of the LEU delivered, as do the EUP contracts. Furthermore, AHUG contends that LEU production is usually arranged through three, not two transactions: the purchase of U3O8, a contract for conversion services, and a contract for enrichment services. In addition, AHUG argues that the Department proposes that U.S. utility contracts for the purchase of each of these components can be cumulated to derive an unfair price even in the absence of a sale of that LEU in the U.S. market that reflects all elements of its value. AHUG argues that this theory seems to state that when utility companies arrange for the production of LEU through these separate contracts, they are selling LEU to themselves. AHUG asserts that the Department is simultaneously attempting to attribute the utilities' transactions with the mining companies and the conversion service providers to the enrichers, even though the enrichers are not parties to those other transactions, have no control over the process, and receive none of the revenue from such sales. AHUG claims this theory cannot be supported.

Petitioners respond that, contrary to respondents' and AHUG's contentions, the contractual obligation of a customer in a SWU transaction to supply converted uranium is properly viewed as part of the *quid pro quo* that the customer must provide in order to obtain LEU from the enricher. Petitioners add that there can be no question that provision of the natural uranium is like the payment of the cash price for the SWU, a contractual obligation that must be met by a utility purchaser under a SWU contract in order to acquire a wholly new product, *i.e,* LEU from the enricher.

Petitioners note that, in the preliminary determinations, the Department identified three factors that petitioners had cited in support of its position. First, with respect to warranties and guarantees, LEU and EUP are delivered under essentially the same type contract. Second, the enrichers do not use the specific feedstock supplied by a particular customer to produce LEU for that customer. Third, the enrichers, not the utility companies, control the process used to produce the LEU under either type of contract. Petitioners state that, contrary to respondents' criticism of the ''essentially identical'' language in the preliminary determinations, the Department was not saying that SWU and EUP contracts were identical in every respect, nor is it necessary for the Department to so find.

Respondents reject petitioners' arguments on whether the enricher controls the production process, arguing that the relevant question is not whether enrichers own and control the production process for LEU, but rather whether the customer is purchasing a service. Respondents add that, because the quantity of uranium feedstock to be supplied by the customer is set pursuant to the contract, for a specified tails assay, the customer, not the enricher, has the control over its cost of supplying uranium feedstock.

Discussion

For these final determinations, we find that the enrichment companies are the only producers and exporters of the subject merchandise in these cases and, therefore, are the appropriate respondents for determining EP, CEP and NV. We will address the application of the Department's tolling regulation first, and then the nature and substance of the sales contracts at issue.[7]

Tolling

In establishing general rules for calculating EP, CEP and NV, we promulgated section 351.401(h) of our regulations to address the treatment of subcontractors and tolling operations under the AD law.[8] The purpose of the regulation is to enable the Department to identify the appropriate seller of subject merchandise and foreign like product for purposes of calculating EP, CEP and NV. *SRAMS from Taiwan* (''The company that is the first ''price setter'' for subject merchandise is also the company that is the producer of the merchandise.''). To that end, the tolling regulation states that the Department will not consider a toller or subcontractor to be a manufacturer or producer where the toller or subcontractor (i) does not acquire ownership of the subject merchandise; and (ii) does not control the sale of subject merchandise. 19 CFR 351.401(h) (2000).

Department Precedents

In *SRAMs from Taiwan,* the key case relied upon by the respondents and AHUG, we addressed the issue of whether producer status should be conferred upon the U.S. design house or the Taiwan foundry. In that case, the issue for the Department was which sale—the sale by the design house or the sale by the foundry—should be used to calculate EP and CEP. The Department stated that ''the ''relevant sale'' must be a sale by the company that owns the merchandise entirely, including all essential components, can dispose of the merchandise at its own discretion and, thus, controls the pricing of the merchandise and not merely the pricing of certain portions of production.'' *Id.* at 4.

In making the distinction between the sale by the foundry and the sale by the U.S. design house, we examined the role played by the foundries and design houses in the production of subject SRAMs, as well as the nature of the product produced. We found that the design was not only an important component of the product, but in fact defined the essence of the finished product. Because the design house not only developed the design, but also controlled how it was used in production by the foundry and the way that the products incorporating it were distributed in the marketplace, the Department concluded that the design house directed the production of the subject merchandise. *Id.* at 5. In our view, the role played by each entity as well as the nature of the product produced are important considerations in identifying the appropriate party as the producer of the subject merchandise.

In addition, since the enactment of the tolling regulation, the Department has also recognized that the regulation ''does not purport to address all aspects of an analysis of tolling arrangements.'' *Polyvinyl Alcohol from Taiwan: Final Results of Antidumping Duty Administrative Review,* 63 FR 32810, 82813 (June 16, 1998). In that case, we acknowledged that, in assessing whether a company is a producer, we are not restricted to the four corners of the sales contract. Moreover, we emphasized that we will make our decision as to whether a party is a producer or manufacturer for purposes of determining EP, CEP and NV based upon the totality of the circumstances. *Id.* In *Polyvinyl Alcohol from Taiwan,* we further recognized that, while examining the production activities of a party may not be decisive in every case, whether a party has engaged directly or indirectly in some aspect of production is an important consideration in identifying the appropriate party as the producer. *Id.* at 32814.

[7] This discussion addresses the concepts of export price, CEP, and who is the producer/exporter of the subject merchandise—all issues that are relevant under the antidumping law. We note that, under the countervailing duty law, section 771(5)(E)(iv) defines as a benefit the purchase of goods for more than adequate remuneration. Because we have determined that SWU contracts involve the purchase of LEU, we determine that these transactions constitute the purchase of goods.

[8] *Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27295, 27411 (May 19, 1997).

Enrichment Companies Are Producers/Exporters of LEU

In this case, we have determined that the enrichment companies are the producers and exporters of the subject merchandise for purposes of establishing EP, CEP and NV for several reasons. First, the enrichment process is such a significant operation that it establishes the fundamental character of LEU. Second, the enrichers control the production process to such an extent that they cannot be considered tollers in the traditional sense under the regulation. Third, utility companies do not maintain production facilities for the purpose of manufacturing subject merchandise. Finally, we find that the overall arrangement, even under the SWU contracts, is an arrangement for the purchase and sale of LEU. Each element is discussed further below. While no single factor is dispositive of our determination, on balance we have determined that the enrichment companies are the producers and exporters of the subject merchandise.

First, in this case it is the enricher who creates the essential character of the LEU. The enrichment process is not merely a finishing or completion operation, but is instead the most significant manufacturing operation involved in the production of LEU. Enrichment raises to a specified assay the level of U235 contained in the product. While the types of advanced technology used to perform this operation vary, without the enrichment process, one would not be able to separate the molecules necessary to produce LEU. Like the design mask in *SRAMs,* the enrichment process establishes the essential features of the LEU, creating a clearly distinct product from uranium feedstock. Moreover, the enrichment process imparts the essential character of the product, LEU, and delineates the purpose for which the product is to be used. As noted above, LEU is a product for which there is virtually no alternative commercial use but as part of the nuclear fuel cycle. Without the enrichment of natural uranium, LEU could not be produced.

There are currently two technologies in use to enrich feedstock, gaseous diffusion and centrifuge. Each method requires a huge financial investment in facilities and a technically skilled work force. In fact, the centrifuge technology has been years in the making and has required millions of dollars in research. So highly specialized is it, and so expensive to develop, that three major European governments combined their resources to develop the technology and create Urenco. While there are hundreds of nuclear facilities around the world that require LEU for fabrication into fuel rods in order to operate their reactors, there are only five major enrichers in the world. This underscores the technological sophistication and expense required to enrich uranium into LEU. Adding to the expense and complexity of establishing an enrichment operation is an intricate web of national and international regulatory regimes and oversight commissions.

Enrichment facilities are similar to design houses in the semiconductor industry. It is the patented design of the mask that incorporates the intellectual property, accounts for a substantial portion of the value, and constitutes the essence of the microchip. The design is what makes the chip and what gives it its unique function: storing memory and thus enabling a computer to operate. Just as the design imparts the essential characteristics of a microchip, enrichment imparts the essential characteristics of LEU.

Second, we find that enrichers not only have complete control over the enrichment process, but in fact control the level of usage of the natural uranium provided by the utility company. We are aware that SWU is universally defined as the standard measure of enrichment services. However, the definition of SWU further provides that it is the effort expended in separating a specified amount of feed into a specified amount of enriched uranium at a specified product assay and a specified amount of waste at a specified assay. In each of the contracts, while the amount of LEU being purchased is not expressly stated (unless it is an EUP contract) the product assay, tails assay, and number of SWU are specified. It is the precise combination of the product assay order and the number of SWUs specified in the SWU contract that results in an exact amount of LEU to be delivered over the life of the contract. The most important factor in determining whether the contract is fulfilled is whether the utilities receive the precise amount of LEU that results from the application of the SWU equation that is explicitly spelled out and agreed upon in the SWU contract. And it is this bottom line (*i.e.,* a precise amount of LEU delivered over the life of the contract) that forms the fundamental nature of the agreement between buyer and seller in a SWU contract. With this understanding in mind, the enricher then has extraordinary leeway in determining the precise combination of SWU and feedstock to be used in the production of the LEU required by the SWU contract. The enricher's decision will depend upon such factors as the relative costs of electricity, feedstock, even the market price of ''SWU,'' which, for all intents and purposes, trades like a commodity. As the record reflects, enrichers therefore run their facilities in a manner that they determine is most efficient.

For example, an enricher, in fulfillment of a SWU contract, may actually use more or less natural uranium and more or less SWU than is provided for in the contract (and by the utility customer). The enricher has complete control over these important production decisions. The utility company, on the other hand, provides the specifications and receives a product, as specified in the contract through the application of the SWU equation. Thus, the utility company obtains no more control over the production process than any customer who orders custom-made merchandise would obtain. In our view, the enricher has extensive control over the production process, and complete control over the amount of SWU or feed to be used in any given transaction. The extensive control further demonstrates that the enricher is not acting in a tolling capacity for the transactions at issue.

Third, in this case, the U.S. utility companies do not maintain production facilities for the purpose of manufacturing subject merchandise. Unlike the U.S. design house in *SRAMs from Taiwan,* but like the U.S. importer in *Polyvinyl Alcohol from Taiwan,* the U.S. utility companies perform no manufacturing function whatsoever with respect to the production of LEU. These companies have no LEU manufacturing operations; no capital investment in production facilities; no employees dedicated to manufacturing LEU; and add no value to the product through the performance of manufacturing operations. Most important, we find that the utility companies are the only purchasers of LEU and can only obtain LEU from enrichment companies. By contrast, enrichment companies' sole activity is to produce LEU for use by utility companies.

Finally, we find that the overall arrangement under both types of contracts is, in effect, an arrangement for the purchase and sale of LEU. The parties have made a comprehensive comparison of the terms of the contracts for SWU and EUP, arguing that the terms of the contract demonstrate that the contracts designated as SWU sales are not, in fact, sales of LEU. While we recognize that the provision of uranium feedstock may not be a payment-in-kind in the formal sense under these

contracts, we maintain that the arrangement between buyer and seller in a SWU contract nonetheless is dedicated to the delivery of LEU, and critical to the trade in LEU. In reaching this conclusion, we have looked beyond the four corners of the contract and have examined the totality of the circumstances surrounding the transactions in deciding which sale is a valid representation of subject merchandise.

The Nature of the SWU Contract

In this case, based upon the way in which the industry produces and sells LEU, we find that the overall arrangement between the parties indicates that enrichment companies are engaged in selling, and utility companies are engaged in purchasing, LEU. These transactions may be construed differently in other contexts, such as for purposes of taxation, or for purposes of establishing the liabilities of the parties to the contract. However, for purposes of calculating a price for LEU, based upon our examination of the overall circumstances of the arrangement under both types of contracts, we find that the contracts designated as SWU contracts are functionally equivalent to those designated as EUP transactions.

First, both types of transactions have one fundamental objective—the delivery of LEU at a specific time and location, with a specific product assay, as agreed upon in the contract, under the same warranties and guarantees that apply to all LEU delivered by respondents. Second, utility customers are not concerned with how LEU is produced or the amount of work expended (SWU) to produce such LEU. Instead, utility customers are interested in obtaining a specific quantity of a standardized product at a specified product assay. This pertains to both types of transactions. Indeed, SWU contracts are based upon a set formula that provides the utility company with a fixed quantity of LEU over the life of the contract.

Further, under both types of contracts, because the LEU is produced at an operating tails assay determined by the enricher, the enricher ultimately determines how much uranium feed is used, the amount of SWU actually applied, and the assay of the tails that will be produced. Thus, it is clear that enrichers not only exercise the same level of control over the production process for both types of contracts, but also perform the exact same manufacturing operations, regardless of whether the sale was made under a SWU contract or an EUP contract.

In addition, there are provisions in SWU contracts that further demonstrate that the underlying arrangement is designed to operate in much the same manner, regardless of the type of contract, and that whether the enricher or the utility company provides the uranium feedstock does not substantially alter that arrangement. These provisions are proprietary. *See, e.g.,* Urenco Business Proprietary Section A Response, Volume 1, Tab B1, Contract section F.3. Furthermore, for both types of contracts ownership of the LEU is only transferred to the utility customer upon delivery of the LEU. Consistent with this provision, for both types of transactions, the enricher incurs the risk of loss with respect to the LEU. In light of the above, therefore, we believe, as a practical matter, that the arrangement between the utility company and the enricher under a SWU contract is functionally equivalent to the arrangement under an EUP contract for purposes of determining EP and CEP.

Moreover, as discussed above, the enrichment companies engage in the most significant portion of the production of LEU, and thus the value of enrichment is beyond question the most significant element of value in determining the price of LEU. In addition, LEU, the subject merchandise, is the merchandise resulting from this production operation. Accordingly, we believe the pricing behavior of the enrichment companies in these transactions is relevant to the Department's determination of whether the LEU in question is introduced into the commerce of the United States at less than fair value.

Therefore, because the pricing behavior of the enrichers in these transactions is relevant to the Department's determination and because the arrangement between the utility company and the enricher under a SWU contract is functionally equivalent to the arrangement under an EUP contract for purposes of determining EP and CEP, we have included these sales in our determination of EP and CEP in these investigations.

In assigning a specific monetary value to the natural uranium component, we estimated the market value using the average price the enrichers charged their customers for natural uranium for LEU contracts. For SWU contracts, when comparing U.S. Price with Normal Value based on constructed value, we valued natural uranium using exactly the same value for both sides of the equation. For example, for any given shipment pursuant to a SWU contract we determined the quantity (*i.e.* kgs) of associated feed uranium by applying the industry standard formula for product and tails assay specified in the contract. We valued this quantity using POI average per-kg price for natural uranium charged by enrichers. This exact same amount was included in normal value.

Period of Investigation

The period of investigation (POI) is October 1, 1999, through September 30, 2000. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* December 2000).

Verification

As provided in section 782(i) of the Act, we conducted verification of the sales information submitted by Cogema/Eurodif from July 23 through July 27, 2001, in France, and from August 13 through August 16, 2001, in the United States. We conducted verification of the constructed value (CV) information submitted by Cogema/Eurodif from July 30 through August 3, 2001. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping proceeding are listed in the Appendix to this notice and addressed in the *Decision Memorandum* for this investigation, dated December 13, 2001, which is hereby adopted by this notice. The *Decision Memorandum* for this case is on file in room B–099 of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at http://ia.ita.doc.gov/frn/summary/list.htm. The paper and electronic versions of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margins in this proceeding. These adjustments are discussed in detail in the *Calculation Memorandum,* dated December 13, 2001. For the final determination, we made the following revisions:

(1) We adjusted the transportation insurance amounts to account for the respondent's clerical errors.

(2) We adjusted movement expenses and U.S. duty charges for certain

deliveries to correct the respondent's clerical errors.

(3) We revised the inventory carrying costs for various U.S. deliveries to account for the respondent's clerical errors.

(4) We adjusted the total cost of manufacturing reported in the U.S. sales database to be consistent with changes made to the total cost of manufacturing in the constructed value (CV).

(5) To reflect the opportunity cost of a particular contract provision exercised by one customer, we calculated an imputed expense and applied it to the indirect selling expense ratio of that customer, for all deliveries to the customer.

(6) Based on the respondent's revised calculation from verification, we adjusted the home market indirect selling expense ratio used to calculate indirect selling expenses added to CV.

(7) We recalculated the defluorination expenses included in CV based on the tails produced during the POI.

(8) We excluded purchased LEU from the calculation of the weighted-average cost of LEU produced in the POI.

(9) We recalculated the financial expense rate based on the financial statements of CEA Industrie, the entity that consolidates Cogema's accounts.

(10) We recalculated selling, general and administrative expenses to include certain research and development expenses.

Final Determination of Investigation

We determine that the following weighted-average percentage dumping margins exist for the period October 1, 1999, through September 30, 2000:

Manufacturer/exporter	Margin (percent)
Cogema/Eurodif	19.57
All Others	19.57

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service to continue to suspend liquidation of all entries of LEU from France that are entered, or withdrawn from warehouse, for consumption on or after July 13, 2001 (the date of publication of the *Preliminary Determination* in the **Federal Register**). The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. The suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether imports of subject merchandise are causing material injury, or threaten material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceedings will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs Service officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: December 13, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

1. Common antidumping and countervailing duty scope issues
2. Amendment of the scope to exclude imported enriched uranium consumed in the conversion or fabrication of exported uranium
3. Double-counting the subsidy in the calculation of the dumping margin
4. Treatment of ''blended price'' contracts
5. Calculation of the less than fair value (LTFV) margin based on delivered and undelivered sales
6. Valuation of electricity as a component of low enriched (LEU)
7. Whether to collapse Eurodif and Cogema
8. Whether defluorination costs are at arm's length
9. Accrual for tails disposal
10. Calculation of a constructed export price (CEP) offset
11. Recalculation of inventory carrying costs
12. Imputing certain expenses to Cogema/Eurodif
13. Selling, general and administrative (SG&A) expenses
14. Financial expenses
15. Purchased product
16. Constructed value (CV) profit

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–820; A–421–808; A–428–828]

Notice of Final Determinations of Sales at Not Less Than Fair Value: Low Enriched Uranium From the United Kingdom, Germany and the Netherlands

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 21, 2001.

ACTION: Notice of final determinations of sales at not less than fair value.

FOR FURTHER INFORMATION CONTACT: Frank Thomson or James Terpstra, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4793 or (202) 482–3965, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2000).

Final Determination

We determine that low-enriched uranium (LEU) from the United Kingdom, Germany and the Netherlands is not being sold, or is not likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act.

Case History

The preliminary determinations in these investigations was published on July 13, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Low Enriched Uranium From the United Kingdom; Preliminary Determinations of Sales at Not Less Than Fair Value: Low Enriched Uranium From Germany and the Netherlands; and Postponement of Final Determinations,* 66 FR 36748 (July 13, 2001) *(Preliminary Determinations).* The petitioners [1] and the respondents,

[1] The petitioners in these investigations are USEC, Inc. and its wholly-owned subsidiary, United States Enrichment Corporation (collectively

Urenco Ltd., Urenco (Capenhurst) Ltd., Urenco Nederland BV, and Urenco Deutschland GmbH (collectively, Urenco or the respondents), filed case briefs on antidumping methodological issues on October 12, 2001, and rebuttal briefs on October 19, 2001. A public hearing on the antidumping methodological issues was held on October 23, 2001.

On October 22 and 23, 2001, the petitioners, the Ad Hoc Utilities Group,[2] and respondents filed briefs on common scope issues in the antidumping and countervailing duty investigations of LEU from France, Germany, the Netherlands and the United Kingdom. Rebuttal briefs on these common scope issues were filed on October 29, 2001, and a public hearing on the common scope issues was held on October 31, 2001.

In response to a September 28, 2001 submission by the European Commission to Mr. Grant Aldonas, Under Secretary for International Trade, regarding the antidumping (AD) and countervailing duty (CVD) investigations of LEU from France, Germany, the Netherlands and the United Kingdom, and Mr. Aldonas' November 7, 2001 reply to this letter and the November 22, 2001 submission from the European Commission, the petitioners, the Ad Hoc Utilities Group, and respondents filed briefs that addressed the content of this correspondence.

These final determinations were originally due on November 26, 2001. We subsequently tolled the final determination deadline in these investigations until December 13, 2001, to accommodate certain delayed verifications and a briefing and hearing schedule that were delayed because of the events of September 11, 2001.

Amended Scope of Investigation

For purposes of these investigations, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of these investigations. Specifically, these investigations does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of these investigations. For purposes of these investigations, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of these investigations.

Also excluded from these investigations is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end-user.

The merchandise subject to these investigations is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Scope Clarification

For further details, *see* Comment 1 of the *''Issues and Decision Memorandum for the Antidumping Duty Investigation of Low Enriched Uranium from Germany, Netherlands and the United Kingdom'' (Decision Memorandum)* from Bernard T. Carreau, Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated concurrently with this notice.

Goods Versus Services

Parties in all eight concurrent investigations of this product have submitted comments on this issue. For a full discussion *see Notice of Final Determination of Sales at Less Than Fair Value: Low Enriched Uranium from France* that is published concurrently with this notice.

Period of Investigation

The period of investigation (POI) is October 1, 1999, through September 30, 2000. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* December 2000).

Verification

As provided in section 782(i) of the Act, we conducted verification of the sales and cost information submitted by Urenco from July 16 through July 20, 2001, in the Netherlands; July 23 through July 30, 2001, in Germany; July 30 through August 10, 2001, in the United Kingdom, and August 22, 2001, in the United States. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to these antidumping proceedings are listed in the Appendix to this notice and addressed in the *Decision Memorandum* for these investigations, which is hereby adopted by this notice. The *Decision Memorandum* for these cases is on file in room B–099 of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov/frn/summary/list.htm*. The paper and electronic versions of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determinations

Based on our findings at verification and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margins in these proceedings. These adjustments are

USEC), and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL–CIO, CLC, Local 5–550 and Local 5–689 (collectively PACE).

[2] In accordance with section 777(h) of the Act the AdHoc Utilities Group, whose members include: Arizona Public Service Co., Carolina Power & Light Co., Dominion Generation, Duke Energy Corp., DTE Energy, Entergy Services, Inc., Exelon Corporation, First Energy Nuclear Operating Co., Florida Power Corp., Florida Power and Light Co., Nebraska Public Power District, Nuclear Management Co. LLC (on behalf of certain member companies), PPL Susquehanna LLC, PSEG Nuclear LLC, South Texas Project, Southern California Edison, Southern Nuclear Operating Co., Union Electric Company, and Wolf Creek Nuclear Operating Corp., submitted comments as industrial users of subject merchandise.

discussed in detail in the *Decision Memorandum*. For the final determinations, we made the following revisions as detailed in (1) Memorandum from Ernest Gziryan to Neal Halper (December 13, 2001), and (2) Final Calculation Memo, both of which are on file in the Central Records Unit, room B–099 of the Main Department of Commerce Building.

Common

In deriving the net U.S. price and constructed value, we made the following changes:

1. We revised the feed price based on our verification findings;
2. We did not deduct container rental expenses or feed material transportation costs from U.S. price;
3. We adjusted CV to account for double-counting of movement charges;
4. We made no adjustment for credit expenses;
5. We eliminated double-counting of a depreciation adjustment in calculating the G&A and interest expense.

Urenco (Capenhurst) Limited (UCL)

1. We adjusted Urenco's reported G&A expense rate by calculating a separate G&A expense rate for each Urenco company. We calculated UCL's G&A expense rate by combining a Urenco Group G&A expense rate with the UCL company-specific G&A rate. We included certain non-operating expenses which relate to the general operations of the company in the calculation of UCL's G&A expense rate.
2. We increased UCL's depreciation expense associated with fixed assets purchased from the Urenco Group companies to reflect the market value of these assets.
3. We recalculated Urenco's financial expense rate by excluding the adjusted G&A expenses from the denominator.
4. We adjusted UCL's reported cost to include the amount of centrifuge losses attributable to the POI.

Urenco Nederland B.V.''s (UNL)

1. We adjusted Urenco's reported G&A expense rate by calculating a separate G&A expense rate for each Urenco company. We calculated UNL's G&A expense rate by combining a Urenco Group G&A expense rate with the UNL company-specific G&A rate.
2. We increased UNL's depreciation expense associated with fixed assets purchased from the Urenco Group companies to reflect the market value of these assets.
3. We recalculated Urenco's financial expense rate by excluding the adjusted G&A expenses from the denominator.
4. We adjusted UNL's tails provision to reflect the market value of the tails disposal services provided by an affiliated company.

Urenco Deutschland GmbH's (UD)

1. We adjusted Urenco's reported G&A expense rate by calculating a separate G&A expense rate for each Urenco company. We calculated UD's G&A expense rate by combining a Urenco Group G&A expense rate with the UD company-specific G&A rate.
2. We increased UD's depreciation expense associated with fixed assets purchased from the Urenco Group companies to reflect the market value of these assets.
3. We recalculated Urenco's financial expense rate by excluding the adjusted G&A expenses from the denominator.
4. We adjusted UD's reported costs to include income and expense items recorded in UD's financial statements prepared in accordance with German generally accepted accounting principles.
5. We increased UD's cost of production by the amount of the certain gain used by UD to offset the reported cost.

Final Determinations of Investigations

We determine that the following weighted-average percentage dumping margins for the United Kingdom, Germany, and the Netherlands are as follows:

Manufacturer/exporter	Margin (percent)
Urenco Deutschland GmbH	0.00
Urenco Netherlands B.V.	0.00
Urenco (Capenhurst) Ltd.	(de minimis)

Termination of Suspension of Liquidation

Pursuant to section 735(c)(2) of the Act, we are directing the U.S. Customs Service to terminate suspension of liquidation, with respect to these antidumping investigations, and release any bond or other security and refund any cash deposit.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission of our determinations. These determinations are published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: December 13, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

Scope Issue

1. Scope clarification

Common Sales Issues

2. Whether Urenco failed to disclose its affiliation with U.S. customers who participate in a joint venture
3. Whether Urenco failed to disclose sales activity related to an affiliated U.K. reseller—Uranium Asset Management Ltd. (''UAM'')
4. Whether Urenco never fully disclosed the role of its affiliated U.S. fuel fabricator—Westinghouse
5. Whether Urenco receives transportation services from its affiliated transporters at market rates and whether facts available should be applied
6. Whether the Department should use adverse facts available to calculate Urenco's less than fair value (''LTFV'') margins
7. Whether Urenco's U.S. sales should be treated as export price (''EP'') or constructed export price (''CEP'') Sales
8. Whether the indirect selling expense (''ISE'') ratio requires a revision
9. Whether feed material transportation costs, cylinder rental expenses, and credit expenses should be deducted from Urenco's U.S. sales price
10. Whether feed material transportation cost is double counted
11. Treatment of ''blended price'' contracts
12. Whether to apply ''discounts'' provided on separative work unites (''SWU'') sold prior to the period of investigation (''POI'')
13. Whether to utilize only completed deliveries or all sales made during the POI

Common Cost Issues

14. Affiliated Inputs
14a. Assets purchased from affiliated companies
15. Cost of Certain Product
16. Tails disposal costs
17. Futures Hedging Contracts

18. Gain to offset cost
19. General and administrative (''G&A'') expenses

Urenco Deutschland Cost Issues (''UD'')

20. Affiliated electricity purchases
21. Home country Generally Accepted Accounting Principles (''GAAP'')

Urenco Nederland Cost Issue (''UNL'')

22. UNL unreconciled costs

Urenco Capenhurst Ltd. Cost Issue (''UCL'')

23. Centrifuge failure

[FR Doc. 01–31513 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Notice of Amendment of Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision and Revocation in Part: Certain Pasta From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to final determination of sales at less than fair value in accordance with decision upon remand and revocation in part: Certain Pasta from Italy.

SUMMARY: We are amending the antidumping (''AD'') duty rate for imports of pasta from Delverde S.r.l. (''Delverde'') calculated for the final determination of the antidumping duty less-than-fair-value (''LTFV'') investigation (covering the period from May 1, 1994 through April 31, 1995). The revised AD duty rate for Delverde is 1.44 percent ad valorem and, thus, *de minimis.* Therefore, we are revoking the antidumping duty order (''the order'') with respect to Delverde.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Ledgerwood or Geoffrey Craig, AD/CVD Enforcement, Office VI, Group II, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–3836, or (202) 482–4161, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commere's (''the Department's'') regulations are to 19 CFR Part 351 (2000).

Background

On June 14, 1996, the Department issued the *Notice of Final Determination of Sales at less Than Fair Value: Certain Pasta from Italy,* 61 FR 30326 (June 14, 1996) (''*Final Determination*''). The Delverde AD duty rate was 2.80 percent. Delverde challenged the *Final Determination* in the Court of International Trade (the ''CIT''). On March 26, 1998, the CIT held that the statutory provisions for level of trade (''LOT'') adjustments provides that selling expenses set forth in 19 U.S.C. 1677a(d) should not be deducted from constructed export price (''CEP'') before making the LOT comparison. *See Borden, Inc.* v. *United States*, 4 F. Supp.2d 1221, 1241–42 (CIT March 26, 1998) (''*Borden II*''). The United States and Delverde appealed the CIT's decision to the Federal Circuit. *See Borden, Inc.* v. *United States,* Nos. 99–1575, –1576 (Fed. Cir. March 12, 2001).

On March 12, 2001, the Federal Circuit reversed the CIT's ruling. Citing its decision in *Micron Technology, Inc.* v. *United States,* Nos. 00–1058, –1060 (Fed. Cir. March 7, 2001), the Federal Circuit held that the statute requires the Department to deduct the expenses set forth in section 772(d)(1) of the Act from the starting price of CEP sales before making the LOT comparison under section 773(a)(1)(B) of the Act. The Federal Circuit remanded the case to the CIT stating that the Department must comply with the statute and deduct the expenses set forth in section 772(d)(1) from the starting price of CEP sales before making the LOT comparison. *See Borden, Inc.,* v. *United States,* Nos. 99–1575, –1576 (Fed. Cir. March 12, 2001).

The CIT issued an order on May 21, 2001, instructing the Department to comply with the decision of the Federal Circuit. *See Borden, Inc.* v. *United States,* Court No. 96–08–1970 (CIT May 21, 2001). On October 15, 2001, the Department filed its results of redetermination pursuant to the CIT's order. On November 2, 2001, the CIT affirmed the final remand redetermination in *Borden, Inc.* v. *United States,* Consol. Court No. 96–08–01970, Slip Op. 2001–128.

Amended Final Determination and Revocation in Part

In light of the final and conclusive court decision in this action, we are amending the AD duty rate for Delverde from 2.40 to 1.44 percent *ad valorem.* The rate is less than 2.00 percent and thus, *de miminis.* Therefore, we are revoking the AD duty order in part with respect to Delverde pursuant to section 351.204(e) of the Department's regulations.

We will instruct the U.S. Customs Service (''Customs'') to terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption on or after January 19, 1996, the date of publication of the preliminary determination in the **Federal Register**, and will instruct Customs to release any bond and refund any cash deposit for this merchandise.

These amended final results and notice are in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: December 13, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–31512 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–837]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION: Ron Trentham or Tom Futtner at (202) 482–6320 and (202) 482–3814, respectively; AD/CVD Enforcement Office IV, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Preliminary Determination

We preliminarily determine that polyethylene terephthalate film, sheet, and strip (PET Film) from Taiwan is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

Case History

The investigation was initiated on June 6, 2001.[1] *See Notice of Initiation of Antidumping Duty Investigation: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India and Taiwan*, 66 FR 31888 (June 13, 2001) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage. *See Initiation Notice*, at 66 FR 31889. We received no comments from any parties on this matter.

On July 2, 2001 the United States International Trade Commission (ITC) transmitted to the Department its preliminarily determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Taiwan of PET film that are alleged to be sold in the United States at LTFV. *See Polyethylene Terephthalate Film, Sheet, and Strip and Taiwan*, 66 FR 36296 (July 11, 2001).

On July 3, 2001 the Department issued the antidumping duty questionnaire [2] to Nan Ya Plastics Corporation, Ltd. (Nan Ya) and Shinkong Synthetic Fibers Corporation (Shinkong). *See Selection of Respondents* section below. We received responses to our questionnaire from both respondents. We issued supplemental questionnaires, pertaining to sections A, B, C, and D of the antidumping questionnaire, to Nan Ya and Shinkong in September, October and November 2001. Nan Ya and Shinkong responded to these supplemental questionnaires in September, October, November, and December 2001.

On October 4, 2001, pursuant to section 733(c)(1)(B) of the Act, the Department postponed the preliminary determination of this investigation 50 days, from October 24, 2001 until December 13, 2001. *See Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan: Notice of Postponement of Preliminary Antidumping Duty Determinations*; 66 FR 52108 (October 12, 2001).

During the course of this investigation, questions have arisen concerning affiliation between Nan Ya and its U.S. customers. Nan Ya has claimed that it is not affiliated with its U.S. customers. The petitioners have argued that Nan Ya is affiliated with several of its U.S. customers through a family grouping that includes collateral relatives. The Department has examined this issue by requesting and receiving information from Nan Ya and analyzing publicly available information. For these preliminary results, we are not treating Nan Ya as affiliated with its U.S. customers. We are still collecting and analyzing information on this matter and will determine whether these transactions are considered affiliated under the statute for purposes of the final results of this investigation. Interested parties are invited to submit comments on this specific issue, especially with regard to affiliation through a family group.

Postponement of the Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On November 30, 2001 Shinkong requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. Shinkong also included a request to extend the provisional measures to not more than 135 days after the publication of the preliminary determination. Accordingly, since we have made an affirmative preliminary determination, and the requesting party accounts for a significant proportion of exports of the subject merchandise, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination.

Period of Investigation (POI)

The POI is April 1, 2000 through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2001).

Scope of Investigation

For purposes of these investigations, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can reasonably be examined. The petition identified two producers (Nan Ya and Shinkong) of PET film in Taiwan that export to the United States. Information on the record indicates that Nan Ya and Shinkong were the two largest producer/exporters of PET film from Taiwan to the United States during the POI. Due to limited resources we

[1] The petitioners in this investigation are DuPont Teijin Films, Mitsubishi Polyester Film of America and Toray Plastics (America), Inc.

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

determined that we could investigate only the two largest producers/exporters, accounting for nearly 70 percent of total exports to the United States during the POI. *See* Memorandum regarding *Selection of Respondents*, dated June 22, 2001. Therefore, we designated Nan Ya and Shinkong as mandatory respondents and sent them the antidumping questionnaire.

Product Comparisons

In accordance with section 771(16) of the Act, all products produced by the respondents covered by the description in the *Scope of Investigation* section, above, and sold in Taiwan during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied upon product type, product application, product thickness, and product grade to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product or constructed value (CV). Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

Fair Value Comparisons

During the POI, U.S. sales by the Taiwanese respondents were export price (EP) sales. To determine whether sales of PET Film were made in the United States at LTFV, we compared EP to the normal value (NV), as described in the EP and NV sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and compared these to weighted-average home market prices during the POI.

Export Price

For the price to the United States, we used EP, in accordance with section 772(a) of the Act, because Nan Ya and Shinkong reported that they sold the merchandise directly to unaffiliated U.S. customers or sold the merchandise to unaffiliated trading companies in Taiwan with knowledge that these companies in turn sold the merchandise to U.S. customers, and constructed export price was not otherwise warranted for these transactions. For both Nan Ya and Shinkong, we calculated EP using the packed prices charged to the unaffiliated trading companies or the first unaffiliated customer in the United States (the starting price).

We deducted from the starting price, where applicable, amounts for movement expenses in accordance with section 772(c)(2)(A) of the Act. In this case, movement expenses include foreign inland freight, international freight, brokerage and handling charges, marine insurance, harbor duties and U.S. inland freight.

Normal Value

A. Selection of Comparison Market

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or has sufficient aggregate value, if quantity is inappropriate) and that there is no particular market situation in the home market that prevents a proper comparison with the EP or CEP transaction. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

For this investigation, we found that Nan Ya and Shinkong each had a viable home market for PET film. Thus, the home market is the appropriate comparison market in this investigation, and we used the respondents' submitted home market sales data for purposes of calculating NV.

In deriving NV, we made adjustments as detailed in the *Calculation of NV Based on Home Market Prices* section below.

B. Cost of Production Analysis

On September 19 and September 26, 2001 the petitioners alleged that sales of PET Film in the home market were made at prices below the fully absorbed cost of production (COP) with regard to Shinkong and Nan Ya, respectively. Accordingly, the petitioners requested that the Department conduct company-specific sales-below-cost investigations. Based upon the comparison of adjusted prices for the foreign like product to COP, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that sales of PET film produced in Taiwan were made at prices below the COP with regard to both respondents. As a result, the Department has conducted an investigation to determine whether the respondents made sales in the home market at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. The COP analysis the Department performed is described below. *See* Memorandum to Holly A. Kuga ''Petitioner's Allegation of Sales Below the Cost of Production for Shinkong Synthetic Fibers Corporation, (September 28, 2001); Memorandum to Holly A. Kuga ''Petitioner's Allegation of Sales Below the Cost of Production for Nan Ya Plastics Corporation, Ltd. (October 2, 2001), both on file in the CRU.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP for each respondent based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market general and administrative (G&A) expenses, including interest expenses. We relied on the COP data submitted by Shinkong and Nan Ya in their cost questionnaire responses, except, as noted below, in specific instances where the submitted costs were not appropriately quantified or valued.

Shinkong

We recalculated Shinkong's total cost of manufacture to include a portion for ''Other Production-CPA adjust'' attributable to subject merchandise. *See* Calculation Memorandum of the Preliminary Determination of the Investigation of Shinkong Synthetic Fibers Corporation, dated December 12, 2001.

Nan Ya

In accordance with sections 773(f)(2) and (3) of the Act, we recalculated Nan Ya's reported material adjustment to reflect the highest of the transfer price, COP, or market price of the inputs received from affiliated suppliers. In addition, we included a portion of ''cost difference'' and ''stop loss'' expenses attributable to Nan Ya's reported cost. *See* Memorandum from Ernest Gziryan, dated December 13, 2001.

2. Test of Home Market Sales Prices

On a model-specific basis, we compared the reported COP to the home market prices, adjusted for any applicable discounts and rebates, movement charges, selling expenses, and packing. We then compared the adjusted weighted-average COP for Shinkong and Nan Ya to the adjusted home market sales prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP in substantial quantities within an extended period of time (*i.e.*, a period of one year), and, whether below-cost prices were sufficient to permit the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that the below-cost sales were not made in ''substantial quantities'' within an extended period of time. Where 20 percent or more of a respondent's sales of a given product during the POI are at prices less than the COP, we determine such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with sections 773(b)(2)(B) and 773(b)(2)(C) of the Act. In such cases, because we compare prices to POI average costs, we also determine that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

In this case, we found that, for certain specific products, more than 20 percent of Shinkong's and Nan Ya's home market sales, within an extended period of time, were at prices less than the COP in accordance with section 773(b)(1)(A) of the Act. For these certain specific products we compared Shinkong's and Nan Ya's home market prices to POI average costs and determined that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time pursuant to section 773(b)(2)(B) of the Act. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

C. Calculation of NV Based on Home Market Prices

We based home market prices on the packed prices to unaffiliated purchasers in Taiwan. We adjusted, where applicable, the starting price for discounts and rebates. We made adjustments for any differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act by deducting direct selling expenses (credit expense) incurred for home market sales, and adding U.S. direct selling expenses (credit expenses). No other adjustments to NV were claimed or allowed.

D. Level of Trade (LOT)/Constructed Export Price (CEP) Offset

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or CEP transactions as appropriate. The NV LOT is that of the starting-price of sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general, and administrative (SG&A) expenses and profit. For EP sales, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to an affiliated importer after the deductions required under section 772(d) of the Act. In this case, both Nan Ya and Shinkong had only EP sales.

To determine whether NV sales are at a different LOT than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

We obtained information from the respondents about the marketing stages involved in the reported U.S. and home market sales, including a description of the selling activities performed by the respondents for each channel of distribution. In identifying LOTs for EP and home market sales, we considered the selling functions reflected in the starting price before any adjustments. We expect that, if claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. In this investigation, none of the respondents requested a LOT adjustment.

Shinkong reported that it made EP sales of subject merchandise to a single type of customer through a single channel of distribution in the U.S. market. Further, Shinkong indicated that it performed certain types of selling functions (freight and delivery arrangements, and warranty services) for the U.S. customers. Because there is only one type of customer, a single channel of distribution, and the same selling functions are performed for every customer, we preliminarily determine that there is a single LOT with respect to Shinkong's EP sales. In the home market, Shinkong reported that it sold subject merchandise to two types of customers (distributors and end-users). Further, it indicated that, for each of the two reported channels of distribution, it provided the same types of selling functions (freight and delivery arrangements and warranty services) in the same degree for each of the two types of customers. Because these selling functions are provided in equal degrees to all home market customers, we preliminary find that there is only one LOT in the home market.

Upon review of the record, we found that Shinkong performed the same selling functions for EP sales as compared to home market sales. As such, we preliminarily find that there is no difference in the number, type, and degree of selling functions that Shinkong performs in the home market as compared to its EP sales. Because EP sales are made at the same LOT as home market sales, no LOT adjustment is warranted and we have not made a LOT adjustment for Shinkong's sales. *See* Memorandum to the File Re: Level of Trade Analysis for Shinkong Synthetic Fibers Corporation, dated December 13, 2001.

Nan Ya reported that it sold subject merchandise to two types of customers (distributors and end-users) in the home market. Further, it indicated that, for each of the two reported channels of distribution, it provided the same types of selling functions in the same degree for each of the two types of customers. Because these selling functions are provided in equal degrees to all home market customers, we preliminarily find that there is only one LOT in the home market.

Nan Ya reported that it sold subject merchandise to two types of customers (distributors and end-users) in the United States. Further, it indicated that, for each of the two reported channels of distribution, it provided the same types of selling functions in the same degree for each of the two types of customers. Because these selling functions are provided in equal degrees to all U.S. customers, we preliminarily find that there is only one LOT in the U.S. market.

Upon review of the record we find that Nan Ya performed substantially similar selling functions for EP sales as compared to home market sales. The record indicates that there are minor differences between the selling functions performed for EP sales and home market sales. For example, Nan Ya provided some technical service for

home market customers but not EP customers. However the information on the record indicates that there is insufficient qualitative differences in the selling functions performed by Nan Ya in making sales in the home market and United States to find them to be distinct LOTs. Therefore, using the information on the record, we preliminarily determine that Nan Ya makes home market and EP sales at the same LOT.

Because Nan Ya's EP sales are made at the same LOT as home market sales, we did not make a LOT adjustment for any sales of subject merchandise by Nan Ya. See Memorandum to the File Re: Level of Trade Analysis for Nan Ya Plastics Corporation, Ltd., dated December 13, 2001.

Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank, the Department's preferred source for exchange rates.

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

All Others Rate

Section 735(c)(5)(A) of the Act provides for the use of an ''all others'' rate, which is applied to non-investigated firms. *See Statement of Administrative Actions, Uruguay Round Agreements Act*, Pub. L. 103–465, 103rd Cong. 2d Sess., H. Doc. 103–316, vol. I (1994) (SAA) at 873. This section states that the all others rate shall generally be an amount equal to the weighted average of the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins based entirely upon the facts available. Therefore, since Nan Ya has a *de minimis* margin, we have preliminarily assigned to all other exporters of PET Film from Taiwan, a margin that is based on the weighted-average margin calculated for Shinkong.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of PET Film from Taiwan, except for exports by Nan Ya, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Because the estimated weighted-average dumping margin for Nan Ya is *de minimis*, we are not directing the Customs Service to suspend liquidation of entries of merchandise from this company from Taiwan. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin for all entries of PET Film from Taiwan, except for exports by Nan Ya.

	Margin (percent)
Manufacturer/exporter:	
Shinkong Synthetic Fibers Corporation	9.19
Nan Ya Plastics Corporation, Ltd.	1.70
All Others	9.19

Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties to the proceeding in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our sales at LTFV determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threatening material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in an investigation, the hearing normally will be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one PET film case, the Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

As noted above, the final determination will be issued within 135 days after the date of the publication of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: December 13, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–31514 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–824]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Terephthalate Film, Sheet, and Strip From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Timothy Finn, Zev Primor, or Howard Smith at (202) 482–0065, (202) 482–4114, and (202) 482–5193, respectively; AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR part 351 (2001).

Preliminary Determination

We preliminarily determine that polyethylene terephthalate film, sheet, and strip (PET film) from India is being, or is likely to be sold, in the United States at less-than-fair-value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

Case History

This investigation was initiated on June 6, 2001. *See Notice of Initiation of Antidumping Duty Investigations: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From India and Taiwan,* 66 FR 31888 (June 13, 2001) (*Initiation Notice*).[1] Since the initiation of these investigations, the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage. *See Initiation Notice,* at 66 FR 31889. We received no comments from any parties on this matter.

On July 2, 2001 the United States International Trade Commission (ITC) transmitted to the Department its preliminarily determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from India of PET film that are alleged to be sold in the United States at LTFV. *See Polyethylene Terephthalate Film, Sheet, and Strip and Taiwan,* 66 FR 36296 (July 11, 2001).

On July 3, 2001, the Department issued antidumping questionnaires to, and received questionnaire responses from, the two mandatory respondents in this investigation, Ester Industries Limited (Ester) and Polyplex Corporation Limited (Polyplex)[2] *See Selection of Respondents* section below. On August 27, 2001, the Department returned Ester's and Polyplex's Section A responses due to over bracketing of information. Ester and Polyplex resubmitted Section A on August 29, 2001. We issued supplemental questionnaires, pertaining to sections A, B, C, and D of the antidumping questionnaire, to Ester and Polyplex in September, October, and November 2001. Ester and Polyplex responded to these supplemental questionnaires in September, October, November, and December 2001.

On October 12, 2001, pursuant to section 733(c)(1)(B) of the Act, the Department postponed the preliminary determination of this investigation by 50 days from October 24, 2001, until December 13, 2001. *See Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan: Notice of Postponement of Preliminary Antidumping Duty Determinations,* 66 FR 52108 (October 12, 2001).

Postponement of the Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On December 5, 2001, Ester and Polyplex requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. Ester and Polyplex also included a request to extend the provisional measures to not more than 135 days after the publication of the preliminary determination. Accordingly, since we have made an affirmative preliminary determination, and the requesting parties account for a significant proportion of exports of the subject merchandise, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination.

Period of Investigation

The period of investigation (POI) is April 1, 2000, through March 31, 2001. This period corresponds to the four most recently completed fiscal quarters prior to the month of the filing of the petition (*i.e.,* May 2001).

Affiliation of Parties

Pursuant to section 771(33)(F) of the Act, the Department has preliminarily determined that two customers to whom Polyplex sold PET film during the POI and whom Polyplex identified as unaffiliated parties, are, in fact, affiliated with Polyplex. Specifically, the Department has determined that one U.S. customer and one home market customer (hereinafter referred to as Company A and Company B, respectively), are part of a corporate grouping which, together with Polyplex, controls another person. According to section 771(33)(F) of the Act, two or more persons directly or indirectly controlling any other person shall be considered affiliated. Thus, we have preliminarily found the corporate grouping, including companies A and B, to be affiliated with Polyplex. For a complete discussion of this issue, see the December 13, 2001 memorandum, *Whether Polyplex Corporation Limited is Affiliated, Under the Tariff Act of 1930, as Amended, With Its U.S. Customer, Company A, and Its Home Market Customer, Company B* (*Affiliation Memorandum*), which is on file in the Central Records Unit (CRU), room B–099 of the main Department of Commerce building.

Critical Circumstances

In their petition, the petitioners requested that the Department initiate a critical circumstances investigation of PET film from India. However, the Department did not initiate a critical circumstances investigation because it found that petitioners failed to support their allegation of critical circumstances. In the *Initiation Notice* the Department stated:

Although the petitioners provided data indicating significant increases in imports

[1] The petitioners in these investigations are DuPont Teijin Films, Mitsubishi Polyester Film of America, and Toray Plastics (America), Inc.

[2] The Department's July 3, 2001 antidumping questionnaire consisted for the following sections. Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales of foreign like product, or, if the home market is not viable, sales of foreign like product in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of all U.S. sales of subject merchandise. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

over a three-year period, we do not consider this to be sufficient evidence of massive imports over a relatively short period of time within the meaning of section 733(e)(1)(B) of the Act and section 351.206 of the Department's regulations. If, at a later date, the petitioners adequately allege the elements of critical circumstances, based on reasonably available information, the Department will investigate this matter further.

See Initiation Notice, 66 FR at 31891.

On September 14, 2001, petitioners requested, pursuant to section 732(e) of the Act, that the Department request the Commissioner of the U.S. Customs Service (Customs) to compile information on an expedited basis regarding entries of PET film from India into the United States. After considering this request, we have determined that the record in this investigation does not contain evidence of circumstances which warrant invoking section 732(e) of the Act. Thus, we have not requested information from Customs on an expedited basis. For a complete discussion of this issue, see the memorandum from Holly A. Kuga, Senior Director, to Bernard Carreau, Deputy Assistant Secretary, *Antidumping Investigation on Polyethylene Terephthalate Film, Sheet and Strip from India: Critical Circumstances,* dated December 13, 2001, which is on file in the CRU.

Scope of Investigation

For purposes of these investigations, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can reasonably be examined. The petition identified seven Indian producers of PET film. However, due to limited resources, we determined that we could investigate only two producers/exporters. Information on the record indicates that Ester and Polyplex were the two largest producers/exporters of PET film from India to the United States during the POI. *See* Memorandum from Nithya Nagarajan to Bernard T. Carreau, Selection of Respondents, dated June 27, 2001, which is on file in the CRU, room B–099 of the main Department of Commerce building. Therefore, we selected Ester and Polyplex as mandatory respondents and sent them antidumping questionnaires.

Product Comparisons

In accordance with section 771(16) of the Act, all products produced by the respondents, and covered by the description in the *Scope of Investigation* section above, that were sold in India during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied upon the grade and thickness product characteristics to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product or constructed value (CV). Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

Fair Value Comparisons

To determine whether sales of PET film from India were made in the United States at LTFV, we compared the export price (EP) or constructed export price (CEP) to the Normal Value (NV), as described in the *Export Price, Constructed Export Price,* and *Normal Value* sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs and CEPs to NVs.

U.S. Sales of Further-Manufactured PET Film

During the POI, Polyplex and its U.S. affiliate, Spectrum Marketing Company Inc. (Spectrum), sold PET film to a U.S. customer, Company A, who further-manufactured the PET film into non-subject merchandise. Company A did not sell non-further-manufactured PET film in the United States during the POI. After examining the various relationships between Polyplex, Spectrum, and Company A, the Department, as noted above, has preliminarily determined that Company A is affiliated with both Polyplex and Spectrum. Polyplex has requested that if the Department determines Company A to be an affiliated party, it apply section 772(e) of the Act (the special rule for merchandise with value added after importation) in determining the margin for Company A's further-manufactured sales rather than using the standard methodology described under section 772(d)(2) of the Act. After examining the record, we have determined that it does not contain sufficient information for the Department to determine whether it is more appropriate to use the special rule or the standard methodology in calculating margins for the sales in question. Moreover, the record does not contain the information necessary to apply the standard methodology.

Given the foregoing, and the requirement of section 772 of the Act to base export price and constructed export price on the price at which the merchandise is first sold to an unaffiliated purchaser, for the preliminary determination we have calculated the weighted-average dumping margin for Polyplex using only subject merchandise sales of non-further manufactured PET film that were made to unaffiliated parties. We intend to collect the information necessary to decide how to treat these sales for the final determination. For a complete discussion of this issue, see the December 13, 2001, memorandum, *How to Account for Sales of Further-Manufactured Polyethylene Terephthalate (PET) Film, Sheet, and Strip in the Preliminary Dumping Calculations* which is on file in the CRU.

Export Price

Where Ester and Polyplex sold merchandise directly to unaffiliated purchasers in the United States, we used EP, in accordance with section 772(a) of the Act, as the price to the United States. For both respondents, we calculated EP using the packed prices charged to the first unaffiliated customer in the United States (the starting price).

We deducted from the starting price, where applicable, amounts for discounts and rebates. In addition, we deducted movement expenses in accordance with section 772(c)(2)(A) of the Act. In this case, movement expenses include foreign inland freight, international freight, foreign and U.S. brokerage and

handling charges, insurance, U.S. duties, and U.S. inland freight.

Finally, we increased U.S. price by the amount of the export subsidy found in the companion countervailing duty investigation on PET film from India. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination with Final Antidumping Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from India (PET film CVD Prelim),* 66 FR 53389 (October 22, 2001).

Constructed Export Price

For Ester and Polyplex, we calculated CEP, in accordance with subsection 772(b) of the Act, for those sales to unaffiliated purchasers that took place after importation into the United States. We based CEP on the packed FOB or delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for price-billing errors and freight revenue, and made deductions for early payment discounts and rebates in order to identify the correct starting price. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. Movement expenses included, where appropriate, foreign inland freight, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance, U.S. inland freight expenses, and warehousing expenses. In accordance with section 772(d)(1) of the Act, where applicable, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses, inventory carrying costs, and other indirect selling expenses. Also, we made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Finally, we increased U.S. price by the amount of the export subsidy found in the companion countervailing duty investigation on PET film from India. *See PET film CVD Prelim.*

Normal Value

A. Selection of Comparison Market

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or has sufficient aggregate value, if quantity is inappropriate) and that there is no particular market situation in the home market that prevents a proper comparison with the EP or CEP transaction. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

For this investigation, we found that Ester and Polyplex each had a viable home market for PET film. Thus, the home market is the appropriate comparison market in this investigation, and we used the respondents' submitted home market sales data for purposes of calculating NV.

In deriving NV, we made adjustments as detailed in the *Calculation of NV Based on Home Market Prices* and *Calculation of NV Based on CV,* sections below.

B. Affiliated-Party Transactions and Arm's-Length Test

Ester reported that it only sold PET film in the home market to unaffiliated customers. Therefore, the Department's arm's-length test is inapplicable with regard to Ester's home market sales.

Polyplex reported that it made no home market sales to affiliated companies. However, since we have preliminarily determined that Company B is affiliated with Polyplex, we applied the arm's-length test to sales from Polyplex to Company B.[3] We have applied the arm's-length test by comparing sales made to the home market affiliate to sales of identical merchandise from Polyplex to unaffiliated home market customers. To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all discounts and rebates, movement charges, direct selling expenses, and home market packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's-length. *See* 19 CFR 351.403(c) and *Preamble—Department's Final Antidumping Regulations* 62 FR 27296, 27355 (May 19, 1997). If the sales to the affiliated customer satisfied the arm's-length test, we used them in our analysis. If the sales to the affiliated customer in the home market did not satisfy the arm's-length test sales to the that customer were excluded from our analysis because we considered them to be outside the ordinary course of trade. *See* 19 CFR 351.102 (defining ''ordinary course of trade'').

C. COP Analysis

Concurrent with the filing of the original petition, the petitioners alleged that sales of PET film in the home market of India were made at prices below the fully absorbed COP, and accordingly, requested that the Department conduct a country-wide sales-below-cost investigation. Based upon the comparison of the petition's adjusted prices and COP for the foreign like product, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that sales of PET film manufactured in India were made at prices below the COP. *See Initiation Notice,* 66 FR at 31890. As a result, the Department has conducted an investigation to determine whether Ester and Polyplex made sales in the home market at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. Our COP analysis is described below.

1. Calculation of COP. In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP for each respondent based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market general and administrative (G&A) expenses and interest expenses.

We relied on the COP data submitted by Ester and Polyplex in their cost questionnaire responses, except, as noted below, in specific instances where Ester's submitted costs were not appropriately quantified or valued.

a. Changes to Ester's COP. Based on the information on the record, we recalculated Ester's reported G&A and interest expense ratios to include expenses on a company-wide basis rather than expenses based on Ester's PET film division only.

2. Test of Home Market Sales Prices. Pursuant to section 773(b) of the Act, on a model-specific basis we compared the COP, or in Ester's case the revised COP, to the home market prices, less any applicable discounts and rebates, movement charges, selling expenses, commissions, and packing in order to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.,* a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

3. Results of the COP Test. Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices

[3] Due to the proprietary nature of the determination, please see the Affiliation Memorandum, dated December 13, 2001.

less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, because we compared prices to POI average costs, we also determined that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

We found that, for certain models of PET film, more than 20 percent of the home market sales by Ester and Polyplex were made within an extended period of time at prices less than the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. Therefore, we disregarded these below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Calculation of NV Based on Home Market Prices

We based home market prices on the packed prices to unaffiliated purchasers in India. We adjusted, where applicable, the starting price for discounts and rebates. We made adjustments for any differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses, pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act by deducting direct selling expenses incurred for home market sales (credit expense) and adding U.S. direct selling expenses (credit expense). We also made adjustments, pursuant to 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset).

E. Calculation of NV Based on CV

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for those models of PET film for which we could not determine the NV based on comparison-market sales, either because there were no sales of a comparable product or all sales of the comparison products failed the COP test, we based NV on CV.

In accordance with sections 773(e)(1) and (e)(2)(A) of the Act, we calculated CV based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling expenses, G&A, interest, profit and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the ''Calculation of COP'' section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses, G&A, and profit on the amounts incurred and realized by Polyplex and Ester, respectively, in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

F. Level of Trade/CEP Offset

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP transaction. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa (CTL Plate from South Africa),* 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.,* the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to 19 CFR 351.412(c), in identifying levels of trade for EP and comparison market sales (*i.e.,* NV based on either home market or third country prices),[4] we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology, Inc.* v. *United States,* 243 F3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and we are unable to make a level of trade adjustment, the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See CTL Plate from South Africa.*

We obtained information from each respondent regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by the respondents for *each* channel of distribution. While neither company requested a LOT adjustment, both companies requested a CEP offset.

Ester reported home market sales to three customer categories through three distribution channels. Polyplex reported home market sales to two customer categories through two channels of distribution. Both respondents offer to their respective customers in these distribution channels selling services such as order booking, freight, inventory maintenance, technical assistance and general customer service. Based on an analysis of the selling functions performed in the home market channel of distribution, we find that each respondent's home market sales comprise a single LOT.

Similarly, for its U.S. sales, Ester reported EP sales to the same three customer categories through one channel of distribution, and CEP sales to the same three customer categories through a second channel of distribution. For its U.S. sales, Polyplex reported EP sales to one customer category through one channel of distribution, and CEP sales to two customer categories through a second channel of distribution. Further, for EP sales, both respondents offer their U.S. customers similar selling functions to those made in the home market (order booking, freight, inventory maintenance, technical assistance and general customer service).

After reviewing the U.S. market selling functions reported by Polyplex and Ester, and after deducting the CEP selling expenses incurred by Spectrum and EIUL (their U.S. affiliates, respectively), we found that Polyplex and Ester provided a qualitatively different degree of services on EP sales than they did on CEP sales. Both

[4] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

respondents provided various degrees of selling functions on their EP sales, but virtually none on their CEP sales. Therefore, we find that each respondent's selling functions were sufficiently different in their two reported channels of distribution to warrant a determination that two separate LOTs exist in the United States for both respondents.

In their responses, neither Polyplex nor Ester claimed a LOT adjustment. However, both companies requested a CEP offset claiming that their NV LOTs were more remote from the factory than their CEP LOTs.

In determining whether separate LOTs actually existed in the home market and U.S. market for each respondent, we examined whether each respondent's sales in the two markets involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories and selling functions reported. In analyzing each company's selling activities for EP sales, we noted that the sales involved basically the same selling functions as those associated with the home market LOT described above. Therefore, based upon this conclusion, we have determined that the LOT for each respondent's EP sales is the same as that of its home market sales.

Lastly, our preliminary analysis demonstrates that the home market LOTs are different from, and constitute a more advanced stage of distribution than, the CEP LOTs because after making the CEP deductions under section 772(d) of the Act, the home market LOTs include significantly more selling functions than the CEP LOTs. Therefore, because of the nature of selling functions, we find that the home market LOTs are at a different, more advanced marketing stage than the CEP LOTs. Consequently, since NV is established at a LOT which constitutes a more advanced LOT than the LOT of the CEP, and the data do not provide an appropriate basis upon which to determine a LOT adjustment (each company has only one level of trade in the home market), we conclude that Ester and Polyplex are each entitled to a CEP offset to NV. *See* the December 13, 2001, memoranda to the file regarding Ester and Polyplex: *Level of Trade Analyses.*

Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank, the Department's preferred source for exchange rates.

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

All Others Rate

Section 735(c)(5)(A) of the Act provides for the use of an ''all others'' rate, which is applied to non-investigated firms. *See Statement of Administrative Actions, Uruguay Round Agreements Act*, Pub. L. No. 103.465, 103rd Cong. 2d Sess., H. Doc. 103–316, vol. I (1994) (SAA) at 873. This section states that the all others rate shall generally be an amount equal to the weighted average of the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins based entirely upon the facts available. Therefore, since Polyplex has a *de minimis* margin, we have preliminarily assigned to all other exporters of PET film from India, a margin that is based on the weighted-average margin calculated for Ester.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of PET film from India, except for exports by Polyplex, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Because the estimated weighted-average dumping margin for Polyplex is *de minimis*, we are not directing the Customs Service to suspend liquidation of entries of merchandise from this company from India. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin for all entries of PET film from India, except for exports by Polyplex. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
Ester Industries Limited	2.96
Polyplex Corporation Limited	1.38
All Others	2.96

Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of the proceedings in these investigations in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our sales at LTFV determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will normally be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one PET film case, the Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

As noted above, the final determination will be issued within 135 days after the date of the publication of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: December 15, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–31515 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–816]

Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results in the antidumping duty administrative review of certain stainless steel butt-weld pipe fittings from Taiwan.

SUMMARY: On July 12, 2001, the Department of Commerce (''Department'') published the preliminary results of the administrative review of the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan. This review covers one manufacturer/exporter of the subject merchandise. The period of review (''POR'') is June 1, 1999 through May 31, 2000.

We gave interested parties an opportunity to comment on the preliminary results. Based upon our analysis of the comments received, we have made changes in the margin calculation. Therefore, the final results differ from the preliminary results of this review. The final weighted-average dumping margin is listed below in the section titled ''Final Results of the Review.''

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: James C. Doyle or Alex Villanueva, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–0159 (Doyle) or 202–482–6412 (Villanueva), fax 202–482–1388.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2000).

Background

On June 16, 1993, the Department published the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan. *See Certain Welded Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Final Determination and Antidumping Order,* 58 FR 33250 (June 16, 1993). On June 20, 2000, we published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan covering the period June 1, 1999 through May 31, 2000. *See Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, Or Suspended Investigation* 65 FR 38242 (June 20, 2000). On June 20, 2000, respondent, Ta Chen Stainless Steel Pipe Ltd., (''Ta Chen''), requested that the Department conduct an administrative review of Ta Chen for the period of June 1, 1999 through May 31, 2000. On June 30, 2000, Markovitz Enterprises, Inc. (Flowline Division), Alloy Piping Products Inc., Gerlin, Inc., and Taylor Forge, (collectively, ''Petitioners'') requested that the Department conduct an administrative review of Ta Chen for the period of June 1, 1999 through May 31, 2000. On July 31, 2000, in accordance with section 751(a) of the Act, the Department published a notice of initiation of this antidumping duty administrative review for the period of June 1, 1999 through May 31, 2000. *See Notice of Initiation of Antidumping or Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 65 FR 46687 (July 31, 2000). On July 12, 2001, the Department published the preliminary results of the administrative review in the **Federal Register**. *See Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Preliminary Results of Antidumping Duty Administrative Review,* 66 FR 36555 (July 12, 2001) (''*Preliminary Results*''). We gave interested parties an opportunity to comment on our *Preliminary Results.* Ta Chen and Petitioners filed briefs on August 21, 2001. On August 27, 2001, Ta Chen and Petitioners filed rebuttal briefs. No hearing was requested or held. The date for issuing the final results of the review was November 9, 2001. Because of complex issues in this proceeding, the Department extended the time limit for the final results by 30 days in accordance with section 751 (a)(3)(A) of the Act. *See Notice of Extension of Final Results of Antidumping Duty Review: Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan,* 66 FR 55639 (November 2, 2001). The date for issuing the final results was moved from November 9, 2001 to December 10, 2001. The Department has conducted and completed the administrative review in accordance with section 751 of the Act.

Scope of the Review

The merchandise subject to this administrative review is certain stainless steel butt-weld pipe fittings (''SSBWPF'') whether finished or unfinished, under 14 inches inside diameter. Certain SSBWPF are used to connect pipe sections in piping systems where conditions require welded connections. The subject merchandise is used where one or more of the following conditions is a factor in designing the piping system: (1) Corrosion of the piping system will occur if material other than stainless steel is used; (2) contamination of the material in the system by the system itself must be prevented; (3) high temperatures are present; (4) extreme low temperatures are present; and (5) high pressures are contained within the system.

Pipe fittings come in a variety of shapes, with the following five shapes the most basic: ''elbows'', ''tees'', ''reducers'', ''stub-ends'', and ''caps.'' The edges of finished pipe fittings are beveled. Threaded, grooved, and bolted fittings are excluded from this review. The pipe fittings subject to this review are classifiable under subheading 7307.23.00 of the Harmonized Tariff Schedule of the United States (''HTSUS'').

Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the review is dispositive. Pipe fittings manufactured to American Society of Testing and Materials specification A774 are included in the scope of this order.

During this administrative review, the Department received a scope ruling request on April 12, 2001 and in accordance with 19 CFR 351.225(k)(2) from Allegheny Bradford Corporation d/b/a Top Line Process Equipment Company (''Top Line''), for a scope ruling on whether stainless steel butt-

weld tube fittings it plans to import are covered by the antidumping duty order on stainless steel butt-weld pipe fittings from Taiwan. On November 15, 2001, the Department issued its preliminary scope ruling. *See Memorandum from Edward C. Yang, Director, Enforcement, Group III, Office 9, to Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, Group III: Preliminary Scope Ruling on the Antidumping Duty Order on Stainless Steel Butt-Weld Pipe Fittings: Allegheny Bradford Corporation d/b/a Top Line Process Equipment* (''*Preliminary Scope Ruling*''), dated November 15, 2001, which is on file at the U.S. Department of Commerce, in the Central Records Unit, in room B–099. We gave interested parties an opportunity to comment on our *Preliminary Scope Ruling.* Top Line and Petitioners filed briefs on November 21, 2001. On November 26, 2001, Top Line and Petitioners filed rebuttal briefs. On December 10, 2001, the Department issued its final scope ruling that Top Line's stainless steel butt-weld tube fittings are within the scope of the Order. *See Memorandum from Edward C. Yang, Director, Enforcement, Group III, Office 9, to Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, Group III: Final Scope Ruling on the Antidumping Duty Order on Stainless Steel Butt-Weld Pipe Fittings: Allegheny Bradford Corporation d/b/a Top Line Process Equipment,* dated December 10, 2001, which is also on file at the U.S. Department of Commerce, in the Central Records Unit, in room B–099.

Analysis of Comments Received

All issues raised in the case briefs, as well as the Department's findings, in this administrative review are addressed in the *Issues and Decision Memorandum for the Administrative Review of Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: June 1, 1999, through May 31, 2000 from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration* (''*Decision Memorandum*''), dated December 10, 2001, which is hereby adopted by this notice. A list of the issues raised and to which we have responded, all of which are in the *Decision Memorandum,* and a list of our changes, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file at the U.S. Department of Commerce, in the Central Records Unit, in room B–099. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *www.ia.ita.doc.gov.* The paper copy and electronic version of the public version of the *Decision Memorandum* are identical in content.

Sales Below Cost in the Home Market

As discussed in more detail in the *Preliminary Results,* the Department disregarded home market below-cost sales that failed the cost test in the final results of review.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made certain changes in the margin calculation, as discussed in the *Decision Memorandum,* accessible in B–099. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum,* is attached to this notice as Appendix I.

Final Results of the Review

We determine that the following percentage weighted-average margin exists for the period June 1, 1999 through May 31, 2000:

CERTAIN WELDED STAINLESS STEEL PIPE

Producer/manufacturer/exporter	Weighted-average margin (percent)
Ta Chen	6.11

The Department shall determine, and the U.S. Customs Service (''Customs'') shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated importer-specific assessment rates. With respect to the constructed export price sales, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct Customs to assess any resulting non-de minimis percentage margins against the entered Customs values for the subject merchandise on each of that importer's entries during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of certain SSBWPF from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Ta Chen will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers shall continue to be 51.01 percent.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: December 10, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

Discussion of the Issues

Comment 1: Intra-Warehouse Transfer Expenses
Comment 2: Level of Trade (''LOT'')/CEP Offset
Comment 3: CEP Profit
Comment 4: CEP Sales Expenses
Comment 5: U.S. Short-Term Interest Rate
Comment 6: U.S. Inventory Carrying Period
Comment 7: U.S. Indirect Selling Expenses
Comment 8: United States Indirect Selling Expenses
Comment 9: General and Administrative

Expenses
Comment 10: Reclassification of EP sales to CEP sales

[FR Doc. 01–31399 Filed 12–20–01; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–427–819]

Notice of Final Affirmative Countervailing Duty Determination: Low Enriched Uranium From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final affirmative countervailing duty determination.

SUMMARY: On May 14, 2001, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation on low enriched uranium (subject merchandise) from France for the period January 1, 1999 through December 31, 1999.

The net subsidy rate in the final determination differs from that of the *Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Low Enriched Uranium from France*, 66 FR 24325 (May 14, 2001) (*Preliminary Determination*). The revised final net subsidy rate for the investigated company is listed below in the ''Suspension of Liquidation'' section of this notice.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Michael Grossman at (202) 482–3146 or Richard Herring at (202) 482–4149, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Background

On May 14, 2001, the Department published the preliminary results of investigation on low enriched uranium from France. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Low Enriched Uranium from France*, 66 FR 24325 (May 14, 2001) (*Preliminary Determination*). This investigation covers low enriched uranium (subject merchandise) from France for the period January 1, 1999, through December 31, 1999.

We invited interested parties to comment on the *Preliminary Determination*. On October 22 and 23, 2001, the petitioners,[1] the Ad Hoc Utilities Group,[2] and respondent producers/exporters Eurodif, S.A. and Compagnie Generale des Matieres Nucleaires (COGEMA) filed briefs on common scope issues in the antidumping and countervailing duty investigations of LEU from France, Germany, the Netherlands and the United Kingdom. Rebuttal briefs on these common scope issues were filed on October 29, 2001, and a public hearing on the common scope issues was held on October 31, 2001. On October 26, 2001, we received comments from the petitioners and the respondents. On November 5, 2001, we received rebuttal comments from petitioners and respondents. A public hearing was held at the Department of Commerce on November 7, 2001. On or about September 28, 2001, and November 22, 2001, we received letters from the EC regarding certain issues in these investigations. On November 7, 2001, Mr. Grant Aldonas, Under-Secretary for International Trade, replied to the first letter. We invited comments on these letters, which we received from petitioners, respondents, and the Ad Hoc Utilities Group, on November 15, 2001, and November 29, 2001.

This final determination was originally due on November 26, 2001. We subsequently tolled the final determination deadline in this investigation until December 13, 2001, to accommodate certain verifications and a delayed briefing and hearing schedule that were delayed because of the events of September 11, 2001.

Amended Scope of Investigation

For purposes of this investigation, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this investigation. Specifically, this investigation does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this investigation. For purposes of this investigation, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of this investigation.

Also excluded from this investigation is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading

[1] The petitioners in this investigation are USEC, Inc. and its wholly-owned subsidiary, United States Enrichment Corporation (Collectively USEC), and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL–CIO, CLC, Local 5–550 and Local 5–689 (collectively PACE).

[2] In accordance with section 777(h) of the Act the Ad Hoc Utilities Group, whose members include: Arizona Public Service Co., Carolina Power & Light Co., Dominion Generation, Duke Energy Corp., DTE Energy, Entergy Services, Inc., Exelon Corporation, First Energy Nuclear Operating Co., Florida Power Corp., Florida Power and Light Co., Nebraska Public Power District, Nuclear Management Co. LLC (on behalf of certain member companies), PPL Susquehanna LLC, South Texas Project, Southern California Edison, Southern Nuclear Operating Co., Union Electric Company, and Wolf Creek Nuclear Operating Corp., submitted comments as industrial users of subject merchandise.

2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Scope Clarification

For further details, *see* Comment 1 of the ''*Issues and Decision Memorandum: Final Affirmative Countervailing Duty Determination: Low Enriched Uranium from France*'' (*Decision Memorandum*) from Bernard T. Carreau, Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated concurrently with this notice.

Goods Versus Services

Parties in all eight concurrent investigations of this product have submitted comments on this issue. For a full discussion see *Notice of Final Determination of Sales at Less Than Fair Value: Low Enriched Uranium from France*, which is published concurrently with this notice.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 1999 through December 31, 1999.

Verification

As provided in section 782(i) of the Act, we conducted verification on October 11 through October 17, 2001. We used standard verification procedures, including meeting with government and company officials and examining relevant accounting records and original source documents provided by the respondent. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit of the Department of Commerce (Room B–099).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) dated December 13, 2001, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at http://ia.ita.doc.gov, under the heading ''Federal Register Notices.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for Eurodif, S.A., which we have also applied to COGEMA, Eurodif's sales agent for sales made in the United States. The ''all others'' rate is the same as the rate for Eurodif/COGEMA. These rates are summarized in the table below:

Producer/exporter	Net Subsidy Rate
Eurodif, S.A. & COGEMA.	13.21% *ad valorem*.
All Others	13.21% *ad valorem*.

In accordance with our *Preliminary Determination*, we instructed the U.S. Customs Service to suspend liquidation of all entries of low enriched uranium from France, which were entered or withdrawn from warehouse, for consumption on or after May 14, 2001, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after September 11, 2001, but to continue the suspension of liquidation of entries made between May 14, 2001 and September 10, 2001.

We will reinstate suspension of liquidation under section 706(a) of the Act for all entries if the ITC issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated. If however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: December 13, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues and Decision Memorandum

Methodology and Background Information

I. *Subsidies Valuation Information*
  A. *Treatment of the Ad Valorem Rate Calculation and the Denominator*

Analysis of Programs

I. *Purchase at Prices that Constitute ''More Than Adequate Remuneration''*
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Comment 2: Petitioners' Argument that Eurodif Received Non-Recurring Benefits in the Years 1986 through 1999
Comment 3: Petitioners' Argument that a Portion of the Subsidies Related to EdF's 1999 Purchases at Prices that Constitute More than Adequate Remuneration Should be Treated as a Recurring Subsidy
Comment 4: Treatment of ''Part Energie'' Component of EdF's Price
Comment 5: Respondents' Argument that the Department's Price Comparison in the Preliminary Determination was Flawed in Other Respects
Comment 6: Tax Exemption from the GOF

[FR Doc. 01–31510 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[(C–428–829); (C–421–809); (C–412–821)]

Notice of Final Affirmative Countervailing Duty Determinations: Low Enriched Uranium From Germany, the Netherlands, and the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Affirmative Countervailing Duty Determinations.

SUMMARY: On May 14, 2001, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determinations in the countervailing duty investigations of low enriched uranium (subject merchandise) from Germany, the Netherlands, and the United Kingdom for the period January 1, 1999 through December 31, 1999 (66 FR 24329).

The net subsidy rate in the *Final Determination* differs from that of the *Preliminary Determination*. The revised final net subsidy rate for the investigated company is listed below in the ''Suspension of Liquidation'' section of this notice.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Copyak (Germany) at 202–482–2209, Stephanie Moore (the Netherlands) at 202–482–3692, and Eric B. Greynolds (United Kingdom) at 202–482–6071, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2000).

Background

On May 14, 2001, the Department published the preliminary determinations of its investigations of low enriched uranium from Germany, the Netherlands, and the United Kingdom. *See Notice of Preliminary Affirmative Countervailing Duty Determinations and Alignment with Final Antidumping Duty Determinations: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom*, 66 FR 24329 (May 14, 2001) (*Preliminary Determinations*). These investigations cover low enriched uranium (subject merchandise) from Germany, the Netherlands, and the United Kingdom for the period January 1, 1999, through December 31, 1999.

We invited interested parties to comment on the *Preliminary Determinations*. On October 22 and 23, 2001, the petitioners [1], the Ad Hoc Utilities Group,[2] and Urenco Ltd., Urenco (Capenhurst) Ltd., Urenco Nederland BV, and Urenco Deutschland GmbH (collectively, Urenco or the respondents) filed briefs on common scope issues in the antidumping and countervailing duty investigations of LEU from France, Germany, the Netherlands and the United Kingdom. Rebuttal briefs on these common scope issues were filed on October 29, 2001, and a public hearing on the common scope issues was held on October 31, 2001. On October 26, 2001, we received comments from the petitioners and the respondents. On November 5, 2001, we received rebuttal comments from petitioners and respondents. A public hearing was held at the Department of Commerce on November 7, 2001. On or about September 28, 2001, and on November 22, 2001, we received letters from the EC regarding certain issues in these investigations. On November 7, 2001, Mr. Grant Aldonas, Under-Secretary for International Trade, replied to the first letter. We invited comments on these letters, which we received from petitioners, respondents, and the Ad Hoc Utilities Group, on November 15, 2001, and November 29, 2001.

These final determinations were originally due on November 26, 2001. We subsequently tolled the final determination deadline in these investigations until December 13, 2001, to accommodate certain verifications and a delayed briefing and hearing schedule that were delayed because of the events of September 11, 2001.

Amended Scope of Investigation

For purposes of these investigations, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of these investigations. Specifically, these investigations do not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of these investigations. For purposes of these investigations, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of these investigations.

Also excluded from these investigations is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to these investigations is classified in the

[1] The petitioners in these investigations are USEC, Inc. and its wholly-owned subsidiary, United States Enrichment Corporation (collectively USEC), and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL–CIO, CLC, Local 5–550 and Local 5–689 (collectively PACE).

[2] In accordance with section 777(h) of the Act of the Ad Hoc Utilities Group, whose members include: Arizona Public Service Co., Carolina Power & Light Co., Dominion Generation, Duke Energy Corp., DTE Energy, Entergy Services, Inc., Exelon Corporation, First Energy Nuclear Orperting Co., Florida Power Corp., Florida Power and Light Co., Nebraska Public Power District, Nuclear Management Co. LLC (on behalf of certain member companies), PPL Susquehanna LLC, PSEG Nuclear LLC, South Texas Project, Southern California Edison, Southern Nuclear Operating Co., Union Electric Company, and Wolf Creek Nuclear Operating Corp., submitted comments as industrial users of subject merchandise.

Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Scope Clarification

For further details, see Comment 1 of the ''*Issues and Decision Memorandum for the Antidumping Duty Investigation of Low Enriched Uranium from Germany, Netherlands and the United Kingdom*'' (*Decision Memorandum*) from Bernard T. Carreau, Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated concurrently with this notice.

Goods Versus Services

Parties in all eight concurrent investigations of this product have submitted comments on this issue. For a full discussion *see Notice of Final Determination of Sales at Less Than Fair Value: Low Enriched Uranium from France* which is published concurrently with this notice.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 1999 through December 31, 1999.

Verification

As provided in section 782(i) of the Act, we conducted verification of the information submitted by Urenco from June 11 through June 15, 2001, in the Netherlands; June 18 through June 22, 2001, in Germany; and September 25 through October 2, 2001, in the United Kingdom. We used standard verification procedures, including meeting with government and company officials and examining relevant accounting records and original source documents provided by the respondents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit of the Department of Commerce (Room B–099).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to these investigations are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) dated December 13, 2001, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in these investigations and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at http://ia.ita.doc.gov, under the heading ''Federal Register Notices.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with sections 701(d) and 703(d)(1)(A)(i) of the Act, we have calculated a single rate for the Urenco Group with respect to exports from each of the three countries. The ''all others'' rate is the same as the rate for the Urenco Group. These rates are summarized in the table below:

Producer/exporter	Net subsidy rate
Urenco Group Ltd.	2.26 percent *ad valorem.*
All Others	2.26 percent *ad valorem.*

In accordance with our preliminary affirmative determinations, we instructed the U.S. Customs Service to suspend liquidation of all entries of low enriched uranium from Germany, the Netherlands, and the United Kingdom, which were entered or withdrawn from warehouse, for consumption on or after May 14, 2001, the date of the publication of our preliminary determinations in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after September 11, 2001, but to continue the suspension of liquidation of entries made between May 14, 2001 and September 10, 2001.

We will reinstate suspension of liquidation under section 706(a) of the Act for all entries if the ITC issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to these investigations. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publically or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, these proceedings will be terminated. If however, the ITC determines that such injury does exist, we will issue countervailing duty orders.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

These determinations are published pursuant to sections 705(d) and 777(i) of the Act.

Dated: December 13, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues and Decision Memorandum

Summary

Methodology and Background Information

I. Subsidies Valuation Information
- A. Allocation Period
- B. Benchmarks for Loans and Discount Rate
- C. Treatment of the Ad Valorem Rate Calculation and the Denominator

Analysis of Programs

I. Programs Determined to Confer Subsidies from the Government of Germany
- A. Enrichment Technology Research and Development Program
- B. Forgiveness of Centrifuge Enrichment Capacity Subsidies
- C. Investment Allowance Act

II. Program Determined To Confer Subsidies From the Government of the Netherlands
- A. Regional Investment Premium

III. Programs Determined Not to Confer a Benefit from the Government of Germany
- A. Regional Government Provision of Industrial Site

B. Regional Development Grants
IV. Programs Determined Not to Confer a Benefit from the Government of the Netherlands
A. Centrifuge Enrichment Technology Research
B. 1981 Equity Conversion
V. Programs Determined Not to Confer a Benefit from the Government of the United Kingdom
A. Regional Development Grants
B. Centrifuge Development Grant
C. Fossil Fuel Levy
D. Forgiveness of Decommissioning Debt
VI. Programs Determined Not Countervailable from the Government of the Netherlands
A. Subordinated Shareholder Loan Provided to Urenco Ltd. by UCN
B. 1998 Shareholder Loan
VII. Programs Determined Not Countervailable from the Government of the United Kingdom
A. Assumption of Debt: European Investment Bank Loans
B. Loan-Stock Debt Forgiveness Program
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A. Financial Assistance Under the Electricity Act of 1989
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XI. Analysis of Comments
Comment 1: Scope Clarification
Comment 2: International Consortium Provision
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Comment 5: EIB Loans
Comment 6: Regional Development Grants
Comment 7: Centrifuge Development Grant (CDG)
Comment 8: Subordinated Shareholder Loan Provided to Urenco Ltd. by INFL and UCN
Comment 9: Loan Stock Debt Forgiveness
Comment 10: Regional Investment Premiums (IPR)
Comment 11: Loan Forgiveness
Comment 12: 1981 Equity Conversion
Comment 13: Centrifuge Enrichment Technology Research and Development Programs
Comment 14: Sales Denominator of the Urenco Group
Comment 15: Investment Allowance Act
Comment 16: City and State Government Development Grants
Comment 17: Centrifuge Enrichment Capacity Subsidies
Comment 18: Enrichment Technology R&D Subsidies
Comment 19: WIR Program

[FR Doc. 01–31511 Filed 12–21–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or E-mail at oetca@ita.doc.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 88–5A012.''

The National Tooling and Machining Association's (''NTMA'') original Certificate was issued on October 18, 1988 (53 FR 43140, October 25, 1988) and previously amended on December 4, 1989 (54 FR 51914, December 19, 1989); September 2, 1993 (58 FR 47868, September 13, 1993); May 3, 2000 (65 FR 30073, May 10, 2000); and April 5, 2001 (66 FR 21335, April 30, 2001). A summary of the application for an amendment follows.

Summary of the Application

Applicant: National Tooling and Machining Association, 9300 Livingston Road, Ft. Washington, Maryland 20744.

Contact: Thomas H. Garcia, Manager, Marketing Programs, Telephone: (301) 248–6200.

Application No.: 88–5A012.

Date Deemed Submitted: December 12, 2001.

Proposed Amendment: NTMA seeks to amend its Certificate so that the attached list will constitute the ''Members'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)).

Dated: December 18, 2001.

Vanessa M. Bachman,

Acting Director, Office of Export Trading Company Affairs.

21st Century Tool & Die, Inc., Waynesboro, TN
3 M MTC, Petaluma, CA
4 Axis Machining, Inc., Denver, CO
A–1 Precision Metal Products, Phoenix, AZ
A & A Industries, Inc., Peabody, MA
A & A Machine Company, Inc., Southampton, PA
A & A Machine Shop, Inc., La Marque, TX
A & B Machine, Van Nuys, CA
A & B Machine Shop, Rockford, IL
A & B Tool & Manufacturing Corp., Toledo, OH
A & D Precision, Fremont, CA
A & E Custom Manufacturing, Technologies, Inc., Kansas City, KS
A & E Machine Shop, Inc., Lone Star, TX
A & G Machine, Inc., Auburn, WA
A & S Tool & Die Company, Inc., Kernersville, NC
A A Precisioneering, Inc., Meadville, PA
A B A Division, A B A—P G T, Inc., Manchester, CT

A B C O Tool & Engineering, Phoenix, AZ
A B Heller, Inc., Milford, MI
A B N Industrial Co., Inc., Buena Park, CA
A B R Enterprises Inc., South Pasadena, CA
A C Machine, Inc., Akron, OH
A E Cole Die & Engraving, Columbus, OH
A E Machine Works, Inc., Houston, TX
A F C Tool Company, Inc., Subsidiary of F C Industries, Dayton, OH
A I M Tool & Die, Grand Haven, MI
A M C Precision, Inc., N. Tonawanda, NY
A M Design, E. Canton, OH
A M Machine Company, Inc., Baltimore, MD
A Mfg., Redlands, CA
A S C Corporation, Owings Mills, MD
A–Line Tool & Die, Inc., Louisville, KY
A–G Tool & Die, Div. of Seilkop Industries, Inc., Miamitown, OH
A–RanD, Inc., Phoenix, AZ
A & B Aerospace, Inc., Azusa, CA
A. C. Grinding & Supply Co. Inc., Levittown, PA
A. C. Cut-Off, Inc., Azusa, CA
A+ Engineering, Ipswich, MA
Abbott Tool, Inc., Toledo, OH
Abbott Machine & Tool, Inc., Toledo, OH
Ability Tool Company, Rockford, IL
Able Wire EDM, Inc., Brea, CA
Abrams Airborne Manufacturing, Inc., Tucson, AZ
Absolute Turning & Machine, Tucson, AZ
Absolute Manufacturing, N. Chelmsford, MA
Absolute Grinding Co., Inc., Mentor, OH
Acadiana Hydraulic Works, Inc., New Iberia, LA
Accu-Roll, Inc., Rochester, NY
Accu Die & Mold Inc., Stevensville, MI
AccuCraft, New Haven, MO
Accudynamics, Inc., Middleboro, MA
Accudyne Aerospace & Defense, Palm Bay, FL
Accura Industries, Inc., Rochester, NY
Accurate Grinding & Mfg. Corp., & Accurate Fishing Products, Los Angeles, CA
Accurate Grinding Corp., Warwick, RI
Accurate Machine Co. Inc., Indianapolis, IN
Accurate Machining, Mukilteo, WA
Accurate Manufacturing Company, Glendale, CA
Accurate Products Co., Tucson, AZ
Accurate Marking Products, Inc., Pittsburgh, PA
Accurite Machine & Mfg. Inc., Louisville, KY
Accutronics, Inc., Littleton, CO
Ace Specialty Company, Inc., Tonawanda, NY
Ace Manufacturing Company, Cincinnati, OH
Ackley Machine Corporation, Moorestown, NJ
Acklin Stamping, Toledo, OH
Acme/Walton Machine & Tool, Inc., Louisville, KY
Acme Metal Works, Gilbert, AZ
ACMT, Inc. dba A C Tool & Machine, Co., Louisville, KY
Acraloc Corporation, Oak Ridge, TN
Acro Industries, Inc., Rochester, NY
Acro Tool & Die Company, Inc., Akron, OH
Actco Tool & Mfg. Co., Meadville, PA
Action Die & Tool Inc., Wyoming, MI
Action Mold & Tool Co., Anaheim, CA
Action Precision Grinding Inc., North Tonawanda, NY
Action SuperAbrasive Products, Brimfield, OH
Action Tool and Manufacturing, Inc., Rockford, IL
Action Machine L.L.C., Phoenix, AZ
Action E.D.M. & Tool Inc., Concord, NC
Acucut, Inc., Southington, CT
Acutec Precision Machining Inc., Saegertown, PA
Ada Machine Company, Inc., Santa Clara, CA
Adams Engineering, Division of Manufacturing Technology, Inc., South Bend, IN
Adaptive Technologies Inc., Springboro, OH
Addison Precision Mfg. Corp., Rochester, NY
Adena Tool Corporation, Dayton, OH
Admill Machine Company, Newington, CT
Adron Tool Corporation, Menomonee Falls, WI
Advance Manufacturing Corp., Cleveland, OH
Advance Manufacturing Technology, Salt Lake City, UT
Advanced Ceramic Technology, Orange, CA
Advanced Composite Products & Technology, Inc. (ACPT Inc.), Huntington Beach, CA
Advanced Cutting Tools, Inc., Clio, MI
Advanced Machine Programming, Morgan Hill, CA
Advanced Machining Corporation, Salisbury, NC
Advanced Measurement Labs, Inc., Sun Valley, CA
Advanced Mold & Tooling Inc., Rochester, NY
Advanced Tooling Specialists Inc., Menasha, WI
Advanced Tooling Systems, Inc., Comstock Park, MI
Advanced Product Design Specialties, Riverside, CA
Advanced Machine Inc., Rochester, NY
Advanced Precision Engineering, Ipswich, MA
Advantage Mold & Design, Meadville, PA
Aero Comm Machining, Wichita, KS
Aero Design & Manufacturing Co., Phoenix, AZ
Aero Engineering & Mfg. Company, Valencia, CA
Aero Gear, Inc., Windsor, CT
Aero Machining Company, Garden Grove, CA
Aero Mechanical Engineering, Inc., Huntington Beach, CA
Aero-Tech Engineering, Inc., Wichita, KS
Aerofab, Inc., Tucson, AZ
Aerostar Aerospace Inc., Phoenix, AZ
Aetna Machine Company, Cochranton, PA
Aggressive Tool & Die, Inc., Buckner, KY
Aggressive Tool & Die, Inc., Coopersville, MI
Agrimson Tool Company, Brooklyn Park, MN
Ahaus Tool & Engineering, Inc., Richmond, IN
Aimco Precision, Inc., Phoenix, AZ
Airmetal Corporation, Jackson, MI
Ajax Tool, Inc., Fort Wayne, IN
Akro Tool Co., Inc., Cincinnati, OH
Akron Steel Fabricators Company, Akron, OH
Akron Tool & Die Company, Inc., Akron, OH
Alart Tool & Die, Inc., Houston, TX
Albert Seisler Machine Corp., Mohnton, PA
Albertson & Hein, Inc., Wichita, KS
Albion Machine & Tool Company, Albion, MI
Alco Manufacturing, Inc., Santa Ana, CA
Alfred Manufacturing Company, Denver, CO
Alger Machine Company, Inc., Rochester, NY
Alignment Engineering Co., Inc., Knoxville, TN
ALKAB Contract Manufacturing, Inc., New Kensington, PA
All Tool Company, Union, NJ
All Tools Company, Oklahoma City, OK
All Tools Texas, Inc., Houston, TX
All Weld Machine, Milpitas, CA
All-Tech Machine & Eng., Inc., San Jose, CA
All-Tech Machining, Inc., Wilmer, AL
All Five Tool Company, Inc., Bristol, CT
Allen Precision Industries, Inc., Asheboro, NC
Allen Precision Machining Co., Angleton, TX
Allen Randall Enterprises, Inc., Akron, OH
Allen Aircraft Products, Inc., Ravenna, OH
Alliance Machine Tool Co., Inc., Louisville, KY
Allied Screw Products, Inc., Mishawaka, IN
Allied Tool & Die Company, LLC, Phoenix, AZ

Allied Tool & Die, Inc., Cleveland, OH
Allied Tool & Machine Company, Kernersville, NC
Allied Tool & Machine, Inc., Saginaw, MI
Allied Tools Of Texas, Houston, TX
Allied Mechanical Products, Ontario, CA
Alloy Metal Products, Hayward, CA
Allstate Tool & Die, Inc., Rochester, NY
Almar Mfg. & Engineering, Inc., Garden Valley, CA
Alpha Mold, LLC, Huber Heights, OH
Alpha Precision Machining Inc., Kent, WA
Alpha Tool & Machine Company, Bellmawr, NJ
Alpha Tooling, Inc., Santa Fe Springs, CA
Alpha Mold West Inc., Broomfield, CO
Alpine Precision, Inc., North Billerica, MA
Alro Specialty Metals, St. Louis, MO
Alt's Tool & Machine, Inc., Santee, CA
Alton Products, Inc., Maumee, OH
Alves Precision Engineered, Products Inc., Watertown, CT
AMA Plastics, Corona, CA
Amatrol, Inc., Jeffersonville, IN
Ambel Precision Mfg. Corp., Bethel, CT
American Mfg. & Machining, Inc., Racine, WI
American Precision Machining, Inc., Phoenix, AZ
American Precision Technologies, Inc., San Fernando, CA
American Tool & Die, Inc., Toledo, OH
American Wire EDM, Inc., Orange, CA
American Metal Masters, Inc., Plantsville, CT
American Machine & Gundrilling,Co., Inc., Maple Grove, MN
Amerimold, Inc., Mogadore, OH
Ameritech Die & Mold, Inc., Mooresville, NC
Amity Mold Company, Tipp City, OH
AMS Production Machining Inc., Plainfield, IN
Anchor Tool & Die Company, Cleveland, OH
Anchor Lamina Inc., Madison Heights, MI
Anders Machine and Engraving, Div. of Ad-Tech Machine & Tool, Rochester, NY
Anderson Tool & Engineering Co., Inc., Anderson, IN
Andrew Tool Company, Inc., Plymouth, MN
Anglo-American Mold, Inc., Louisville, KY
Anmar Precision Components Inc., North Hollywood, CA
Anmark Machine, Tempe, AZ
Anoplate Corporation, Syracuse, NY
Apex Tool & Manufacturing, Inc., Evansville, IN
Apex Precision Technologies, Inc., Camby, IN
Apex Machine Company, Ft. Lauderdale, FL
Apex Machine Tool Company, Farmington, CT
Apollo Products Inc., Willoughby, OH
Apollo E.D.M. Company, Fraser, MI
Apollo Precision, Inc., Plymouth, MN
Applegate EDM, Inc., Dallas, TX
Applied Technology Manufacturing, Corp., Owego, NY
Applied Technology Manufacturing, Inc., Rochester, NY
Applied Engineering, Inc., Yankton, SD
AR Industries Inc., Cincinnati, OH
Aram Precision Tool & Die, Inc., Chatsworth, CA
Arc Drilling Inc., Garfield Heights, OH
Arca Systems, Tacoma, WA
Arco Metals Corporation, Baltimore, MD
Arco Industries, Inc., Dayton, OH
Ardekin Machine Company, Rockford, IL
Area Tool & Manufacturing, Inc., Meadville, PA
Aremco, Inc., Grand Rapids, MN
ARG Manufacturing Corp., Arlington, TX
Argo Tool Corporation, Twinsburg, OH
Aries Tool, Inc., New Berlin, WI
Arkansas Tool & Die, Inc., North Little Roc, AR
Arlington Machine & Tool Company, Fairfield, NJ
Arma Tool & Die Company, Inc., Ridgefield, CT
Armin Tool & Manufacturing Co., Inc., South Elgin, IL
Armstrong-Blum Mfg. Co., Mt. Prospect, IL
Armstrong Machine Works, Inc., Rogersville, TN
Armstrong Mold, Machining Div., East Syracuse, NY
Armstrong Technology, Inc., Sunnyvale, CA
Arnett Tool, Inc., New Paris, OH
Arnette Pattern Company/Midwest, Machining & Fabricating, Granite City, IL
Arrington Supply House, Inc., Tuscaloosa, AL
Arro Tool & Die, Inc., Lakewood, NY
Arrow Grinding, Inc., Tonawanda, NY
Arrow Diversified Tooling, Inc., Ellington, CT
Arrow Sheet Metal Products Co., Denver, CO
Arthur J. Evers Corporation, Riverton, NJ
Artisan Machining, Inc., Bohemia, NY
Artisan Associates, Detroit, MI
Ascension Industries, North Tonawanda, NY
Ash Machine Corporation, Pataskala, OH
Aspen Precision Technologies, Inc., Petaluma, CA
Associated Toolmakers, Inc., Keokuk, IA
Associated Technologies, Brea, CA
Associated Electro-Mechanics, Inc., Springfield, MA
Astley Precision Machine Co., Irwin, PA
Astro Machine Works Inc., Ephrata, PA
Astro Automation, Inc., Irwin, PA
Astrotronics Inc., Mesa, AZ
Atec Engineering, Phoenix, AZ
Athens Industries, Southington, CT
Atkins Tool Company, Riverton, NJ
Atlantic Tool & Die Company, Strongsville, OH
Atlantic Precision Products Inc., Sanford, ME
Atlas Tool, Inc., Roseville, MI
Atlas Machine & Supply, Inc., Louisville, KY
August Machine, Inc., Phoenix, AZ
Austin Machine Company Inc., O'Fallon, MO
Austro Mold Incorporated, Rochester, NY
Autocam Corporation, Kentwood, MI
Automated EDM Incorporated, Ramsey, MN
Automated Cells & Equipment, Inc., Painted Post, NY
Automatic Stamp Products, Inc., Cleveland, OH
Automation Technology, Inc., St. Louis, MO
Automation Tool & Die, Inc., Brunswick, OH
Automation Tool Company, Cookeville, TN
Avanti Engineering & Manufacturing, Inc., Greensburg, PA
Axian Technology, Phoenix, AZ
Axis Mfg. Inc., Tempe, AZ
Ay-Mac Precision, Inc., Yorba Linda, CA
Ay Machine Company, Ephrata, PA
b & b Tool Company, Inc., Rockford, IL
B & A Design Inc., Vernon, CT
B & B Machine & Grinding Service, Denver, CO
B & B Manufacturing Company, Largo, FL
B & B Precision Mfg., Inc., Avon, NY
B & E Tool Company, Inc., Southwick, MA
B & G Quality Machine & Tool,Company, Inc., Baltimore, MD
B & H Fabricators, Inc., Wilmington, CA
B & H Tool Co. Inc., San Marcos, CA
B & H Tool Works, Inc., of Rockcastle Co., Richmond, KY
B & K Engineering, Inc., Mountain View, CA
B & L Tool and Machine Company, Plainville, CT
B & M Machine Corporation of Racine, Racine, WI
B C D Metal Products Inc., Malden, MA
B J Williams Machining Co., Edinboro, PA
B-W Grinding Service, Inc., Houston, TX
B. Radtke & Sons, Inc., Round Lake Park, IL
Bachman Machine Company, Inc., St. Louis, MO

Bachmann Precision Machine, Products Corp., South El Monte, CA
Badge Machine Products, Inc., Canandaigua, NY
Bahrs Die & Stamping Company,Inc., Cincinnati, OH
Baker Hill Industries, Inc., Coral Springs, FL
Banner Machine Inc., Phoenix, AZ
Barberie Mold, Gardena, CA
Bardons & Oliver, Inc., Solon, OH
Barile Precision Grinding Inc., Cleveland, OH
Barnes Aerospace-Apex Mfg., Phoenix, AZ
Basic VI, San Jose, CA
Bass Machining Inc., Baltimore, MD
Bateman Manufacturing Co., Inc., Hayward, CA
Baumann Engineering, Claremont, CA
Bawden Industries, Inc., Romulus, MI
Baxter Machine Products, Inc., Huntingdon, PA
Bayport Machine, Inc., La Porte, TX
Beach Mold & Tool, Inc., New Albany, IN
Beacon Tool Company, Inc., Whittier, CA
Beaver Tool & Machine Company, Inc., Feasterville, PA
Bechler Cams, Inc., Anaheim, CA
Becker, Inc., Kenosha, WI
Beckett Gas, Inc., North Ridgeville, OH
Becksted Machine, Inc., Tucson, AZ
Bedard Machine, Inc., Brea, CA
Bel-Kur, Inc., Temperance, MI
Belco Tool & Mfg. Inc., Meadville, PA
Belgian Screw Machine Products, Inc., Concord, MI
Bell Engineering, Inc., Saginaw, MI
Bellco Precision Manufacturing, Inc., Melissa, TX
Beloit Precision Die Co. Inc., Beloit, WI
Benchmark Engineering, Inc., Chandler, AZ
Benda Tool & Model Works, Hercules, CA
Bendon Gear Machine, Rockland, MA
Bennett Tool & Die Company, Nashville, TN
Bennett Tool & Machine, Fremont, CA
Benning Inc., Blaine, MN
Bent River Machine Inc., Clarkdale, AZ
Berman Tool & Die, Waldorf, MD
Bermar Associates, Inc., Troy, MI
Bertram Tool & Machine Co., Inc., Farrell, PA
Bertrand Products, Inc., South Bend, IN
Best Tool & Manufacturing Co., Inc., Kansas City, MO
Best Way Stamping Inc., La Mirada, CA
Bestway Industries, Inc., Cleveland, OH
Beta Machine Co. Inc., Cleveland, OH
Beta Tool & Mold/Dyna-Tech, Wadsworth, OH
Bilar Tool & Die Corporation, Warren, MI
Billet Industries, Inc., York, PA
Bishop Steering Technology, Inc., Indianapolis, IN
Black Creek, Inc., Gadsden, AL
Blackburn Melton Mfg. Company, Houston, TX
Blackwood Grinding Inc., Hurst, TX
Blandford Machine & Tool Co., Inc., Louisville, KY
Blue Chip Mold, Inc., Rochester, NY
Blue Chip Tool Company, Inc., New Castle, PA
Bluegrass Forging, Tool & Die, Shelbyville, KY
bmc Industries, Bakersfield, CA
BMCO Industries Inc., Cranston, RI
Bob's Tool & Cutter Grinding, Inc., Indianapolis, IN
Boice Industrial Corporation, Ruffsdale, PA
Bolt Industries, LLC., Phoenix, AZ
Boring, Inc., Rockford, IL
Bosma Machine & Tool, Corporation,Tipp City, OH
Boss Tool and Manufacturing, Inc., Fremont, CA
Boston Centerless Inc., Woburn, MA
Bourdelais Grinding Co., Inc., Chatsworth, CA
Bowden Manufacturing Corp., Willoughby, OH
Boyce Machine, Inc., Cuyahoga Falls, OH
Boyle, Inc., Freeport, PA
BPS Industries Inc., Baltimore, MD
Bra-Vor Tool & Die Company, Inc., Meadville, PA
Bradford Machine Company Inc., Brattleboro, VT
Bradhart Products, Inc., Brighton, MI
Bramko Tool & Engineering, Inc., O'Fallon, MO
Bratt Machine Company Inc., No. Andover, MA
Brij Systems, Wichita, KS
Brimar Products Inc., Fontana, CA
Brinkman Tool & Die, Inc., Dayton, OH
Britt Tool Inc., Brazil, IN
Brittain Machine, Inc., Wichita, KS
Broadway Companies, Inc., Englewood, OH
Brogdon Tool & Die, Inc., Blue Springs, MO
Brookfield Machine, Inc., West Brookfield, MA
Brooklyn Scraping & Re-Machining, Inc., W. Lafayette, IN
Brooklyn Machine & Mfg. Co. Inc., Cuyahoga Heights, OH
Brown-Covey, Inc., Kansas City, MO
Brownes' Machining, LLC., Sharon, TN
Brownstown Quality Tool & Design, Brownstown, IN
BSB Products Corporation, Buffalo, NY
BT Laser, Inc., Santa Clara, CA
Budney Overhaul & Repair, LTD., Berlin, CT
Buerk Tool & Machine Corporation, Buffalo, NY
Buiter Tool & Die, Inc., Grand Rapids, MI
Bundy Manufacturing Inc., El Segundo, CA
Burckhardt America, Inc., Greensboro, NC
Burco Precision Products, Inc., Denton, TX
Burger Engineering, Inc., Olathe, KS
Burgess Brothers, Inc., Canton, MA
Burton Industries Inc., Mentor, OH
C & C Machine Company, Akron, OH
C & C Manufacturing Corporation, Englewood, CO
C & G Machine & Tool Co., Inc., Granby, MA
C & J Industries Inc., Meadville, PA
C & M Machine Products, Inc., Willoughby, OH
C & R Manufacturing, Inc., Shawnee, KS
C & S Machine & Manufacturing, Corporation, Louisville, KY
C A R Engineering & Mfg., Victor, NY
C B Enterprises, Division of Whiteledge, Inc., Manchester, CT
C B Kaupp & Sons, Inc., Maplewood, NJ
C B S Manufacturing Company, Inc., Windsor, CT
C D M Tool & Mfg. Co., Inc., Hartford, WI
C F A Company, Inc., Milford, CT
C J Winter Machine Technologies, Inc., Rochester, NY
C K Tool, Harborcreek, PA
C M Gordon Industries Inc., Santa Fe Springs, CA
C M Industries, Inc., d/b/a Custom Marine, Inc., Old Saybrook, CT
C N C Machine & Engineering, Corporation, Colorado Springs, CO
C N C Precision Machining, Inc., Comstock Park, MI
C T D Machines, Inc., Los Angeles, CA
C V Tool Company, Inc., Southington, CT
C–P Mfg. Corp., Van Nuys, CA
C & C Precision Machining Inc., Mesa, AZ
C–Axis Inc., Hamel, MN
C. G. Tech, Inc., Phoenix, AZ
C.N.C. Tool & Mold, Naples, FL
Caco Pacific Corporation, Covina, CA
Cadco Program & Machine, St. Charles, MO
Cal-Weld, Fremont, CA
Calder Machine Co. (C M C), Florence, SC
California Mold, Fullerton, CA
California Machine Specialties, Chino, CA
Calmax Technology, Inc., Santa Clara, CA
Cambridge Specialty Company, Inc., Kensington, CT
Cambridge Tool & Die Corp., Cambridge, OH
Cameron Machine Shop, Inc., Richardson, TX
Campbell Grinding & Machine, Inc., Lewisville, TX
Campro Manufacturing, Inc., Phoenix, AZ
CamTech Systems Inc., Alhambra, CA

Canto Tool Corporation, Meadville, PA
Capitol Technologies, Inc., South Bend, IN
Capitol Tool & Die, L. P., Madison, TN
Carbi-Tech, Inc., Vandergrift, PA
Carbide Probes, Inc., Dayton, OH
Carboloy Inc., Warren, MI
Cardinal Machine Company, Inc., Strongsville, OH
Carius Tool Co., Inc., Cleveland, OH
Carlin Machine Company, Inc., Southborough, MA
Carlson Capital Manufacturing Co., Rockford, IL
Carlson Tool & Manufacturing, Corp., Cedarburg, WI
Casale Engineering, Santa Fe Springs, CA
Cascade Mold & Die, Inc., Portland, OR
Cass Screw Machine Products, Company, Brooklyn Center, MN
Catalina Tool & Mold, Inc., Tucson, AZ
Cates Machine Shop, Inc., Tyler, TX
Cavalry Precision Machine Inc., Largo, FL
CB Quality Machining & Engineering Inc., Buffalo, MN
CDL Manufacturing, Inc., Rochester, NY
Cee-San Machine & Fabrication, Co., Inc., Houston, TX
Centaur Tool & Die, Inc., Bowling Green, OH
Centennial Technologies, Inc., Saginaw, MI
Center Line Industries, Inc., West Springfield, MA
Center Line Machine Company, Lafayette, CO
Center Line Tool, Freeport, PA
Central Mass. Machine, Inc., Holyoke, MA
Central States Machine Service, Elkhart, IN
Central Tool & Machine Co., Inc., Bridgeport, CT
Central Tools, Inc., Cranston, RI
Century Die Company, Fremont, OH
Century Mold Company, Inc., Rochester, NY
Century Tool & Engr., Inc., Indianapolis, IN
Certified Grinding & Machine, Inc., Rochester, NY
Certified Industries, II, LLC, Phoenix, AZ
CG Manufacturing Company,Willoughby, OH
Chadakoin Interactive, Rochester, NY
Challenger Worldwide, Inc., Phoenix, AZ
Chalmers & Kubeck, Inc., Aston, PA
Chamtek Mfg., Inc., Rochester, NY
Chance Tool & Die Co., Inc., Cincinnati, OH
Chandler Tool & Design Inc., Rockford, IL
Chapman Engineering, Inc., Santa Ana, CA
Charmilles Technologies, Corporation, Lincolnshire, IL
Chase Machine & Mfg. Co., Rochester, NY
Chelar Tool & Die, Inc., Belleville, IL
Cherokee Industries, Hampshire, IL
Cherry Valley Tool & Machine Inc., Belvidere, IL
Chicago Mold Engineering Co., Inc., St. Charles, IL
Chicago Grinding & Machine Co., Melrose Park, IL
Chickasha Manufacturing Company, Inc., Chickasha, OK
Chippewa Tool & Manufacturing Co., Woodville, OH
CHIPSCO, Inc., Meadville, PA
Chopper Guys Biker Products, Inc.,Vallejo, CA
Christie Manufacturing, Inc., Gainesville, TX
Christopher Tool & Manufacturing, Solon, OH
Cindex Industries Inc., Ludlow, MA
Circle-K-Industries, K-Form Inc., Sterling, VA
CitiCapital Dealer Finance, Kennesaw, GA
Clarion Tech. Caledonia Tool, Caledonia, MI
Clark-Reliance Corporation, Strongsville, OH
Clark Automation Manufacturing, Company, Inc., Pleasanton, CA
Clarke Engineering, Inc., Clarke Gear Co., North Hollywood, CA
Class Machine & Welding, Inc., Akron, OH
Classic Tool, Inc., Macedonia, OH
Classic Tool, Inc., Saegertown, PA
Clay & Bailey Mfg. Co., Kansas City, MO
Cleveland Electric Laboratories, Company, Inc., Twinsburg, OH
Clifton Automatic Screw, Machine Products, Inc., Lake City, PA
Cloud Company, San Luis Obispo, CA
CNC Precision Manufacturing, Inc., Farmers Branch, TX
Coast Cutters Company, Inc., South El Monte, CA
Coastal Machine Company, Branford, CT
Cobak Tool & Manufacturing Co., St. Louis, MO
Coffey Associates, Washington, DC
Coil Pro Machinery, Southington, CT
Colbrit Manufacturing Co., Inc., Chatsworth, CA
Collins Machine Works, Inc., Wellford, SC
Collins Machine & Tool Co., Inc., Madison, TN
Collins Instrument Company, Angleton, TX
Colonial Machine Company, Kent, OH
Colonial Machine & Tool Co., Inc., Coventry, RI
Colorado Surface Grinding, Inc., Denver, CO
Colorado Laser Marking, Inc., Colorado Springs, CO
Columbia Products, Inc., Dallastown, PA
Columbia Machine Works, Inc., Columbia, TN
Comac Manufacturing Corporation, Oroville, CA
Comet Tool, Inc., Hopkins, MN
Comfab, Inc., Spartanburg, SC
Command Tooling Systems, Ramsey, MN
Commerce Grinding, Inc., Dallas, TX
Commercial Grinding Services, Inc., Cleveland, OH
Commonwealth Machine Co., Inc., Danville, VA
Competition Tooling, Inc., High Point, NC
Competitive Engineering Inc., Tucson, AZ
Complete Tool & Die, Inc., St. James, MO
Complete Metal Fabrication, Jeffersonville, IN
Composidie, Inc., Apollo, PA
Compu Die, Inc., Wyoming, MI
Compumachine Incorporated, Wilmington, MA
Computech Manufacturing Co., Inc., North Kansas City, MO
Computerized Machining Service, Inc., Englewood, CO
Concept Tool & Die Company, Euclid, OH
Conco Systems, Inc., Verona, PA
Condor Engineering, Inc., Colorado Springs, CO
Connecticut Jig Grinding, Inc., New Britain, CT
Connelly Machine Works, Santa Ana, CA
Connolly Tool & Machine Co., Dallas, TX
Conroy & Knowlton, Inc., Los Angeles, CA
Consolidated Mold & Mfg. Inc., Kent, OH
Conti Tool & Die Company, Akron, OH
Conti Machine Tool Company, Inc., Haverhill, MA
Continental Tool & Manufacturing, Inc., Lenexa, KS
Continental Tool & Machine, Strongsville, OH
Continental Precision, Inc., Phoenix, AZ
Converse Industries Inc., Kenosha, WI
Cook Technologies, Inc., Green Lane, PA
Cook Machine and Engineering, Corporation, Gardena, CA
Coorstek, Livermore, CA
Coosa Machine Company, LLC, Rainbow City, AL
Corbitt Mfg. Company, St. Charles, MO
Cornerstone Screw Machine, Products, Burbank, CA
Cornerstone Design, Franksville, WI
Corning Gilbert Inc., Glendale, AZ
Corrigan Manufacturing Co., Inc., Rockford, IL

Corrugated Roller & Machine Inc., Santa Fe Springs, CA
Corry Custom Machine, Corry, PA
Cosar Mold, Inc., Brimfield, OH
Costa Machine, Inc., Akron, OH
Country Machine & Tool, Inc., Tipp City, OH
Covert Manufacturing, Inc., Galion, OH
Cox Tool Company, Inc., Excelsior Spring, MO
Cox Mfg. Co. Inc., San Antonio, TX
CPC Tooling Technologies, Columbus, OH
Craftsman Tool & Mold Company, Aurora, IL
Craig Machinery & Design, Inc., Louisville, KY
Creative Precision, West,Phoenix, AZ
Creative Machining & Mfg., Inc., St. Petersburg, FL
Creb Engineering, Inc., Pascoag, RI
Crenshaw Die & Manufacturing, Corp., Irvine, CA
Crest Manufacturing Company, Lincoln, RI
Criterion Tool & Die, Inc., Brook Park, OH
Critical Operations, Inc., Santa Ana, CA
Crosrol, Inc., Greenville, SC
Cross Tool & Manufacturing, Inc., Flagstaff, AZ
Crossland Machinery, Kansas City, MO
CrossRidge Precision, Oak Ridge, TN
Crown Mold & Machine, Streetsboro, OH
Crown Machine, Inc., Rockford, IL
Crucible Materials Corporation, Camillus, NY
Crush Master Grinding Corp., Walnut, CA
Custom Mold & Design, Inc., Plymouth, MN
Custom Tool & Design, Inc., Erie, PA
Custom Tool & Grinding Inc., Washington, PA
Custom Tool & Model Corp., Frankfort, NY
Custom Machine, Inc., Cleveland, OH
Custom Machine, Inc., Woburn, MA
Custom Gear & Machine, Inc., Rockford, IL
Custom Engineering, Inc., Evansville, IN
Custom Metal Cutting, Inc., Rockwall, TX
Cut-Right Tools Corporation, Willoughby, OH
Cutting Edge Manufacturing, Scottsdale, AZ
Czech Tool, Saegertown, PA
D & B Industries, Inc., Dayton, OH
D & H Manufacturing Company, Fremont, CA
D & J Precision Machining, Inc., Hayward, CA
D & K Industries, Inc., Chatsworth, CA
D & N Precision, Inc., San Jose, CA
D & R Precision Machining, San Jose, CA
D & S Manufacturing Corporation, Southwick, MA
D M E Company, Madison Heights, MI
D M Machine & Tool, Kennerdell, PA
D M Machine Company, Inc., Willoughby, OH
D P I, Inc., Huntingdon Vly, PA
D P Tool & Machine Inc., Avon, NY
D S A Precision Machining, Inc., Livonia, NY
D S Greene Company, Inc., Wakefield, MA
D–Velco Manufacturing, Phoenix, AZ
D–K Manufacturing Corporation, Fulton, NY
D. F. O'Brien Precision Machining, & Tooling, Santa Fe Springs, CA
Daca Machine & Tool, Inc., Dutzow, MO
DaCo Precision Manufacturers, Sandy, UT
Dadeks Machine Works Corporation, Houston, TX
Daily Industrial Tools, Costa Mesa, CA
Dan McEachern Company, Alameda, CA
Dan's Precision Grinding, and Thread Rolling, Sun Valley, CA
Danco Precision, Inc., Phoenixville, PA
Dane Systems, Inc., Stevensville, MI
Danly IEM, Div. of Connell Ltd. Partnership, Cleveland, OH
Data Mold & Tool, Inc., Walbridge, OH
Data Machine, Inc., Adamsburg, PA
Datum Industries, Kentwood, MI
David Engineering & Mfg., Corona, CA
Davis Machine & Manufacturing, Company, Arlington, TX
Davken Inc., Brea, CA
Dayton Reliable Tool & Mfg. Co., Dayton, OH
Dayton Progress Corporation, West Carrollton, OH
De Long Manufacturing Co., Inc., Santa Clara, CA
De-Lux Mold & Machine, Inc., Brady Lake, OH
Dearborn Precision Tubular, Products, Inc., Fryeburg, ME
Deck Brothers, Inc., Buffalo, NY
Deep Holdings, Inc., dba Deephole Machine, Houston, TX
Defiance Innovations Ltd., Company, Earth City, MO
Dekalb Tool & Die, Inc., Tucker, GA
DeKing Screw Products Inc., Burbank, CA
Delco Machine & Gear, No. Long Beach, CA
Delco Corporation, Akron, OH
Dell Tool, Penfield, NY
Delltronics, Inc., Englewood, CO
Delta Machining, Inc., Niles, MI
Delta Tech, Inc., Mentor, OH
Delta Machine & Tool Company, Cleveland, OH
Deltron Engineering, Burbank, CA
Demaich Industries, Inc., Johnston, RI
Dependable Tool & Manufacturing, Co., Cleveland, OH
Dependable Machine Company, Inc., Indianapolis, IN
Desert Precision Mfg., Inc.,Tucson, AZ
Designs For Tomorrow, Inc., St. Louis, MO
Detroit Tool & Engineering Co., Lebanon, MO
Deutsch ECD, Hemet, CA
Devtek Engineering & Manufacturing, Colorado Springs, CO
Di-Matrix, Phoenix, AZ
Dial Machine Company, Andalusia, PA
Diamond Lake Tool, Inc., Anoka, MN
Diamond Machine Works, Inc., Seattle, WA
Diamond Tool & Die Co., Inc., Euclid, OH
Diamond Tool & Engineering, Inc., Bertha, MN
Die Cast Die and Mold, Inc., Perrysburg, OH
Die Dimensions, Kentwood, MI
Die Products Company, Minneapolis, MN
Die Quip Corp., Bethel Park, PA
Die Tech Industries, Ltd., Providence, RI
Die-Matic Corporation, Brooklyn Heights, OH
Die-Matic Tool and Die, Inc., Grand Rapids, MI
Die-Mension Corporation, Brunswick, OH
Die-Namic Inc., Taylor, MI
Die Solutions, Inc., Washington, MO
Die-Namic Tool & Mfg., Inc., Rockford, IL
Diemaster Tool & Mold, Inc., Macedonia, OH
Dietooling, Div. of Diemolding, Wampsville, NY
Digital Tool & Die, Inc., Grandville, MI
Dimac Manufacturing Co., Inc., Alexander, AR
Distefano Tool & Mfg. Company, Omaha, NE
Distinctive Machine Corporation, Grand Rapids, MI
Diversified Engraving Stamp, & Machine Company, Akron, OH
Diversified Manufacturing, Incorporated, Lockport, NY
Diversified Tool & Die,Vista, CA
Diversified Tool, Inc., Mukwonago, WI
Diversified Tooling Innovations, Inc., Racine, WI
Diversified Machine Products, LLC., Roebuck, SC
Dixie Tool & Die Co., Inc., Gadsden, AL
Dixon Automatic Tool, Inc., Rockford, IL
DJM Mfg., Sunnyvale, CA
Double D Machine & Tool Company, Fremont, OH
Douglas Machine & Engineering Co., Davenport, IA
Doyle Manufacturing, Inc., Holland, OH
Drabik Tool and Die Inc., Brook Park, OH
Drewco Corporation, Franksville, WI
Drill Masters Inc., Hamden, CT
DT Scheu & Kniss, Louisville, KY
Du-Well Grinding Company, Inc., Milwaukee, WI

Dugan Tool & Die, Inc., Cottage Hills, IL
Dugan Tool & Die Company, Toledo, OH
Dukowitz Machine Inc., Nikiski, AK
Dun-Rite Industries, Inc., Monroe, MI
Dunn & Bybee Tool Company, Inc., Sparta, TN
Duplicate Parts Company, Inc., San Marcos, CA
Dura-Metal Products Corporation, Irwin, PA
Durivage Pattern & Mfg. Co. Inc., Williston, OH
DuWest Tool & Die, Inc., Cleveland, OH
Dwyer Instruments Inc., W E Anderson Division, Grandview, MO
DynaGrind Precision, Inc., New Kensington, PA
Dynamic Tool & Design, Inc., Menomonee Falls, WI
Dynamic Machine & Fabricating, Phoenix, AZ
Dynamic Fabrication, Inc., Santa Ana, CA
Dynamic Engineering, Inc., Minneapolis, MN
Dysinger Incorporated, Dayton, OH
Dytran Instruments, Inc., Chatsworth, CA
E & S Precision Machine, LLC, Modesto, CA
E B & Sons Machine Inc., Aliquippa, PA
E C M Of Florida, Jupiter, FL
E J Codd Co. of Baltimore City & Codd Fabricators & Boiler Co., Inc., Baltimore, MD
E K L Machine Company, Inc., Andalusia, PA
E R C Concepts Company, Inc., Sunnyvale, CA
E W Johnson Company, Inc., Lewisville, TX
E-M-Solutions, Inc., Fremont, CA
E-Fab, Inc., Santa Clara, CA
E. D. M. Exotics, Inc., Hayward, CA
E. T. Precision Optics Inc., Rochester, NY
Eagle Mold Company, Inc., Carlisle, OH
Eagle Technologies Group, St. Joseph, MI
Eagle Tool & Machine Company, Inc., Springfield, OH
Eagle Precision Tooling Inc., Erie, PA
Eason & Waller, Manufacturing & Grinding, Phoenix, AZ
East Coast Tool & Mfg., Inc., Orchard Park, NY
East Side Machine, Inc., Webster, NY
East Texas Machine Works, Inc., Longview, TX
Eaton Manufacturing, Inc., Fremont, CA
Ebway Corporation, Fort Lauderdale, FL
Eckert Enterprises Ltd., Tempe, AZ
Eckert Machining, Inc., San Jose, CA
Eclipse Mold, Inc., Clinton Township, MI
Eclipse Tool & Die, Inc., Wayland, MI
Edco, Inc., Toledo, OH
Edge-Tech, Inc., Redmond, WA
EDM Supplies, Inc., Downey, CA
Edwardsville Machine & Welding, Company, Inc., Edwardsville, IL
Efficient Die & Mold Inc., Cleveland, OH
Egli Machine Company, Inc., Sidney, NY
Ehlert Tool Co., Inc., New Berlin, WI
Ehrhardt Tool & Machine Company, Granite City, IL
Eicom Corporation, Moraine, OH
EISC/CME, Toledo, OH
Ejay's Machine Co., Inc., Fullerton, CA
Elcam Tool & Die, Inc., Wilcox, PA
Electra Form Industries Inc., Vandalia, OH
Electric Enterprise Inc., Stratford, CT
Electro-Mechanical Products, Inc., Denver, CO
Electro-Tech Machining, Long Beach, CA
Electro-Freeto Manufacturing Co., Inc., Wayland, MA
Electro Form Corporation, Binghamton, NY
Electroform Co. Inc., Machesney Park, IL
Elite Tool & Machinery Systems, Inc., O'Fallon, MO
Elizabeth Carbide Die Co., Inc., McKeesport, PA
Elizabeth Carbide of North, Carolina, Inc., Lexington, NC
Elkhart Machine Group, Elkhart, IN
Elliot Tool & Manufacturing Co., St. Louis, MO
Elliott's Precision, Inc., Peoria, AZ
Ellis Tool & Machine, Inc., Tom Bean, TX
Ellis Machine and Fabrication Inc., Buffalo, NY
Ellison Machine Company, Laurens, SC
Elrae Industries, Alden, NY
Emig Machine and Tool, Warwick, PA
Emmert Welding & Manufacturing, Inc., Independence, MO
Empire Manufacturing Corporation, Bridgeport, CT
Empire Die Casting Co., Inc., Macedonia, OH
Engineered Pump Services, Inc., Pasadena, TX
Engineered Machine Tool, Inc., Wichita, KS
Entek Corporation, Norman, OK
Entela, Inc., Grand Rapids, MI
Enterprise Tool & Die, Brooklyn Heights, OH
Ephrata Precision Parts, Inc., Denver, PA
Epicor Software Corporation, Minneapolis, MN
Erca Tool Die & Stamping Company, Richmond Hill, NY
Erickson Tool & Machine Company, Rockford, IL
Erie Specialty Products, Inc., Erie, PA
Erie Shore Machine Co., Inc., Cleveland, OH
Ermco, Inc., Cleveland, OH
EROWA Technology Inc., Arlington Hts., IL
Estee Mold & Die, Inc., Dayton, OH
Esterle Mold & Machine Co., Stow, OH
Estul Tool & Manufacturing Co., Inc., Matthews, NC
Evans Tool & Die, Inc., Conyers, GA
Ever-Ready Tool, Inc., Largo, FL
Ever Fab, Inc., East Aurora, NY
Everett Pattern and Mfg., Inc., Middleton, MA
Ewart-Ohlson Machine Company, Cuyahoga Falls, OH
EWT, Inc., Rockford, IL
Ex-Cel Machine & Tool, Inc., Louisville, KY
Exact Tool & Die, Inc., Brook Park, OH
Exact Cutting Service, Inc., Brecksville, OH
Exacta Tech Inc., Livermore, CA
Exacta Machine, Inc., Wichita, KS
Exacto, Inc. of South Bend, South Bend, IN
Excaliber Precision Machining, Peoria, AZ
Excalibur Precision Machine Co., Inc., Hampstead, NH
Excel Stamping & Manufacturing, Inc., Houston, TX
Excel Manufacturing, Inc., Valencia, CA
Excel Manufacturing Inc., Seymour, IN
Excel Machine Company, Philadelphia, PA
Excel Precision, Inc., Tempe, AZ
Executive Mold Corporation, Huber Heights, OH
Extreme Machine LLC, Phoenix, AZ
Ezell Precision Tool Company, Clearwater, FL
F & F Machine Specialties, Mishawaka, IN
F & G Tool & Die Company, Dayton, OH
F & L Tools Corporation, Corona, CA
F & S Tool, Inc., Erie, PA
F C Machine Tool & Design, Inc., Cuyahoga Falls, OH
F D T Precision Machine Co., Inc., Taunton, MA
F G A Inc., Baton Rouge, LA
F H Peterson Machine Corporation, Stoughton, MA
F K Instrument Co., Inc., Clearwater, FL
F M Machine Company, Akron, OH
F N Smith Corporation, Oregon, IL
F P Pla Tool & Manufacturing Co., Buffalo, NY
F S G Inc, Mishawaka, IN
F T T Manufacturing Inc., Geneseo, NY
F Tinker & Sons Company, Pittsburgh, PA
F W Gartner Thermal Spraying Co., Houston, TX
F-Squared, Inc., Tarentum, PA
F. S. Machining, Inc., Englewood, CO
Fab Lab, Inc., Maryland Heights, MO
Fabricast, Inc., So. El Monte, CA
Fairbanks Machine & Tool, Raytown, MO
Fairview Machine Company, Inc., Topsfield, MA
Fairway Molds, Inc., Walnut, CA

Faith Tool & Manufacturing, Inc., Willoughby, OH
Falcon Precision Machining Co., Inc., West Springfield, MA
Falls City Machine Technology, Louisville, KY
Falls Mold & Die, Inc., Stow, OH
Fame Tool & Manufacturing Co., Cincinnati, OH
FamPEC Technology LLC, Murfreesboro, TN
Fargo Machine Company, Inc., Ashtabula, OH
Farrar Corporation, Norwich, KS
Farzati Manufacturing Corp., Greensburg, PA
Fast Physics Inc., Phoenix, AZ
Faustson Tool Corp., Arvada, CO
Fay & Quartermaine Machining, Corp., El Monte, CA
Fay Tool & Die, Inc., Orlando, FL
FCMP, Inc., Buffalo, NY
Feedall, Inc., Willoughby, OH
Feilhauer's Machine Shop Inc., Cincinnati, OH
Feller Tool Co., Inc., Elyria, OH
Fenton Manufacturing, Inc., Ashtabula, OH
Fenwick Machine & Tool, Piedmont, SC
Feral Productions LLC., Newark, CA
Ferriot Inc., Akron, OH
First International Bank, Hartford, CT
Fischer Precision Spindles, Inc., Berlin, CT
Fischer Tool & Die Corporation, Temperance, MI
Fitzwater Engineering Corp., Scituate, RI
Five Star Tool Company, Inc., Rochester, NY
Fleck Machine Company, Inc., Hanover, MD
Foresight Technologies, Tempe, AZ
Forster Tool & Mfg. Inc., Bensenville, IL
Fortner & Gifford, Inc., Prescott, AZ
Fostermation Inc., Meadville, PA
Four Pro Machine, Wichita, KS
Fox Valley Tool & Die, Inc., Kaukauna, WI
Franchino Mold & Engineering, Lansing, MI
Frasal Tool Co., Inc., Newington, CT
Frazier Aviation, Inc., San Fernando, CA
FRB Machine Inc., Emlenton, PA
Fre-Mar Industries, Inc., Brunswick, OH
Fredon Corporation, Mentor, OH
Free-MaDie Company, Kittanning, PA
Freeport Welding & Fabricating, Inc., Freeport, TX
Fries Machine & Tool, Inc., Dayton, OH
Frost & Company, Charlestown, RI
Fulton Industries, Inc., Rochester, IN
Furno Co. Inc., Pomona, CA
Future Tool & Die Company, Inc., Cleveland, OH
Future Tool & Die, Inc., Grandville, MI
Future Fabricators, Phoenix, AZ
Fyco Tool & Die, Inc., Houston, TX
G & G Tool Company, Inc., Sidney, OH
G & K Machine Company, Denver, CO
G & L Tool Corp., Agawam, MA
G B F Enterprises, Inc., Santa Ana, CA
G B Tool Company, Warwick, RI
G H Tool & Mold, Inc., Washington, MO
G M T Corporation, Waverly, IA
G R McCormick, Inc., Burbank, CA
G S G Tool and Manufacturing, Meadville, PA
G S Precision, Inc., Brattleboro, VT
Gadsden Tool, Inc., Gadsden, AL
Gainesville Machine Tools, Inc., Gainesville, TX
Galaxy Industries, Canton, MI
Gales Manufacturing Corporation, Racine, WI
Gambar Products Company, Inc., Warwick, RI
Garcia Associates, Arlington, VA
Gasaway Manufacturing LLC, Beasley, TX
Gatco, Inc., Plymouth, MI
Gauer Mold & Machine Company, Tallmadge, OH
Gaum, Inc., Robbinsville, NJ
Gear Manufacturing, Inc., Anaheim, CA
Gebhardt Machine Works, Inc., Portland, OR
Geiger Manufacturing, Inc., Stockton, CA
Gem City Engineering Company, Dayton, OH
Gene's Gundrilling Inc., Alahambra, CA
General Aluminium Forgings, Colorado Springs, CO
General Die Engraving, Inc., Twinsburg, OH
General Engineering Company, Toledo, OH
General Grinding, Inc., Oakland, CA
General Machine Shop, Inc., Cheverly, MD
General Machine-Diecron, Inc., Griffin, GA
General Tool & Die Company, Inc., Racine, WI
Genesee Manufacturing Company, Inc., Rochester, NY
Genesee Metal Stampings, Inc., West Henrietta, NY
Genesis Plastics & Engineering, LLC, Scottsburg, IN
Genesis Manufacturing, Glendale, AZ
Gentec Manufacturing Inc., San Jose, CA
Geometric Tool & Machine Co., Inc., Piedmont, SC
George Welsch & Son Company, Cleveland, OH
German Machine, Inc., Rochester, NY
Germantown Tool & Machine, Works, Inc., Huntingdon Valle, PA
Gibbs Die Casting Corporation, Henderson, KY
Gibbs Machine Company, Inc., Greensboro, NC
Gilbert Machine & Tool Company, Greene, NY
Gill Tool & Die, Inc., Grand Rapids, MI
Gillette Machine & Tool Co Inc., Rochester, NY
Gillilan Machine Co., Inc., Mt. Juliet, TN
Girard Tool & Die/Jackburn Mfg., Inc., Girard, PA
Gischel Machine Company Inc., Baltimore, MD
Givmar Precision Machining, Mountain View, CA
Glaze Tool & Engineering, Inc., New Haven, IN
Glendale Machine Company, Inc., Solon, OH
Glendo Corporation, Emporia, KS
Glidden Machine & Tool, Inc., North Tonawanda, NY
Global Mfg. & Assembly, Inc., Boyer Machine Tech LLC, Phoenix, AZ
Global Precision, Inc., Davie, FL
Global Shop Solutions, The Woodlands, TX
GMB Machining Company, Livermore, CA
Godwin—SBO, L.P., Houston, TX
Golis Machine, Inc., Montrose, PA
Goodwin-Bradley Pattern Co., Inc., Providence, RI
Graham Tech Inc., Cochranton, PA
Granby Mold, Inc., Walled Lake, MI
Grand Valley Manufacturing,Company, Titusville, PA
Graybill's Tool & Die, Inc., Manheim, PA
Great Lakes E.D.M. Inc., Clinton Twp., MI
Great Lakes Metal Treating, Inc., Tonawanda, NY
Great Western Grinding & Eng., Inc., Huntington Beach, CA
Great Lakes Tooling Inc., Cleveland, OH
Grind All Precision Tool Co., Inc., Warren, MI
Grind-All, Inc., Cleveland, OH
GrindC/O Inc., Chelmsford, MA
Grinding Service & Mfg. Co., Bristol, CT
Grindworks Inc., Glendale, AZ
Grosmann Precision,Ballwin, MO
Grover Gundrilling, Inc., Norway, ME
Guill Tool & Engineering Co., Inc., West Warwick, RI
Gulf South Machine/Drilex Corp., Houston, TX
Gurney Precision Machining, Saint Petersburg, FL
Gustav's Tool & Die, Inc., Seguin, TX
H & H Machine Company, Whittier, CA
H & H Machine Shop Of Akron, Inc., Akron, OH
H & H Machined Products, Inc., Erie, PA
H & K Machine Service Co. Inc., O'Fallon, MO
H & M Precision Machining, Santa Clara, CA
H & W Machine Company, Broomfield, CO
H & W Tool Company, Inc., Dover, NJ
H B Machine, Inc., Phoenix, AZ
H Brauning Company, Inc., Manassas, VA

H H Mercer, Inc., Mesquite, TX
H R M Machine, Inc., Costa Mesa, CA
H & L Tool Co., Erie, PA
H & M Machining Inc., Machesney Park, IL
Haberman Machine, Inc., St. Paul, MN
Hackett Precision Company, Nashville, TN
Hager Machine & Tool, Inc., Houston, TX
Haig Precision Mfg. Corp., Campbell, CA
Hal-West Technologies, Inc., Kent, WA
Hamblen Gage Corporation, Indianapolis, IN
Hamill Manufacturing Company, Trafford, PA
Hamilton Mold & Machine, Inc., Cleveland, OH
Hamilton Tool Company, Inc., Meadville, PA
Hamlin Steel Products, Inc., Akron, OH
Hammill Manufacturing Company, Toledo, OH
Hammon Precision Technologies, Hayward, CA
Hanks Pattern Company, Montrose, MN
Hanover Machine Company, Ashland, VA
Hans Rudolph, Inc., Kansas City, MO
Hansen Engineering, Harbor City, CA
Hansford Manufacturing Corp., Rochester, NY
Hanson Mold, St. Joseph, MI
Hardy Machine Inc., Hatfield, PA
Hardy-Reed Tool & Die Co., Manitou Beach, MI
Harley & Son, Inc., Yorba Linda, CA
Harris Machine/Finger Lakes Tool, Grinding LLC, Newark, NY
Harrison Enterprise, Inc., dba Accu-Tech, Phoenix, AZ
Haserodt Machine & Tool, Inc., Cleveland, OH
Haskell Machine & Tool, Inc., Homer, NY
Haumiller Engineering Company, Elgin, IL
Hawkeye Precision, Inc., Gilbert, AZ
Hawkins Machine Company, Inc., Coventry, RI
Hawkinson Mold Engineering Co., Alhambra, CA
Hayden Corporation, West Springfield, MA
Heatherington Machine Corp., Orlando, FL
Heinhold Engineering & Machine,Co., Inc., Salt Lake City, UT
Heitz Machine & Manufacturing,Co., Maryland Heights, MO
Hellebusch Tool & Die, Inc., Washington, MO
Helm Precision, Ltd., Phoenix, AZ
Henman Engineering & Machine, Muncie, IN
Hercules Machine Tool & Die, Warren, MI
Herman Machine, Inc., Tallmadge, OH
Herrick & Cowell Company, Hamden, CT
Hetrick Mfg., Inc., Lower Burrell, PA
Hewitt Machine & Tool, Inc., Hewitt, TX
Heyden Mold & Bench Company, Tallmadge, OH
Hi Tech Manufacturing, LLC, Greensboro, NC
Hi-Tech Machining & Engineering LLC, Tucson, AZ
Hi-Tech Tool Industries, Inc., Troy, MI
Hi-Tech Tool, Inc., Lower Burrell, PA
Hiatt Metal Products Company, Muncie, IN
Hickory Machine Company, Inc., Newark, NY
High Tech Turning Co., Watertown, MA
High-Tech Industries, Holland, MI
Highland Mfg. Inc., Manchester, CT
Hill Engineering, Inc., A Mestek Co., Villa Park, IL
Hillcrest Tool & Die, Inc., Titusville, PA
Hilton Tool & Die Corporation, Rochester, NY
Hittle Machine & Tool Company, Indianapolis, IN
HK Grinding, Phoenix, AZ
Hobson & Motzer, Inc., Durham, CT
Hodon Manufacturing Inc., Willoughby, OH
Hoercher Industries, Inc., East Rochester, NY
Hoffman Custom Tool & Die, Newport Beach, CA
Hoffstetter Tool & Die, Clearwater, FL
Holland Hitch Co., Wylie, TX
Hollis Line Machine Co., Inc., Hollis, NH
Holmes Manufacturing Corporation,Cleveland, OH
Homeyer Tool and Die Co., Marthasville, MO
Hoop's Machine & Welding, Inc., Denton, TX
Hoppe Tool, Inc., Chicopee, MA
Horizon Industries, Columbia, PA
Horizon Tool & Die Corp., Grandville, MI
Houston Cutting Tools, Inc., Houston, TX
Howard Tool Co. Inc., Bangor, ME
Howland Machine Corporation, Colorado Springs, CO
Hubbell Machine Company, Inc., Cleveland, OH
Hulme Products, Ltd., Ashland, OH
Humboldt Instrument Company, San Leandro, CA
Hunt Machine & Manufacturing Co., Tallmadge, OH
Hurricane Machine Company, L.L.C., McKinney, TX
Hyde Special Tools, Saegertown, PA
HydraWedge Corporation, El Segundo, CA
Hydrodyne Division Of FPI, Inc., Burbank, CA
Hydromat, Inc., St. Louis, MO
Hygrade Precision Technologies, Inc., Plainville, CT
Hytron Manufacturing Company,Inc., Huntington Beach, CA
I T M, Inc., Shertz, TX
Ideal Grinding Technologies, Inc, Chatsworth, CA
Ideal Tool Co. Inc., Meadville, PA
ILM Tool, Inc., Hayward, CA
Imperial Machine & Tool Company, Wadsworth, OH
Imperial Machining Co., Denver, CO
Imperial Mfg., Santa Fe Springs, CA
Imperial Newbould, Meadville, PA
Imperial Tool & Manufacturing Co., Inc., Lexington, KY
Imperial Die & Manufacturing Co., Strongsville, OH
IMS, Inc., Decatur, AL
Independent Forge Company, Orange, CA
Indiana Tool & Die Company, Die Sets Inc., Indiana, PA
Industrial Grinding, Inc., Dayton, OH
Industrial Machine & Tool Co., Inc., Nashville, TN
Industrial Machine Company, Oklahoma City, OK
Industrial Machining Corporation, Santa Clara, CA
Industrial Maintenance, & Electrical Corporation, Lavergne, TN
Industrial Mold + Machine, Twinsburg, OH
Industrial Molds, Inc., Rockford, IL
Industrial Precision Products,Inc., Oswego, NY
Industrial Precision, Inc., Westfield, MA
Industrial Tool & Machine Co., Cuyahoga Falls, OH
Industrial Tool, Die &,Engineering, Inc., Tucson, AZ
Industrial Tooling Technologies, Inc., Muskegon, MI
Industrial Custom Automatic, Machine (ICAM), Dayton, OH
Industrial Babbitt Bearing, Services, Inc., Gonzales, LA
Ingersoll Contract Manufacturing, Company, Loves Park, IL
Injection Mold & Machine Company, Akron, OH
Inland Tool & Manufacturing Co., Kansas City, KS
Inline Inc., Phoenix, AZ
Innex Industries, Inc., Rochester, NY
Innovative Systems Machine, & Tool, Inc., Toledo, OH
Insulate Inc., Auburn, WA
Integrated Machine Systems, Bethel, CT
Integrated Fabrication and Machine, Sharpsville, PA
Integrated Aerospace, Santa Ana, CA
Integrity Mfg. L.L.C., Farmington, CT
International Tooling & Stamping, Inc., Mt. Juliet, TN
International Stamping Inc., Warwick, RI
Intrex Corporation, Louisville, CO
ISO Machining, Inc., Pleasanton, CA
ISYS Manufacturing, Inc., Concord, CA

Iverson Industries, Inc., Wyandotte, MI
J & A Tool Company, Inc., Franklin, PA
J & F Machine Inc., Cypress, CA
J & J Tool Co., Inc., Louisville, KY
J & L Development, Inc., Keithville, LA
J & L EDM, Sunnyvale, CA
J & M Machine, Inc., Fairport Harbor, OH
J & M Unlimited, Ashland City, TN
J & W Manufacturing, Phoenix, AZ
J B Tool Die & Engineering, Inc., Fort Wayne, IN
J B Tool, Inc., Placentia, CA
J C B Precision Tool & Mold, Inc., Commerce City, CO
J D Kauffman Machine Shop, Inc., Christiana, PA
J F Fredericks Tool Company, Inc., Farmington, CT
J I Machine Company, Inc., San Diego, CA
J K Tool & Die, Inc., Apollo, PA
J M Fabrication Corporation, Arlington, TX
J M Mold South, Easley, SC
J M Mold, Inc., Piqua, OH
J M P Industries, Inc., Cleveland, OH
J M S Mold & Engineering Co., Inc., South Bend, IN
J R Custom Metal Products, Inc., Wichita, KS
J Ross Miller & Sons, Inc., Kimberton, PA
J S Die & Mold, Inc., Byron Center, MI
J W Harwood Company, Cleveland, OH
J & J Machine and Engineering, Inc., Commerce, CA
J & G Machine & Tool Co., Inc., Walworth, NY
J. C. Milling Co., Inc., Rockford, IL
J.B.A.T. t/a Cherry Hill, Precision, Cherry Hill, NJ
J2 Precision CNC, Inc., Phoenix, AZ
Jackman Machining, Corona, CA
Jackson & Heit Machine Company, Southampton, PA
Jacksonville Machine Inc., Jacksonville, IL
Jaco Tool & Die, Inc., Grand Rapids, MI
Jaco Engineering, Anaheim, CA
Jamison Mfg. Co., North Royalton, OH
Jasco Tools Inc., Cutting Tools Division, Rochester, NY
Jason Tool & Engineering, Inc., Garden Grove, CA
Jatco Machine & Tool Company, Inc., Pittsburgh, PA
JBK Manufacturing & Development,Co., Dayton, OH
Jena Tool Corporation, Dayton, OH
Jenkins Machine, Inc., Bethlehem, PA
Jenn Manufacturing Company, Inc., Warminster, PA
Jennison Corporation, Carnegie, PA
Jergens, Inc., Cleveland, OH
Jergens Tool and Mold, Englewood, OH
Jeryco Industries, Inc., Denton, TX
Jesel, Inc., Lakewood, NJ
Jesse Industries, Inc., Sparks, NV
Jet Products Co., Inc., Phoenix, AZ
Jet Products, Inc., East Bridgewater, MA
Jewett Machine Mfg. Co., Inc., Richmond, VA
Jig Grinding Service Company, Cleveland, OH
Jirgens Modern Tool Corporation, Kalamazoo, MI
JMC Technology Group, Indianapolis, IN
Johnson Tool, Inc., Fairview, PA
Johnson Precision, Inc., Buffalo, NY
Johnson Engineering Company, Indianapolis, IN
Joint Venture Acquisition Co., LLC, Saegertown, PA
Joint Production Technology, Inc., Macomb, MI
Jonco Tool Company, Racine, WI
JRM Machine Company, St. Paul, MN
Juell Machine Company, Inc., Pomona, CA
JWP Manufacturing, Inc., Santa Clara, CA
K & A Tooling, Santa Ana, CA
K & E Mfg. Company, Lee's Summit, MO
K & H Mold & Machine Division, Akron, OH
K & H Precision Products, Inc., Honeoye Falls, NY
K & M Machine-Fabricating, Inc., Cassopolis, MI
K & S Tool & Die, Inc., Meadville, PA
K & S Tool & Mfg. Company, Inc., Jamestown, NC
K L H Industries, Inc., Germantown, WI
K L N Precision Machining & Sheetmetal Corp., Fremont, CA
K M F, Inc., Fairdale, KY
K M S Machine Works, Inc., Taunton, MA
K Mold & Engineering, Inc., Granger, IN
K V, Inc., Huntingdon Valley, PA
K-Form, Inc., Tustin, CA
K. D. K. Inc., Prescott, AZ
K.C.K. Tool & Die Co., Inc., Ferndale, MI
Ka-Wood Gear & Machine Company, Madison Heights, MI
Kahre Brothers, Inc., Evansville, IN
Kalman Machining, Richmond, CA
Kalman Manufacturing, Morgan Hill, CA
Kamashian Engineering Inc., Bellflower, CA
Kanis Machine & Manufacturing, Inc., Tewksbury, MA
Kansas City Screw Products Inc., Kansas City, MO
Karlee, Garland, TX
Karlson Machine Works, Inc., Phoenix, AZ
KARR Unlimited, Inc., Newaygo, MI
Karsten Precision, Phoenix, AZ
Kaskaskia Tool & Machine, Inc., New Athens, IL
Kaufhold Machine Shop, Inc., Lancaster, PA
Kearflex Engineering Company, Warwick, RI
Keck-Schmidt Tool & Die, South El Monte, CA
Kell-Strom Tool Company, Inc., Wethersfield, CT
Kellems & Coe Tool Corporation, Jeffersonville, IN
Keller Technology Corporation, Tonawanda, NY
Kelley Industries, Inc., Eighty Four, PA
Kelltech Precision Machining, Inc., San Jose, CA
Kelly & Thome, Pomona, CA
Kelm Manufacturing Company, Benton Harbor, MI
Kem-Mil-Co, Hayward, CA
Kemco Tool & Machine Company, Fenton, MO
Kenlee Precision Corporation, Baltimore, MD
Kennametal Inc., Latrobe, PA
Kennebec Tool & Die Co., Inc., Augusta, ME
Kennedy & Bowden Machine Company, La Vergne, TN
Kennick Mold & Die, Inc., Cleveland, OH
Kentucky Machine & Tool Company, Louisville, KY
Kern Special Tools Company, Inc., New Britain, CT
Ketcham Diversified Tooling Inc., Cambridge, PA
Kewill ERP, Inc., Edina, MN
Keyes Machine Works, Inc., Gates, NY
Keystone Machine, Inc., Littlestown, PA
Kimberly Gear & Spline, Inc., Phoenix, AZ
King Machine & Engineering Co., Inc., Indianapolis, IN
King-Tek EDM & Precion Machining, Inc., Fullerton, CA
Kipp Group, Ontario, CA
Kirca Precision, Rochester, NY
Klein Steel Service, Inc., Rochester, NY
Klix Tool Corporation, Syracuse, NY
Knight Industries Precision Machining, Inc., Corona, CA
Knowlton Manufacturing Company, Norwood, OH
Knust—S B O, Houston, TX
Kolar Inc., Ithaca, NY
Kordenbrock Tool & Die Company, Cincinnati, OH
Kovacs Machine & Tool Company, Inc., Wallingford, CT
Krause Tool, Inc., A–Z Corp. Div. of Krause Tool, Golden, CO
Kuester Tool & Die Co., Inc., Quincy, IL
Kuhn Tool & Die Co., Meadville, PA
Kurt J. Lesker Company, Clairton, PA
Kurt Manufacturing Company, Minneapolis, MN
L & L Machine, Inc., Ludlow, MA
L & L Tool & Die, Gardena, CA
L & P Machine, Inc., Santa Clara, CA
L A I Southwest, Inc., Phoenix, AZ
L H Carbide Corporation, Fort Wayne, IN
L P I Corporation, Hollywood, FL

L R G Corporation, Jeannette, PA
L R W Cutting Tools, Inc., Phoenix, AZ
L T L Company, Inc., Rockford, IL
L. P. Engineering Co., Carson, CA
Lake Manufacturing Co., Inc., Newburyport, MA
Lakeside Manufacturing Company, Stevensville, MI
Lamb Machine & Tool Company, Indianapolis, IN
Lamina, Inc., Farmington Hills, MI
Lampin Corporation, Uxbridge, MA
Lancaster Machine Shop, Lancaster, TX
Lancaster Metal Products Company, Lancaster, OH
Lancaster Mold, Inc., Lancaster, PA
Land Specialties Manufacturing, Co., Inc., Raytown, MO
Lane Enterprise, Rochester, NY
Lane Punch Corporation, Salisbury, NC
Laneko Engineering Company, Ft. Washington, PA
Laneko Roll Form, Inc., Hatfield, PA
Lange Precision, Inc., Fullerton, CA
Langenau Manufacturing Company, Cleveland, OH
Lansing Tool & Engineering Inc., Lansing, MI
Laron Incorporated, Kingman, AZ
Las Cruces Machine, Manufacturing & Engineering, Las Cruces, NM
Laser Automation, Inc., Chagrin Falls, OH
Laser Beam Technology, Hayward, CA
Laser Fabrication & Machine Co., Inc., Alexandria, AL
Laser Fare, Inc., Smithfield, RI
Laser Tool, Inc., Saegertown, PA
Lathrop Machine, Fremont, CA
Latva Machine, Inc., Newport, NH
Lavelle Machine, Westford, MA
Lavigne Manufacturing, Inc., Cranston, RI
Layke Incorporated, Phoenix, AZ
Layke Tool & Manufacturing, Inc., Meadville, PA
Lead/M, L.L.C., Tempe, AZ
Ledford Engineering Company, Inc., Cedar Rapids, IA
Lee's Grinding, Inc., Cleveland, OH
Leech Industries, Inc., Meadville, PA
Lees Enterprise, Chatsworth, CA
Leese & Co., Inc., Greensburg, PA
Leggett & Platt, Inc., Whittier, CA
Leicester Die & Tool, Inc., Leicester, MA
Lemco-Miller Corporation, Danvers, MA
Lenape Forge, Inc., West Chester, PA
Lenz Technology Inc., Mountain View, CA
Leonardi Manufacturing Co., Inc., Weedsport, NY
Lewis Aviation, Phoenix, AZ
Lewis Machine & Tool Co. Inc., Cuba, MO
Lewis Machine and Tool Company, Milan, IL
Liberty Precision Industries, Ltd., Rochester, NY
Libra Precision Machining, Tecumseh, MI
Light & Medium Fabricating, Inc., Willoughby, OH
Light Machines, Manchester, NH
Ligi Tool & Engineering, Inc., Pompano Beach, FL
Lilly Software Associates, Inc., Hampton, NH
Limmco, Inc., New Albany, IN
Lindberg Heat Treating, Paramount, CA
Linmark Machine Products, Inc., Union, MO
Little Rhody Machine Repair, Inc., Coventry, RI
Littlecrest Machine Shop, Inc., Houston, TX
Lloyd Company, Houston, TX
Lobart Company, Pacoima, CA
Loecy Precision Mfg., Mentor, OH
LOMA Automation Technologies, Inc., Louisville, KY
Lordon Engineering, Gardena, CA
Loud Engineering and Manufacturing, Inc., Ontario, CA
Louis C. Morin Co. Inc., N. Billerica, MA
Loyal Machine Company, Inc., Chelsea, MA
Luick Quality Gage & Tool, Inc., Muncie, IN
Lunar Tool & Mold, Inc., North Royalton, OH
Lunar Tool & Machinery Company, St. Louis, MO
Lunquist Manufacturing Corp., Rockford, IL
Lux Manufacturing, Inc., Sunnyvale, CA
Lynn Welding Co. Inc., Newington, CT
Lyons Tool & Die Company, Meriden, CT
M & D Loe Manufacturing, Inc., Benicia, CA
M & H Engineering Company, Inc., Danvers, MA
M & H Tool & Die, Inc., Gadsden, AL
M & J Grinding & Tool Co., Holland, OH
M & J Valve Services, Inc., Lafayette, LA
M C I Tool & Die, Inc., Saginaw, MI
M C Mold & Machine, Inc., Tallmadge, OH
M D F Tool Corporation, North Royalton, OH
M F Engineering Co. Inc., Bristol, RI
M J K Precision, Woodland Park, CO
M P E Machine Tool Inc., Corry, PA
M P Technologies, Inc., Brecksville, OH
M S Willett, Inc., Cockeysville, MD
M-Tron Manufacturing Company, Inc., San Fernando, CA
M-Ron Corporation, Glendale, AZ
M–C Fabrication, Inc., Olathe, KS
M H S Automation, Round Lake Beach, IL
M. R. Mold & Engineering Corp., Brea, CA
M. J. Machining, Inc., Morgan Hill, CA
Mac Machine and Metal Works, Inc., Connersville, IN
Mac-Mold Base, Inc., Romeo, MI
Machine Incorporated, Stoughton, MA
Machine Specialties, Inc., Greensboro, NC
Machine Tooling, Inc., Cleveland, OH
Machine Works, Inc., Phoenix, AZ
Machinist Cooperative, Gilroy, CA
MacKay Manufacturing, Spokane, WA
Madden Machine Works, Torrance, CA
Maddox Metal Works, Inc., Dallas, TX
Madgett Enterprises Inc., Atascadero, CA
Magdic Precision Tooling, Inc., East McKeesport, PA
Maghielse Tool Corporation, Grand Rapids, MI
Magna Machine & Tool Company, New Castle, IN
Magnum Manufacturing Center, Inc., Colorado Springs, CO
Magnus Mfg. Corp., Phelps, NY
Mahuta Tool Corp., Germantown, WI
Main Tool & Mfg. Co., Inc., Minneapolis, MN
Maine Machine Products, South Paris, ME
Mainline Machine, Inc., Broussard, LA
Majer Precision Engineering, Inc., Tempe, AZ
Major Tool & Machine, Inc., Indianapolis, IN
Makino, Mason, OH
Malmberg Engineering, Inc., Livermore, CA
Manda Machine Company, Inc., Dallas, TX
Manetek, Inc., Broussard, LA
Manheim Special Machine Shop, Manheim, PA
Mann Tool Company, Inc., Pacific, MO
Manufacturing Machine Corp., Pawtucket, RI
Manufacturing Service Corp., West Hartford, CT
Manufacturing Quote, Inc., Smyrna, GA
Marberry Machine, Inc., Houston, TX
Marco Manufacturing Company, Akron, OH
Marcy Machine, Inc., Grandview, MO
Mardon Tool & Die Company, Inc., Rochester, NY
Marini Tool & Die Company, Inc., Racine, WI
Marion Tool and Die, Inc., Terre Haute, IN
Maris Systems Design, Inc., Spencerport, NY
Markham Machine Co. Inc., Akron, OH
Marlin Tool, Inc., Cuyahoga Falls, OH
Marox Corporation, Holyoke, MA
Marquette Tool & Die Company, St. Louis, MO
Marshall Manufacturing Company, Minneapolis, MN
Martinek Manufacturing, Fremont, CA
Martinelli Machine, San Leandro, CA
Masco Machine, Inc., Cleveland, OH
Massachusetts Machine Works Inc., Westwood, MA
Massey Industries, Inc., Houston, TX
Master Cutting & Engineering, Inc., Santa Fe Springs, CA

Master Industries Inc., Piqua, OH
Master Precision Mold Technology, Greenville, MI
Master Precision Tool Corp., Sterling Heights, MI
Master Research & Manufacturing, Inc., Norwalk, CA
Master Tool & Die, Anaheim, CA
Master Tool & Mold, Inc., Grafton, WI
Master Machining & Manufacturing, Spokane, WA
Mastercraft Mold, Inc., Phoenix, AZ
Mastercraft Tool & Machine Co., Inc., Southington, CT
Mastercraft Tool Co., St. Louis, MO
MaTech Machining Technologies, Inc., Hebron, MD
Matrix Tool Company, Fraser, MI
Matthews Gauge, Inc., Santa Ana, CA
Maudlin & Son Manufacturing Co., Inc., Kemah, TX
May Tool & Die, Inc., North Royalton, OH
May Technology & Mfg., Inc., Kansas City, MO
Mayfran International, Cleveland, OH
McAfee Tool & Die, Inc., Uniontown, OH
McCurdy Tool & Machine Inc., Caledonia, IL
MCD Plastics & Manufacturing Inc, Piqua, OH
McFarland Machine and Engineering, Tempe, AZ
McGill Manufacturing Company, Flint, MI
McIvor Manufacturing, Inc., Buffalo, NY
McKee Carbide Tool Division, Olanta, PA
McKenzie Automation Systems, Inc, Rochester, NY
McNeal Enterprises, Inc., San Jose, CA
McNeil Industries, Inc., Willoughby, OH
McNeill Manufacturing Company, Oakland, CA
McSwain Manufacturing Corp., Cincinnati, OH
MCTD, Inc., Michigan City, IN
Meadows Manufacturing Co., Inc., Sunnyvale, CA
Meadville Plating Company, Inc., Meadville, PA
Meadville Tool Grinding, Meadville, PA
Mechanical Drive Components, Inc, Chicopee, MA
Mechanical Manufacturing Corp., Sunrise, FL
Mechanical Metal Finishing Co., Gardena, CA
Mechanized Enterprises, Inc., Anaheim, CA
Medal Industries, Mesa, AZ
Medved Tool & Die Company, Milwaukee, WI
Menegay Machine & Tool Company, Canton, OH
Mercer Machine Company, Inc., Indianapolis, IN
Mercier Tool & Die Company, Canton, OH
Merit Gage, Inc., St. Louis Park, MN
Merritt Tool Company, Inc., Kilgore, TX
Metal Cutting Specialists, Inc., Houston, TX
Metal Form Engineering, Redlands, CA
Metal Processors Inc., Stevensville, MI
Metal-Tek Machining Inc., Phoenix, AZ
Metalcraft, Inc., Tempe, AZ
Metallon, Inc., Thomaston, CT
Metals USA, Flagg Steel Co., Inc., St. Louis, MO
Metalsa—Perfek, Novi, MI
Metco Manufacturing Company, Inc., Warrington, PA
Metco L.L.C., Chatsworth, CA
Metplas, Inc., Natrona Heights, PA
Metric Machining, Monrovia, CA
Metro Manufacturing, Inc., Phoenix, AZ
Miami Tool & Die, Inc., Huntington, IN
Michigan Machining Inc., Mt. Morris, MI
Micro Chrome & Lapping, Inc., San Jose, CA
Micro Facture LLC, Mountville, PA
Micro Instrument Corporation, Rochester, NY
Micro Manufacturing, Caledonia, MI
Micro Matic Tool, Inc., Youngstown, OH
Micro Precision Company, Houston, TX
Micro Punch & Die Company, Rockford, IL
Micro Surface Engineering, Inc., Bal-tec Division, Los Angeles, CA
Micro Tool & Manufacturing, Inc., Meadville, PA
Micro-Tec, Chatsworth, CA
Micro-Tech Machine Inc., Newark, NY
Micro-Tronics, Inc., Tempe, AZ
Microfinish, Clayton, OH
Micropulse West, Inc., Tempe, AZ
Mid-Central Manufacturing, Inc., Wichita, KS
Mid-Continent Engineering, Inc., Minneapolis, MN
Mid-State Manufacturing, Inc., Milldale, CT
Mid-States Forging Die & Tool,Co., Inc., Rockford, IL
Mid-Conn Precision Manufacturing LLC, Bristol, CT
Middle River Machine Services, Inc., Baltimore, MD
Midland Precision Machining, Inc., Tempe, AZ
Midway Mfg. Inc., Elyria, OH
Midwest Tool & Die Corporation, Fort Wayne, IN
Midwest Tool & Engineering Co., Dayton, OH
Mikron Machine, Inc., Cranesville, PA
Mil-Tool & Plastics Inc., Zephyrhills, FL
Milco Wire EDM, Inc., & Milco Waterjet, Huntington Beach, CA
Millat Industries Corp., Dayton, OH
Miller Equipment Corporation, Richmond, VA
Miller Machine & Design, Inc., Charlotte, NC
Miller Mold Company, Saginaw, MI
Millrite Machine Inc., Westfield, MA
Milrose Industries, Cleveland, OH
Miltronics, Inc., Painesville, OH
Milwaukee Precision Corporation, Milwaukee, WI
Milwaukee Punch Corporation, Greendale, WI
Minco Tool & Mold Inc., Dayton, OH
Mission Tool & Manufacturing Co., Inc., Hayward, CA
Mitchell Machine, Inc., Springfield, MA
Mitchum Schaefer, Inc., Indianapolis, IN
Mittler Brothers Machine & Tool, Division-Mittler Corporation, Foristell, MO
MKR Fabricators, Saginaw, MI
Mod Tech Industries, Inc., Shawano, WI
Model Mold & Machine Company, Inc., Noblesville, IN
Model Machine Company, Inc., Baltimore, MD
Modern Machine Company, San Jose, CA
Modern Machine Company, Bay City, MI
Modern Mold, Inc., Grand Rapids, MI
Modern Technologies Corp., Xenia, OH
Modern Industries Inc., Phoenix, AZ
Modular Mining Systems, Inc., Tucson, AZ
Mold Threads Inc., Branford, CT
Moldcraft, Inc., Depew, NY
Moldesign, Inc., Knoxville, TN
Monks Manufacturing Co., Inc., Wilmington, MA
Monroe Tool & Die Co., Rochester, NY
Monsees Tool & Die, Inc., Rochester, NY
Montgomery Machine Company, Houston, TX
Moon Tool & Die Inc., Conneaut Lake, PA
Moore Quality Tooling, Inc., Dayton, OH
Moore Gear Mfg. Co., Inc., Hermann, MO
Moore's Ideal Products, Covina, CA
Morlin Incorporated, Erie, PA
Morris Machine Co., Inc., Indianapolis, IN
Morris Machining, Inc., Oak Leaf, TX
Morton & Company, Inc., Wilmington, MA
Moseys' Production Machinists, Inc., Anaheim, CA
Moss Machine/Module, San Francisco, CA
Mound Laser and Photonics Center, Miamisburg, OH
Mountain States Automation, Inc., Englewood, CO
MPC Industries, Inc., Irvine, CA
MRC Technologies, Buffalo, NY
Mueller Machine & Tool Company, Berkeley, MO
Muller Tool Inc., Cheektowaga, NY
Multi-Tool, Inc., Saegertown, PA
Multi Dimensional Machining Inc., Englewood, CO

Mutual Tool & Die, Inc., Dayton, OH
Mutual Precision, Inc., West Springfield, MA
Myers Precision Grinding Company, Inc., Warrensville Hts, OH
Myers Industries, Akro-Mils Division, Akron, OH
Myles Tool Co., Inc., Sanborn, NY
N C Dynamics, Inc., Long Beach, CA
N D T Industries, Inc., New Deal Tool & Machine, Dayton, OH
N E T & Die Company, Inc., Fulton, NY
Nashville Machine Company, Inc., Nashville, TN
National Carbide Die, McKeesport, PA
National Jet Company, Inc., LaVale, MD
National Tool & Machine Co. Inc., East St. Louis, IL
National Tool & Manufacturing Co., Newburg Park, CA
Nationwide Precision Products, Corp., Rochester, NY
Nel-Mac Tool & Mfg. Inc., McKinney, TX
Nelson Bros. & Strom Co., Inc., Racine, WI
Nelson Engineering, Garden Grove, CA
Nelson Grinding, Inc., Fullerton, CA
Nelson Precision Drilling Co., Glastonbury, CT
Nemes Machine Co., Cuyahoga, OH
Nerjan Development Company, Stamford, CT
Neutronics, Inc., Phoenix, AZ
New Century Fabricators, Inc., New Iberia, LA
New Century Remanufacturing, Inc, Santa Fe Springs, CA
New Cov Fabrication Inc., Rochester, NY
New England Die Co., Inc., Waterbury, CT
New England Precision Grinding, Inc., Holliston, MA
New Standard Corporation, York, PA
Newman Machine Company, Inc., Greensboro, NC
Newtek Manufacturing, Sunnyvale, CA
Newton Tool & Manufacturing Co., Swedesboro, NJ
Niagara Punch & Die Corporation, Buffalo, NY
Nifty Bar, Inc., Penfield, NY
Niles Machine & Tool Works, Inc., Livermore, CA
Nixon Tool Co., Inc., Richmond, IN
Nordon Tool & Mold, Inc., Rochester, NY
Noremac Manufacturing Corp., Westboro, MA
Norman Noble, Inc., Cleveland, OH
Normike Industries, Inc., Plainville, CT
North Canton Tool Company, Inc., Canton, OH
North Central Tool & Die, Inc., Houston, TX
North Coast Tool & Mold Corp., Cleveland, OH
North Easton Machine Co., Inc., North Easton, MA
North Florida Tool Engineering, Inc., Jacksonville, FL
Northeast E D M, Newburyport, MA
Northeast Manufacturing Co., Inc., Stoneham, MA
Northeast Tool & Manufacturing, Co., Indian Trail, NC
Northern Machine Tool Company, Muskegon, MI
Northern Tool & Gage, Inc., North Royalton, OH
Northmont Tool & Gage Inc., Clayton, OH
Northwest Machine Works, Inc., Grand Junction, CO
Northwest Tool & Die Company, Inc., Grand Rapids, MI
Northwest Tool & Die, Inc., Neadville, PA
Northwood Industries, Inc., Perrysburg, OH
Norton Industries Inc., Hayward, CA
Norv's Molds, Inc., Nyssa, OR
Norwood Tool Company, Dayton, OH
Nova Manufacturing Company, North Hollywood, CA
Now-Tech Industries Inc., Lackawanna, NY
NRL & Associates, Inc., Stevensville, MD
Nu-Tech Industries, Grandview, MO
Nu-Tool Industries, Inc., North Royalton, OH
Numeric Machine, Fremont, CA
Numeric Machining Co., Inc., West Springfield, MA
Numerical Concepts, Inc., Terre Haute, IN
Numerical Precision, Inc., Wheeling, IL
Numerical Productions, Inc., Indianapolis, IN
Numet Machine, Stratford, CT
NuTec Tooling Systems, Inc., Meadville, PA
O & S Machine Company, Inc., Latrobe, PA
O–A, Inc., Agawam, MA
O E M Industries, Inc., Dallas, TX
O E M, Inc., Corvallis, OR
O–D Tool & Cutter Inc., Mansfield, MA
O'Keefe Ceramics, Woodland Park, CO
O'Neal Tool & Machine Co., Inc., DeSoto, MO
Obars Machine & Tool Company, Toledo, OH
Oberg Industries Inc., Freeport, PA
Oconee Machine & Tool Company, Inc., Westminster, SC
Oconnor Engineering Laboratories, Costa Mesa, CA
Ohio Gasket & Shim Company, Akron, OH
Ohio Transitional Machine & Tool, Inc., Toledo, OH
Ohlemacher Mold & Die, Strongsville, OH
Oilfield Die Manufacturing Co., Lafayette, LA
Okuma America Corporation, Charlotte, NC
Olson Mfg. & Distribution Inc., Shawnee, KS
Omax Corporation, Kent, WA
Omega One, Inc., Maple Heights, OH
Omega Tool, Inc., Menomonee Falls, WI
Omni Machine Works, Inc., Conyers, GA
Omni Tool, Inc., Winston Salem, NC
Optimized EDM, Santa Clara, CA
Orchard Machine, Inc., Byron Center, MI
Orenda National Aerospace, LLC, Glendale, AZ
ORIX Financial Services Inc., Charlotte, NC
Osborn Products, Inc., Phoenix, AZ
Osley & Whitney, Inc., Westfield, MA
Overland Bolling, Dallas, TX
Overton & Sons Tool & Die Co. Inc., Mooresville, IN
Overton Corporation, Willoughby, OH
P & A Tool & Die, Inc., Rochester, NY
P & N Machine Company, Inc., Houston, TX
P & P Mold & Die, Inc., Tallmadge, OH
P & R Industries, Inc., Rochester, NY
P-K Tool & Manufacturing Company, Chicago, IL
P & C Tool, Meadville, PA
P I A Group, Inc., Cincinnati, OH
P. Tool & Die Company, Inc., N. Chili, NY
Pacific Bearing Company, Rockford, IL
Pacific Precision Machine, Inc., San Carlos, CA
Pacific Tool & Die, Inc., Brunswick, OH
Pahl Tool Services, Cleveland, OH
Palma Tool & Die Company, Inc., Lancaster, NY
Palmer Manufacturing Company, Malden, MA
Palmer Machine Company Inc., Conway, NH
Pankl Aerospace Systems, Cerritos, CA
Pantera, Inc., Torrington, CT
Parallax, Inc., Largo, FL
Paramount Machine & Tool Corp., Fairfield, NJ
Park Hill Machine, Inc., Lancaster, PA
Parker Plastics Corporation, Pittsburgh, PA
Parr-Green Mold and Machine Co., North Canton, OH
Parris Tool & Die Company, Goodlettsville, TN
Parrish Machine, Inc., South Bend, IN
Pasco Tool & Die, Inc., Meadville, PA
Patco Machine & Fab, Inc., Houston, TX
Path Technologies, Inc., Mentor, OH
Patkus Machine Company, Rockford, IL
Patriot Machine, Inc., St. Charles, MO
Patten Tool & Engineering, Inc., Kittery, ME
Paul E. Seymour Tool & Die Co., North East, PA
PDQ Machine, Inc., Machesney Park, IL
PDS Industries, Inc., Irwin, PA
Peerless Precision, Inc., Westfield, MA
Pegasus/Triumph Manufacturing, Inc., East Berlin, CT

Peko Precision Products, Rochester, NY
Pell Engineering & Manufacturing, Inc., Pelham, NH
Penco Precision, Fontana, CA
Pendleton Tool Company, Inc., Erie, PA
Peninsula Screw Machine Products, Inc., Belmont, CA
Penn United Tech, Inc., Saxonburg, PA
Penn State Tool & Die Corp., North Huntingdon, PA
Pennoyer-Dodge Company, Glendale, CA
Pennsylvania Tool & Gages, Inc., Meadville, PA
Pennsylvania Crusher, Cuyahoga Falls, OH
Perfection Tool & Mold Corp., Dayton, OH
Perfecto Tool & Engineering Co., Anderson, IN
Perfekta, Inc., Wichita, KS
Performance Grinding & Manufacturing, Inc., Tempe, AZ
Performance Machining Inc., Irwin, PA
Perlos, Inc., Fort Worth, TX
Perry Tool & Research Inc., Hayward, CA
Petersen Precision Engineering, LLC, Redwood City, CA
Peterson Jig & Fixture, Inc., Rockford, MI
Petro-Chem Industries, Inc., Stafford, TX
Pettey Machine Works, Inc., Trinity, AL
Phil-Coin Machine & Tool Co., Inc., Hudson, MA
Philips Machining Company, Inc., Coopersville, MI
Phoenix Tool & Gage, Inc., Phoenix, AZ
Phoenix Metallics, Phoenix, AZ
Phoenix Grinding, Div. of Cal-Disc Grinding Co., Phoenix, AZ
Piece-Maker Company, Troy, MI
Pierce Products, Inc., Cleveland, OH
Pierson Precision Inc., Campbell, CA
Pinehurst Tool & Die, Conneaut Lake, PA
Pinnacle Precision Co., Glassport, PA
Pinnacle Engineering Co., Inc., Manchester, MI
Pinnacle Manufacturing Co., Inc., Chandler, AZ
Pioneer Tool & Die Company, Akron, OH
Pioneer Tool & Die, Inc., Meadville, PA
Pioneer Tool Die & Machine Co., Inc., Ivyland, PA
Pioneer Precision Grinding, Inc., West Springfield, MA
Pioneer Industries, Seattle, WA
Piper Plastics, Inc., Chandler, AZ
Pitt-Tex, Latrobe, PA
Plainfield Stamping Illinois, Inc., Plainfield, IL
Plano Machine & Instrument Inc., Gainesville, TX
PLASTECH, San Jose, CA
Plastic Mold Technology Inc., Grand Rapids, MI
Plastipak Packaging, Inc., Package Development Plant 67, Medina, OH
Pleasanton Tool and Manufacturing,Inc., Pleasanton, CA
Plesh Industries, Inc., Buffalo, NY
PMR, Inc., Avon, OH
Pol-Tek Industries, Ltd., Cheektowaga, NY
Polynetics, Inc., Fullerton, CA
Polytec Products Corporation, Menlo Park, CA
Ponderosa Industries, Inc., Denver, CO
Popp Machine & Tool, Inc., Louisville, KY
Port City Machine & Tool Company, Muskegon Heights, MI
Portage Knife Company, Inc., Mogadore, OH
Post Products, Inc., Kent, OH
Powers Bros. Machine, Inc., Montebello, CA
Powill Manufacturing & Engineering, Inc., Phoenix, AZ
PQ Enterprise, L.L.C., Grand Rapids, MI
PR Machine Works, Inc., Mansfield, OH
Practical Machine Company, Barberton, OH
Precise Tool Engineering, Tucson, AZ
Precise Tool & Die, Inc., Leechburg, PA
Precise Technologies Inc., Largo, FL
Precise Engineering, Lowell, MI
Precise Products Corporation, Minneapolis, MN
Precision Components Group, Inc., Fremont, CA
Precision Wire EDM Service Inc., Grand Rapids, MI
Precision Wire Cut Corporation, Waterbury, CT
Precision Aircraft Components, Inc., Dayton, OH
Precision Aircraft Machining,Co., Inc. dba PAMCO, Sun Valley, CA
Precision Automated Machining, Englewood, CO
Precision Balancing & Analyzing Co., Mentor, OH
Precision Boring Company, Detroit, MI
Precision Die & Stamping Inc., Tempe, AZ
Precision Engineering & Mfg. Co., PEMCO, Haymarket, VA
Precision Engineering, Inc., Uxbridge, MA
Precision Gage & Tool Company, Dayton, OH
Precision Gage, Inc., Tempe, AZ
Precision Grinding & Mfg. Corp., Rochester, NY
Precision Grinding Inc., Phoenix, AZ
Precision Grinding, Inc., Birmingham, AL
Precision Identity Corporation, Campbell, CA
Precision Industries, Inc., Providence, RI
Precision Machine & Engineering, Inc., Phoenix, AZ
Precision Machine & Instrument, Co., Houston, TX
Precision Machine & Tool Co., Longview, TX
Precision Machine Company, Lancaster, PA
Precision Machine Rebuilding, Inc., Rogers, MN
Precision Machine Works, Aiken, SC
Precision Manufacturing, Technologies, Inc., Grand Junction, CO
Precision Matters, Inc., San Francisco, CA
Precision Metal Crafters, Ltd., Greensburg, PA
Precision Metal Fabrication, Dayton, OH
Precision Metal Tooling, Inc., San Leandro, CA
Precision Mold & Engineering, Inc., Warren, MI
Precision Mold Base Corporation, Tempe, AZ
Precision Mold Welding, Inc., Little Rock, AR
Precision Mold, Inc., Kent, WA
Precision Piece Parts Inc., Mishawaka, IN
Precision Products Inc., Greenwood, IN
Precision Resource, California Division, Huntington Beach, CA
Precision Resource Tool & Machine, Division, Shelton, CT
Precision Resources, Hawthorne, CA
Precision Specialists, Inc., West Berlin, NJ
Precision Specialties, San Jose, CA
Precision Stamping & Tool, Inc., Irvine, CA
Precision Stamping, Inc., Farmers Branch, TX
Precision Tool & Mold, Inc., Clearwater, FL
Precision Tool Work, Inc., New Iberia, LA
Precon, Inc., Anaheim, CA
Preferred Tool Company, Inc., Seymour, IN
Preferred Tool & Die Co., Inc., Comstock Park, MI
Prescott Aerospace, Inc., Prescott Valley, AZ
Pressco Products, Kent, WA
Prestige Mold Incorporated, Rancho Cucamonga, CA
Price Products, Inc., Escondido, CA
Pride, dba Pride Industries, Brooklym Park, MN
Prima Die Castings, Inc., Clearwater, FL
Prime-Co Tool Inc., East Rochester, NY
Primeway Tool & Engineering Co., Div. of Cleary Developments, Inc., Madison Heights, MI
Prince Machine, Holland, MI
Pro-Mold, Inc., Rochester, NY
Pro-Tech Machine, Inc., Burton, MI
Process Equipment Company,Tipp City, OH
Product Engineering Company, Columbus, IN
Production Tool & Mfg. Co., Portland, OR

Production Saw Works, Inc., North Hollywood, CA
Production Machining & Mfg., Dallas, TX
Producto Machine Company, Bridgeport, CT
Profab Industries L.L.C., Phoenix, AZ
Professional Instruments Co., Inc., Hopkins, MN
Professional Machine & Tool Co., Gallatin, TN
Professional Machine & Tool, Inc., Valley Center, KS
Proficient Machining Co., Inc., Mentor, OH
Profile Grinding, Inc., Cleveland, OH
Proformance Manufacturing, Inc., Corona, CA
Progressive Metallizing & Machine Company, Inc., Akron, OH
Progressive Concepts Machining, Pleasanton, CA
Progressive Machine & Design, LLC, Victor, NY
Progressive Tool & Die, Inc., Meadville, PA
Progressive Tool Company, Waterloo, IA
Progressive Tool & Die, Inc., Gardena, CA
Promax Tool Co., Rancho Cordova, CA
ProMold, Inc., Cuyahoga Falls, OH
Prompt Machine Products, Inc., Chatsworth, CA
Proper Cutter, Inc., Guys Mills, PA
Proper Mold & Engineering, Inc., Center Line, MI
Proteus Manufacturing Co., Inc., Woburn, MA
Proto Machine & Manufacturing, Kent, OH
Proto-Design, Inc., Redmond, WA
Protonics Engineering Corp., Cerritos, CA
Prototype & Plastic Mold Co., Inc., Middletown, CT
Puehler Tool Company, Valley View, OH
Pullbrite, Inc., Fremont, CA
Punch Press Products, Inc., Los Angeles, CA
Punchcraft Company—Subsidiary of MascoTech, Inc., Warren, MI
Qualfab Machining, Lodi, CA
Quality Tool Company, Toledo, OH
Quality Machining, Inc., Waunakee, WI
Quality Precision, Inc., Hayward, CA
Quality Mold & Engineering, QME Inc., Baroda, MI
Quality Mold & Die, Inc., Santa Ana, CA
Quality Centerless Grinding Corp., Middlefield, CT
Quality Machining Technology, Inc., Oakdale, CA
Quality Machine Engineering, Inc., Santa Rosa, CA
Quality Grinding and Machine, Rainbow City, AL
Quality Grinding & Machining, Inc., Bridgeport, CT
Quality Engineering Services, Wallingford, CT
Quick Action Mfg. Co., St. Louis, MO
Quick-Way Stampings, Euless, TX
R W Machine, Inc., Houston, TX
R T R Slotting & Machine Inc., Cuyahoga Falls, OH
R S Precision Industries, Inc., Farmingdale, NY
R O C Carbon Company, Houston, TX
R Davis EDM, Anaheim, CA
R & S Redco, Inc., Rockland, MA
R M I, Van Nuys, CA
R J S Corporation, Akron, OH
R G F Machining Technologies, Canon City, CO
R F Cook Manufacturing Co., Stow, OH
R E F Machine Company, Inc., Middlefield, CT
R & D Machine Shop, Dallas, TX
R & D Specialty/Manco, Phoenix, AZ
R & D Tool & Engineering, Lee's Summit, MO
R & G Precision Tool Inc., Thomaston, CT
R & H Manufacturing Inc., Kingston, PA
R & J Tool, Inc., Brookville, OH
R & M Machine Tool, Freeland, MI
R & M Manufacturing Company, Niles, MI
R & M Mold Manufacturing Co., Inc., Bloomsbury, NJ
R & R Precision Machine, Inc., Wichita, KS
R & S EDM, Inc., W. Springfield, MA
R & S Machining, Inc., Oakville, MO
R D C Machine, Inc., Santa Clara, CA
R. W. Smith Company, Inc., Dallas, TX
R. T. Callahan Machine Products, Inc., Harleysville, PA
Radiant Technologies, Phoenix, AZ
Rainbow Tool & Machine Co., Inc., Gadsden, AL
Raloid Corporation, Reisterstown, MD
Ralph Stockton Valve Products, Inc., Houston, TX
Ram Tool, Inc., Grafton, WI
Rapid-Line Inc., Grand Rapids, MI
Rapidac Machine Corporation, Rochester, NY
Ratnik Industries, Inc., Victor, NY
Rawlings Engineering, Macon, GA
Re-Del Engineering, Campbell, CA
Realco Diversified, Inc., Meadville, PA
Reardon Machine Co., Inc., St. Joseph, MO
Reata Engineering & Machine, Works, Inc., Englewood, CO
Reber Machine & Tool Company, Muncie, IN
RedSpark, Inc., San Francisco, CA
Reed Instrument Company, Houston, TX
Reese Machine Company, Inc., Ashtabula, OH
Reg-Ellen Machine Tool Corp., Rockford, IL
Reichert Stamping Company, Toledo, OH
Reitz Tool & Die Company, Inc., Walbridge, OH
Reitz Tool, Inc., Cochranton, PA
Reko International Sales, Inc., Troy, MI
Reliable EDM, Inc., Houston, TX
Remarc Manufacturing Inc., Hayward, CA
Remmele Engineering, Inc., St. Paul, MN
Remtex, Inc., Longview, TX
Reny & Company Inc., El Monte, CA
REO Hydro-Pierce Inc., Detroit, MI
Repairtech International, Inc., Van Nuys, CA
Repko Tool Inc., Meadville, PA
Republic-Lagun, Carson, CA
Republic Industries, Louisville, KY
Research Tool Inc., East Haven, CT
Reuther Mold & Manufacturing Co., Cuyahoga Falls, OH
Reward Manufacturing, Sun Valley, CA
Reynolds Manufacturing Co., Inc., Rock Island, IL
Rheaco Inc., Grand Prairie, TX
Rhode Island Centerless, Inc., Johnston, RI
Rich Tool & Die Company, Scarborough, ME
Richard Manufacturing Company, Inc., Milford, CT
Richard Tool & Die Corporation, New Hudson, MI
Richard's Grinding, Inc., Cleveland, OH
Richards Machine Tool Company, Inc., Lancaster, NY
Richsal Corporation, Elyria, OH
Rick Sanford Machine Company, San Leandro, CA
Rickman Machine Company, Wichita, KS
Rid-Lom Precision Tool Corp., Rochester, NY
Ridge Machine & Welding Company, Toronto, OH
Riggins Engineering, Inc., Van Nuys, CA
Right Tool & Die, Inc., Toledo, OH
Rima Enterprises, Huntington Beach, CA
Rite-Way Industries Inc., Louisville, KY
Riverview Machine Company, Inc., Holyoke, MA
Riviera Tool Company, Grand Rapids, MI
ROA Tool, Inc., Los Angeles, CA
Robb Machine Tool Co., Wyoming, MI
Robert C. Weisheit Co., Franklin Park, IL
Robert C. Reetz Company, Inc., Pawtucket, RI
Roberts Tool & Die Company, Chillicothe, MO
Roberts Tool Company, Inc., Chatsworth, CA
Robrad Tool & Engineering, Mesa, AZ
Rochester Precision Machine, Inc., Rochester, MN
Rochester Automated Systems, Inc., Rochester, NY
Rochester Gear, Inc., Rochester, NY
Rochester Manufacturing, Wellington, OH
Rockburl Industries Inc., Rochester, NY

Rockford Process Control, Inc., Rockford, IL
Rockford Tool & Manufacturing Co., Rockford, IL
Rockford Toolcraft, Inc., Rockford, IL
Rockhill Machining Industries Inc., Barberton, OH
Rockstedt Tool & Die, Brunswick, OH
Rocon Manufacturing Corporation, Rochester, NY
Rogers Associates Machine Tool, Corporation, Rochester, NY
Rogers Enterprises, Rochester, NY
Roll Kraft, Mentor, OH
Romac Electronics, Inc., Plainview, NY
Romold Inc., Rochester, NY
Ron Grob Company, Loveland, CO
Ronart Industries, Inc., Detroit, MI
Ronlen Industries, Inc., Brunswick, OH
Rons Racing Products, Inc., Tucson, AZ
Royal Wire Products, Inc., N. Royalton, OH
Royalton Manufacturing, Inc., Cleveland, OH
Royster's Machine Shop, LLC, Henderson, KY
Rozal Industries, Inc., Farmingdale, NY
RRR Development Co., Inc., North Canton, OH
RTS Wright Industries, Nashville, TN
Rubbermaid, Inc.—Mold Division, Wooster, OH
Runner Tool & Die Co., Inc., Akron, OH
Ruoff & Sons, Inc., Runnemede, NJ
Ryan Industries Inc., York, PA
S & R Tool Inc., Lakeville, NY
S & B Tool & Die Co., Inc., Lancaster, PA
S & P Machine & Tool Co., L.L.C., Toledo, OH
S & R CNC Machining, Arleta, CA
S C Manufacturing, Akron, OH
S D S Machine, Inc., Livermore, CA
S G S Tool Company, Munroe Falls, OH
S L P Machine, Inc., Ham Lake, MN
S P M/Anaheim, Anaheim, CA
S P S Technologies, Santa Ana, CA
S. C. Machine, Chatsworth, CA
S.M.G. LLC, Cheektowaga, NY
Sabre Machining Center, Inc., Dayton, OH
Saeilo Manufacturing Industries, Blauvelt, NY
Safety-Kleen, Columbia, SC
Sage Machine & Fabricating, Houston, TX
Sagehill Engineering, Inc., Menlo Park, CA
Saginaw Products Corporation, Saginaw, MI
Saint-Gobain Advanced Ceramics, Colorado Springs, CO
Saint-Gobain Semicon Equipment, Inc., San Jose, CA
Salamon Manufacturing Inc., Middletown, CT
Saliba Industries, Inc., Lake Forest, IL
Salomon Smith Barney, Washington, DC
Samax Precision, Inc., Sunnyvale, CA
San Diego Swiss Machining, Inc., Chula Vista, CA
San Jose Laser, San Jose, CA
Sanders Tool & Mould Company, Hendersonville, TN
Sandor Tool & Manufacturing Co., Lawrence, MA
Sandy Bay Machine, Rockport, MA
Santin Engineering, Inc., West Peabody, MA
Satran Technical Enterprises, Mayer, AZ
Sattler Machine Products, Inc., Sharon Center, OH
Savco Manufacturing Co. Inc., Union, MO
Sawing Services Co., Chatsworth, CA
Sawtech, Lawrence, MA
Schaffer Grinding Company, Inc., Montebello, CA
Schill Corp., Toledo, OH
Schlitter Tool, Warren, MI
Schmald Tool & Die Inc., Burton, MI
Schmiede Corporation, Tullahoma, TN
Schneider & Marquard, Inc., Newton, NJ
Schoitz Engineering, Inc., Waterloo, IA
Schuetz Tool & Die, Inc., Hiawatha, KS
Schulze Tool Company, Independence, MO
Schwab Machine, Inc., Sandusky, OH
Schwartz Industries, Inc., Warren, MI
Scientiam Machine Co., Harbor City, CA
Scott County Machine & Tool Co., Inc., Scottsburg, IN
Sebewaing Tool & Engineering Co., Sebewaing, MI
Sebra,Tucson, AZ
Seemcor Inc., Englewood, NJ
Select Tool and Die, Toledo, OH
Select Manufacturing Company, Rainbow City, AL
Select Tool & Eng., Inc., Elkhart, IN
Select Tool & Die—Tool Div., Dayton, OH
Select Industrial Systems Inc., Fairborn, OH
SelfLube, Coopersville, MI
Selzer Tool & Die, Inc., Elyria, OH
Sematool Mold & Die Co., Santa Clara, CA
Serrano Industries Inc., Santa Fe Springs, CA
Service Tool & Die, Inc., Henderson, KY
Service Manufacturing and Engineering, Anaheim, CA
Setters Tools, Inc., Piedmont, SC
Sharon Center Mold & Die, Sharon Center, OH
Shaw Industries, Inc., Franklin, PA
Shear Tool, Inc., Saginaw, MI
Sheets Tool & Manufacturing, Inc., Saegertown, PA
Shelby Engineering Company, Inc., Indianapolis, IN
Sherer Manufacturing Incorporated, Clearwater, FL
Sherlock Machine Company, Clearwater, FL
Sherman Tool & Gage, Erie, PA
Shiloh Industries, Wellington Die Division, Wellington, OH
Shookus Special Tools, Inc., Raymond, NH
Shop Tech Industrial Software Corp., Rocky Hill, CT
Sibley Machine & Foundry Corp., South Bend, IN
Sieger Engineering, Inc., S. San Francisco, CA
Sigma Precision Mfg., Inc., Aston, PA
Signa Molds & Engineering, Sylmar, CA
Signal Machine Company, New Holland, PA
Silicon Valley Mfg., Fremont, CA
Sipco Molding Technologies, Meadville, PA
Sirius Enterprises, Inc., Dallas, TX
Sirois Tool Co. Inc., Berlin, CT
Six Sigma, Louisville, KY
Ski-Way Machine Products Company, Euclid, OH
Skillcraft Machine Tool Company, West Hartford, CT
Skulsky, Inc., Gardena, CA
Skyline Manufacturing Corp., Nashville, TN
Skylon Mold & Machining, Sugar Grove, PA
Skyway Manufacturing Corporation, Phoenix, AZ
Smith-Renaud, Inc., Cheshire, CT
Smith's Machine, Cottondale, AL
Smithfield Manufacturing, Inc., Clarksville, TN
Snyder Systems, Benicia, CA
Solar Tool & Die, Inc., Kansas City, MO
Sonic Machine & Tool, Inc., Tempe, AZ
Sonoma Precision Mfg. Co., Santa Rosa, CA
Sonora Precision Molds, Inc., Mi Wuk Village, CA
South Paw Enterprises LLC, Phoenix, AZ
South Eastern Machining, Inc., Piedmont, SC
South Bend Form Tool Company, South Bend, IN
Southampton Manufacturing, Inc., Feasterville, PA
Southeastern Technology, Inc., Murfreesboro, TN
Southern Mfg. Technologies Inc., Tampa, FL
Southwest Mold, Inc., Tempe, AZ
Southwest Manufacturing, Inc., Wichita, KS
Space City Machine & Tool Co., Houston, TX
Spalding & Day Tool & Die Co., Louisville, KY
Spark Technologies, Inc., Schenley, PA
Spartak Products Inc., Houston, TX
Specialty Machine & Hydraulics, Pleasantville, PA
Speed Precision Machining, Phoenix, AZ
Spenco Machine & Manufacturing, Temecula, CA
Spex Precision Machine Technologies, Rochester, NY
Spike Industries, North Lima, OH
Spin Pro Inc., Sunnyvale, CA

Spiral Grinding Company, Culver City, CA
Springfield Manufacturing, LLC, Clover, SC
Springfield Tool & Die, Inc., Greenville, SC
Sprint Tool & Die Inc., Meadville, PA
Spun Metals, Inc., Phoenix, AZ
STADCO, Los Angeles, CA
Standard Die Supply of Indiana, Inc., Indianapolis, IN
Standard Welding & Steel, Products, Inc., Medina, OH
Standard Machine Inc., Cleveland, OH
Standard Jig Boring Service, Inc., Akron, OH
Stanek Tool Corporation, New Berlin, WI
Stanley Machining & Tool Corp., Carpentersville, IL
Star Tool & Engineering, Inc., Newark, CA
Star Tool & Die, Inc., Elkhart, IN
Star Precision Products, Willoughby, OH
Starn Tool & Manufacturing Co., Meadville, PA
State Industrial Products, Inc., Phoenix, AZ
Stauble Machine & Tool Company, Louisville, KY
Stedcraft Inc., Torrington, CT
Stelted Manufacturing, Inc., Tempe, AZ
Sterling Engineering Corporation, Winsted, CT
Sterling Tool Company, Racine, WI
Stevens Manufacturing Co., Inc., Milford, CT
Stewart Manufacturing Company, Phoenix, AZ
Stieg Grinding Corporation, Rockford, IL
Stillion Industries, Ann Arbor, MI
Stillwater Technologies, Inc., Troy, OH
Stines' Machine, Inc., Vista, CA
STM Manufacturing, Holland, MI
Stonewall Jackson Mold Inc., Annville, KY
Stoney Crest Regrind Service, Inc., Bridgeport, MI
Streamline Tooling Systems, Muskegon, MI
Strobel Machine, Inc., Worthington, PA
Stuart Tool & Die, Falconer, NY
Studwell Engineering, Inc., Sun Valley, CA
Subsea Ventures Inc., Houston, TX
Suburban Manufacturing Company, Eastlake, OH
Summit Precision, Inc., Phoenix, AZ
Summit Machine Company, Scottdale, PA
Sun Tool Company, Houston, TX
Sun EDM Inc., Gilbert, AZ
Sunbelt Plastics, Inc., Frisco, TX
Sunrise Tool & Die, Inc., Henderson, KY
Sunset Tool Inc., Saint Joseph, MI
Super Finishers II, Phoenix, AZ
Superbolt, Inc., Carnegie, PA
Superior Jig, Inc., Anaheim, CA
Superior Mold Company, Ontario, CA
Superior Gear Box Company, Stockton, MO
Superior Die Tool Machine Co., Columbus, OH
Superior Tool, Inc., Willow Street, PA
Superior Tool & Die Company, Inc., Elkhart, IN
Superior Tool & Die Company, Bensalem, PA
Superior Thread Rolling Company Inc, Arleta, CA
Superior Programming LLC, Clearwater, KS
Superior Die Set Corporation, Oak Creek, WI
Supreme Tool & Die Company, Fenton, MO
Surface Manufacturing, Auburn, CA
Swiss Wire E D M, Costa Mesa, CA
Swissco, Inc., Bell Gardens, CA
Swisstech Tooling & Manufacturing, Inc., Scottsdale, AZ
Synergis Technologies Group, Grand Rapids, MI
Synergy Machine, Inc., Kent, WA
Synertron, Inc., Middleboro, MA
Syst-A-Matic Tool & Design, Meadville, PA
Systems 3, Inc., Tempe, AZ
T & S Industrial Machining Corp., Woburn, MA
T–M Manufacturing Corporation, Sunnyvale, CA
T J Tool and Mold, Guys Mills, PA
T M Machine & Tool, Inc., Toledo, OH
T M S Inc., Technical Machining Services, Inc., Lincoln, RI
T R Jones Machine Company, Inc., Crystal Lake, IL
T–K & Associates, Inc., La Porte, IN
T. J. Karg Company, Inc., Akron, OH
TAE Corporation, d/b/a T & E Manufacturing, Kent, WA
Tag Engineering, Inc., Tucson, AZ
Tait Design & Machine Company Inc., Manheim, PA
Talbar, Inc., Meadville, PA
Talcott Machine Products, Inc., Meriden, CT
Talent Tool & Die, Inc., Berea, OH
Tana Corporation, Toledo, OH
Tanner Oil Tools Inc., Houston, TX
Target Precision, Meadville, PA
Taurus Tool & Engineering, Inc., Muncie, IN
TCI Precision Metals, Gardena, CA
TCI Aluminum North, Hayward, CA
Team Tooling and Design, Incorporated, Shawnee, OK
Tech-Machine, Inc., Colorado Springs, CO
Tech-Etch, Inc., Plymouth, MA
Tech Tool, Inc., Detroit, MI
Tech Tool & Mold, Inc., Meadville, PA
Tech Ridge, Inc., South Chelmsford, MA
Tech Mold, Inc., Tempe, AZ
Tech Industries, Inc., Cleveland, OH
Tech Manufacturing Company, Wright City, MO
Techmetals, Inc., Dayton, OH
Techni-Products, Inc., East Longmeadow, MA
Techni-Cast Corporation, South Gate, CA
Technics 2000 Inc., Olathe, KS
Technodic, Inc., Providence, RI
Tecno Troqueles Industries, Laredo, TX
TecoMetrix, LLC, Tempe, AZ
Tedco, Inc., Cranston, RI
Teke Machine Corp., Rochester, NY
Tell Tool, Inc., Westfield, MA
Temco Corporation, Danvers, MA
Tenk Machine & Tool Company, Cleveland, OH
Tennessee Metal Works, Inc., Nashville, TN
Tennessee Tool Corporation, Charlotte, TN
Terrell Manufacturing Inc., Strongsville, OH
Testand Corporation, Pawtucket, RI
Tetco, Inc., Plainville, CT
Teter Tool & Die, Inc., La Porte, IN
Texas Honing, Inc., Pearland, TX
Thaler Machine Company, Dayton, OH
The POM Group, Inc., Auburn Hills, MI
The Ryan Group, Franklin, NJ
The Will-Burt Company, Orrville, OH
The Metalworking Group, Inc., Cincinnati, OH
The United Plastics Group, Inc., Chicopee, MA
The Timken Company, Specialty Tooling & Rebuilding, Canton, OH
The Sullivan Corporation, Hartland, WI
The Foster Group, Rochester, NY
The Sherman Corporation, Inglewood, CA
The Goforth Corp., dba The Machine Shop, Fremont, CA
The Baughman Group, Louisville, KY
The Bechdon Company, Inc., Upper Marlboro, MD
The Budd Company, Shelbyville, KY
The Die Works Inc., Hillsboro, MO
Therm, Inc., Ithaca, NY
Thiel Tool & Engineering Co., Inc., St. Louis, MO
Thomas Machine Works, Inc., Newburyport, MA
Thornhurst Manufacturing, Inc., Zephyrhills, FL
Three-Way Pattern, Inc., Wichita, KS
ThreeCore, Inc., Danvers, MA
Time Machine & Stamping, Inc., Phoenix, AZ
Timon Tool & Die Co., Toledo, OH
Tipco Punch, Inc., Hamilton, OH
Tipp Machine & Tool, Inc., Tipp City, OH
Titan, Inc., Sturtevant, WI
TLT-Babcock, Inc., Medina Ohio Facility, Akron, OH
TMI Industries, Inc., Temperance, MI
TMK Manufacturing Inc., Campbell, CA
TMX Engineering & Manufacturing, Santa Ana, CA
Toledo Blank, Inc., Toledo, OH

Toledo Molding & Die, Toledo, OH
Tolerance Masters, Inc., Circle Pines, MN
Tomak Precision, Lebanon, OH
Tomco Tool & Die, Inc., Belding, MI
TomKen Tool & Engineering, Inc., Muncie, IN
Tool-Matic Company, Inc., City Of Commerce, CA
Tool Technology, Inc., Danvers, MA
Tool Gauge & Machine Works, Inc., Tacoma, WA
Tool Mate Corporation, Cincinnati, OH
Tool Specialties Company, Hazelwood, MO
Tool Specialty Company, Los Angeles, CA
Tool Steel Service of California, Inc., Los Angeles, CA
Tool Tech Corporation, San Jose, CA
Tool Tech, Inc., Springfield, OH
Toolcomp Tooling & Components, Co., Toledo, OH
Toolcraft Products, Inc., Dayton, OH
Toolcraft of Phoenix, Inc., Glendale, AZ
Toolex, Inc., Houston, TX
Tooling Molds West, Inc., Tempe, AZ
Tools, Inc., Sussex, WI
Tools Renewal Company, Birmingham, AL
Top Tool Company, Minneapolis, MN
Top Tool & Die, Inc., Cleveland, OH
Toth Technologies, Pennsauken, NJ
Toth Industries, Inc., Toledo, OH
Tower Tool & Engineering, Inc., Machesney Park, IL
Trace-A-Matic Corporation, Brookfield, WI
Tracer Tool & Die Company Inc., Grand Rapids, MI
Trademark Die & Engineering, Belmont, MI
Tram Tek Inc., Phoenix, AZ
Tran Engineering, Garden Grove, CA
Trans-World Electric Inc., Port Arthur, TX
Transmatic Manufacturing, Tempe, AZ
Treblig, Inc., Greenville, SC
Trec Industries, Inc., Brooklyn Heights, OH
Tree City Mold & Machine Co., Inc., Kent, OH
Treffers Precision, Inc., Phoenix, AZ
Tresco Tool, Inc., Guys Mills, PA
Tri-M-Mold, Inc., Stevensville, MI
Tri Craft, Inc., Middleberg Heigh, OH
Tri J Machine Company, Inc., Gardena, CA
Tri-City Machine Products, Inc., Peoria, IL
Tri-City Tool & Die, Inc., Bay City, MI
Triad Plastic Technologies, Reno, NV
Triangle Tool Company, Erie, PA
Triangle Mold & Machine Co. Inc., Hartville, OH
Tribond Industries, Inc., Phoenix, AZ
Tricon Machine & Tool, Inc., Rochester, NY
Tricore Mold & Die, Machesney Park, IL
Tridecs Corporation, Hayward, CA
Trident Precision Manufacturing, Webster, NY
Trimac Manufacturing, Inc., Santa Clara, CA
Trimble Navigation Ltd. Engineering & Construction Division, Huber Heights, OH
Trimline Tool, Inc., Grandville, MI
Trinity Tools, Inc., North Tonawanda, NY
Trio Tool & Die, Inc., Hawthorne, CA
Triple-T Cutting Tools Inc., West Berlin, NJ
Triple Quality Tool & Die, Inc., Bell, CA
Triplett Machine, Inc., Phelps, NY
Triumph Precision, Inc., Phoenix, AZ
Trojan Mfg. Co. Inc., Piqua, OH
Trotwood Corporation, Trotwood, OH
Tru Form Manufacturing Corp., Rochester, NY
Tru Tool, Inc., Sturtevant, WI
Tru-Cut, Inc., Sebring, OH
Tru-Stop, Inc., Prescott Valley, AZ
True Cut EDM Inc., Garland, TX
True Position, Inc., Chatsworth, CA
True-Tech Corporation, Fremont, CA
Trueline Tool & Machine, Inc., Springfield, OH
Trust Technologies, Willoughby, OH
Trutron Corporation, Troy, MI
Tschida Engineering, Inc., Napa, CA
Tucker Engineering Inc., Peabody, MA
Tucker Machine Company, North Branford, CT
Turn-Tech, Inc., Pinehurst, TX
Turnkey Automation, Inc., Rockford, IL
Twin City Plating Company, Minneapolis, MN
Two-M Precision Co., Inc., Willoughby, OH
Tymar Precision Inc., Santa Clara, CA
U S Machine & Tool, Inc., Murfreesboro, TN
U M C, Inc., Hamel, MN
U C O Tool & Die, Inc., Union City, OH
U F E Incorporated, Stillwater, MN
UAB Manufacturing Co., Inc., Southampton, PA
Uddeholm, Santa Fe Springs, CA
Ugm, Inc., Santa Clara, CA
Ultima Nashua Industrial Corp., Nashua, NH
Ultra-Tech, Inc., Kansas City, KS
Ultra Tool Company, Grantsburg, WI
Ultra Tool & Manufacturing, Inc., Menomonee Falls, WI
Ultra Precision, Inc., Freeport, PA
Ultra Stamping & Assembly, Inc., Rockford, IL
Ultramation, Inc., Waco, TX
Ultron, Long Beach, CA
Uneco Manufacturing, Inc., Chicopee, MA
Unique Tool & Manufacturing, Randleman, NC
Unique Machine Company, Montgomeryville, PA
Unitech, Inc., Kansas City, MO
United States Fittings, Inc., Warrensville Hei, OH
United Tool & Engineering Co., South Beloit, IL
United Tool & Engineering, Inc., Mishawaka, IN
United Machine Co., Inc., Wichita, KS
United Centerless Grinding, East Hartford, CT
Universal Tools & Manufacturing, Co., Springfield, NJ
Universal Precision Products Inc., Akron, OH
Universal Custom Process, Inc., Streetsboro, OH
Universal Brixius, Milwaukee, WI
Upland Fab, Inc., Ontario, CA
USAeroteam, Dayton, OH
USBX, Inc., Santa Monica, CA
UT Technologies, Inc., Los Angeles, CA
V R C, Inc., Berea, OH
V & S Die & Mold, Inc., Lakewood, OH
V I Mfg., Webster, NY
V Ash Machine Company, Cleveland, OH
V A Machine & Tools, Inc., Broussard, LA
V & M Tool Company, Inc., Perkasie, PA
V.A.W. of America, Inc., Phoenix, AZ
Val-Tech Mfg., Tempe, AZ
Valley Tool & Mfg., Inc., Orange, CT
Valley Tool Room, Inc., Phoenix, AZ
Valley Tool & Die, Inc., North Royalton, OH
Valley Machine Works, Inc., Phoenix, AZ
Valv-Trol Company, Stow, OH
Van-Am Tool & Engineering, Inc., St. Joseph, MO
Van Reenen Tool & Die Inc., Rochester, NY
Van Engineering, R Vandewalle, Inc., Cincinnati, OH
Van Os Machine Works, Inc., St. Louis, MO
Vanderveer Industrial Plastics, Inc., Placentia, CA
Vanpro, Inc., Cambridge, MN
Varco Systems, Orange, CA
Vaughn Manufacturing Company, Inc., Nashville, TN
Vektek, Inc., Emporia, KS
Venango Machine Products, Inc., Reno, PA
Ver-Sa-Til Associates, Inc., Chanhassen, MN
Versacut Ind. Inc., Morenci, MI
VersaTool & Die Machining and Engineering Inc., Beloit, WI
Vi-Tec Manufacturing Inc., Livermore, CA
Vico Louisville, Louisville, KY
Viking Tool & Engineering, Whitehall, MI
Viking Tool & Gage, Inc., Conneaut Lake, PA
Virtual Fund, Inc., Eden Prairie, MN
VirtualRFQ.cc, Auburn, WA
Vistek Precision Machine Company, Ivyland, PA

Vitron Manufacturing, Inc., Phoenix, AZ
Vitullo & Associates, Inc., Warren, MI
Vobeda Machine & Tool Company, Racine, WI
Vulcan Tool Corporation, Dayton, OH
W + D Machinery Company, Inc., Overland Park, KS
W & H Stampings & Fineblanking, Inc., Hauppauge, NY
W D & J Machine & Engineering Inc., Fullerton, CA
W E C Technologies Corporation, Amityville, NY
W G Strohwig Tool & Die, Inc., Richfield, WI
W W G, Inc., Indianapolis, IN
W. C. Kirby & Son, Inc., Noblesville, IN
W.A.C. Consulting/Coss Systems Inc., Northboro, MA
WADKO Precision, Inc., Houston, TX
Wagner Engraving Co., Kirkwood, MO
Wagner Engineering, Inc., Gilbert, AZ
Waiteco Machine, Acton, MA
Wajo Tool and Die, Inc., East Hampstead, NH
Walker Tool & Machine Company, Perrysburg, OH
Walker Corporation, Ontario, CA
Wallner Tooling/Expac, Inc., Rancho Cucamonga, CA
Waltco Engineering, Inc., Gardena, CA
Walter Waukesha, Inc., Waukesha, WI
Walter Tool & Mfg. Inc., Elgin, IL
Walz & Krenzer, Inc., Oxford, CT
Warmelin Precision Products, Hawthorne, CA
Waukesha Tool & Stamping Inc., Sussex, WI
Wayne Manufacturing, Inc., Boulder, CO
Webco Machine Products, Inc., Valley View, OH
Weco Metal Products, Ontario, NY
Wejco Instruments Inc., Houston, TX
Wemco Precision Tool, Inc., Meadville, PA
Wentworth Company, Glastonbury, CT
Werkema Machine Company, Inc., Grand Rapids, MI
Wes Products, Madison Heights, MI
West Valley Precision Inc., San Jose, CA
West Valley Milling, Inc., Chatsworth, CA
West Tool & Manufacturing, Inc., Cleveland, OH
West Pharmaceutical Services, Erie, PA
Western Tap Manufacturing Co., Inc., Buena Park, CA
Western Air Products, Tucson, AZ
Western Mass. MechTech, Inc., Ware, MA
Westfield Tool & Die, Inc., Westfield, MA
Westfield Manufacturing Corp., Westfield, IN
Westlake Tool & Die Mfg., Avon, OH
Westool Corporation, Temperance, MI
Westtool Inc., Phoenix, AZ
WGI Inc., Southwick, MA
Whatever Manufacturing, Santa Ana, CA
White Machine, Inc., North Royalton, OH
Whitehead Tool & Design, Inc., Guys Mills, PA
Wiegel Tool Works, Inc., Wood Dale, IL
Wiesen EDM, Inc., Belding, MI
Wightman Engineering Services, Inc., Santa Clara, CA
Wilco Die Tool Machine Company, Maryland Heights, MO
Wilkinson Mfg., Inc., Santa Clara, CA
Willer Tool Corporation, Jackson, WI
William Sopko & Sons Co., Inc., Cleveland, OH
Williams Machine, Inc., Lake Elsinore, CA
Williams Engineering & Manufacturing, Inc., Chatsworth, CA
Williams Tooling Inc., Dorr, MI
Windsor Tool & Die, Inc., Cleveland, OH
Wintech Industries Inc., Tempe, AZ
Winter's Grinding Service, Menomonee Falls, WI
Wire Tech E D M, Inc., Los Alamitos, CA
Wire Cut Company, Inc., Buena Park, CA
Wirecut Technologies Inc., Indianapolis, IN
WireCut E D M, Inc., Dallas, TX
Wiretec, Inc., Delmont, PA
Wisconsin Engraving Company/, Unitex, New Berlin, WI
Wisconsin Mold Builders, LLC, Waukesha, WI
Wise Machine Co., Inc., Butler, PA
Wolverine Tool Company, St. Clair Shores, MI
Wolverine Bronze Company, Roseville, MI
Wolverine Tool & Engineering, Belmont, MI
Woodruff Corporation, Torrance, CA
Wright-K Technology, Inc., Saginaw, MI
Wright Brothers Welding & Sheet Metal, Inc., Hollister, CA
Wright Industries, Inc., Gilbert, AZ
WSI Industries, Inc., Wayzata, MN
X–L Machine Company, Inc., Three Rivers, MI
XLI Corporation, Rochester, NY
Yarde Metals, Inc., Bristol, CT
Yates Tool, Inc., Medina, OH
Yoder Die Casting Corporation, Dayton, OH
Youngberg Industries, Inc., Belvidere, IL
Youngers and Sons Manufacturing, Company, Inc., Viola, KS
Youngstown Plastic Tooling & Machinery, Inc., Youngstown, OH
Z & Z Machine Products Inc., Racine, WI
Z M D Mold & Die Inc., Mentor, OH
Zip Tool & Die Co., Inc., Cleveland, OH
Zip Products Inc., Rochester, NY
Zircon Precision Products, Inc., Tempe, AZ
Zuelzke Tool & Engineering, Milwaukee, WI

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071901A]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Construction and Operation of Offshore Oil and Gas Facilities in the Beaufort Sea

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

ACTION: Notice of issuance of a letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a letter of authorization (LOA) to take a small number of marine mammals incidental to the production of offshore oil and gas at the Northstar development in the Beaufort Sea off Alaska has been issued to BP Exploration (Alaska), Anchorage, AK (BPXA).

DATES: This LOA is effective from December 14, 2001, until November 30, 2002.

ADDRESSES: A copy of BPXA's application, the LOA and a list of references used in this document may be obtained by writing to the Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or by telephoning one of the contacts listed here. Other reports referenced in this document are available for review, by appointment during regular business hours, at the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, and Western Alaska Field Office, NMFS, 701 C Street, Anchorage, AK 99513, and the National Marine Mammal Laboratory, NMFS, Bldg 4, 7600 Sand Point Way NE, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead (301) 713-2055, ext. 128, or Brad Smith (907) 271-5006.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on 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 by NMFS and regulations are issued. Under the MMPA, the term ''taking'' means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals, will not have an unmitigable adverse impact on the availability of the species or stock(s) of marine mammals for subsistence uses, and if regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of marine mammals incidental to construction and operation of the offshore oil and gas facility at Northstar in the Beaufort Sea were published and made effective on May 25, 2000 (65 FR 34014), and remain in effect until May 25, 2005.

Summary of Request

On May 15, 2001, NMFS received a request from BPXA for a renewal of an LOA issued on September 28, 2000 (65 FR 58265) for the taking of marine mammals incidental to production operations of the offshore oil and gas facility at Northstar in state and Federal waters, under section 101(a)(5)(A) of the MMPA. This request contained information in compliance with 50 CFR 216.209 which updated information provided in BPXA's original application for takings incidental to construction and operations at Northstar. The previous LOA for the taking of marine mammals incidental to the construction of the Northstar facility expired on November 11, 2001.

Description of Activity

BPXA proposes to produce oil from the Northstar Unit offshore oil development facility. This facility is the first in the Beaufort Sea that uses a subsea pipeline to transport oil to shore and then into the Trans-Alaska Pipeline System. The Northstar Unit is located on Seal Island between 2 and 8 miles (mi)(3.2 and 12.9 kilometers (km)) offshore from Pt. Storkersen, AK. This unit is adjacent to the Prudhoe Bay industrial complex and is approximately 54 mi (87 km) northeast of Nuiqsut, a Native Alaskan community.

The Northstar island and pipelines were constructed during the winter of 1999 and early 2000. Construction of ice roads began in November 1999, and was completed in March 2000. Construction activity included the construction of several ice roads, one from West Dock and Pt. McIntyre to the Northstar gravel mine, one from the Kuparuk River delta mine site to Seal Island, and one along the pipeline route to Seal Island. The gravel-haul ice road had a parallel alternate road to transport service equipment, construction materials and alternate gravel hauling when maintenance or repair of the main ice road was required. Gravel hauling to the island extended from February to April, 2000. The pipelines were installed through a trench in the ice from March through May 2000, and buried to a depth of 6 to 8 ft (1.8 to 2.4 m) below the sea floor. Construction work and installation of facilities on the island continued during the spring ice break-up and open water season of 2000. Sheet pile installation at Northstar island began on March 7, 2000, and continued through May 29, 2000, via vibratory and impact pile-driving techniques. Additional work included capping the sheet pile retaining wall and installing the well-conductor pipes, foundation blocks, concrete slope protection, utility and permanent living quarter modules, and the drilling rig with its module. Monitoring of marine mammal impacts was conducted during this construction period and reported in Richardson and Williams (2000, 2001a, 2001b).

The operational (oil production) phase at the Northstar facility during both the ice-covered and open-water seasons will include two diesel generators (designated emergency generators), three gas-turbine generators for the power plant operating at 50-percent duty cycle (i.e., up to two will be operating at any one time), two high pressure gas-turbine compressors, one low-pressure flare, and two high-pressure flares. All flares will be located on the 215 ft (66 m) flare tower. There is no seismic survey work involved with this activity or being proposed for authorization under this LOA.

Drilling began in December 2000 and is expected to continue for about 3 years. The operational phase of Northstar is considered to begin with the first oil, likely in November 2001. Production will commence while drilling is continuing. Drilling will continue until 23 development wells (15 production, 7 gas injection) are drilled. After drilling is completed, only production-related site activities will occur.

In order to support operations at Northstar, the operations activity includes the annual construction of three ice roads. One is to be built parallel to the coast from West Dock and Pt. McIntyre to the location of the pipeline shore crossing. A second road will be constructed along the pipeline route from the shore crossing to Northstar Island. A third road from Pt. McIntyre directly to Northstar is also anticipated. Ice road construction will begin sometime during the period from late-November through January, depending on ice conditions. Ice roads are expected to be completed and ready for traffic by mid-February. Ice roads will be used to resupply needed equipment, parts, foodstuffs, and products, and for hauling wastes back to existing facilities. For a description of planned ice-road activities, please refer to BPXA's 2001 application.

During the summer, barge trips will be required between West Dock or Endicott and the island for resupply. Year-round helicopter access to Northstar is planned for movement of personnel, foodstuffs and emergency movement of supplies and equipment. Helicopters will fly at an altitude of at least 1,000 ft (305 m), except for takeoffs, landings, and safe-flight operations.

Comments and Responses

On August 17, 2001 (66 FR 43216), NMFS published a notice of receipt and a 30-day public comment period was provided on the application and proposed authorization. During the public comment period, comments were received from the Marine Mammal Commission (MMC), the North Slope Borough (NSB), the Alaska Eskimo Whaling Commission (AEWC) and BPXA.

MMPA Concerns

Comment 1: BPXA questions whether sounds generated from ice road construction and production activities at Northstar will incidentally take ringed seals by harassment during the first several months of the ice-covered period. BPXA states that the Court of Appeals for the 9th Judicial Circuit has defined ''harass'' as used in the MMPA to mean . . . ''direct and serious disruptions of normal marine mammal behavior . . ..'' (*US* v. *Hayashi*, 22 F.3d 859, 865, 9th Cir. 1994). BPXA anticipates that sounds from Northstar ice road construction and production activities will not cause direct and serious disruptions of normal seal behavior during this period.

Response: The MMPA was amended in 1994, after *Hayashi* was decided, to include a definition of harassment, which did not exist in the statute at the

time of the alleged violation in that case. The court had to determine what harassment meant in the context of how ''take'' was defined in the statute and the regulations at that time. Harassment as defined in the MMPA, as amended, includes any act of annoyance that has the potential to injure a marine mammal or cause disruption of behavioral patterns. Therefore, NMFS believes that harassment is broader than the *Hayashi* court's definition. Also, while NMFS concurs that, prior to March 1, Northstar ice-road construction will not cause a serious disruption of normal seal behavior during this time, both BPXA (through its application) and NMFS concur that ice road construction-related activities may cause limited and localized displacement of ringed seals during this time period.

Comment 2: The AEWC believes that NMFS is required to issue an authorization under section 101(a)(5)(A) of the MMPA for takings by oil spills. The AEWC believes that the narrow reading provided by NMFS in the proposed LOA authorization (66 FR 43216, August 17, 2001) equates an authorization of take by an oil spill with an authorization to spill oil.

Response: NMFS believes that the MMPA does not authorize the issuance of incidental take authorizations when the taking results from an unlawful activity. In that regard, the Clean Water Act (CWA) at 33 USC 1321(b)(3) prohibits discharge of harmful quantities into the water. Regulations at 40 CFR 110.3 define harmful quantities as violating water quality standards or causing a sheen (i.e., oil spills are considered a violation of the CWA). This is the same approach NMFS takes with respect to incidental take authorizations under the Endangered Species Act (ESA); the incidental take must result from an otherwise lawful activity (50 CFR 402.02).

Comment 3: The AEWC states that under section 101(a)(5)(A) of the MMPA, NMFS must set an upper biological limit that it will allow for all takings that might occur incidental to a specified activity. In other words, AEWC asserts that NMFS must authorize all the takes that may occur incidental to the specified activity so long as NMFS is able to make the necessary determinations for a small take LOA (negligible impact on species; no unmitigable adverse impact on subsistence), and then issue an LOA for that maximum amount. NMFS has not done this with respect to incidental taking that might be caused by oil spill or other discharge at Northstar. (This comment was made as part of the previous comment that the LOA must include authorization for takes that occur incidental to an oil spill.)

Response: Although the LOA does not authorize takes that occur incidental to an oil spill (see response to Comment 2), the impacts of an oil spill nevertheless were considered in the analysis for the impacts of BPXA's activities on the affected species or stocks. When evaluating the impacts of an activity on marine mammals, NMFS takes into account the probability of occurrence of potential impacts and the potential severity of harm to the species or stock. If the potential impacts are significant but the probability of occurrence is low, a negligible impact determination may be appropriate. The same is true if the potential effects of a specified activity are conjectural or speculative. For a further explanation of this approach, see the Final Rule implementing the regulations governing small takes of marine mammals incidental to specified activities, 50 FR 40338, 40343 (September 29, 1989). These determinations are based on the best scientific information available as later supported or negated through required monitoring program (NMFS, 1995).

For the BPXA LOA, NMFS considered both the likelihood and the potential impacts of an oil spill and made these determinations in the preamble to the Northstar final rule (66 FR 34014; May 25, 2000), NMFS determined that while a large oil spill would potentially have more than a negligible impact on bowhead whales and other marine mammals, the likelihood of such an oil spill and the likelihood of an impact are low for the five-year period of these authorizations. This allowed NMFS to make a determination that the incidental takings would have a negligible impact on marine mammals. Because the likelihood of an oil spill and the resulting impacts on marine mammals were low, NMFS deemed that any calculation of take would be speculative.

However, NMFS recognizes that in the unlikely event that a major oil spill does occur, the impact has some potential to be more than negligible. As a result, NMFS has determined that, in the event a major oil spill occurs, NMFS will need to reassess immediately its determination in this document that the taking of marine mammals by oil and gas development activities in the Beaufort Sea is having no more than a negligible impact on marine mammals and not having an unmitigable adverse impact on subsistence uses of marine mammals. If, because the takings due to the oil spill are projected to exceed the levels used in this document to make the necessary findings, NMFS will immediately suspend the LOA issued for the oil development project causing the impact. Because the LOA suspension falls under the emergency determination for LOA suspension under these regulations, NMFS will not provide a 30-day public review period prior to suspension. However, NMFS believes the possibility of this situation occurring is remote.

Marine Mammal Concerns

Comment 4: The MMC believes that the population-level effects and the impacts on Native subsistence hunting may not be negligible in the long-term (i.e., over the expected 15-20 years of production and related activities).

Response: The issue of making a negligible impact determination was addressed in detail in the preamble to the final rule (see 66 FR 34014, May 25, 2000), especially NMFS' response to comments 20 through 23). Essentially, NMFS does not agree that it should make a negligible impact assessment over the 15-20 year lifetime of the Northstar Unit. Under the MMPA, NMFS must make a determination that the ''total of such taking during each 5-year (or less) period concerned will have a negligible impact on such species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence purposes . . ..'' This is what NMFS did, as detailed in the final rule. However, by reviewing its negligible impact determinations every 5 years, as mandated by Congress when it limited authorizations to no more than 5 years at a time, NMFS has the ability to reassess its determinations through new research, monitoring and reporting that is required under the current regulations.

In that regard, it is important to note that NMFS will not continue to review the findings made in the preamble to the final rule and in this document during future LOA renewals for the Northstar facility. For future LOA renewals, NMFS will follow the renewal instructions published at 50 CFR 216.209 and will not invite public comment on LOA renewals unless NMFS receives significant new information that calls into question the findings that have been made previously, or if BPXA fails to comply with the terms and conditions of its LOA.

Comment 5: The MMC notes that while the statement in ''Impacts of Noise on Marine Mammals in the Beaufort Sea'' is correct, some relevant data shows that when seal structures were reassessed in May 2000, 87 percent of the structures identified as active in

December (20 of 23) had been either abandoned or eliminated by construction activities (6 eliminated; 14 abandoned, 3 active). Three of the structures found in December were still active in May. (This compares with an abandonment rate of 4 percent in earlier studies--albeit over shorter periods of time.) However, during May an additional 18 structures, 15 of which were active, were found within the portion of the construction and monitoring area that was searched again. These data show that some individual ringed seals remained near the industrial area despite the intensive island and pipeline construction activities that occurred between December and May. It is not known whether the unexpectedly high number of structures found for the first time in May was related to local relocation of seals as a result of construction activities, or inadequate survey coverage in December, or a combination of the two.

Response: The information cited in the comment is contained in BPXA's reports for activities at Northstar during the winter and spring, 1999-2000 (Richardson and Williams, 2000; Williams *et al.* (2001). One additional possible causal relationship for the high number of structures identified by the authors is the natural creation of new structures as the 9-month ice-covered season progressed. A second year of the results of this research was provided to NMFS in September 2001, after NMFS had published the notice of proposed LOA authorization (August 17, 2001 (66 FR 43216)). A summary of relevant findings from this report is provided later in this document.

Comment 6: The AEWC questions NMFS' statement that interactions between oil and whales are unlikely in the spring due to the probable alongshore trajectory of oil spilled from Northstar. The AEWC states that no data are available to support this assertion. The AEWC references the Minerals Management Service (MMS, 2001) to support this statement noting the MMS states: ''...it is not possible to predict the location of a spill or its path, and therefore it is not possible to predict which ecological, social, or economic resources would be affected and to what extent.''

Response: During spring, bowhead whales migrate eastward in offshore leads and no bowheads are expected to occur within 75 km (46.6 mi) of Northstar. Under-ice currents are influenced by coastal storm surges and regional circulation patterns (Corp of Engineers (Corps), 1999). While water mass movement is influenced in open water by the Beaufort Sea Undercurrent, there is no indication that significant alongshore currents exist while under the ice (current measurements vary from 0.7 in/sec (1.8 cm/sec) to 3.6 in/sec (9 cm/sec)(Corps, 1999)). As a result, while NMFS has removed this statement from this document, it continues to adopt the information contained in the Corps' final Environmental Impact Statement (final EIS) (Corps, 1999), as the best scientific information available that the probability that an oil spill from Northstar would reach bowhead whales during the spring migration period is very low.

NMFS believes that the AEWC citation of the MMS' draft proposed 5-year Outer Continental Shelf (OCS) leasing plan for 2002-2007 to support its argument is not the appropriate document for this action as it is a projection for future lease sales in all U.S. OCS areas, not just the Beaufort Sea. Since the Northstar activity is covered by an final EIS prepared by the Corps for oil and gas production at Northstar, and since oil spill trajectories have been projected for that location, NMFS believes that the Corps document is the appropriate supporting documentation for this action.

Comment 7: The AEWC further states that historically, the spring leads in the area of Northstar have tended to be relatively far offshore, and the State of Alaska has imposed seasonal drilling restrictions on BPXA's Northstar operations to help address the risk of oil entering the water during spring break-up or other broken ice periods. However, satellite images from the past two winters show the formation of large ice leads, perpendicular to the shore, in the vicinity of Northstar.

Response: Thank you for this information. However, with drilling restrictions proposed by BPXA (later adopted by the State of Alaska) that drilling into oil producing areas will not take place during springtime ice break-up (and the open water period), this new information does not affect NMFS' determination that Northstar oil and gas production would not have more than a negligible impact on bowhead whales and other marine mammals, and would not have an unmitigable adverse impact on subsistence uses of marine mammals.

Comment 8: The AEWC also questions NMFS' statement that ≥bowhead feeding is uncommon along the coast near Northstar.≥ In making this statement, NMFS fails to note repeated statements by elders and subsistence whaling captains that they consider the spring and fall migratory paths of the bowhead whale (including the waters shoreward of those paths) to be important feeding habitat. This information has been provided to NMFS in the AEWC's comments on the petition to designate critical habitat for the western stock of bowhead whales and on NMFS' draft Arctic Regional Biological Opinion.

Response: It is recognized both scientifically and by Traditional Knowledge that bowhead whales feed during spring and fall migration in the Beaufort Sea. However, according to Richardson (pers. comm. October 19, 2001) bowhead whale feeding during migration appears to be opportunistic and probably can occur wherever and whenever bowheads encounter a sufficient concentration of prey in the Alaskan Beaufort Sea. Current information, according to Richardson, indicates that bowheads sometimes feed as they travel even if the prey biomass is only moderate, but linger in one area specifically to feed only if prey biomass is high at some depth in the water column. However, bowhead aerial surveys hint that the Northstar area is not a hotspot for feeding. Feeding very likely occurs there to some extent, but less so than in some other places like the waters near and east of Kaktovik, or the area east of Barrow, AK. In those areas (unlike the Northstar area) groups of bowheads are sometimes observed feeding intensively and for extended periods (several days). Aerial survey results give the impression that bowheads probably feed more in the area between Flaxman and Cross Island than they do from Cross Island westward past Northstar to Harrison Bay. However, there have been no specific studies of feeding between Cross and Flaxman islands and areas west of Camden Bay are outside BPXA's feeding study area. It should be noted for future reference that, aside from mentioning the Cross Island stomach contents in passing, and the Barrow stomach contents in detail, BPXA's feeding study report will not deal with the Northstar area or other locations west of Camden Bay (Richardson, J. pers. comm. October 19, 2001).

Mitigation Concerns

Comment 9: The MMC recommends that, if it has not already done so, NMFS should review and, if necessary recommend modifications to, the updated Oil Discharge Prevention and Contingency Plan (ODPCP) to assure that the risk of oil spills has been estimated appropriately, that the planned measures for containing and cleaning up oil spills in both the open ocean and ice-covered areas are likely to be effective, and that everything feasible will be done to minimize the impacts of

both oil and contaminant/clean-up operations on marine mammals.

Response: As noted in the preamble to the final rule (66 FR 34014; May 25, 2000), NMFS believes that it has neither the expertise to determine the adequacy of the ODPCP, nor the authority to require the ODPCP be modified by BPXA or to place these requirements on Federal or state agencies with such authority. The ODPCP has been approved by the U.S. Department of Transportation, the U.S. Coast Guard, the MMS, and the State of Alaska Department of Environmental Conservation. For its determinations of negligible impact, NMFS relied on the information, including estimates of risk from oil spills, contained in the final EIS.

Comment 10: The MMC also recommends that NMFS provide for periodic site inspections, as part of the long-term monitoring program, to ensure that the contingency plan can be implemented as and when necessary.

Response: NMFS considers the ODPCP as part of the Northstar mitigation program, not a part of BPXA's marine mammal monitoring program. NMFS does not have the expertise to judge whether or not a contingency plan can be implemented and therefore leaves that responsibility for other federal and state agency judgements. Oil spill drills are scheduled periodically and NMFS will use the other agencies' findings, as needed, to make or confirm the necessary determinations under the MMPA. However, during previous oil-spill containment exercises, it became widely recognized that oil spill cleanup activities have not been totally successful during periods of broken ice. As a result, BPXA has confirmed to NMFS that it will not drill into oil production layers during either broken ice or open water season when oil spill impacts would be more difficult to mitigate (through containment and clean-up) and would restrict drilling to the wintertime. This is discussed in detail later in this document.

Comment 11: The MMC notes that in ''Proposed Mitigation,'' it is unclear what is intended. There is no problem with conducting the baseline survey after 20 March in areas which are undisturbed prior to that time. However, the baseline survey date cannot be subsequent to the first date of any disturbance.

Response: NMFS agrees, recognizing that surveys using trained dogs to locate ringed seal lairs late in the season are considered by NMFS as a mitigation measure to prevent, to the greatest extent practicable, the death of newborn pups during that critical period of life. Accordingly, the March 20 date has been changed to March 1 because a ringed seal birth was discovered in early March, 2001 near Northstar. Discussion on this survey as a monitoring program is discussed later in this document.

Monitoring and Reporting Concerns

Comment 12: The MMC believes that the ongoing and proposed research and monitoring programs may not be sufficient to detect non-negligible effects. The MMC remains concerned that long-term effects may still occur and that some type of reliable monitoring program should be implemented.

Response: Without a more detailed explanation on the MMC's concern that the monitoring program is insufficient, NMFS cannot respond in any detail to the comment. BPXA has submitted several reports on the results to date on monitoring and has proposed a monitoring program that was available for review during this comment period. These monitoring plans have been peer-reviewed in at least two workshops (see Monitoring later in this document for detail) in the past. Also, NMFS has participated in meetings and workshops with industry, other government agencies and Native groups to address both short-term and cumulative impact monitoring.

It should be recognized that research and monitoring of Beaufort Sea marine mammals are also conducted by government agencies, or through government agency funding, that have not been addressed in recent documents. This includes, for example, MMS' aerial bowhead whale surveys, an annual population assessment survey for bowhead whales, a study on contaminant levels in bowhead whale tissue, and a bowhead whale health assessment study. These latter three studies are funded by, or through, NMFS. Information on these projects has been provided to the MMC by NMFS. Based on this multi-faceted monitoring program, NMFS has determined that the monitoring program is adequate to identify impacts on marine mammals, both singly from the project and cumulatively throughout the industry.

Comment 13: The MMC recommends that visual monitoring during the open-water season be resumed in future years if noisy activities, such as impact pipe driving, were to take place.

Response: Even though ''construction'' activities are not planned by BPXA in the near future, NMFS has added to the LOA a requirement that visual monitoring be conducted whenever activities are planned to take place that potentially would result in a sound pressure level (SPL) greater than 180 dB beyond the island perimeter.

Comment 14: The MMC believes that the use of trained dogs to locate seal structures beginning in early January is appropriate. The BPXA application states that on-ice activities will avoid located structures ''when practical.'' The MMC believes that an explanation of when such avoidance would not be practical should be provided.

Response: The primary ice roads used during Northstar oil production must be almost straight-line in order to effectively transport crews and material to Northstar Island. As a result, there is little mitigation that has been identified that would be practical and effective during the construction of these primary roads in the early part of the winter season. One of the reasons for building the ice roads early in the season is that it mitigates to the greatest extent practical interference with seals' constructing birthing lairs. However, secondary ice roads constructed later in the season are not believed to be confined to a set track and, because of the potential impact on ringed seal pups, can and should be constructed to avoid seal structures. As a result, NMFS has imposed mitigation measures in the LOA that require (1) Using trained dogs to locate seal structures on or in the vicinity of ice roads, (2) avoiding seal structures by a minimum of 150 m (492 ft) during construction of any roads other than the two primary roads, and (3) avoiding, to the greatest extent practicable, disturbance of any located seal structure after March 1.

Section 101(a)(5)(A)(ii)(I) of the MMPA provides for regulations setting for the permissible methods of taking and other means effecting the least practicable adverse impact on the affected species or stock and its habitat. As ringed seals construct several breathing holes and lairs within their territory, they do not rely on a single structure during the year. Ice roads constructed early in the year will have the potential to result in some minor harassment as ringed seals abandon certain breathing holes, if the noise is disturbing to them. NMFS believes this is preferable to avoiding all harassment of ringed seals during early-season ice road construction (how that would be accomplished has not been identified), allowing seal structures to become birthing lairs, having the newborn pup (who may be more sensitive to noise than an adult) abandon a birthing lair prior to weaning, and then succumb to the effects of the disturbance. However,

NMFS intends to have the results of recent on-ice monitoring reviewed at the next on-ice peer review workshop (tentatively scheduled for September 2002 in Seattle) to determine whether it is necessary to resume a winter-time ringed seal monitoring program for the Northstar project.

Comment 15: The MMC notes that in Monitoring During the Ice-covered Season, it is stated that ''if needed, a recheck of these structures will be conducted in May 2002 to assess the proportion of structures abandoned relative to distance between the disturbance and the structure.'' It seems like such information is exactly the kind required for monitoring, and that the recheck in May should be mandatory, rather than ''if needed.''

Response: NMFS agrees that rechecking seal structures in the vicinity of Northstar in May is appropriate if road construction, or other significant disturbance, has taken place after March 1. The LOA has been amended to reflect this condition.

Comment 16: BPXA requested clarification on the date for delivery of the final report to NMFS. The current regulation, under which the LOA is authorized, states that the draft comprehensive report is due to NMFS on May 1 of each year. However, language in the (current) LOA states that the final draft report is due April 1 of each year. BPXA requests that the renewed LOA be consistent with the regulation and the final draft report will be due to NMFS on May 1 of each year.

Response: NMFS agrees. Under the LOA, a draft annual comprehensive report is due on May 1 of each year, as required by the regulations. This report will need to contain information from the just-completed on-ice monitoring season, and the previous year's open water monitoring period. For background information on this issue, NMFS recommends readers refer to NMFS' response to comment 44 in the preamble to the Northstar final rule (see 65 FR 34014, May 25, 2000).

Subsistence Concerns

Comment 17: The AEWC states that NMFS is compelled to provide mitigation measures for potential adverse impacts to Alaskan Eskimo subsistence hunting as part of the LOA requested by BPXA.

Response: NMFS agrees, noting that mitigation measures are described in the proposed LOA notice published in the **Federal Register** on August 17, 2001 (66 FR 43216) and in this document. This includes mitigation for both noise and potential oil spills, for reasons explained in both documents.

Comment 18: The NSB has concerns that NMFS' proposed mitigation measures for oil spills are not triggered unless the spill reaches or exceeds 1,000 barrels. This, the NSB states, is an artificial limit and there is simply no basis, logical or scientific, for this being the standard. The appropriate standard should be focused on whether or not the spill causes a reduction in the subsistence use of marine mammals. The NSB recommends NMFS adopt the definition found in the draft Good Neighbor Policy (GNP) condition B.1.

Response: The GNP is an agreement between BPXA and the NSB that outlines mitigation measures that would take place in the event that an oil spill occurred at the Northstar facility or its pipeline. On September 19, 2001, the AEWC and the Mayor, NSB, informed BPXA representatives that, if the outstanding GNP issues could be resolved to the satisfaction of the AEWC, the NSB and the Inupiat Community of the Arctic Slope would not object to the renewal of BPXA's LOA on the basis of the oil spill mitigation. This private agreement, of which NMFS is not a party, became effective on October 22, 2001.

NMFS agrees that the definition proposed in the GNP is more appropriate for determining impacts on subsistence hunting than the standard industry definition that was provided by BPXA in its application. Accordingly, this definition has been added to the LOA for Northstar and is provided later in this document.

Comment 19: The AEWC questions NMFS' statement in the proposed notice (66 FR 43216, August 17, 2001) that almost all bowhead whales travel north of Northstar during the fall migration. This assertion ignores the fact that subsistence hunters have taken bowheads in the vicinity of Northstar.

Response: The comment has been taken out of context. NMFS notes a few sentences later that ''[I]n the case of bowheads, almost all individuals travel west north of Northstar. A few individuals travel west within a few kilometers north of Northstar, but most are 10 km (6.2 mi) or more farther offshore.'' In fact, in most years (1979-1995), less than 2 percent of the westward migrating population are within 15 km (9.3 mi) of Northstar (BPXA, 2001). This discussion, which is concerned about impacts of noise on marine mammals, does not ignore the fact that subsistence hunters have taken bowheads in the vicinity of Northstar. This discussion is found later in the referenced proposed LOA document (and in this document) under impacts on subsistence uses.

Description of Habitat and Marine Mammals Affected by the Activity

A detailed description of the Beaufort Sea ecosystem and its associated marine mammals can be found in several documents (Corps, 1999; MMS, 1990, 1992, 1996, 2001; NMFS, 1997).

Marine Mammals

The Beaufort/Chukchi seas support a diverse assemblage of marine mammals, including bowhead whales (*Balaena mysticetus*), gray whales (*Eschrichtius robustus*), beluga whales (*Delphinapterus leucas*), ringed seals (*Phoca hispida*), spotted seals (*Phoca largha*) and bearded seals (*Erignathus barbatus*). Descriptions of the biology and distribution of these species can be found in Ferraro *et al.* (2000), Corps (1999), MMS (2001) and the BPXA application (BPXA, 1999 and 2001). The latter two documents are available upon request (see **ADDRESSES**); Ferraro *et al.* (2000) is available at the following URL: http://www.nmfs.noaa.gov/prot—res/PR2/Stock—Assessment—Program/sars.html. Please refer to these documents for specific information on marine mammal species.

In addition to the species mentioned in this paragraph, Pacific walrus (*Odobenus rosmarus*) and polar bears (*Ursus maritimus*) also have the potential to be taken. LOAs for the taking of these species under the MMPA has been issued by the the U.S. Fish and Wildlife Service (see 66 FR 10314, February 14, 2001).

Potential Effects on Marine Mammals

Issuance of an LOA for taking marine mammals incidental to production at Northstar has been based on findings that the determinations made in the preamble to the final rule (66 FR 34014; May 25, 2000)(that the total takings by Northstar construction and operations will result in only small numbers of marine mammals being taken: have no more than a negligible impact on marine mammal stocks in the Beaufort Sea; and not have an unmitigable adverse impact on the availability of the affected marine mammal stocks for subsistence uses) remain valid. For that reason, the following discussion of impacts is provided. Additional supporting information on noise, and oil impacts on marine mammals and on impacts to subsistence needs can be found in BPXA, 1999, 2001. Additional information on noise impact assessments can be found in Richardson and Williams (eds.)(2000a, 2000b, 2001a, 2001b).

Impacts of Noise on Marine Mammals in the Beaufort Sea

Sounds and non-acoustic stimuli will be generated during oil production operations by generators, drilling, production machinery, gas flaring, camp operations and vessel and helicopter operations. The sounds generated from production operations and associated transportation activities will be detectable underwater and/or in air some distance away from the area of the activity, depending upon the nature of the sound source, ambient noise conditions, and the sensitivity of the receptor. At times, some of these sounds are likely to be strong enough to cause an avoidance or other behavioral disturbance reaction by small numbers of marine mammals or to cause masking of signals important to marine mammals. The type and significance of behavioral reaction is likely to depend on the species and season, and the behavior of the animal at the time of reception of the stimulus, as well as the distance and level of the sound relative to ambient conditions.

Responses of seals to acoustic disturbance are highly variable, with the most conspicuous changes in behavior occurring when seals are hauled out on ice or land when exposed to human activities. Seals in open water do not appear to react as strongly. Activities planned for the ice-covered seasons during the production phase of Northstar are expected to cause no more than limited and localized displacement of ringed seals. Results of fixed-wing aircraft monitoring of hauled out ringed seals during intensive construction activities in early 2000 showed no significant change in seal density in the areas closest to Northstar (Moulton *et al.*, 2001a). In 2001, seal densities in areas close to and including the Northstar development were higher than in adjacent areas farther away. These results indicate that few, if any, seals were displaced far enough to be detectable by aerial surveys, and that any displacement that did occur was quite localized (Moulton *et al.*, 2001b).

In winter and spring, ice road construction and travel activities will displace some small numbers of ringed seals along the ice road corridors. The noise and general human activity may displace female seals away from activity areas and could negatively affect the female and young, if the female remains in the vicinity of the ice road. During the 2000/2001 season, trained dogs were used during three surveys to locate and assess the fate of seal structures in the vicinity of Northstar. During the third survey in May 2001, a total of 82 new ringed seal structures were found in the Northstar study area. Forty-five of the structures were breathing holes, 36 were lairs, and one was unidentified. All 45 breathing holes and 34 of the 36 lairs were in active use. The status of all previously located sea structures was also determined during the May 2001 survey. Of the 35 structures located in the November/December 2000 survey, 71 percent (20 breathing holes and 5 lairs) had been abandoned by May 2001. Of the 63 structures located in March 2001, 44 percent (20 breathing holes and 8 lairs) had been abandoned by May 2001. Additionally, 8 of the 81 (10 percent) identified structures first located in May were abandoned by 22 May, 2001 (2 breathing holes and 6 lairs). Preliminary results suggest a high abandonment rate for structures out to 3 km (1.9 mi) from Northstar and the associated on-ice activities. Alternatively, the continued presence of ringed seals near Northstar throughout the winter, and the creation of new structures near Northstar activities during the winter, suggest that potential negative effects to seals may be minor and highly localized (Williams *et al.* (2001b).

In addition to displacement by harassment, BPXA believes there is a small possibility of injury or mortality to a very small number of seal pups during ice road construction and transportation activities. However, planned timing of road construction (before pups are born) will minimize the probability of occurrence.

During the open-water season, all six species of whales and seals could potentially be exposed to noise from vessels, the island and from other stimuli associated with the planned operations. Vessel traffic is known to cause avoidance reactions by whales at certain times (Richardson *et al.*, 1995). Helicopter operations, and possibly other production-related activities, may also lead to disturbance of small numbers of seals or whales. In addition to disturbance, some limited masking of whale calls or other low-frequency sounds potentially relevant to bowhead whales could occur (Richardson *et al.*, 1995; BPXA, 2001).

During the late summer and autumn, almost all whales are found north of the barrier islands, and north of Northstar. In the case of belugas, most individuals follow a far-offshore migration corridor at or beyond the edge of the continental shelf. In the case of bowheads, almost all individuals travel west north of Northstar. A few individuals travel west within a few kilometers north of Northstar, but most are 10 km (6.2 mi) or more farther offshore. Gray whales are rare in the Northstar area.

In the open-water period, the principal activities on Northstar Island will be oil drilling and production activities, and associated helicopter and vessel traffic. Underwater sounds from drilling and routine production activities on the islands are not expected to be detectable more than about 5-10 km (3.1-6.2 mi) offshore of Northstar Island. However, when tugs or self-propelled barges are in use, underwater sounds could be faintly detectable as much as 28 km (17.4 mi) offshore of Northstar (Blackwell and Greene, 2001). Avoidance reactions by bowhead, gray and beluga whales will be limited to substantially less than that distance. Cetaceans usually do not show overt avoidance reactions unless received levels of industrial noise are well above natural background noise level (Richardson *et al.*, 1995). Also, average noise levels from Northstar are expected to be lower during production activities in 2002 and beyond than they were during construction operations in 2000 (BPXA, 2001). Little disturbance or displacement of whales by vessel traffic is expected.

Impacts of Oil Spills on Marine Mammals in the Beaufort Sea

For reasons stated in the application (BPXA, 1999, 2001), BPXA believes that the effects of any oil spills on seals and whales in the open waters of the Beaufort Sea are likely to be negligible, but there could be effects on whales in areas where both oil and the whales are at least partially confined in leads or at the ice edge. In the spring, bowhead and beluga whales migrate through offshore leads in the ice, at a distance of more than 75 km (46.6 mi) from Northstar. As a result, interactions between oil and whales are unlikely in the spring. In the summer, bowheads are normally found in Canadian waters, and beluga whales are found far offshore. As a result, at this time of the year, these species would be unaffected should a spill occur. However, oil that persists in the Beaufort Sea into the fall or winter and is not contained and/or removed may impact bowhead whales.

In the fall, the migration route of bowheads can be close to shore. If bowheads were moving through leads in the pack ice, or were concentrated in nearshore waters, or if the oil migrated seaward of the barrier islands, some bowhead whales might not be able to avoid oil slicks and could be subject to prolonged contamination. However, because the autumn migration of bowhead whales past Northstar extends over several weeks and because most of

the whales travel along routes well north of Northstar, according to BPXA (1999), only a small minority of the whales would be likely to intercept patches of spilled oil. The Corps (Corps, 1999) states that considering the limited number of days each year that bowhead whales would be migrating through the area, the low probability that a spill would occur, and the very low probability that oil would move into the migration corridor of the bowheads, it is very unlikely that bowhead whales would be contacted by oil. The effects of oil on these whales have been described in several documents (BPXA, 1999; Corps, 1999; Loughlin *et al.*, 1994; and MMS, 2001).

Ringed seals exposed to oil during the winter or early spring could die if exposed to heavy doses of oil for prolonged periods of time. Prolonged exposure could occur if fuel or crude oil was spilled in or reached nearshore waters, was spilled in a lead used by seals, or was spilled under the ice when seals have limited mobility. Individual seals residing in these habitats may not be able to avoid prolonged contamination and some would die. Studies in Prince William Sound indicated a long-term decline of 36 percent in numbers of molting harbor seals located on those haulouts affected by oil from the EXXON VALDEZ spill. In addition, newborn seal pups, if contacted by oil, will likely die from oiling through loss of insulation and resulting hypothermia (BPXA, 1999). Because the number of ringed and bearded seals in the central Beaufort Sea represents a relatively small portion of their total populations, and even large oil spills are not expected to extend over large areas, relatively few ringed and bearded seals would be impacted, and impacts on regional population size would be expected to be minor.

In addition to oil contacting marine mammals, oil spill cleanup activities could increase disturbance effects on either whales or seals, causing temporary disruption and possible displacement effects (MMS, 1996; BPXA, 1999). In the event of a spill contacting and extensively oiling coastal habitats, the presence of response staff, equipment, and many low-flying aircraft involved in the cleanup will (depending on the time of the spill and cleanup) potentially displace seals and other marine mammals. However, the potential effects on bowhead and beluga whales are expected to be less than those on seals. The whales tend to occur well offshore where cleanup activities (during the open water season) are unlikely to be concentrated (BPXA, 1999). Also, because bowheads are transient and, during the majority of the year absent from the area, this should lessen the likelihood of impact by cleanup activities.

Estimated Level of Incidental Take

BPXA (2001) estimates that, during the ice-covered period, 53 (maximum 139) ringed seals and 1 (maximum 5) bearded seals potentially may be incidentally harassed annually during oil production activities. BPXA estimated these takings by harassment during the ice-covered season by assuming that seals within 3.7 km (2.3 mi) of Seal Island, and within 0.644 km (0.4 mi) of ice roads will be ''taken'' annually. This constitutes a total area of 46.73 km^2 (18.0 mi^2). These anticipated levels of potential take are estimated based on observed densities of seals during recent (1997-2000) aerial surveys in the Northstar area during spring (Miller *et al.*, 1998; Link *et al.*, 1999; Moulton *et al.*, 2000, 2001) plus correction factors for seals missed by aerial surveyors. NMFS however, concurs with BPXA (1999, 2001) that these ''take'' estimates could result in an overestimate of the actual numbers of seals ''taken,'' if all seals within these disturbance distances do not move from the area. It should be noted that NMFS does not consider an animal to be ''taken'' if it simply hears a noise, but does not make a biologically significant response to avoid that noise.

For the ice break-up period, BPXA assumes that seals within 1 km (3.11 km^2) (0.62 mi/1.2 mi^2) of Northstar Island might be affected by activities on the island. Based on aerial surveys conducted in 2000 of hauled-out seals, applying correction factors for seals present on the ice but not seen and for seals not hauled out, and assuming a complete turnover of seals on a weekly basis, BPXA estimates that the total number of ringed seals harassed during the 6 week break-up period will be 25 animals.

During the open-water season, BPXA (2001) estimates that 17 (maximum 27) ringed seals, 5 spotted seals, 1-5 bearded seals, 215 (maximum 774) bowhead whales, up to 5 gray whales, and 15 (maximum 91) beluga whales may be incidentally harassed annually due to operations at Northstar. BPXA assumes that seals and beluga whales within 1 km (0.6 mi) radius of Northstar Island will be harassed incidental to oil production activities on the island. Assumed ''take'' radii for bowhead whales are based on the distance at which the received level of production-related noise from the island would diminish below 115 dB re 1 μPa. This distance has been conservatively estimated at 4 km (2.5 mi), due mostly to noise from tugs and self-propelled barges.

Although the potential impacts to the several marine mammal species occurring in these areas is expected to be limited to harassment, a small number of ringed seals may incur lethal and serious injury. Most effects, however, are expected to be limited to temporary changes in behavior or displacement from a relatively small area near the Northstar site and will involve only small numbers of animals relative to the size of the populations. However, the inadvertent and unavoidable take by injury or mortality of small numbers of ringed seal pups may occur during ice clearing for construction of ice roads. As a result, BPXA requested that takings by mortality also be covered by the LOA. In addition, some injury or mortality of whales or seals may result in the event that an oil spill occurs. However, because of the unpredictable occurrence, nature, seasonal timing, duration, and size of an oil spill occurring, a specific prediction cannot be made of the estimated number of takes by an oil spill. According to BPXA, in the unlikely event of a major oil spill at Northstar or from the associated subsea pipeline, numbers of marine mammals killed or injured are expected to be small and the effects on the populations negligible. While NMFS agrees that a major oil spill is unlikely, and believes that it is even less likely that spilled oil will intercept numbers of marine mammals, NMFS cannot necessarily conclude that the effects on all marine mammal populations will be negligible. Depending upon magnitude of the spill, its location and seasonality, an oil spill could have the potential to affect ringed and bearded seals, and/or bowhead and beluga whales. Because of the large population size of ringed seals and bearded seals and the small number of animals in the immediate vicinity of the Northstar facility, and because spilled oil is unlikely to disperse widely and, therefore, affect large numbers of seals, NMFS has determined that the effect on ringed and bearded seals will be negligible, even in the unlikely event that a major oil spill occurred.

Bowhead and beluga whales, however, while potentially less likely to come into contact with spilled oil because of their more prevalent offshore distribution, and potentially less seriously affected when in oiled waters provided their passage is not blocked, may be affected more seriously, if impacted, because of their smaller population sizes. However, based upon the Corps' analysis that there is less

than a 10-percent chance of a major oil spill occurring during the 20-30 year lifespan of Northstar, and because NMFS believes that the potential for a major oil spill occurring and intercepting these species would be significantly less than 10 percent (approaching 1 percent), NMFS can make a determination that the taking of these two species incidental to operation at the Northstar oil production facility will have no more than a negligible impact on them.

However, regardless of the negligible impact finding, the LOA does not authorize any marine mammal takes that occur incidental to an oil spill. The reason for this is that authorizations are issued only for takes that are incidental to otherwise lawful activities, and an oil spill is not a lawful activity, as indicated by the CWA. The CWA, at 33 USC 1321(b)(3), prohibits discharge in harmful quantities into the water, and regulations at 40 CFR 110.3 define harmful quantities as violating water quality standards or causing a sheen (i.e., oil spills are considered a violation of CWA), an authorization to take marine mammals, under section 101(a)(5)(A) of the MMPA, incidental to an oil spill cannot be issued. Even though NMFS cannot issue incidental taking authorizations for oil spills, it must continue to ensure that potential takings are reduced to the lowest level possible. Therefore, the LOA requires certain mitigation measures to ensure that oil spills do not occur (see Mitigation later in this document).

Impacts on Habitat

Invertebrates and fish, the nutritional basis for those whales and seals found in the Beaufort Sea, may be affected by operations at the Northstar project. Fish may react to noise from Northstar with reactions being quite variable and dependent upon species, life history stage, behavior, and the sound characteristics of the water. Invertebrates are not known to be affected by noise. Fish may have been displaced when the island was constructed. These local, short-term effects, however, are unlikely to have an impact on marine mammal feeding.

In the event of a large oil spill, fish and zooplankton in open offshore waters are unlikely to be seriously affected. Fish and zooplankton in shallow nearshore waters could sustain heavy mortality if an oil spill were to remain within an area for several days or longer. These affected nearshore areas may then be unavailable for use as feeding habitat for seals and whales. However, because these seals and whales are mobile, and bowhead feeding is uncommon along the coast near Northstar, effects would be minor during the open water season. In winter, effects of an oil spill on ringed seal food supply and habitat would be locally significant in the shallow nearshore waters in the immediate vicinity of the spill and oil slick. However, overall effects to the species would be negligible.

Impacts on Subsistence Uses

This section contains a summary on the potential impacts from operational activities on subsistence needs for marine mammals. A more detailed description can be found in BPXA's applications (BPXA, 1999, 2001). This information, in addition to information provided by AEWC and the NSB in their comments on the final rule, and information provided in the Corps' final EIS for Northstar, is believed by NMFS to be the best information available to date on the potential effects on the availability of marine mammals for subsistence uses in the Beaufort Sea area.

Noise Impacts on Subsistence Harvests

The disturbance and potential displacement of bowhead whales and other marine mammals by sounds from vessel traffic and production activities are one of the principle concerns related to subsistence use of the area. The harvest of marine mammals is central to the culture and subsistence economies of the coastal North Slope communities. In particular, if elevated noise levels are displacing migrating bowhead whales farther offshore, this could make the harvest of these whales more difficult and dangerous for hunters. The harvest could also be affected if bowheads become more skittish when exposed to vessel or loud noise (BPXA, 1999, 2001).

Underwater sounds from drilling and production operations on the artificial gravel island are not very strong, and are not expected to travel more than about 10 km (6.2 mi) from the source. BPXA states that even those bowheads traveling along the southern edge of the migration corridor are not expected to be able to hear sounds from Northstar until the whales are well west of the main hunting area for Nuiqsut.

Nuiqsut is the community closest to the area of the proposed activity, and it harvests bowhead whales only during the fall whaling season. In recent years, Nuiqsut whalers typically have taken zero to four whales each season (BPXA, 1999). Nuiqsut whalers concentrate their efforts on areas north and east of Cross Island, generally in water depths greater than 20 m (65 ft). Cross Island, the principle field camp location for Nuiqsut whalers, is located approximately 28.2 km (17.5 mi) east of the Northstar area.

Whalers from the village of Kaktovik search for whales east, north, and west of their village. Kaktovik is located approximately 200 km (124.3 mi) east of Northstar. The westernmost reported harvest location was about 21 km (13 mi) west of Kaktovik, near 70°10′N. 144°W. (Kaleak, 1996). That site is approximately 180 km (112 mi) east of Northstar.

Whalers from the village of Barrow search for bowhead whales much further from the Northstar area, greater than 250 km (>175 mi) to the west.

While the effects on migrating bowheads from noise created by Northstar production are not expected to extend into the area where Nuiqsut hunters usually search for bowheads and, therefore, are not expected to affect the accessibility of bowhead whales to hunters, it is recognized that it is difficult to determine the maximum distance at which reactions occur (Moore and Clark, 1992). As a result, in order to avoid any unmitigable adverse impact on subsistence needs and to reduce potential interference with the hunt, the timing of various activities at Northstar as well as barge and aircraft traffic in the Cross Island area will be addressed in a Conflict Avoidance Agreement between BPXA and the AEWC on behalf of its bowhead whale subsistence hunters. Information on impacts on subsistence seal hunting can be found in the final rule document (65 FR 34014, May 25, 2000).

Oil Spill Impacts on Subsistence Harvests

Oil spills have the potential to affect the hunt for bowhead whales. As a result, the potential for oil spills from Northstar is of significant concern to the residents of the NSB. While oil spills from production drilling or pipelines could occur at any time of the year, NMFS believes that a reduction in the availability of bowhead whales for subsistence uses would be possible only if a significant spill occurred just prior to or during the subsistence bowhead hunt and spread into offshore waters. While unlikely, oil spills could extend into the bowhead hunting area under certain wind and current conditions. BPXA (1999, 2001) states that even in the event of a major spill, it is unlikely that more than a small number of those bowheads encountered by hunters would be contaminated by oil. However, disturbance associated with reconnaissance and cleanup activities could affect bowhead whales and, thus, accessibility of bowheads to hunters. As

a result, in the unlikely event that a major oil spill occurred during the relatively short fall bowhead whaling season, it is possible that bowhead whale hunting could be significantly affected. Moreover, even with no more than a negligible impact on those marine mammals that would be subject to subsistence hunting, individuals and communities may perceive that the whale or seal meat or products are tainted or somehow unfit to eat or use. This could further impact subsistence hunting of these animals. However, NMFS believes that because (1) the probability of a large oil spill is less than 10 percent over the 20-30 years of Northstar operations, (2) bowhead whales in the vicinity of Northstar are hunted only in the months of September and October, limiting exposure time, (3) only under certain wind and sea conditions would it be likely that oil would reach the bowhead subsistence hunting area, (4) there will be an oil spill response program in effect that will be as effective as possible considering operating conditions in Arctic waters, and (5) other mitigation measures have been suggested by the applicant and others (and adopted by NMFS) in the event that oil did contact bowheads, NMFS determined in the preamble to the final rule for implementation of small takings of marine mammals incidental to oil production activities at Northstar (66 FR 34014, May 25, 2000) that the construction and operation at Northstar is unlikely to result in an unmitigable adverse impact on subsistence uses of marine mammals during the period of effectiveness of the regulations. During the period between that rulemaking and this document, NMFS has participated in several meetings with BPXA, the AEWC and the NSB in recognition that, although unlikely, if an oil spill were to occur and reach the bowhead migration corridor, there is a potential for significant impacts on the subsistence hunting of bowheads. These meetings resulted in identifying several mitigation measures designed to reduce the impact.

Mitigation

To minimize the likelihood that impacts will occur to the species and stocks of marine mammals and to the subsistence use of marine mammals, all activities at Northstar will be conducted in accordance with all federal, state and local regulations. BPXA will coordinate all activities with relevant federal and state agencies.

In addition to design for safety and leak prevention (including not having any valves, flanges, or fittings in the subsea section to reduce the potential for equipment failure), the pipeline (which was installed in 2000), includes the following measures to mitigate impacts on the marine environment: (1) utilize the best available technology leak detection system to monitor for any potential leaks, (2) conduct, at a minimum, weekly helicopter aerial surveillance of the offshore (and onshore) pipeline corridor; and (3) conduct ice-road surveillance of the pipeline, including checking for hydrocarbons under the ice by drilling ice holes.

An oil spill contingency plan has been developed and was submitted to the Alaska Department of Environmental Conservation, the U.S. Department of Transportation, U.S. Coast Guard, and the MMS for review and approval in March 1999. An updated plan was submitted by BPXA on August 8, 2001, to the State of Alaska Department of Environmental Conservation. Also, emergency response exercises, training and evaluation drills will occur at regular scheduled intervals.

To mitigate the potential for an oil spill to interact with bowhead whales and affect both the species and the subsistence harvest by the NSB villagers, BPXA has confirmed to NMFS that they will not drill new wells or sidetracks from existing wells into oil-bearing strata during the defined period of broken ice or open water conditions which is defined as a period beginning on June 13, 2002, and ending with the presence of 18 inches of continuous ice cover for one-half mile in all directions.

In addition, to ensure that there will not be an unmitigable adverse impact on the subsistence uses of marine mammals, principally bowhead whales, from an oil spill, this mitigation will include planning and financial assistance that will cover the following oil-spill related costs: (1) annual transportation to alternative bowhead whale hunting areas for whaling crews, (b) annual alternate subsistence food supplies to replace subsistence food otherwise provided by a whale, (c) annual counseling and cultural assistance for NSB residents and AEWC members to handle the disruptions to their lives and culture caused by the oil spill, and (d) annual assistance to the NSB and the AEWC to restore the International Whaling Commission (IWC) quota for bowhead whales in the event that an oil spill at Northstar results in a reduction or loss of the IWC quota (BPXA Good Neighbor Policy, March 14, 2001). An oil spill in this context means any significant discharge (as discharge is defined in 33 USC 2701(7)) of liquid hydrocarbons (including crude oil and diesel fuel) into the waters of the Beaufort Sea, irrespecive of cause, including Acts of God, that: (1) causes oil to be present in the water and the impacts defined in (2) to be determinable within three years of the oil spill; and (2)(a) has the significant potential to adversely affect bowhead whales or other species harvested for subsistence use; and (2)(b) is followed by a reduction in the availability of these species for subsistence use in the area(s) in which they are normally hunted.

During the ice-covered season, BPXA proposes to use trained dogs to locate seal structures in previously undisturbed areas beginning on March 1, which, although before the traditional March 20 birthing date for ringed seals, is more appropriate based on the findings in a report by Williams *et al.* (2001). With completion of this report, as required by the 2000/2001 LOA, and the concern raised in that report of the potential negative impact of this monitoring program, NMFS has determined that conducting seal structure surveys beginning January 1 will not be required this year pending a review by a peer-review group next year. If that group determines that additional monitoring is needed, NMFS will make the necessary modification to the BPXA LOA. During the open-water season, a minimum flight altitude of 1,000 ft (304.8 m) will be maintained by all aircraft unless limited by weather conditions or emergencies, and except during takeoff and landing. Helicopter flights will primarily be conducted during ice breakup or freeze-up and will occur in a specified corridor from Northstar Island to the mainland. In addition, all non-essential boat, barge and air traffic will be scheduled to avoid periods when bowhead whales are migrating through the area. Essential traffic will be closely coordinated with the NSB and the AEWC to avoid disrupting subsistence hunting. In addition, BPXA this year has installed a dock for barges at Northstar. This action will allow barges to tie up at Northstar instead of using diesel engines to remain in place, thereby reducing underwater noise levels at Northstar.

Monitoring

A detailed description of BPXA's proposed monitoring program for implementation during the production phase at Northstar can be found in BPXA's 2001 application for an LOA incidental to oil production (BPXA, 2001).

The open-water season portion of BPXA's monitoring plan was reviewed

by scientists and others attending the annual open-water peer-review workshop held in Seattle on June 6, 2001, and will be reviewed again in late spring 2002. Peer review on the on-ice portion of the application was conducted on October 14-15, 1999, and October 2000. A summary of marine mammal monitoring that will be conducted during Northstar production this year is provided here; greater detail can be found in BPXA's application (BPXA, 2001).

Under the recently expired LOA, BPXA conducted 6 monitoring tasks. These were to conduct: (1) Fixed-wing, systematic, aerial surveys of seals hauled out on the ice in the spring 2001; (2) on-ice searches, during winter 2000/2001, for ringed seal breathing holes and lairs near Northstar and, if needed, follow-up surveys; (3) measurements of underwater and in air sounds produced by any construction, drilling, and operations to document sounds and vibrations from Northstar construction, (4) island-based visual monitoring for marine mammals during the open water season, and (5) acoustic monitoring of bowhead vocalizations during migration. Task 3, a late-winter helicopter survey to assess abandonment rates of seal holes, was not conducted in the spring 2000, as such a survey had been attempted in spring 1999 with limited success. The results of this monitoring program are contained in Richardson and Williams (2001a and 2001b) and were summarized previously in this document.

During 2002, BPXA will conduct the following monitoring activities:

Monitoring During the Ice-covered Season

During late May/early June, 2002, BPXA plans to conduct systematic aerial surveys, using fixed-wing aircraft, of seals hauled out on the ice. This survey will be consistent with BPXA surveys of this type conducted from 1997 through 2001 (see Richardson and Williams, 2001a, 2001b), and will be the last in the planned series. The initial surveys (1997-1998) were to provide data on baseline distribution and density prior to construction of offshore production facilities. The subsequent surveys (1999-2002) provide comparative data during and after construction at Northstar. BPXA will also make measurements of underwater and in-air sounds, as well as ice vibration produced by any construction, drilling, and operational activities occurring in 2002, whose sounds have not been previously measured.

If construction activities occur in previously undisturbed areas after March 1, 2002, on-ice searches using trained dogs will be employed to locate seal structures. If ice road construction took place after March 1, 2002, a resurvey of the area surveyed previously will be conducted in May 2002 to assess the proportion of structures abandoned relative to distance between the disturbance and the structure.

Monitoring During the Open-Water Season

During the open-water period of 2002, monitoring activities will include acoustic measurements of sounds produced by operational activities and acoustical monitoring of bowhead whales. No visual monitoring of marine mammals are planned for 2002 or in subsequent years for Northstar operations. This task was undertaken in prior years primarily to ensure that no seals or whales would be exposed to potentially injurious levels of sounds from impact pipe driving, or other loud noise sources during construction. However, even during pipe driving, impulse sound levels in the water near the island did not exceed 155 dB (re 1 μPa) and levels did not approach the established 180 dB (whales) and 190 dB (seals) sound level criteria. As BPXA does not plan to conduct impact pipe driving or other noisy activities in 2002 and beyond, there is no need to continue an observer monitoring program from Northstar. However, based on a recommendation from the MMC, NMFS has a requirement in the 2002 LOA that, if activities are conducted that have the potential to result in SPLs greater than 190 dB in the waters offshore of Seal Island, then an observer monitoring program will need to be instituted prior to beginning that activity to ensure that proper mitigation and monitoring requirements are carried out.

BPXA plans to use an acoustic localization technique in 2002 to document the occurrence and locations of calling bowhead whales in the southern part of the migration corridor. This work will be a continuation of work conducted in 2000 (Greene *et al.*, 2001) and planned for 2001 under the current LOA. The primary objective is to document the occurrence of calling bowhead whales in the southern part of the migration corridor near Northstar and to determine whether their distances from the island vary in direct relation to the sound levels emanating from the island. This will provide information on whether Northstar has affected the distribution and/or the calling behavior of the whales.

Reporting

Under the regulations, BPXA is required to provide two 90-day reports annually to NMFS. The first report is due 90 days after either the ice roads are no longer usable or spring aerial surveys are completed, whichever is later. Under recent Authorizations, this report was submitted to NMFS on September 15, 2000 (Richardson and Williams (eds.), 2000), and September 14, 2001 ((Richardson and Williams (eds.), 2001). The second 90-day report is required to be forwarded to NMFS 90 days after the formation of ice in the central Alaskan Beaufort Sea prevents water access to Northstar. Under the recently expired LOA, this report was submitted to NMFS on January 31, 2001 (Richardson and Williams (eds.), 2001a). These reports included the dates and locations of construction activities, details of marine mammal sightings, estimates of the amount and nature of marine mammal takes, and any apparent effects on accessibility of marine mammals to subsistence hunters.

Under the recently expired LOA, a draft final technical report was required to be submitted to NMFS by April 1, 2001. This report was submitted to NMFS on that date (Richardson and Williams (eds.), 2001b). The draft final report was subject to peer review in Seattle, WA on June 6, 2001. The final technical report will fully describe the methods and results of all monitoring tasks and a complete analysis of the data.

NMFS is requiring that the reporting requirements described in these paragraphs will be continued under the new LOA, except that, in conformance with the final rule on this action, the draft final technical report will be due on May 1, 2002. Endangered Species Act (ESA)

On March 4, 1999, NMFS concluded consultation with the Corps on permitting the construction and operation at the Northstar site. The finding of that consultation was that construction and operation at Northstar is not likely to jeopardize the continued existence of the endangered Western Arctic bowhead whale stock. In addition, issuance of a small take authorization to BPXA under section 101(a)(5)(A) of the MMPA is a Federal action, NMFS has completed consultation with itself under section 7 of the ESA on this action. The finding of this consultation was that the issuance of the small take authorization was unlikely to adversely affect the bowhead whale.

On May 22, 2001 (66 FR 28141), NMFS announced receipt of a petition

from the Center for Biological Diversity and the Marine Biodiversity Protection Center to designate critical habitat for the Western Arctic stock of bowhead whales under the ESA. NMFS is currently reviewing this petition to determine whether designation of critical habitat is warranted. However, while there is no provision under the ESA that activities that might impact critical habitat cease while a review is underway, federally-permitted oil and gas exploration activities require consultation under section 7 of the ESA if endangered or threatened species are likely to be affected.

National Environmental Policy Act (NEPA)

On June 12, 1998 (63 FR 32207), the Environmental Protection Agency (EPA) noted the availability for public review and comment a draft EIS prepared by the Corps under NEPA on Beaufort Sea oil and gas development at Northstar. Comments on that document were accepted by the Corps until August 31, 1998 (63 FR 43699, August 14, 1998). On February 5, 1999 (64 FR 5789), the EPA announced the availability for public review and comment, a final EIS prepared by the Corps on Beaufort Sea oil and gas development at Northstar. Comments on that document were accepted by the Corps until March 8, 1999. Based upon a review of the final EIS, the comments received on the draft EIS and final EIS, and the comments received during the rulemaking, NMFS adopted the Corps' final EIS as its own as provided for in the Council on Environmental Quality regulations (40 CFR 1501.6) and has determined that it is not necessary to prepare supplemental NEPA documentation.

Determinations

On May 25, 2000 (65 FR 34014), NMFS determined that the impact of construction and oil production at the Northstar project in the U.S. Beaufort Sea will result in no more than a temporary modification in behavior by certain species of cetaceans and pinnipeds.

During the ice-covered season, pinnipeds close to the island may be subject to incidental harassment due to the localized displacement from construction of ice roads, from transportation activities on those roads, and from production activities at Northstar. Subsequently, this determination has been supported by monitoring conducted during Northstar construction, including ice road construction, and reported in Richardson and Williams (2001a and 2001b). As cetaceans will not be in the area during the ice-covered season, they will not be affected.

While production activities at Northstar have some potential to influence seal hunting activities by residents of Nuiqsut, NMFS believes that Northstar production-related activities will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses because (1) the peak sealing season is during the winter months, (2) the main summer sealing is off the Colville Delta, and (3) the zone of influence from Northstar on beluga and seals is fairly small.

During the open-water season, the principal operations-related noise activities will be helicopter traffic, vessel traffic, and other general oil production activities on Seal Island. Sounds from production-related activities on the island are not expected to be detectable more than about 5-10 km (3.1-6.2 mi) offshore of the island. Disturbance to bowhead or beluga whales by on-island activities will be limited to an area substantially less than that distance. Helicopter traffic will be limited to nearshore areas between the mainland and the island and is unlikely to approach or disturb whales. Barge traffic will be located mainly inshore of the whales and will involve vessels moving slowly, in a straight line, and at constant speed. Little disturbance or displacement of whales by vessel traffic is expected. While behavioral modifications may be made by these species to avoid the resultant noise, this behavioral change is expected to have no more than a negligible impact on the animals.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals (which vary annually due to variable ice conditions and other factors) in the area of operations, the number of potential harassment takings is estimated to be small. This is because the activity is in shallow waters inshore of the main migration corridor for bowhead whales and far inshore of the main migration corridor for belugas. In addition, no take by injury and/or death is anticipated, except possibly for a small take of ringed seals by mortality incidental to ice-road construction. No rookeries, areas of concentrated mating or feeding, or other areas of special significance for marine mammals occur within or near the planned area of Northstar operations.

Because bowhead whales are east of Seal Island area in the Canadian Beaufort Sea until late August/early September, activities at Northstar are not expected to impact subsistence hunting of bowhead whales prior to that date. Appropriate mitigation measures to avoid an unmitigable adverse impact on the availability of bowhead whales for subsistence needs has been, and continues to be the subject of consultations between BPXA and subsistence users. In that regard, on October 22, 2001, BPXA and the NSB adopted a Good Neighbor Policy that identifies measures that BPXA will implement in the event of an oil spill to mitigate impacts on subsistence harvests of marine mammals. In addition, NMFS expects BPXA and the NSB to finalize its annual Conflict Avoidance Agreement in 2002, prior to the commencement of the westward bowhead migration in the central and western Beaufort Sea.

NMFS has determined that the potential for an offshore oil spill occurring is low (less than 10 percent over 20-30 years (Corps, 1999)) and the potential for that oil intercepting whales or seals is even lower (about 1.2 percent (Corps, 1999)). Because of this low potential and because of the seasonality of bowheads, NMFS has determined that the taking of marine mammals incidental to operation at the Northstar oil production facility will have no more than a negligible impact on these species. In addition, because BPXA has certified to NMFS that it will not drill into oil-bearing strata during periods of open water or broken ice (the time period between June 13 and ending with the presence of 18 inches (0.46 m) of continuous ice cover for one-half mile (805 m) in all directions), because there will be an oil spill response program in effect that will be as effective as possible considering operating conditions in Arctic waters, and because other mitigation measures have been identified in the event that oil does contact bowheads (see previous discussion), NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses of marine mammals.

Authorization

Accordingly, an LOA has been issued by NMFS to BPXA on this date (see DATES) authorizing the taking of bowhead, beluga, and gray whales and ringed, bearded and spotted seals, incidental to oil and gas production activities at the Northstar facility in the U.S. Beaufort Sea. Issuance of this LOA is based on findings, described in the preamble to the final rule, that the total takings by this activity will result in only small numbers of marine mammals being taken, have no more than a negligible impact on marine mammal stocks in the Beaufort Sea, and not will

have an unmitigable adverse impact on the availability of the affected marine mammal stocks for subsistence uses. In addition, NMFS finds that, under its previous LOA, BPXA has met the requirements contained in the implementing regulations, including monitoring and reporting requirements.

This LOA remains valid until November 30, 2002, provided BPXA is in conformance with the conditions of the regulations and the LOA and the mitigation, monitoring, and reporting requirements described in this document and in the LOA are undertaken.

Dated: December 14, 2001.

David Cottingham,

Deputy Director Office of Protected Resources National Marine Fisheries Service.

[FR Doc. 01–31541 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121801C]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of the Shrimp Advisory Panel (AP).

DATES: The AP will meet beginning at 8:30 a.m. on January 7, 2001 and will conclude by 3 p.m.

ADDRESSES: The meeting will be held at the New Orleans Airport Hilton, 901 Airline Highway, Kenner, LA; telephone: 504–469–5000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, at the Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The Shrimp AP will receive reports from NMFS on the status and health of shrimp stocks in the Gulf and the effects of the 2001 Cooperative Shrimp Closure with the state of Texas. The Shrimp AP may make recommendations for a cooperative closure with Texas for 2002. The Shrimp AP will also review an Options Paper for Amendment 13 to the Shrimp Fishery Management Plan (FMP) that includes alternatives to add rock shrimp to the Shrimp FMP and establishment of status criteria for shrimp stocks including maximum sustainable yields (MSY), optimum yields (OY), as well as criteria for determining if any of the shrimp stocks are undergoing overfishing or should be classified as overfished. The Options Paper may also contain alternatives for bycatch quotas.

Although other non-emergency issues not on the agenda may come before the AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the AP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling 813–228–2815.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by December 31, 2001.

Dated: December 18, 2001.

Richard W. Surdi,

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

[FR Doc. 01–31542 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121801B]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings of the Standing and Special Reef Fish Scientific and Statistical Committee (SSC) and the Reef Fish Advisory Panel (AP) from January 7 through January 11, 2002.

DATES: The Council's Reef Fish AP will convene at 9 a.m. (EST) on Monday, January 7, 2002 and conclude by 5 p.m. Wednesday, January 9, 2002. The Council will also convene a meeting of the Standing and Special Reef Fish SSC at 8:30 a.m. (EST) on Thursday, January 10, 2002 and conclude by 5 p.m. on Friday, January 11, 2002.

ADDRESSES: The meetings will be held at the Hilton Tampa Airport Hotel, 2225 Lois Avenue, Tampa, FL 33607; telephone: 813-877-6688.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The AP and the SSC will review a report from the Council's Reef Fish Stock Assessment Panel (RFSAP) summarizing recent NMFS stock assessments, recommendations for allowable biological catch (ABC) and thresholds for status determination for gag, vermilion snapper, and gray triggerfish. They will also review a report from the Council's Socioeconomic Panel (SEP) summarizing the available economic and social information and implications of setting recommended ABC levels for those stocks. The SSC will comment on the scientific validity of these reports, and both the SSC and AP may make recommendations for setting total allowable catch (TAC) or other management measures for these stocks.

Although other non-emergency issues not on the agenda may come before the AP/SSC for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the AP/SSC will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling 813–228–2815.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other

auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by December 31, 2001.

Dated: December 18, 2001.

Richard W. Surdi,

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

[FR Doc. 01–31543 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121801A]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Enforcement Committee and Advisory Panel, Red Crab Advisory Panel and Oversight Committee and Monkfish Oversight Committee in January, 2002 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between January 8, 2002 and January 14, 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Newburyport, MA Mansfield, MA and Portsmouth, NH. See **SUPPLEMENTARY INFORMATION** for specific locations.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Tuesday, January 8, 2002 at 9:30 a.m.—Enforcement Committee and Advisory Panel Meeting.

Location: New England Fishery Management Council Office, 50 Water Street, Mill #2, Newburyport, MA 01950; (978) 465–0492.

The Committee will review enforcement policies and they will discuss policies as they pertain to Scallop Amendment 10 and Monkfish annual adjustments.

Tuesday, January 8, 2002 at 9:30 a.m.—Red Crab Advisory Panel Meeting.

Location: Rossi's Restaurant, 50 Water Street, Mill #2, Newburyport, MA 01950; telephone: (978) 465–0492.

The Advisory Panel will meet to discuss the Council's draft Red Crab Fishery Management Plan (FMP) and proposed management measures. The Advisors will develop recommendations on the final management measures for consideration by the Council's Red Crab Committee. Issues to be discussed include: qualification criteria for a controlled access program for the directed red crab fishery; a potential days-at-sea program for the directed fishery; a potential trip limit for the directed fishery; the establishment of the fishing year for management purposes; and other potential management measures to be implemented in the FMP.

Wednesday, January 9, 2002 at 9:30 a.m.—Red Crab Oversight Committee Meeting.

Location: Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200.

The Oversight Committee will meet to discuss the Council's draft Red Crab FMP and draft Environmental Impact Statement (EIS) and the proposed management measures. The Committee will consider comments received by the Council at public hearings on the draft EIS and during the review period. The Committee will develop recommendations on the final management measures for consideration by the Council. Issues to be discussed include: a controlled access program for the directed red crab fishery; a potential days-at-sea program for the directed fishery; a potential trip limit for the directed fishery; the establishment of the fishing year for management purposes; and other potential management measures to be implemented in the FMP.

Monday, January 14, 2002 at 10:00 a.m.—Monkfish Oversight Committee Meeting.

Location: Courtyard by Marriott, 1000 Market Street, Portsmouth, NH 03801; telephone: (603) 436–2121.

The Committee will review the analysis of options under consideration in Framework 1 to the Monkfish FMP, and make a recommendation to the Council for measures to be submitted to NMFS for the fishing year starting May 1, 2002. Framework 1 contains alternatives to the default measures for Year 4 of the rebuilding program contained in the FMP. Those default measures would eliminate the directed monkfish fishery. The Council is considering various alternative measures based on trip limit and Days-at-Sea (DAS) adjustments to either achieve the same landings as in Year 2 (fishing year 2000–01), the preferred alternative, or achieve the Year 2 and 3 total allowable catch targets (TACs), the non-preferred alternative. Time permitting, the Committee will take public scoping comments on Amendment 2 to the Monkfish FMP.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: December 18, 2001.

Richard W. Surdi,

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

[FR Doc. 01–31545 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c)

ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by February 19, 2002.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) (Force Management Policy), Defense Commissary Agency, Plans and Policy Directorate, Analysis and Evaluation Division, ATTN: Mr. Herman Weaver, 1300 E. Avenue, Fort Lee, Virginia 23801–6300.

FOR FURTHER INFORMATION CONTACT: To request information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call (804) 734–8322.

Title and OMB Control Number: Commissary Evaluation and Utility Survey—Generic Clearance, OMB Control Number 0704–0407.

Needs and Uses: DeCA will conduct a variety of surveys to include, but not necessarily limited to customer satisfaction, transaction based comment cards, transaction based telephone interviews, commissary sizing, and patron migration. The information collection will provide customer perceptions, demographics, and will identify agency operations that need quality improvement, provide early detection of process or system problems, and focus attention on areas where customer service and functional training, new construction/renovations, and changes in existing operations that will improve service delivery.

Affected Public: Individuals or households.

Annual Burden Hours: 4,167.

Number of Respondents: 50,000.

Responses Per Respondent: 1.

Average Burden Per Response: 5.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

(All respondents are authorized patrons by DoD regulations, unless otherwise described)

Commissary Sizing Survey

Surveys will support commissary renovation and new construction based on perceptions (aisles, bakery, fish, deli, etc.) of patrons and will include demographics and sale projections.

Possible Facility Sites

Patrons will input their answers to questions concerning where they would like new facility located, what configuration (mall, off-post, mini-marts, parking, etc.), and give their opinions on concerns that will affect their shopping experience. Will include demographics, population maps, and distribution centers.

Patron Migration Survey

These surveys will determine from our patrons which commissary they will migrate to and how sales will affect renovation of receiving facility. Surveys will assess other factors that may determine a need form mini-marts or other small grocery outlets.

BRAC and/or Closure Survey

These surveys will also be given to local townships affected by base closures and its economic impact on surrounding communities, local governments, small and large businesses. The information collected will allow decisions to be made about keeping commissaries open, although, the base has closed or some alternative store for those patrons affected.

Commissary Operational Surveys

These surveys will supply information on processes like TQM, Process Action Team objectives, internal coordination, and vender satisfaction. Also, how DeCA personnel and patrol services such as new computer systems for checking groceries, how long patron services such as new computer systems for checking groceries, how long patrons wait in line, store throughput and queuing, transaction based comment cards, and any new customer service DeCA may want to implement that will need patron support. The vehicle for any survey whether it is by interview or mailing will not burden the patron over fifteen minutes.

Market Basket Surveys

These surveys support the differences between commissary and private sector supermarket prices and the average savings to the commissary patron. Also, we can determine price differences between OCONUS and CONUS commissaries. The patron will give their perceptions on their savings in the commissary versus local supermarkets.

Awareness Surveys

These surveys allow the customer and DeCA to communicate with each other on issues that will make their shopping experience user-friendly. Telephones in aisles for price checks and location of products, TV videos in front of store for specials, market products, and educate patrons on their benefit are just a few areas to keep the patron informed. Customer service is making the patron aware of new and innovative alternatives to issues that will communicate their desires.

Dated: December 17, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–31418 Filed 12–20–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by January 22, 2002.

Title, Form Number, and OMB Number. Health Insurance Claim Form; HCFA Form 1450 (UB 92); OMB Number 0720–0013.

Type of Request: Reinstatement.

Number of Respondents: 7,836.

Responses Per Respondent: 268 (average).

Annual Responses: 2,100,000.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 525,000.

Needs and Uses: This information collection requirement is necessary for a medical institution to claim benefits under the Defense Health Program, TRICARE, which includes the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS). The information collected will be used by TRICARE/CHAMPUS to determine beneficially eligibility, other health insurance liability, certification that the beneficiary received the care, and that the provider is authorized to receive TRICARE/CHAMPUS payments. The form will be used by TRICARE/CHAMPUS and its contractors to determine the amount of benefits to be paid to TRICARE/CHAMPUS institutional providers. Use of the UB–92, also known as the HCFA 1450, continues TRICARE/CHAMPUS commitments to use the national standard claim form for reimbursement of medical services/supplies provided by institutional providers.

Affected Public: Individuals or Households; Business or Other For-Profit; Not-For-Profit.

Frequency: On Occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Stuart Shapiro.

Written comments and recommendations on the proposed information collection should be sent to Mr. Shapiro at the Office of Management and Budget, Desk Officer for DoD Health Affairs. Room 10235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: December 14, 2001.

Patricia L. Toppings.

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–31416 Filed 12–20–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by January 22, 2002.

Title and OMB Number: Department of Defense Education Activity (DoDEA) Customer Satisfaction Survey for Parents and Students; OMB Number 0704–[To Be Determined].

Type of Request: New Collection.

Number of Respondent: 7,275.

Responses Per Respondent: 1.

Annual Responses: 7,275.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 2,001.

Needs and Uses: The DoDEA Customer Satisfaction Survey will be administered to all parents and teachers within the DoDEA school system, as well as students in grades 4–12. The survey is completely voluntary and will be administered through an on-line, web-based technology. The survey questions were adapted from the Phi Delta Kappa/Gallup Poll of the Public's Attitudes Toward Schools in order to have national comparison data. The survey will give parents, students, and teachers an opportunity to comment on their level of satisfaction with programmatic issues related to DoD schools. Some topics included on the survey are curriculum, communication, and technology. The surveys will be administered biennially. The information derived from this survey will be used in the improvement planning efforts at all levels throughout DoDEA.

Affected Public: Individuals or Households.

Frequency: Biennially.

Respondents Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: December 17, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–31417 Filed 12–20–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 19, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: December 17, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: Annual Performance Report for Title III and Title V Grantees.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 631,

Burden Hours: 11,358.

Abstract: Titles III and V of the Higher Education Act (HEA), provide discretionary and formula grant programs that make competitive awards to eligible Institutions of Higher Education and organizations (Title III, Part E) to assist these institutions expand their capacity to serve minority and low-income students. Grantees annually submit a yearly performance report to demonstrate that substantial progress is being made towards meeting the objectives of their project. This request is to implement a new, web-based Annual Performance Report to

more effectively elicit program-specific information to be used for program monitoring and Government Performance and Results Act (GPRA) reporting purposes. The Annual Performance Report will be the cornerstone of a new Performance Measurement System tailored to strengthen the Department of Education's program monitoring efforts, streamline our processes, and enhance our customer service.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at (202) 708–9266 or via his internet address *Joe.Schubart@ed gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–31440 Filed 12–20–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by January 2, 2002. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before February 19, 2002.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *KFLee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: December 17, 2001.

John Tressler, Leader,

Regulatory Information Management, Office of the Chief Information Officer.

Office of the Chief Financial Officer

Type of Review: New.

Title: Survey on Ensuring Equal Opportunity for Applicants.

Abstract: To ensure equal opportunity for all applicants including small community-based, faith-based and religious groups, it is essential to collect information that allows Federal agencies to determine the level of participation of such organizations in Federal grant programs while ensuring that such information is not used in grant-making decisions.

Additional Information: The Department requests emergency processing for the ''Survey on Ensuring Equal Opportunity for Applicants'' which tracks the participation level of faith-based and community organizations in grant programs. The ability to utilize this form immediately is critical to the implementation of President's Bush's Faith-based and Community Initiative established by an Executive Order dated January 29, 2001 and to carry out the mandate of Section 3(b) of that order. As Congress may enact authorizing and appropriating legislation for the U.S. Department of Education in mid December 2001, it will be necessary to roll out grant application materials as soon as possible to expeditiously fund much needed social programs in Fiscal Year 2002. Since this form must be included in grant application packages, delay in the approval of this form could delay the funding of grant programs. Since this unanticipated event, the Department has consulted with the Office of Management and Budget, the White House Office of Faith-based and Community Initiatives as well as the four Centers for Faith-based and Community Initiatives at the Department of Health and Human Services, Department of Labor, Department of Housing and Urban Development, and the Department of Justice. The Department requests approval by January 2, 2002.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 17,000,

Burden Hours: 1,360.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *OCIO.RIMG@ed.gov,* or should be faxed to 202–708–9346.

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at (540) 776–7742 or via her internet address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal

Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–31441 Filed 12–20–01; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 02–11: Ocean Carbon Sequestration Research Program

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Biological and Environmental Research (OBER) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving applications for research on Carbon Sequestration in the Oceans.

DATES: Applicants are strongly encouraged to submit a brief preapplication for programmatic review no later than January 18, 2002.

The deadline for receipt of formal applications is 4:30 p.m., E.S.T., March 26, 2002, to be accepted for merit review and to permit timely consideration for award in Fiscal Year 2002 and early Fiscal Year 2003.

ADDRESSES: Preapplications should be sent via E-mail to Dr. Anna Palmisano at: *anna.palmisano@science.doe.gov*.

Formal applications, referencing Program Notice 02–11, should be sent to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 02–11. This address must also be used when submitting applications by U.S. Postal Service Express Mail or any other commercial overnight delivery service, or when hand-carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Anna Palmisano, Environmental Sciences Division, SC–74, Office of Biological and Environmental Research, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone: (301) 903–9963, E-mail: *anna.palmisano@science.doe.gov*, fax: (301) 903–8519. The full text of Program Notice 02–11 is available via the Internet using the following web site address: *http://www.sc.doe.gov/production/grants/grants.html*.

SUPPLEMENTARY INFORMATION:

Predictions of global energy use in the next century suggest a continued increase in carbon emissions and rising concentrations of carbon dioxide (CO_2) in the atmosphere unless major changes are made in the way we produce and use energy—in particular, how we manage carbon.

One way to manage carbon is to use energy more efficiently to reduce our need for a major energy and carbon source—fossil fuel combustion. A second way is to increase our use of low-carbon and carbon-free fuels and technologies, such as nuclear power and renewable sources such as solar energy, wind power, and biomass fuels.

A third way to manage is by ''carbon sequestration'': The capture and long term storage of carbon either from the global energy system or directly from the atmosphere in oceanic or terrestrial ecosystems. Although many options exist to capture and sequester carbon dioxide, the focus of this solicitation is on fundamental research that would enable: (a) The enhancement of the absorption and retention of atmospheric carbon by ocean biota; and (b) the use of the deep ocean to store carbon dioxide that has been already separated, captured, and transported.

Any viable system for sequestering carbon must have a number of characteristics. It must be effective and cost-competitive with alternative means, such as renewable energy. Unintended environmental consequences must be benign compared to alternative solutions, including no action. A carbon sequestration system must be able to be monitored quantitatively and verified, because contributions to carbon sequestration almost certainly need to be measured. Research sponsored by this program could contribute to any of these goals.

This solicitation invites applications for basic research projects on carbon sequestration in the oceans. The proposed research should be fundamental in nature. Applications that test demonstrations of engineered technologies are not relevant to this solicitation.

Technical Areas of Interest

The ocean represents a large current sink for the sequestration of anthropogenic CO_2 emissions as well as a large potential for further enhancement. Two strategies for enhancing carbon sequestration in the ocean are the focus of the DOE Ocean Carbon Sequestration Research Program. One strategy is the enhancement of the net oceanic uptake from the atmosphere by fertilization of phytoplankton with micronutrients, such as iron. A second strategy is the direct injection of a relatively pure CO_2 stream to ocean depths greater than 1000 m. Sources of CO_2 for direct injection might include power plants, industries or other sources. This solicitation seeks applications that specifically address the long term effectiveness and potential environmental consequences of ocean sequestration by these two strategies. Research projects currently being funded under the DOE Ocean Carbon Sequestration Research Program may be accessed at: *http://cdiac2.esd.ornl.gov/ocean.html.* The program currently funds projects in a wide range of scientific disciplines including marine biology and ecology; biological, physical, and chemical oceanography; computational science and modeling; and physical chemistry and engineering.

Iron Fertilization

Much has been learned about the important role of iron in photosynthesis over the past 15 years through both laboratory and field iron enrichment experiments. Iron deficiency has been shown to limit the efficiency of photosystem II in phytoplankton. Evidence from paleoceanographic samples also links iron supply with marine primary production and carbon flux. However, critical questions remain: How does iron enrichment accelerate carbon flux in high nutrient, low chlorophyll (HNLC), low nutrient, low chlorophyll (LNLC), sub-mixed layer and coastal ecosystems? What are the time scales of remineralization? What are the long term ecological and biogeochemical consequences of fertilization on surface and midwater processes? Basic research is needed on the biogeochemistry of iron and carbon in the ocean. The accurate measure of carbon flux following iron fertilization is critical to the objective evaluation of this strategy for carbon sequestration. We need to understand the regulation of carbon fluxes and the role of mineral ballast in export of organic carbon from the surface to the deep ocean. Our understanding of the concentrations, sources, sinks and ligands of iron in marine systems is also very limited. The complexity of marine ecosystems necessitates careful research on potential environmental consequences of iron fertilization. These consequences may include the potential to impact key oceanic biogeochemical cycles as well as on populations of marine organisms and their trophodynamic interactions.

Examples of relevant research areas for enhancement of the biological pump through iron fertilization include:

1. Environmental consequences of long term ocean fertilization. Research might focus on:

• Examining changes in structure and function of marine ecosystems including community structure of phytoplankton and zooplankton, ocean

food webs and trophodynamics, resulting from ocean fertilization.

• Examining changes in natural oceanic biogeochemical cycles (carbon, nitrogen, phosphorus, and silicon) resulting from carbon sequestration.

2. Effectiveness of ocean fertilization on a large scale. Research might focus on:

• Understanding the biological pumping of carbon to deep waters, the export of particulate organic carbon and particulate inorganic carbon to the deep sea, and mineralization or dissolution of all forms at depth. This includes understanding the role of micronutrients (such as iron) and macronutrients (such as nitrogen and phosphorus) in regulation of the biological pump.

• Determining to what extent increased carbon fixation in surface waters would result in an increase in carbon sequestered in the deep ocean, and how long it would remain sequestered.

Research proposed on iron fertilization should also support the USGCRP Carbon Cycle Science Initiative. For a copy of the Carbon Cycle Science Plan, access the following web site: *http://www.gcrio.org/OnLnDoc/pdf/carb_cycle_toc.html.* In particular, the proposed research should provide the scientific foundation for estimating the capacity of the ocean to sequester and store carbon dioxide released as a result of human activities.

Direct Injection

The overarching question for this research area is: Can direct CO_2 injection effectively sequester CO_2 in the ocean with minimal adverse environmental impacts? Fundamental research is needed to assess the efficiency and consequences of direct injection to sequester a maximum level of CO_2 while minimizing the impact on deep sea ecosystems. Current scientific literature on the physiology of deep sea animals suggests a high sensitivity of deep sea animals to acidosis and hypercapnia (CO_2 stress), however, there are few data on impacts of specific levels of CO_2 on animals from various marine habitats. Moreover, there are virtually no data on the potential effects of CO_2 on microbially-mediated biogeochemical transformations of nutrients in the deep sea. Models are needed that provide information on the fate of injected CO_2, particularly in the 100m to 100km range, from the point of injection. The ultimate goal is to be able to develop a coupled model that can predict the fact of injected CO_2 and its chemical, physical and biological effects on marine ecosystems.

Examples of relevant research areas for direct injection of carbon dioxide into the deep ocean include:

1. Environmental consequences of direct injection of CO_2 into the ocean in midwater or deep sea habitats. Research might focus on:

• Determining the effects of changes in pH and CO_2 on the physiology and survival of organisms (including microbes) from midwater and deep sea habitats.

• Understanding the effects of sustained release of concentrated CO_2 on biogeochemical processes, and on ecosystem structure and function. This includes investigations of biogeochemical interactions of seafloor sediments with a hydrated CO_2 plume.

2. Effectiveness of direct injection of CO_2 for carbon sequestration. Research might focus on:

• Understanding the longer-term fate of carbon that is added to the ocean including the carbonate chemistry of mid- and deep-ocean water.

• Addressing weaknesses in Ocean General Circulation Models (OGCMs), specifically their ability to simulate accurately western boundary currents, ocean bottom currents and plume to eddy circulation, and testing models using natural or experimental tracers.

• Coupling near-field with far-field effects of CO_2 injection, for example, couple plume modeling at the basin and global scale with ocean circulation models.

Collaboration

Applicants are encouraged to collaborate with researchers in other institutions, such as: universities, industry, non-profit organizations, federal laboratories and Federally Funded Research and Development Centers (FFRDCs), including the DOE National Laboratories, where appropriate, and to include cost sharing and/or consortia wherever feasible. Additional information on collaboration is available in the Application Guide for the Office of Science Financial Assistance Program that is available via the Internet at: *http://www.sc.doe.gov/production/grants/Colab.html.*

Program Funding

It is anticipated that up to $1,000,000 will be available for awards in this area during Fiscal Year 2002, contingent upon availability of appropriated funds. An additional $1,000,000 will be available for competition by DOE National Laboratories under a separate solicitation (LAB 02–11). Projects involving single investigators or small groups of investigators may be funded at a level up to $300,000 per year for up to 3 years. Applications for field experiments involving larger groups of investigators will be considered, but must be approved at a preapplication level. Multiple year funding of awards is expected, and is also contingent upon availability of funds, progress of the research, and continuing program need.

Preapplications

An informal preapplication may be submitted by E-mail. The preapplication should identify the institution, Principal Investigator name, address, telephone, fax and E-mail address, title of the project, and proposed collaborators. The preapplication should consist of a one to two page narrative describing the research project objectives and methods of accomplishment. These will be reviewed relative to the scope and research needs of the Ocean Carbon Sequestration Research Program. Preapplications are strongly encouraged prior to submission of a full application, especially for large, field-based collaborations. Notification of a successful preapplication is not an indication that an award will be made in response to the formal application.

Merit Review

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following evaluation criteria listed in descending order of importance as codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project,
2. Appropriateness of the Proposed Method or Approach,
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources,
4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed research to the terms of the announcement and the agency's programmatic needs. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Both non-federal and federal reviewers may be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Formal Applications

Information about the development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in 10 CFR part 605, and in the Application Guide for the Office of Science Financial Assistance Program. Electronic access to

the Guide and required forms is available via the World Wide Web at: *http://www.sc.doe.gov/production/grants/grants.html.* DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made. The research project description must be 15 pages or less, exclusive of attachments and must contain an abstract or summary of the proposed research. On the SC grant face page, form DOE F 4650.2, in block 15, also provide the PI's phone number, fax number and E-mail address. Attachments include curriculum vitae, a listing of all current and pending federal support, and letters of intent when collaborations are part of the proposed research. Curriculum vitae should be submitted in a form similar to that of NIH or NSF (two to three pages), see for example: *http://www.nsf.gov:80/bfa/cpo/gpg/fkit.htm#forms-9.*

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington DC on December 14, 2001.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 01–31468 Filed 12–20–01; 8:45 am]

BILLING CODE 6450–02–U

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Los Alamos; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATE: Wednesday, January 23, 2002.

1 p.m.–8:30 p.m.

ADDRESS: Holiday Inn Santa Fe, 4048 Cerrillos Road, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Menice Manzanares, Northern New Mexico Citizens' Advisory Board, 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995–0393; fax (505) 989–1752 or e-mail: *mmanzanares@doeal.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1–5 p.m.

—Openness Plan

—Recruitment/Membership

—Budget Review (1st Quarter)

—Report from Chair

—Report from Staff

—Report from Committees

5–6 p.m.

—Dinner Break

6–8:30 p.m.

—Recommendations to DOE

—Resource Conservation Recovery Act (RCRA) Permit Update

—Priorities for LANL EM Budget

—Public Comment

Other Board business will be conducted as necessary.

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Manzanares at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the beginning of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1660 Old Pecos Trail, Suite B, Santa Fe, NM. Hours of operation for the Public Reading Room are 9:00 a.m.–4:00 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Menice Manzanares at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.org.*

Issued at Washington, DC on December 17, 2001.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–31470 Filed 12–20–01; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Office of Science; High Energy Physics Advisory Panel; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the High Energy Physics Advisory Panel (HEPAP). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, January 28, 2002; 9 a.m. to 6 p.m. and Tuesday, January 29, 2002; 8:30 a.m. to 4 p.m.

ADDRESS: The Latham Hotel, Georgetown, 3000 M Street, NW., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Glen Crawford, Executive Secretary; High Energy Physics Advisory Panel; U.S. Department of Energy; 19901 Germantown Road; Germantown, Maryland 20874–1290; Telephone: 301–903–9458.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda: Agenda will include discussions of the following:

Monday, January 28, 2002, and Tuesday, January 29, 2002.

- Discussion of Department of Energy High Energy Physics Programs.
- Discussion of National Science Foundation Elementary Particle Physics Program.
- Discussion of the DOE/NSF High Energy Physics Advisory Panel, Subpanel on Long Range Planning for U.S. High Energy Physics.
- Discussion of High Energy Physics University Programs.
- Reports on and Discussion of U.S. Large Hadron Collider Activities.
- Reports on and Discussions of Topics of General Interest in High Energy Physics.
- Public Comment (10-minute rule).

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Panel, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items

on the agenda, you should contact Glen Crawford, 301–903–9458, or *Glen.Crawford@science.doe.gov (e-mail)*. You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Panel will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW.; Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on December 17, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–31469 Filed 12–20–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–505–000]

Cambridge Electric Light Company, Central Maine Power Company, The Connecticut Light and Power Company, New England Power Company, Public Service Company of New Hampshire, Western Massachusetts Electric Company; Notice of Filing

December 17, 2001.

Take notice that on December 11, 2001, New England Power Company (NEP), on behalf of itself and Cambridge Electric Light Company, Central Maine Power Company, The Connecticut Light and Power Company, Public Service Company of New Hampshire and Western Massachusetts Electric Company (Sponsors) submitted for filing a corrected transmittal letter for Notice of Cancellations of certain power contracts, originally filed on December 7, 2001. The corrections include no substantive changes.

The Sponsors state that this filing has been served upon each of the parties originally served in this proceeding on December 7, 2001.

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 and protests should be filed on or before the comment date. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site 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.

Comment Date: January 2, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31467 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–65–001]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

December 17, 2001.

Take notice that on December 7, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute Twenty-seventh Revised Sheet No. 18 and Substitute Seventeenth Revised Sheet No. 18A, to become effective January 1, 2002:

Columbia Gulf states that on November 30, 2001, it submitted tariff sheets in accordance with the Commission's order issued on September 19, 2001 in Gas Research Institute's (GRI) Docket No. RP01–434–000 (Order Approving Settlement). The order approved GRI's 2002 funding formula. Subsequent to that filing, it has come to Columbia Gulf's attention that it inadvertently reflected the GRI surcharge applicable to those customers with load factors equal to or less than 50% at 4.1¢/Dth instead of the approved surcharge of 4.07¢/Dth. The instant filing is being made to correct the surcharge.

Columbia Gulf states that copies of its filing is being mailed to each of Columbia Gulf's firm and interruptible customers and affected state commissions.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31447 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–56–001]

Dominion Transmission, Inc.; Notice of Compliance Filing

December 17, 2001.

Take notice that on December 7, 2001, Dominion Transmission, Inc. (DTI) tendered for filing with the Commission an errata to its November 27, 2001 filing in Docket No. RP02–56–000 (November 27th Filing). The November 27th Filing adopted the Gas Research Institute surcharges previously approved by the Commission on September 19, 2001, in Docket No. RP01–434–000.

DTI states that the purpose of the filing is to correct a transposed number on one of the tariff sheets, affecting the reservation rate and the rate for capacity release. The revised tariff sheet, Substitute Fourteenth Revised Sheet No. 32, corrects that error.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers, interested state commissions and on all persons on the official service list compiled by the Secretary of the Commission for 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31446 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–109–001]

Granite State Gas Transmisison; Notice of Proposed Changes in FERC Gas Tariff

December 17, 2001.

Take notice that on December 7, 2001, Granite State Gas Transmission (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Twenty-fifth Revised Sheet No. 21 and Substitute Twenty-sixth Revised Sheet No. 22, to become effective January 1, 2002.

Granite State states that on November 30, 2001, it submitted tariff sheets in accordance with the Commission's order issued on September 19, 2001 in Gas Research Institute's (GRI) Docket No. RP01–434–000 (Order Approving Settlement). The order approved GRI's 2002 funding formula. Subsequent to that filing, it has come to Granite State's attention that it inadvertently reflected the GRI surcharge applicable to those customers with load factors equal to or less than 50% at 4.1¢/Dth instead of the approved surcharge of 4.07¢/Dth. The instant filing is being made to correct the surcharge.

Granite State states that copies of its filing has been mailed to each of Granite State's firm and interruptible customers, and affected state commissions.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31448 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–411–001, and RP01–44–003]

Iroquois Gas Transmission System, L.P.; Notice of Compliance Filing

December 17, 2001.

Take notice that on December 10, 2001, Iroquois Gas Transmission System, L.P. (Iroquois) tendered its filing in compliance with the Commission's November 8, 2001 Order on Compliance Filing.

Iroquois states that copies of its filing have been mailed to all firm customers, interruptible customers, state regulatory commissions and other interested parties.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31445 Filed 12–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–45–000]

Texas Eastern Transmission, LP; Notice of Application

December 17, 2001.

Take notice that on December 7, 2001, Texas Eastern Transmission, LP (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP02–45–000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for approval for it (i) to construct, own, operate, and maintain a 150-foot 20-inch diameter pipeline interconnect with Tennessee Gas Pipeline Company and 9.6 miles of 24-inch diameter lateral pipeline, three meter stations and three regulators and appurtenant facilities in Scioto County, Ohio and Lawrence County, Ohio; (ii) to implement a new lateral line only transportation service (Rate Schedule MLS–1) which is also proposed in Docket No. CP02–17–000; and (iii) to establish an incremental maximum recourse rate of $1.112 for service of 250,000 Dth/d to a proposed Duke Energy Hanging Rock, LLC (Hanging Rock) power plant in Lawrence County, Ohio under the new Rate Schedule MLS–1. The lateral has a design capacity of 288,920 Dth/d.

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). Any questions regarding the application should be directed to Steven E. Tillman, Director, Regulatory Affairs, at (713) 627–5044, (713) 627–5947 (Fax), Texas Eastern Transmission Corporation, P. O. Box 1642, Houston, Texas 77251–1642.

Texas Eastern requests that the Commission issue a final certificate by June 1, 2002. Texas Eastern says this is needed to allow it to complete construction of the proposed facilities to meet the November 1, 2002 date for test gas requested by Hanging Rock.

The proposed Rate Schedule MLS–1, included in Exhibit P of the application, will be available to any party requesting firm or interruptible transportation service on a portion of Texas Eastern's system designated as a Market Lateral. The proposed service will be provided as a ''lateral line only'' service with no transportation rights, secondary or otherwise, other than on the designated Market Lateral. The MLS–1 service will allow a firm contracting customer to designate in the MLS–1 Service Agreement the Maximum Daily Quantity (MDQ) and Maximum Hourly Quantity to be delivered, not to exceed the customer's MDQ for the Gas Day. A firm customer will be required to pay for any incremental facilities required to provide the customer's requested service. Firm customers under Rate Schedule MLS–1 will have secondary and capacity release rights only on the Market Lateral. The firm hourly rights will be applicable only as to flows between the Primary Receipt Point and Primary Delivery Point(s) on the Market Lateral. Hanging Rock will have non-firm hourly rates at other points on the lateral.

Texas Eastern says that the proposal will have no impact on rates charged to existing customers. The cost of the facilities is estimated to be $15,080,000. The maximum recourse rate for Hanging Rock's service pursuant to Rate Schedule MLS–1 is a 100 percent incremental reservation rate of $ 1.112 per Dth. This rate is based on proposed incremental facility costs with costs for the unsubscribed capacity of 33,920 Dth/d assigned to interruptible MLS–1 service. Texas Eastern says it has used its rate of return and other factors from Docket No. RP90–119 to derive this incremental rate. An adjustment was made to reflect the current 35% federal income tax rate.

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 January 7, 2002, 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 Natural Gas Act (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 appellate court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have their 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 comments 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. 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. 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.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31443 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP93–109–018]

Williams Gas Pipelines Central, Inc.; Notice of Filing of Refund Report for Third-Party Environmental Proceeds

December 17, 2001.

Take notice that on December 11, 2001, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing, pursuant to Article III, Paragraph D of the Stipulation & Agreement dated January 31, 2001 in Docket No. RP93–109–017, its refund report of environmental proceeds received from third-party insurers.

Article III states that Williams will allocate its pass-through of third-party environmental proceeds, if any, to Williams' customers based on firm reservation revenues during the twelve months ended September 30. Williams is herewith filing its report of third-party insurance proceeds received during the twelve months ended September 30, 2001, and the allocation,

reflected on Schedule B, which sets forth the amount to be refunded to each party under the terms of this settlement. Williams will make the refunds to each of the customers listed thereon on or before January 31, 2002.

Williams states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before December 26, 2001. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31444 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–115–002, et al.]

Kinder Morgan Power Company, et al.; Electric Rate and Corporate Regulation Filings

December 17, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Kinder Morgan Power Company v. Southern Company Services, Inc.

[Docket No. EL01–115–002]

Take notice that on December 10, 2001, Southern Companies Services, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) a compliance filing pursuant to the Commission's Order issued on November 23, 2001.

Comment Date: January 9, 2002.

2. Illinois Power Company

[Docket No. ER96–185–003]

Take notice that on December 11, 2001, Illinois Power Company (Illinois Power), filed with the Federal Energy Regulatory Commission (Commission) a motion requesting a waiver of the requirement to file a market analysis in this proceeding. Illinois Power states that upon acceptance of the Emergency Energy Tariff filed in Docket No. ER02–399–000 it will file a notice of cancellation of the Power Sales Tariff accepted in this proceeding.

Illinois Power states that a copy of its motion has been mailed to each person on the official service list in this proceeding, each party having a service agreement under the Power Sales Tariff and each MAIN member currently participating in the Callable Reserves Emergency Energy Procedure under MAIN Guide No. 5B.

Comment Date: January 2, 2002.

3. Western Resources, Inc.

[Docket No. ER01–3105–001]

Take notice that on December 12, 2001, Western Resources, Inc. (WR) tendered for filing with the Federal Energy Regulatory Commission (Commission) a refiling of the Electric Interchange Agreement between WR and Kansas City Power & Light in compliance with Order 614 as required by the acceptance letter dated November 20, 2001.

WR request and effective date of September 26, 2001.

Comment Date: January 3, 2002.

4. Ameren Services Company

[Docket No.ER02–196–001]

Take notice that on December 12, 2001, Ameren Services Company (ASC) tendered for filing a Network Integration Transmission Service Agreement and Network Operating Agreement between ASC and Illinois Municipal Electric Agency. ASC asserts that the purpose of the Agreement is to replace the unexecuted Agreements in Docket No. ER 02–196–000 with the executed Agreements.

Comment Date: January 2, 2002.

5. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–485–000]

Take notice that on December 13, 2001, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted revisions to Attachment N (Recovery of Costs Associated with New Facilities) of the Midwest ISO Open Access Transmission Tariff to implement specific ROE and accelerated depreciation incentives.

Comment Date: January 2, 2002.

6. Ameren Services Company

[Docket No. ER02.–525–000]

Take notice that on December 11, 2001, Ameren Services Company (ASC) tendered for filing Service Agreements for Firm Point-to-Point Transmission Service and Non-Firm Point-to-Point Transmission Service between ASC and Dominion Nuclear Marketing II, Inc. ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to Dominion Nuclear Marketing II, Inc. pursuant to Ameren's Open Access Transmission Tariff.

Comment Date: January 2, 2002.

7. Central Vermont Public Service Corporation, and Green Mountain Power Company

[Docket No. ER02–528–000]

Take notice that on December 12, 2001, Central Vermont Public Service Corporation (CVPS), Green Mountain Power Corporation (GMP), and Vermont Electric Power Company, Inc. (VELCO) tendered for filing termination agreements and subsequent amendments to VELCO's Electric Rate Schedule FERC No. 234 (Rate Schedule 234) effective February 28, 2002.

The proposed termination agreements reflect that the City of Burlington Electric Department, Village of Lyndonville Electric Department, Village of Northfield Electric Department, Village of Orleans Electric Department, Town of Hardwick Electric Department, Town of Stowe Electric Department and Washington Electric Cooperative, Inc. (collectively, the Vermont Secondary Purchasers) and VELCO have mutually agreed to terminate their power purchase agreements under Rate Schedule No. 234.

Copies of the filing were served upon the all affected parties to the amended rate schedule and the Vermont Public Service Board.

Comment Date: January 2, 2002.

8. American Transmission Company LLC

[Docket No. ER02–529–000]

Take notice that on December 12, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Generation-Transmission Interconnection Agreement between ATCLLC and Cloverland Electric Cooperative.

ATCLLC requests an effective date of June 29, 2001.

Comment Date: January 2, 2002.

9. Duke Energy Marshall County, LLC

[Docket No. ER02–530–000]

Take notice that on December 12, 2001, Duke Energy Marshall County, LLC (Duke Marshall) tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to section 205 of the Federal Power Act its proposed FERC Electric Tariff No. 1.

Duke Marshall seeks authority to sell energy and capacity, as well as ancillary services, at market-based rates, together with certain waivers and preapprovals. Duke Marshall also seeks authority to sell, assign, or transfer transmission rights that it may acquire in the course of its marketing activities. Duke Marshall requests pursuant to section 35.11 of the Commission's regulations that the Commission waive the 60-day minimum notice requirement under section 35.3(a) of its regulations and grant an effective date for this application of February 1, 2002, the date on which Duke Marshall anticipates commencing the sale of test energy.

Comment Date: January 2, 2002.

10. American Transmission Company LLC

[Docket No. ER02–531–000]

Take notice that on December 12, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Distribution-Transmission Interconnection Agreement between ATCLLC and the City of Plymouth.

ATCLLC requests an effective date of June 25, 2001.

Comment Date: January 2, 2002.

11. California Independent System Operator Corporation

[Docket No. ER02–532–000]

Take notice that on December 13, 2001, the California Independent System Operator Corporation tendered for filing an Amendment to Schedule 1 of the Participating Generator Agreement between the ISO and Southern California Edison Company (SoCal Edison) for acceptance by the Commission. The ISO states that this filing has been served on SoCal Edison 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 December 13, 2001.

Comment Date: January 3, 2002.

12. The Potomac Edison Company

[Docket No.ER02–533–000]

Take notice that on December 13, 2001, Allegheny Energy Service Corporation on behalf of The Potomac Edison Company (Potomac Edison), submitted a Notice of Cancellation of Service Agreement No. 22 (including its Amendments and Supplements) with Old Dominion Electric Cooperative, a customer under Potomac Edison's Rate Schedule designated as FERC Electric Tariff, Fourth Revised Volume No. 2.

Potomac Edison has requested a waiver of notice to allow the cancellation to be effective January 1, 2002.

Comment Date: January 3, 2002.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31466 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–7121–9]

Notice of Deficiency for Clean Air Act Operating Permit Program in the District of Columbia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deficiency.

SUMMARY: Pursuant to its authority under the Clean Air Act, EPA is publishing this Notice of Deficiency (NOD) for the District of Columbia's Clean Air Act title V operating permit program. The NOD is based upon EPA's finding that the District of Columbia's requirements for public notification do not comply with the requirements of the Clean Air Act and its implementing regulations. Publication of this Notice is a prerequisite for withdrawal of the District of Columbia's title V program approval, but EPA is not withdrawing this program through this action.

EFFECTIVE DATE: December 13, 2001. Because this NOD is an adjudication and not a final rule, the Administrative Procedure Act's 30 day deferral of the effective date of a rule does not apply.

FOR FURTHER INFORMATION CONTACT: Paresh R. Pandya, U.S. Environmental Protection Agency Region III (3AP11), 1650 Arch Street, Philadelphia, PA 19103 at (215) 814–2167, or by e-mail at *pandya.perry@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). Sierra Club and the New York Public Interest Research Group challenged the action. In settling the litigation, EPA agreed to publish a notice in the **Federal Register**, so that the public would have the opportunity to identify and bring to EPA's attention alleged deficiencies in title V programs. The EPA published that notice on December 11, 2000 (65 FR 77376).

As stated in the **Federal Register** notice, EPA agreed to respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA agreed to respond by April 1, 2002 to timely comments on fully approved programs. The EPA is publishing a NOD if the Agency determines that a deficiency exists, and is notifying the commenter in writing to explain the reasons for not making a finding of deficiency on other issues. The EPA received one timely comment letter pertaining to the District of Columbia's title V program. In reviewing the commenter's concerns, EPA agrees that the commenter has identified a deficiency in the District of Columbia's title V operating permit program relating to the District of Columbia's public notification requirements. The EPA is addressing that deficiency in this notice. In addition, the commenter raised other issues that EPA has determined are not deficiencies. The EPA is responding to the commenter in writing, explaining the basis for EPA's decision.

Under EPA's permitting regulations, citizens may, at any time, petition EPA regarding alleged deficiencies in state title V operating permit programs. In addition, EPA may on its own identify deficiencies. If, in the future, EPA agrees with a new citizen petition or otherwise identifies deficiencies, EPA may issue a new NOD.

II. Description of Action

The EPA is publishing this NOD to notify the District of Columbia and the public that EPA has found a deficiency in the District of Columbia's title V operating permit program. This document is being published to satisfy section 502(i) of the Clean Air Act and 40 CFR 70.10(b)(1), which provides that EPA shall publish in the **Federal Register** a notice of any determination that a State's title V permitting program no longer complies with the requirements of 40 CFR part 70 and the Clean Air Act. The deficiency that is the subject of this document relates to the District of Columbia's regulatory authority to provide adequate public notification of permit actions, pursuant to 40 CFR part 70.

The EPA's regulations at 40 CFR 70.7(h) and 70.7(d)(3)(i) provide that public notice shall be provided for all permit proceedings, except those qualifying as administrative permit amendments or minor permit modifications. Such public notification shall be provided by a number of means, including ''by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice; to persons on a mailing list developed by the permitting authority, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public.'' *See*, 40 CFR 70.7(h)(1). EPA's regulations at 40 CFR 70.4(b)(16) require that State part 70 program submittals contain provisions requiring the permitting authority to implement the requirements of 40 CFR 70.7. The District of Columbia's operating permit program regulations at 20 DCMR 303.10 require that public notice of draft initial permits, significant modifications and permit renewals be published in the *District of Columbia Register* and that copies of such notice be sent to the applicant, to the representatives of affected states, and to persons on a mailing list developed by the Mayor, including those who request in writing to be on the list.

However, the regulations do not expressly require that ''other means'' be employed if necessary to assure adequate public notice. Because the District of Columbia's operating permit program regulations do not require the District to provide public notice by other means if necessary to assure adequate notice to the affected public, the District of Columbia's operating permit program does not fully comply with the requirements of the Clean Air Act and 40 CFR part 70.

Title V provides for the approval of State programs for the issuance of operating permits that incorporate the applicable requirements of the Clean Air Act. To receive title V program approval, a State permitting authority must submit a program to EPA that meets certain minimum criteria, and EPA must disapprove a program that fails, or withdraw an approved program that subsequently fails, to meet these criteria. These criteria include requirements for proper public participation procedures (40 CFR 70.4(b)(16)). *See* 40 CFR 70.7(h).

The EPA's title V implementing regulations at 40 CFR 70.4 and 70.10(b) and (c) provide that EPA may withdraw a part 70 program approval, in whole or in part, whenever the approved program no longer complies with the requirements of part 70 and the permitting authority fails to take corrective action. A list of potential bases for program withdrawal is provided at 40 CFR 70.10(c)(1)(i), and includes the case where the permitting authority's legal authority does not meet the requirements of 40 CFR part 70.

The procedures for program withdrawal are set forth at 40 CFR 70.10(b). The procedures require as a prerequisite to withdrawal that the EPA Administrator notify the permitting authority of any finding of deficiency by publishing a notice in the **Federal Register**. This document satisfies this requirement and constitutes a finding of deficiency. According to 40 CFR 70.10(b)(2), if the District of Columbia has not taken ''significant action to assure adequate administration and enforcement of the program'' within 90 days after issuance of this notice of deficiency, EPA may withdraw the state program, apply any of the sanctions specified in section 179(b) of the Act, and/or promulgate, administer, and enforce a federal title V program. As provided by 40 CFR 70.10(b)(3), if the state has not corrected the deficiency within 18 months after the date of the finding of deficiency and signature of the NOD, EPA would be required to apply the sanctions under section 179(b) of the Act, in accordance with section 179(a) of the Act. In addition, 40 CFR 70.10(b)(4) provides that, if the state has not corrected the deficiency within 18 months after the date of the finding of deficiency, EPA will promulgate, administer, and enforce a whole or partial program within 2 years of the date of the finding. This document constitutes a finding of deficiency.

This document is not a proposal to withdraw the District of Columbia's title V program. Consistent with 40 CFR 70.10(b)(2), EPA will wait at least 90 days to determine whether the state has taken significant action to correct the deficiency.

III. EPA Responses to Citizen Comments

EPA is responding in writing to all timely comments that citizens submitted pursuant to the settlement agreement. For all comments not resulting in an NOD, EPA is responding directly to the commenter, explaining the reasons why EPA did not find that an NOD was warranted. The EPA will publish a notice of availability in the **Federal Register** notifying the public that EPA has responded in writing to the commenter and explaining how the public may obtain a copy of EPA's responses.

IV. Administrative Requirements

Under section 307(b)(1) of the Act, petitions for judicial review of today's action to issue a notice of deficiency for the District of Columbia's Clean Air Act title V operating permit program may be filed in the United States Court of Appeals for the appropriate circuit within 60 days of December 21, 2001.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 13, 2001.

Judith Katz,

Acting Regional Administrator, Region III.

[FR Doc. 01–31499 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6624–7]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa.*

Weekly receipt of Environmental Impact Statements

Filed December 10, 2001

Through December 14, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010523, Draft EIS, FRC, MI, WI, Bond Falls Project, Issuing a New License for Existing Hydroelectric License, (FERC No. 1864–005)

Ontonagon River Basin, Ontonagon and Gogebic Counties, MI and Vilas County, WI, Comment Period Ends: February 04, 2002, Contact: Patrick Murphy (202) 219–2659.

EIS No. 010524, Final EIS, FHW, NM, New Mexico Highway 126 (NM–126), Cuba-La Cueva Road (also Known as Forest Highway 12) Improvement, COE Section 404 Permit and NPDES Permit, Sandoval and Rio Arriba Counties, NM, Wait Period Ends: January 22, 2002, Contact: Richard J. Cushing (303) 969–5910.

EIS No. 010525, Revised Draft EIS, COE, MO, ND, SD, NB, IA, KS, Missouri River Master Water Control Manual Review and Update, Mainstem Reservoir System, New and Updated Information, Missouri River Basin, SD, NB, IA and MO, Comment Period Ends: February 04, 2002, Contact: Rose Hargrave (402) 697–2527.

EIS No. 0526, Final EIS, BLM, NV, Falcon to Gonder 345kV Transmission Project, Construction, Resource Management Plan Amendments, Right-of-Way Grant, Lander, Elko, Eureka and White Pine Counties, NV, Wait Period Ends: January 22, 2002, Contact: Mary Craggett (775) 635–4060.

EIS No. 010527, Final EIS, FTA, CT, New Britain—Hartford Busway Project, Proposal to Build an Exclusive Bus Rapid Transit (BRT) Facility, Located in the Towns/Cities of New Britain, Newington, West Hartford and Hartford CT, Wait Period Ends: January 22, 2002, Contact: Richard H. Doyle (617) 494–2055.

EIS No. 010528, Draft EIS, AFS, MO, Oak Decline and Forest Health Project, To Improve Forest Health, Treat Affected Stands, Recover Valuable Timber Products, Promote Public Safety, Potosi and Salem Ranger Districts, Mark Twain National Forest, Crawford, Dent, Iron, Reynolds, Shannon and Washington, MO, Comment Period Ends: February 04, 2002, Contact: Karen Mobley (573) 729–6656.

EIS No. 010529, Final EIS, FHW, WV, Shawnee Highway Project, Construction between the Ghent Interchange of I–787 in the North and McDowell County 14 or McDowell County 17 in the South, Funding, McDowell, Raleigh and Wyoming Counties, WV, Wait Period Ends: January 22, 2002, Contact: Thomas J. Smith (304) 347–5928.

EIS No. 010530, Final EIS, FRC, NY, Eastchester Project, Natural Gas Pipeline and Associated Facilities, (Docket Nos. CP00–232–001) Construction, Operation and Maintenance, from Northport Long Island to the Bronx, Approval and US Army COE Section 10 and 404 Permits Issuance, Bronx Borough, NY, Wait Period Ends: February 04, 2002, Contact: John Schnagl (202) 219–2661. This document is available on the Internet at: http://rimsweb1.ferc.fed.us

EIS No. 010531, Draft EIS, UAF, CA, EL Rancho Road Bridge Project, To Provide a Flood-Free Crossing at San Antonia Creek to Access North Vandenberg Air Force Base, Santa Barbara County, CA, Comment Period Ends: February 04, 2002, Contact: Jack Bush (703) 604–0553.

Amended Notices

EIS No. 010357, Draft EIS, SFW, Light Goose Management Plan, Implementation, Reducing and Stabilizing Specific Populations ''Light Geese'' in North America, Comment Period Ends: January 25, 2002, Contact: Jon Andrew (703) 358–1714. Revision of FR Notice Published on 09/28/2001: CEQ Review Period Ending on 12/14/2001 has been Extended to 01/25/2002.

EIS No. 010368, Final Supplement, JUS, Cannabis Eradication in the Contiguous United States and Hawaii, Updated Information concerning New Scientific Data on Herbicidal Eradication , Wait Period Ends: January 28, 2002, Contact: Joyce M. Elliott (202) 307–8923. Published FR –10–05–01 Review Period Reopened.

EIS No. 010401, Draft Supplement, FHW, MI, US–31 Petoskey Area Improvement Study, To Reduce Congestion on US–31 in the City of Petoskey and Resort and Bear Creek Townships, COE Section 404 Permit, Emmet County, MI , Comment Period Ends: February 28, 2001, Contact: James A. Kirschensteiner (517) 702–1835.

Revision of FR Notice Published on 11/02/2001: CEQ. Comment Period Ending 12/17/2001 has been Extended to 02/28/2002.

Dated: December 18, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–31537 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6624–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (66 FR 27647).

Draft EISs

ERP No. D–COE–A39138–00 Rating **3, Programmatic EIS—Nationwide Permits Procedures Review and Examination, US Army Corps of Engineers Section 10 and 404 Permit Issuance.

Summary: EPA believes the data used in the Draft PEIS and the methods used to analyze and draw conclusions from that data were inadequate, thereby preventing a full disclosure of potentially significant environmental impacts of the proposal. EPA recommended that the draft PEIS be formally revised and made available for public comment in a supplemental or revised draft PEIS.

ERP No. D–USA–A10074–00 Rating EC2, *Programmatic EIS*—Army Transformation, Army Vision to Address the Changing Circumstances of the 21st Century, Transformation in three Phases: Initial Phase, Interim Capability Phase, and an Objective Force Phase.

Summary: EPA expressed environmental concerns regarding air, land use, water resources, and noise and requested additional information regarding impact analysis.

Dated: December 18, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–31538 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–1063; FRL–6814–1]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1063, must be received on or before January 22, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1063, in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9368; e-mail address: jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–1063. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1063, in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1063. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 12, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by BASF Corporation, Agricultural Products, 26Davis Drive, Research Triangle Park, NC 27709 and represents the view of BASF Corporation. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interregional Research Project Number 4

PP 0E6209

EPA has received a pesticide petition 0E6209 from the Interregional Research Project Number 4 (IR-4), 681 U.S. Highway #1 South, North Brunswick, NJ 08902-3390 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of (3,6-dichloro-o-anisic acid (dicamba) in or on the raw agricultural commodities (RAC): Corn, sweet, kernel plus cob with husks removed at 0.04 part per million (ppm); corn, sweet, forage at 0.50 ppm; and corn, sweet, stover at 0.50 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism is adequately understood on the basis of soybean, asparagus, cotton, sugarcane, and published data on grass. In the majority of registered crops, the major metabolite is the 3,6-dichloro-5-OH-o-anisic acid. Tolerances are expressed as the dicamba parent plus the respective major metabolite.

2. *Analytical method.* BASF Corp. has provided suitable independently validated analytical methods for detecting and measuring levels of dicamba, and its metabolites in or on food with a limit of detection that allows monitoring of food with residues at or above the levels described in these and the existing tolerances. Adequate methods are available in PAM-II for enforcement purposes. The analytical method involves extraction, partition, clean-up and detection of residues by gas chromatography/electron capture detector (gc/ecd).

3. *Magnitude of residues.* Residue trials have been conducted with dicamba/diflufenzopyr end-use product distinct on the sweet corn crop for expanded use requested in the subject petition. The tolerances listed below are based on the maximum expected residue from geographically representative field trial data: Proposed tolerances for combined residues of the herbicide dicamba (3,6-dichloro-o-anisic acid) and its metabolite 3,6-dichloro-5-hydroxy-o-anisic acid in or on the RAC as follows (40 CFR 180.227(a)): Corn, sweet, kernel plus cob with husks removed at 0.04 ppm; corn, sweet, forage at 0.05 ppm; and corn, sweet, stover at 0.05 ppm.

4. *Animal residue.* The uses proposed do not yield secondary residues in meat, and milk above the tolerances already published under 40 CFR 180.227. Data from metabolism and feeding studies in poultry have established that the maximum expected dietary burden from crops treated with dicamba, will not result in quantifiable residues above the limits of the analytical method.

B. Toxicological Profile

1. *Acute toxicity.* Oral rat LD_{50}: 1,879 milligrams/kilograms (mg/kg) (m) and 1,581 mg/kg (f). Acute dermal rat LD_{50}: > 2,000 kg/kg (m/f). Acute inhalation rat LC_{50}: > 9.6 mg/L (m/f). Primary eye irritation: Extremely irritating and corrosive to the eye. Primary dermal irritation rabbits: Not a primary skin irritant. Dermal sensitization guinea pigs: Moderate potential to cause dermal sensitization. Acute neurotoxicity: No observed adverse levels (NOAEL) < 300 mg/kg (low dose). No neuropathological effects were found.

2. *Genotoxicity.* Ames: Negative. *In vitro* chromosome aberration in Chinese Hamster Ovary: Negative. Sex-linked recessive lethal in Drosophila: Negative. Aberrations in rat bone marrow: Negative. Mitotic recombination: Negative. UDH Unscheduled DNA synthesis (UDS) with WI-38) human lung fibroblasts: Negative. Differential toxicity with *E. coli* pol *A and B. subtillus:* Positive. Differential toxicity with *S. typhimurium*: Negative. UDS in human lung lymphocytes with activation: Negative; slight increase of sister chromatid exchange in human cultured lymphocytes; positive in *in vivo* unwinding of liver DNA Inhalable Particles (in ip) injected rats.

3. *Reproductive and developmental toxicity.* Rodent developmental toxicity rat: Oral doses of 0, 64, 160, or 400 mg/kg were administered daily during gestation days 6 to 19. The numbers of implantations, resorptions, and fetuses for test animals were similar to those numbers for control animals. No abnormalities were attributed to exposure to dicamba. Technical dicamba was not found to be teratogenic with the test system/study design employed. Maternal toxicity was found only at the highest dose tested (HDT) and the NOAEL was 160 mg/kg/day.

i. *Rabbit developmental toxicity.* Dicamba was administered orally (undiluted) via capsule to groups of 20 artificially inseminated New Zealand White rabbits. Dose levels of 0, 30, 150, or, 300 mg/kg were administered once daily on days 6–18 of presumed-

gestation (day 0 = day of insemination). Females were sacrificed on day 29 of presumed gestation. There were no deaths attributed to treatment. At the 150 mg/kg and 300 mg/kg levels, increased numbers of does with decreased motor activity and statistically significant numbers of does with ataxia were noted. At 300 mg/kg, a significant number of does had rales and an increased number of does showed labored breathing, perinasal substance, dried feces, impaired righting reflex, and red substance in the cage pan. These clinical observations were considered to be effects of treatment. Females in the 300 mg/kg group had statistically significant body weight loss for the entire dosage period. At 150 mg/kg, females lost weight on day 7 and 8 of presumed gestation. Although, compensatory weight gains occurred during the post-treatment period (days 19–29 of gestation), body weight gains remained statistically significantly reduced on days 6–29 of gestation in the 300 mg/kg group. No significant differences were obtained in litter averages for*corpora lutea*, implants, litter sizes, resorption sites, percent male fetuses, fetal body weight, percent resorbed conceptuses or number of does with any resorptions. No gross external, soft tissue or skeletal alterations in fetuses were considered to be related to treatment. The maternal NOAEL for technical dicamba to pregnant rabbits was 30 mg/kg/day. Levels of 150 and 300 mg/kg caused abortions, but were at significant maternally toxic doses. The developmental NOAEL was the highest dose tested, 300 mg/kg/day. There were no effects on embryo-fetal viability or development at any level.

ii. *Two-generation reproduction rat.* Potential effects on growth and reproductive performance were assessed over 2-generations of rats maintained on diets containing technical dicamba at concentrations of 0 control, 500, 1,500 or 5,000 ppm. Exposure at 5,000 ppm was associated with a slower growth rate of F1 pups prior to weaning and resulted in lower initial body weights in those selected as parental animals. The lower body weight was associated with a decrease in both food consumption and water intake. Sexual maturation was slightly delayed among males, but was likely associated with the initial reduced growth rate. Increased liver weights were noted consistently for adults of both generations and for weanlings. There were no effects on reproductive ability from treatment at any level. The low pregnancy rate among F, females in all groups was considered to be due to increased weights of those females. The NOAEL and LOAEL for system toxicity were 1,500 and 5,000 ppm, respectively. The NOAEL and LOAEL for reproductive toxicity were 500 (45 mg/kg/day) and 1,500 ppm, respectively.

4. *Subchronic toxicity*—i. *21–Day dermal.* There were no dicamba related changes in general behavior, appearance, body weight, or in blood and urine analysis. There were no compound-related gross pathology lesions, only skin lesions. There were no significant organ weight variations observed.

ii. *Thirteen-week rodent feeding* (rat). Rats were offered technical dicamba at dietary concentrations of 0, 1,000, 5,000, or 10,000 ppm. The mean body weight and food consumption values for the high dietary level animals were decreased from the control values. No adverse treatment-related findings were noted in either the blood parameters investigated or necropsy evaluation. Microscopic examinations of the liver revealed an absence or reduction of cytoplasmic vacuolation in the hepatocytes of the high dietary level animals. The no-effect level was suggested to be 5,000 ppm.

iii. *Eight-week rodent (dog).* Technical dicamba was offered orally at dietary concentrations of 0 (Control), 100, 500, or 2,500 ppm to dogs for 1 year. Initially, a decrease in food consumption was noted mainly among males at 500 and 2,500 ppm. This was most notable in a single 2,500 ppm male resulting in almost no food consumed for the first 3 weeks of feeding. Following administration of the 2,500 ppm diet in a water slurry during weeks 4–6, this male was placed back on feed and food consumption stabilized. There appears to be a limit to the amount of material that can be added to the feed before dogs will not consume the diet. The 2,500 ppm level was considered close to the maximum that could be employed, as 1 dog failed to consume the diet when offered in the usual form. Due mainly to the aforementioned male, mean body weight of 2,500 ppm males did not increase until week 5. The overall body weight gain for the 1 year period was comparable for all groups. It was concluded that aside from the lower food consumption, the no-effect level for toxicity was 50-60 mg dicamba/kg body weight (2,500 ppm) in both males and females. Because of the lack of toxicity shown in this study, the RfD Peer Review committee concurred that the NOEL was 2,500 ppm (HDT) and a LOEL was not established.

Sub-chronic neurotoxicity. NOAEL was established at 401 (m) and 472 (f) mg/kg/day. No histopathological effects on the peripheral or central nervous system were noted.

5. *Chronic toxicity*—i.*Chronic feeding/carcinogenicity in rat.* Groups of 60 rats/sex were maintained on diets containing technical dicamba at concentrations of either 0, 50, 250, or 2,500 ppm. An interim sacrifice of 10/sex/level was conducted at 12 months. Initially scheduled as a 27–month study, males were sacrificed at 115 weeks and females at 118 weeks due to survival rates. In males, no statistically significant differences in data for all tumors combined, all benign tumors combined, and all malignant tumors combined were obtained. A slight increase in malignant lymphoma was not statistically significant (pairwise comparisons), and was not considered to be toxicologically significant. A slight increase in thyroid parafollicular cell carcinoma in the high treatment group was noted but was not statistically significant in pairwise comparisons. In females, no statistically significant differences were noted in comparisons with all tumors combined, all benign tumors combined, and all malignant tumors combined or in any individual tumor type. In summary, no signs of toxicity related to administration of dicamba were noted. Findings among animals in the three treatment groups were considered to be comparable to findings among the control animals. Dicamba was not carcinogenic for animals of the species, strain, and age under the conditions of the study. Based on the results of the study, the no effect level was considered to be 2,500 ppm.

ii. *Carcinogenicity in mice.* Groups of 52 male and 52 female mice were fed diets containing dicamba at concentrations of 0, 50, 150, 1,000, or 3,000 ppm. Males were sacrificed following 89 weeks of feeding and females were sacrificed following 104 weeks of feeding. Reduced body weight gain (not statistically different) was noted among 3,000 ppm females. Increased mortality noted among 3,000 ppm males was considered unlikely to be related to treatment but could not be completely excluded. An increased incidence in lymphoid tumors, showing a statistical significance at 150 and 1,000 ppm, occurred in females. However, the incidence at 3,000 ppm did not statistically differ from control. Additionally, there was no significant trend with dosage and the values for treated females were within historical control data. Finally, the incidence of benign and malignant tumors in any tissue were similar for treated and control animals. Administration of dicamba in the diet at achieved intakes ranging from 5.5 to 364 mg/kg/day

produced no evidence of tumorigenic potential. Generally, no findings among mice receiving 1,000 ppm or below were considered to be of toxicological significance. The dietary level of 1,000 ppm (108 mg/kg/day in males and 121 mg/kg/day in females) was defined as the no toxic effect level. However, the RfD committee chose to establish the NOAEL at 3,000 ppm and stated that no LOAEL had been established.

iii. *Chronic dog.* In a 1–year chronic feeding study, dicamba 86.8% active ingredient (a.i.) was administered to Beagle dogs (4/sex/group) in the diet at 0, 10, 500 or 2,500 ppm (0, 2, 11, or 52 mg/kg/day) for 12 months. No adverse effects were observed at any dose level. No abnormalities in clinical signs, hematology, clinical chemistry, or urinalysis were reported. No abnormal findings were made at necropsy, nor were there any significant changes in food consumption or body weight. The NOAEL for this study is 52 mg/kg/day, the highest dose level tested. The LOAEL could not be established.

6. *Animal metabolism.* Dicamba has been tested in rats, dogs, cattle, goats, and hens. In all cases, dicamba is excreted very rapidly, mainly as unchanged dicamba and to a lesser extent as 3,6-dichloro-2-hydroxybenzoic acid with trace amounts of 3,6-dichloro-5-hydroxy-o-anisic acid. The results of these studies demonstrate that dicamba is not persistent and does not accumulate in animals.

7. *Metabolite toxicology.* Toxicity of the metabolites of dicamba to humans is concurrently evaluated during toxicity testing because both plant, and animal metabolites are formed during the course of toxicity tests. Both plant, and animal major metabolites are considered not of toxicological concern.

8. *Endocrine disruption.* No specific tests have been conducted with dicamba to determine whether the pesticide may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effect. However, available data have not implicated dicamba in such effects.

C. Aggregate Exposure

1. *Dietary exposure.* EPA has established the RfD for 3,6-dichloro-o-anisic acid (dicamba) at 0.045 mg/kg/day. This RfD is based on a 2–generation reproduction study in rat with a NOAEL of 45 mg/kg/day and an uncertainty factor of 1,000.

Cancer classification and risk assessment. The cancer classification of dicamba has been reviewed and recommended that the compound be classified as a Group D carcinogen, not classifiable as to human carcinogenicity.

i. *Food–chronic dietary exposure.* The estimated aggregate dietary exposure is based on the Theoretical Maximum Residue Contribution (TMRC) calculation. The TMRC is a ''worst case'' estimate of dietary exposure since it is assumed that 100% of all crops for which tolerances are established are treated, and that residues are at the tolerances level. The dicamba TMRC for the overall U.S. population from the currently established and proposed tolerances represents approximately 23.9% of the RfD.

ii. *Drinking water.* EPA does not have monitoring data available to perform a quantitative drinking water risk assessment for dicamba at this time. A Tier 1 drinking water assessment of dicamba using the GENEEC model and the SCI-GROW model were run to produce estimates of dicamba concentrations in surface and ground water respectively. Estimated maximum concentrations of dicamba in surface and ground water are 98 and 0.013 ppb, respectively. The estimated concentrations of dicamba in surface and ground water are less than EPA's level of comparison for dicamba in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account present uses, and uses proposed in this action, BASF Corporation concludes with reasonable certainty that residues of dicamba in drinking water (when considered along with other sources of exposure for which there are reliable data), would not result in unacceptable levels of aggregate human health risk at this time.

iii. *Acute exposure and risk.* This acute dietary (food) risk assessment used the Dietary Exposure Evaluation Model (DEEM). Regulating at the 95th percentile, acute dietary exposure used up only 28.6% of the acute RfD. The risks from acute dietary exposures to dicamba do not exceed EPA's level of concern.

iv. *Chronic exposure and risk.* The chronic dietary exposure analysis from food sources was conducted using the RfD of 0.045 mg/kg/day. In conducting this chronic dietary risk assessment, EPA has made very conservative assumptions: 100% of RACs having dicamba tolerances will contain dicamba residues and those residues will be at the level of the established tolerance. This results in an overestimate of human dietary exposure. The chronic DEEM analysis used mean consumption (3–day average) data, and showed U.S. population (48 states) at only 23.9% of the RfD.

2. *Non-dietary exposure.* Dicamba (3,6-dichloro-o-anisic acid), is currently registered for use on outdoor residential and recreational turf. Application is made by both homeowners and professional applicators. There is a potential oral, inhalation, eye and dermal exposure to infants and children to dicamba from the registered uses for lawn and turfgrass weed control. These exposures are considered to be very low. Currently there are no inhalation or eye exposure data required for post-application of pesticides to lawns and turf. As inhalation exposure for mixer/loaders is acceptable, the risk to infants and children from inhalation exposure under a much lower exposure scenario is characterized qualitatively as being extremely low. Exposure data are required for hand to mouth movements of infants and children. As there are no chemical-specific or site-specific data available to determine the potential risks associated with residential exposures, the EPA has determined that residential exposure and risk are acceptable for dosages of 0.5 lb/A, based on a dermal NOAEL of 1,000 mg/kg/day and exposures of 0.051 mg/kg/day for low pressure hand wand, liquid formulations, and 0.079 mg/kg/day for granular formulations. For residential post-application exposure and risk assessment, EPA determined that the potential residential post-application risks for short-term and intermediate exposures did not exceed their level of concern. In this analysis both oral and dermal exposures, and risks for adults and infants from post-applications were determined. This analysis was based on assumptions and generic data from the Draft HED Standard Operating Procedures (SOPs) for Residential Exposure Assessments (December 18, l997). These SOPs rely on what are considered to be upper-percentile assumptions and intended to represent Tier 1 assessments.

D. Cumulative Effects

At this time, there is no available data to determine whether dicamba, and its metabolites 3,6-dichloro-5-hydroxy-o-anisic acid and 3,6-dichloro-o-2-hydroxybenzoic acid, have a common mechanism of toxicity with other substances or how to include this pesticide or its metabolites in a cumulative risk assessment. For the purposes of this tolerance action, therefore, BASF Corporation has not assumed that dicamba and its metabolites have a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population.* Using the conservative exposure assumptions described above and based on the

completeness and the reliability of the toxicity data, a risk assessment for chronic dietary exposure from food and feed uses was made for all subpopulations. The percentage of the RfD occupied is only approximately 23.9% for the general population and 71.1% for non-nursing infants the most exposed group.

2. *Infants and children.* There was evidence of increased susceptibility to the offspring following prenatal and/or postnatal exposure in the 2-generation reproduction study in rat. In this study, offspring toxicity was manifested as significantly decreased pup growth in all generations and mating at a dose lower than that which caused parental systemic toxicity (abortions and clinical signs of neurotoxicity). Available studies indicated no increase susceptibility of rats or rabbits in *in utero* exposure to dicamba. In a prenatal developmental toxicity study in rats, there was no evidence of developmental toxicity at the highest dose tested. In a prenatal developmental toxicity study in rabbits, developmental toxicity (irregular ossification of internasal bones), were only seen at the dose that caused maternal toxicity (abortions and neurotoxic clinical signs). Therefore, there is an adequate toxicity data base for dicamba and exposure data are complete or are estimated based on data that reasonably account for potential exposures. A ten-fold safety factor for increased susceptibility of infants and children was applied for chronic (long-term) exposure, and a three-fold safety factor was applied for acute (short- and intermediate-term) exposures to dicamba, due to evidence of increased susceptibility to the offspring following prenatal and/or postnatal exposure in the 2-generation reproduction study in rats. The uncertainty factor (FQPA Safety Factor) of ten-fold was reduced for acute dietary and short-term and intermediate-term residential exposures because the increased susceptibility was only observed in the reproduction study and not in the prenatal developmental studies. The FQPA Safety Factor was reduced to 3x for acute dietary risk assessment for all populations, including infants and children, because: (1) The endpoint of concern is clinical signs of neurotoxicity (in the absence of neuropathology) observed following a single oral exposure in an acute neurotoxicity study; (2) the increased susceptibility was seen in the offspring of parental animals receiving repeated oral exposures in a 2-generation reproduction toxicity study; and (3) no increased susceptibility was observed following *in utero* exposures of rats or rabbits in the developmental studies.

F. International Tolerances

No CODEX maximum residue levels have been established for dicamba.

[FR Doc. 01–31494 Filed 12–20–01; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30517; FRL–6810–5]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30517, must be received on or before January 22, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30517 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Rita Kumar, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8291; e-mail address: kumar.rita@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112	Crop production Animal production
	311 32532	Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to seassist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–30517. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m.,

Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30517 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30517. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the registration activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included in any Previously Registered Products

1. File symbol: 50534-ERU, later changed to 71512-A. Product name: Technical Fosthiazate.

2. File symbol: 50534-ERL, later changed to 71512-U. Product name: Fosthiazate 900EC.

3. File symbol: 50534-ERT, later changed to 71512-L. Product name: Fosthiazate 900EC.

Applicant: File symbols 50534-ERU, 50534-ERL, and 50534-ERT, were originally assigned to GB Biosciences Corporation, under company number 50534. GB Biosciences later transferred to ISK Biosciences, 7470 Auburn Rd., Suite A, Concord, OH 44077, under company number 71512. Active ingredient: The active ingredient for the above-mentioned products is fosthiazate. Proposed use: The proposed use for the above-mentioned products is formulation into insecticide.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: December 4, 2001

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 01–31495 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7121–3 ; CWA–HQ–2001–6002; EPCRA–HQ–2001–6002; CAA–HQ–2001–6002]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding Comcast Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a consent agreement with Comcast Corporation (''Comcast'') to resolve violations of the Clean Water Act (''CWA''), Clean Air Act (''CAA''), and Emergency Planning and Community Right-to-Know Act (''EPCRA'') and their implementing regulations.

The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), is hereby providing public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order. EPA is also providing public notice of, and opportunity for interested parties to comment on, the CAA and EPCRA portions of this consent agreement.

Comcast failed to prepare Spill Prevention Control and Countermeasure (''SPCC'') plans for fifteen facilities where they stored diesel oil in above ground tanks. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations. Comcast failed to obtain the appropriate operating permits or exemptions at fifty facilities in violation of CAA section 110, 42 U.S.C. 7410, and various state implementation plan (''SIP'') requirements for emergency generators. EPA, as authorized by CAA section 113(d)(1), 42 U.S.C. 7413(d)(1), has assessed a civil penalty for these violations.

Comcast failed to file an emergency planning notification with the State Emergency Response Commission (''SERC'') and to provide the name of an emergency contact to the Local Emergency Planning Committee (''LEPC''). Comcast failed to submit Material Safety Data Sheets (''MSDS'') or a list of chemicals to the LEPC, the SERC, and the fire department with jurisdiction over each facility for one hundred and six facilities in violation of EPCRA section 311, 42 U.S.C. 11021. At eighty-three facilities, Comcast failed to submit an Emergency and Hazardous Chemical Inventory form to the LEPC, the SERC, and the fire department with jurisdiction over each facility in violation of EPCRA section 312, 42 U.S.C. 11022. EPA, as authorized by EPCRA section 325, 42 U.S.C. 11045, has assessed a civil penalty for these violations.

DATES: Comments are due on or before January 22, 2002.

ADDRESSES: Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC–2001–005, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mail Code 2201A, Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 8.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Submit comments electronically to *docket.oeca@epa.gov.* Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Persons interested in reviewing these materials must make arrangements in advance by calling the docket clerk at 202–564–2614. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Beth Cavalier, Multimedia Enforcement Division (2248–A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–3271; fax: (202) 564–9001; e-mail: cavalier.beth@epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Copies: Electronic copies of this document are available from the EPA Home Page under the link ''Laws and Regulations'' at the **Federal Register**—Environmental Documents entry (http://www.epa.gov/fedrgstr).

I. Background

Comcast Corporation, a telecommunications company incorporated in the Commonwealth of Pennsylvania and located at 1201 Market Street, Suite 2201, Wilmington, Delaware 19801, disclosed, pursuant to the EPA ''Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations' (''Audit Policy''), 65 FR 19618 (April 11, 2000), that they failed to prepare SPCC plans for fifteen facilities where they stored diesel oil in above ground storage tanks, in violation of the CWA section 311(b)(3) and 40 CFR Part 112. Comcast disclosed that for fifty facilities they had failed to obtain operating permits or exemptions in violation of CAA section 110, 42 U.S.C. 7410, and various SIP requirements for emergency generators. Comcast disclosed that at seventy facilities they had failed to file emergency planning notifications with the SERC and failed to provide the name of an emergency contact to the LEPC, in violation of EPCRA sections 302–303, 42 U.S.C. 7413(a)(1). Comcast further disclosed that at one hundred and six facilities they had failed to submit MSDS'' or a list of chemicals to the LEPC, SERC, and the fire departments with jurisdiction over the facilities, in violation of EPCRA section 311, 42 U.S.C. 11021; and that at eighty-three facilities had failed to submit an Emergency and Hazardous Chemical Inventory for to the LEPC, SERC, and fire departments with jurisdiction over the facilities, in violation of EPCRA section 312, 42 U.S.C. 11022.

EPA determined that Comcast met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA waived the gravity based penalty ($1,215,724) and proposed a settlement penalty amount of sixty-four thousand, six hundred and three dollars ($64,603). This is the amount of the economic benefit gained by Comcast, attributable to their delayed compliance with the SPCC, CAA and EPCRA regulations. Comcast Corporation has agreed to pay this amount. EPA and Comcast negotiated and signed an administrative consent agreement, following the Consolidated Rules of Practice, 40 CFR 22.13(b), on December 7, 2001 (*In Re:Comcast Corporation* Docket Nos. CWA–HQ–2001–6002, EPCRA–HQ–2001–6002, CAA–HQ–2001–6002). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. section 1321(b)(6). EPA is expanding this opportunity for public comment to all other aspects of this consent agreement.

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311 (b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311 (j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR part 22.

Under CAA section 113(d), the Administrator may issue an administrative order assessing a civil penalty against any person who has violated an applicable implementation plan or any other requirement of the Act, including any rule, order, waiver, permit or plan. Proceedings under CAA section 113(d) are conducted in accordance with 40 CFR part 22.

Under EPCRA section 325, the Administrator may issue an administrative order assessing a civil penalty against any person who has violated applicable emergency planning or right to know requirements, or any other requirement of the Act. Proceedings under EPCRA section 325 are conducted in accordance with 40 CFR part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is January 22, 2002. All comments will be transferred to the Environmental Appeals Board (''EAB'') of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.4(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

List of Subjects

Environmental protection.

Dated: December 12, 2001.

David A. Nielsen,

Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 01–31491 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7121–6]

Notice of Availability and Request for Public Comment: Proposed National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges of Storm Water Discharges From Construction Activities in Indian Country Within the State of Wisconsin

AGENCY: Environmental Protection Agency, Region 5 (EPA).

ACTION: Notice and request for public comment.

SUMMARY: Today's notice announces EPA's intention to issue a National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges from construction activities in Indian country within the State of Wisconsin. The general permit is proposed to cover discharges within Indian country, including the following areas: Bad River Indian Reservation, Forest County Potawatomi Indian Reservation, Ho-Chunk Nation Indian Reservation, Lac Courte Oreilles Indian Reservation, Lac Du Flambeau Indian Reservation, Menominee Indian Reservation, Oneida Indian Reservation, Red Cliff Indian Reservation, Sokaogon (Mole Lake) Indian Reservation, St. Croix Indian Reservation, and the Stockbridge-Munsee Indian Reservation.

Section 402(p)(2)(B) of the 1987 Clean Water Act requires NPDES permits for storm water discharges associated with industrial activity. Sources regulated include discharges from municipal separate storm sewer systems with populations of generally 100,000 or more and 11 categories of industrial activity. EPA has defined storm water discharges associated with industrial activity to include storm water discharges from construction sites which disturb 5 or more acres (see 40 CFR 122.26(b)(14)(x)). This formed the basis of Phase I of the national storm water regulations.

On December 8, 1999, EPA published Phase II of the national storm water regulations. Phase II regulates storm water discharges from small municipal separate storm sewer systems and discharges associated with small construction activity, including construction sites which disturb between 1 and 5 acres (40 CFR 122.26(b)(15)(i)). The proposed permit will address construction sites regulated under both the Phase I and Phase II Rules. However, the requirements for small construction sites will not be effective until March 10, 2003, the date by which these sources are to comply with the Phase II storm water regulations. The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 postponed the Phase I permitting deadline for any storm water discharge associated with industrial activity (which includes construction activity) that is owned or operated by any municipality with populations less than 100,000, except for a discharge from an airport, powerplant, or uncontrolled sanitary landfill. Originally, EPA codified the ISTEA amendments by ''reserving'' permit application requirements. In the Phase II rules, however, EPA established that deadline as March 10, 2003. Construction storm water discharges that are owned or operated by Indian tribes are included in the ISTEA exemption because CWA section 502(4) defines ''municipality'' to include ''an Indian tribe or an authorized Indian tribal organization.'' Thus, Tribes are not required to apply for permits for their construction activities until the March 10, 2003 deadline.

EPA invites public comment on the provisions of the draft permit within the public notice period established by this notice. In addition, EPA will hold several public meetings and a public hearing to discuss the proposed permit. The dates and locations are listed below:

Date: January 9, 2002.

Location: University of Wisconsin, Director's Room 4151, Grainger Hall, 975 University Avenue, Madison, WI 53706.

Time: 1:00 p.m. to 3:00 p.m.

Date: January 17, 2002.

Location: Bay Beach Wildlife Sanctuary, Auditorium, 1660 East Shore Drive, Green Bay, WI.

Time: 5:00 p.m. to 7:00 p.m.

Date: January 29, 2002.

Location: Marathon County Public Library, Wausau Room, 300 First Street, Wausau, WI 54403.

Time: Public Meeting 3:00 p.m. to 5:00 p.m.; Public Hearing 6:00 p.m. to 8:00 p.m.

If the library is closed due to bad weather, the public meeting and public hearing will be rescheduled for February 5, 2002, at the same times as listed above.

These meetings will also be posted on the Region 5 Storm Water Website (*www.epa.gov/r5water/npdestek/npdstma.htm*) and in one or more newspapers of general circulation within the state. Copies of the draft general permit and an accompanying fact sheet may be obtained by contacting EPA at the following telephone number or mailing address: Brian Bell, (312) 886–0981, NPDES Programs Branch (WN–16J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604. Electronic copies of the draft permit and fact sheet may be viewed at the Region 5 Public Notice Page (*www.epa.gov/r5water/npdestek/npdcfrp.htm*) or the NPDES Page (*www.epa.gov/r5water/npdestek/npdnpda.htm*). Users with appropriate software capabilities may also download electronic versions of these documents.

DATES: Comments on the draft permit must be received by February 5, 2002. EPA will accept comments submitted in writing or transmitted electronically.

ADDRESSES: Comments on the draft permit may be sent to: Brian Bell, NPDES Programs Branch (WN–16J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604. Comments may also be transmitted electronically to *bell.brianc@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Brian Bell, at the above address or, via telephone at 312–886–0981.

SUPPLEMENTARY INFORMATION:

I. Background

The State of Wisconsin has previously been authorized by EPA to issue NPDES permits outside of Indian country, and has issued general permits to regulate the vast majority of construction site storm water discharges outside Indian country within the State of Wisconsin. USEPA retains the authority to issue NPDES permits within Indian country within the State of Wisconsin. Indian country means (a) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of the State, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. See 18 U.S.C. 1151.

II. National Historic Preservation Act

The National Historic Preservation Act (NHPA), 16 U.S.C. 470a *et seq.*, generally requires, among other things, that Federal agencies take into account the effects of their undertakings on historic properties. Section 106 of NHPA seeks to accommodate historic preservation concerns with the needs of Federal undertakings through

consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties. The goal of this consultation process is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. *See* 65 FR 77698, 77725 (December 12, 2000).

Under Section 106, EPA must complete the consultation process ''prior to the issuance of any license.'' See 36 CFR 800.1(c). EPA has interpreted this language to apply this requirement to the issuance of today's proposed general NPDES permit for Indian country in Wisconsin. EPA is, therefore, conducting a Section 106 consultation regarding issuance of the proposed general permit.

Several parties have consultative roles in the Section 106 process that EPA is conducting for this proposed permit for Indian country in Wisconsin. These include (1) The Tribal historic preservation officer (THPO), for a tribe that has assumed such responsibilities under section 101(d)(2) of the NHPA, 16 U.S.C. 470a(d)(2); (2) the State historic preservation officer (SHPO); (3) designated representative(s) of an Indian tribe where a tribe has not assumed responsibilities of a SHPO.

In the process of preparing the proposed permit for Indian country in Wisconsin, EPA considered several possible options for meeting Section 106 of the NHPA. EPA conducted a series of consultations with the Wisconsin tribes (including THPOs and designated tribal government officials) and the Wisconsin SHPO. The consultation was conducted in a series of telephone conference calls held on February 13, February 22, March 13, and March 29, 2001.

During the consultation process, participants raised several concerns. These concerns included (1) The need for an understanding of technical and operational aspects of NPDES general permits; (2) the need for timely notice in advance of planned development projects; (3) the need for sufficient time and resources to complete historic property surveys; (4) the need to define the role of the SHPO, Tribe or THPO in the process for addressing effects on historic properties as applicants seek coverage under this NPDES general permit; (5) the need for a defined process to address potential effects on historic properties in the event of inadvertent discovery of historic properties after construction of a particular project covered under this general permit has begun; (6) the need for a consistent process to document how effects on historic properties have been addressed; (7) the need to streamline the coordination process for addressing effects on historic properties consultation across multiple, similar projects and similar geographic locations.

During the consultation, EPA explained the technical and operational requirements of the general permit, and stated that EPA is seeking information to develop a systematic process that would allow for comprehensive screening for historic properties, but also that would be sensitive to the different processes used by the THPOs, Tribal officials, and the SHPO.

Participants were concerned about an initial option proposed by EPA which would have included in the proposed general permit a precondition for coverage against discharges impacting historic sites, but without a requirement that the permit applicant seek a certification from the THPO or SHPO.

Participants were also concerned about a second option proposed by EPA which would have included in the proposed general permit a precondition for coverage against discharges impacting historic sites, but including a certification from the THPO, Tribe or SHPO. The concerns focused on the lack of a defined process and whether there would be sufficient time and resources to conduct site surveys to identify historic properties.

Participants also reviewed a third option proposed by EPA, which would provide a choice of means to provide certification, similar to the approach used in EPA's Region 4 general permit. *See* 63 FR 15622 (March 31, 1998). Concerns raised by participants on this approach focused on how the different options for meeting historic property review eligibility requirements could be most clearly defined so that permit applicants would be able to easily understand and meet these requirements.

As a result of the concerns raised during the consultation process, EPA proposed that the general permit include a performance-based standard that the applicant would not be eligible to apply for permit coverage until the applicant had coordinated with the appropriate official(s) (THPO, SHPO and/or tribes) to identify historic properties and to assess and attempt to resolve any adverse effects. This pre-certification provision was designed to address the THPO, SHPO, and tribes' concerns that they generally lacked sufficient notice of a proposed development project to conduct the necessary review and coordination on impacts to historic properties. Concerns were also raised during consultation that applicants be informed of the appropriate procedures that would apply to coordinating the review of effects on historic properties in this option. In response to these concerns, EPA proposed that the general permit would include specific references to relevant provisions of the Section 106 regulations (36 CFR 800.4–800.6, 800.13) to ensure that the regulated community was specifically informed of the pre-certification procedures they would need to meet in order to be eligible for coverage under the general permit. Under this option, the relevant procedures in the referenced provisions regarding coordination with local officials would guide applicants in coordinating with the THPO, SHPO and/or tribes to identify historic properties and to assess and attempt to resolve any adverse effects on such properties. The proposed permit would authorize such activities so long as the proper pre-certification procedures had been followed by the applicant.

In this option, which is the option included in today's proposed general permit, in order to be eligible for coverage under the general permit, applicants would need to certify that they had coordinated with the appropriate THPO, SHPO and/or tribal official consistent with the relevant procedures of the Section 106 regulations. The proposed permit would require that the applicant provide evidence of prior screening for the presence of historic properties and develop a mitigation plan, as needed, in coordination with the appropriate officials consistent with the relevant provisions of the Section 106 regulations. Finally, in the event of an inadvertent discovery of an historic property on the site during construction, the permittee would be required to immediately stop construction activity and coordinate with the appropriate THPO, SHPO and/or tribal official consistent with 36 CFR 800.13.

As part of its Section 106 consultation process on this proposed general permit, EPA invites all interested parties to comment on this option. Information regarding EPA's consultation process and the other options generally described above, is available on request from the address at the beginning of this notice.

III. Coastal Zone Management Act (CZMA)

The Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 *et seq.*, establishes a scheme whereby states develop a Coastal Zone Management Plan to protect coastal areas within their jurisdiction. Section 307(c) of the CZMA

requires that Federal agencies determine that various Federal activities are ''consistent with the enforceable policies of approved State management programs'' to the maximum extent possible. *See* 16 U.S.C. 1456(c)(1)(A).

The CZMA and its implementing regulations distinguish between different kinds of Federal activities. Section 307(c)(3) of the CZMA requires a consistency determination for a Federal ''license or permit.'' *See* 16 U.S.C. 1456(c)(3). The CZMA implementing regulations promulgated on December 8, 2000 (65 FR 77124), provide that a general permit program, which does not involve case-by-case approval by the Federal agency, can be addressed as a ''federal activity'' under Section 307(c)(3) of the CZMA. *See* 15 CFR 930.31(d).

Pursuant to these regulations, ''When proposing a general permit program, a Federal agency shall provide a consistency determination to the relevant management programs and request that the State agency(ies) provide the Federal agency with conditions that would permit the State agency (defined at 15 CFR 930.18) to concur with the Federal agency's consistency determination. State concurrence shall remove the need for the State agency to review future case-by-case uses of the general permit for consistency with the enforceable policies of management programs.'' *See* 15 CFR 930.31(d).

The regulations further provide that should the State object to the general permit or should the general permit not incorporate State conditions to the maximum extent practicable, the Federal agency shall notify potential users of the general permit that the general permit is not authorized for that State unless the State agency concurs that the activity is consistent with the State's management program. In that case, applicants would provide the State agency with their own consistency certification under the CZMA. *See* 15 CFR.930.31(d).

According to NOAA regulations and Wisconsin's Coastal Management Program, lands held in trust by the United States are excluded from the coastal zone area. *See* 16 U.S.C. 1453(l); 15 CFR 923.33(a); Wisconsin Department of Administration, *Wisconsin Coastal Management Program: Strategic Vision for the Great Lakes, [WCMP]*, June 1999, Section C, Federal Consistency. Issuance of NPDES permits currently is not included in Wisconsin's list of federal permits requiring consistency certification. See *WCMP*, Section E. However, the regulations provide that a consistency determination is still required when any ''spillover'' impacts may affect the coastal zone.

EPA believes that today's proposed permit is unlikely to have spillover impacts that may affect the coastal zone as defined in the WCMP. See WCMP at Section C.1(a). Permittees would be required to follow their storm water management plan, which includes erosion and sediment control best management practices and perimeter controls tailored for the particular construction site. These controls are supposed to bring discharges into compliance with applicable water quality standards within Indian country and state water quality standards when discharges leave Indian country. The proposed general permit is consistent with the technical and operational standards of the State's WPDES permit program. Based on EPA's analysis of the WPDES permit requirements, and the WCMP, EPA believes that the proposed permit would be ''consistent to the maximum extent practicable with the enforceable policies of approved State management programs'' as specified in Section 307(c)(1) of the CZMA. See also 15 CFR 930.32(a)(1).

Under 15 CFR 930.41, the State agency has 60 days from today's notice to inform EPA of its agreement or disagreement with this consistency determination. EPA invites comments on its application of the CZMA to today's proposed permit.

IV. Economic Impact (Executive Order 12866)

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may have an annual effect on the economy of $100 million or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. EPA has determined that the issuance of this general permit is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to formal OMB review prior to proposal.

V. Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments)

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The term ''policies that have tribal implications'' is defined in the Executive Order to include Agency actions that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

EPA has concluded that this proposed general permit may have tribal implications within the meaning of Executive Order 13175. EPA believes that the proposed general permit, however, does not impose substantial direct compliance costs on tribal governments or preempt tribal law. Overall, EPA expects that the impact of the proposed general permit on tribes will be positive. EPA's current NPDES permitting option for Indian country within Wisconsin is to issue individual permits. Issuance of this proposed general permit will provide EPA another NPDES permitting option for discharges of storm water associated with construction activity in Indian country. EPA anticipates that the availability of the general permit will promote better compliance with NPDES requirements in Indian country, thus improving water quality. Moreover, beginning in March of 2003, tribes will be required to comply with existing NPDES permit requirements. The proposed general permit will, in some situations, allow tribes to obtain a permit for discharge of storm water from construction sites more easily and quickly.

Consistent with EPA policy, EPA consulted with tribal leaders to ensure that they had meaningful and timely input into the development of this proposed general permit, as well as to provide comments to EPA on particular provisions in the proposed draft permit. EPA consulted with representatives from tribes located in Wisconsin on December 19, 2000, February 13, February 22, March 13, and March 29, 2001. During the consultation process, participants raised several concerns.

These concerns included (1) The need for an understanding of technical and operational aspects of NPDES general permits; (2) the relationship of the proposed general permit with other federal general permits issued by EPA; (3) the need for timely notice in advance of planned development projects; (4) the need for timely inspections and enforcement for potential violations of NPDES permit requirements; (5) the need for greater tribal involvement in permit issuance in Indian country; (6) the need for sufficient time, resources, and efficient process to undertake historic property surveys and otherwise ensure that permit applicants would comply with regulations protecting historic properties.

During this consultation, EPA explained the function and provisions of the proposed general permit, and explained the relationship between the proposed general permit and other federal general permits issued by EPA. EPA also explained the technical provisions of the proposed permit, including requirements which applicants would need to complete prior to filing a Notice of Intent and certification that pre-application requirements had been met. EPA also considered tribes' desire to obtain more timely notice of proposed construction projects within Indian country, and included in the draft permit a provision that would require permit applicants to send copies of the Notice of Intent form to both EPA's Region 5 office as well as the environmental department of the relevant tribe, in addition to mailing the notice to EPA's national office. EPA also included a recommendation in its fact sheet for the proposed permit that encouraged applicants to contact the relevant tribal environmental department as early in the planning stage as possible, with 90 days being the suggested minimum. EPA also addressed tribes' general concerns for greater tribal involvement in NPDES permitting by discussing how tribes could apply for and obtain federally authorized permitting authorities on their own through the ''treatment as state'' or tribal eligibility process outlined in Section 518 of the Clean Water Act. EPA explained that the proposed general federal permit was designed to provide direct implementation of the federal NPDES permit program in Indian country until such time as each tribe in Wisconsin could obtain a federally authorized permitting program of their own, if they so wished. Specific concerns raised by tribes regarding how regulations protecting historic properties may apply to the proposed general permit, as well as EPA's consultation with state and tribal officials on the application of the NHPA to today's action, are specifically discussed in this notice in the National Historic Preservation Act section.

EPA specifically solicits additional comment on this proposed general permit from tribal officials.

VI. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Pub L. 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' on State, local, and tribal government and the private sector. UMRA uses the term ''regulatory action'' to refer to regulations. (See, e.g., UMRA section 201, ''Each agency shall . . . assess the effects of Federal regulatory actions . . . (other than to the extent that such regulations incorporate requirements specifically set forth in law)'' (emphasis added)). UMRA section 102 defines ''regulation'' by reference to 2 U.S.C. 658 which in turn defines ''regulation'' and ''rule'' by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines ''rule'' as ''any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of (the Administrative Procedure Act (APA)), or any other law * * *.''

As discussed in the RFA section of this notice, NPDES general permits are not ''rules'' under the APA and thus are not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on proposed general permits, it does so pursuant to the CWA section 402(a) requirement to provide ''an opportunity for a hearing.'' Thus, NPDES general permits are not ''rules'' for RFA or UMRA purposes.

Nevertheless, EPA has considered the proposed general permit in light of UMRA's requirements. As noted elsewhere in today's notice, the proposed general permit is virtually the same as the NPDES general permits for construction that many construction operators have used over the past three years. EPA has determined that the proposed permit would not contain a Federal requirement that would result in expenditures of $100 million or more for State, local and Tribal governments, in the aggregate, or the private sector in any one year.

The Agency also believes that the proposed general permit will not significantly nor uniquely affect small governments. For UMRA purposes, ''small governments'' is defined by reference to the definition of ''small governmental jurisdiction'' under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) ''Small governmental jurisdiction'' means governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

Under existing regulations, a permit application is not required until March 10, 2003, for a storm water discharge associated with construction activity where the construction site is owned or operated by a municipality with a population of less than 100,000. See 64 FR 68780 (December 8, 1999). In any event, the requirements of the proposed general permit would not significantly affect small governments because most State laws outside Indian country already provide for the control of sedimentation and erosion in a similar manner as today's proposed general permit. The proposed general permit also will not uniquely affect small governments because compliance with the proposed permit conditions affects small governments in the same manner as any other entities seeking coverage under the proposed permit.

VII. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities resulting from the proposed general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* In a separate **Federal Register** Notice, EPA will propose, a revision to the current Information Collection Request (ICR) document (Approved by the Office of Management and Budget (OMB) OMB No. 2040–0188, expiration date of March 31, 2003) to account for the increased information requirements proposed in today's permit. EPA will publish the proposed ICR revisions in a separate **Federal Register** notice and EPA will submit the revisions to OMB for approval prior to issuance of the final permit.

VIII. Regulatory Flexibility Act as Amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA)

The Agency has determined that the proposed general permit being published today is not subject to the Regulatory Flexibility Act (''RFA''), which generally requires an agency to conduct a regulatory flexibility analysis of any significant impact the rule will have on a substantial number of small entities. By its terms, the RFA only

applies to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (''APA'') or any other statute. Today's proposed general permit is not subject to notice and comment requirements under the APA or any other statute because the APA defines ''rules'' in a manner that excludes permits. See APA section 551(4),(6), and (8).

APA section 553 does not require public notice and opportunity for comment for interpretative rules or general statements of policy. In addition to proposing the new general permit, today's notice repeats an interpretation of existing regulations promulgated almost twenty years ago. The action would impose no new or additional requirements.

Nevertheless, the Agency has considered and addressed the potential impact of the proposed general permit on small entities in a manner that meets the requirements of the FRA. EPA took such action based on the likelihood that a large number of small entities may seek coverage under the general permit if finalized as proposed. The proposed general permit would make available to many small entities, particularly operators of construction sites, a streamlined process for obtaining authorization to discharge. Of the possible permitting mechanisms available to dischargers subject to the CWA, NPDES general permits are designed to reduce the reporting and monitoring burden associated with NPDES permit authorization, especially for small entities with discharges having comparatively less potential for environmental degradation than discharges regulated under individual NPDES permits. Thus, general permits provide small entities with a permitting application option that is much less burdensome than NPDES individual permit applications.

IX. Official Signatures

After review of the facts present in the notice printed above, I hereby certify pursuant to the provisions of 5 U.S.C. 605(b) that these general permits will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: December 14, 2001.

Jo Lynn Traub,

Director, Water Division, Region V.

[FR Doc. 01–31492 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

December 11, 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, 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 February 19, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, SW., Room 1-A804, Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0644.

Title: Establishing Maximum Permitted Rates for Regulated Cable Services on Small Cable Systems.

Form Number: FCC Form 1230.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, Local and Tribal Governments.

Number of Respondents: 5.

Estimated Time Per Response: 2.25 hours.

Total Annual Burden to Respondents: 11.25 hours.

Total Annual Costs: $5,281.85.

Needs and Uses: On May 5, 1995, the Commission adopted rules that allow a small cable system owned by a small cable company to use a simplified cost-of-service procedure to set its maximum permitted rate. Pursuant to these rules, a cable system is eligible to set its maximum permitted rate with the FCC form 1230 if it is a system with 15,000 or fewer subscribers, and it is not owned by a cable company with more than 400,000 subscribers. The data collected are used by the Commission and local franchise authorities to determine whether cable rates for basic service, cable programming service, and associated equipment are reasonable under Commission regulations.

OMB Control Number: 3060–0433.

Title: Basic Signal Leakage Performance Report.

Form Number: FCC Form 320.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 33,000.

Estimated Time Per Response: 20 hours.

Total Annual Burden to Respondents: 660,000 hours.

Total Annual Costs: $3,750.

Needs and Uses: Cable television system operators who use frequencies in the bands 108–137 and 225–400 MHz (aeronautical frequencies) are required to file a cumulative leakage index (CLI) derived under section 76.611(a)(1) or the results of airspace measurements derived under section 76.611(a)(2). This filing must include a description of the method by which compliance with basic signal leakage criteria is achieved and the method of calibrating the measurement equipment. This yearly filing is done in accordance with section 76.615 with the use of FCC Form 320. The data collected on the FCC Form 320 are used by the Commission staff to ensure the safe operation of aeronautical and marine radio services, and to monitor for compliance of cable aeronautical usage in order to minimize future interference to these safety of life services.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–31413 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

December 7, 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 January 22, 2002. 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, Washington 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.: 3060–0298.

Title: Part 61—Tariffs (Other Than Tariff Review Plan).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 2,000 respondents; 3,000 responses.

Estimated Time Per Response: 20–43 hours.

Frequency of Response: On occasion, annual and biennial reporting requirements and third party disclosure requirement.

Total Annual Burden: 135,000 hours.

Total Annual Cost: $2,161,000.

Needs and Uses: Part 61 is designed to ensure that all tariffs filed by common carriers are formally sound, well organized, and provide the Commission and the public with sufficient information to determine the justness and reasonableness as required by the Act, of the rates terms and conditions in those tariffs. In the *Seventh Report and Order* in CC Docket No. 96–262, the Commission has limited the application of its' tariff rules to interstate access services provided by non-dominant local exchange carriers. The *Seventh Report and Order* was approved in June 2001 from the Office of Management and Budget (OMB) under emergency processing procedures. This submission is being made to obtain the full-three year OMB approval.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–31414 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

December 11, 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 January 22, 2002. 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.: 3060–0798.

Title: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.

Form No.: FCC Form 601.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit; not for profit institutions; individuals for household; and state, local or tribal government.

Number of Respondents: 240,576.

Estimated Time Per Response: 1.25 hour.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Total Annual Burden: 210,504 hours.

Total Annual Cost: $48,115,000.

Needs and Uses: The FCC Form 601 is a multi-purpose form used to apply for an authorization to operate radio stations, amend pending applications, modify existing licenses and perform a variety of other miscellaneous tasks in the Public Mobile Services, Personal Communications Services, General Wireless Communications Services, Private Land Mobile Radio Services, Broadcast Auxiliary Services, Fixed Microwave Services, Maritime Services (excluding ships) and Aviation Services (excluding aircraft). The information is used by the Commission to determine whether the applicant is legally, technically and financially qualified to be licensed, to update the database and to provide for proper use of the frequency spectrum.

OMB Control No.: 3060–0991.

Title: AM Measurement Data.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,900 respondents and 4,288 responses.

Estimated Time Per Response: 0.5–25 hours.

Frequency of Response: Recordkeeping; on occasion reporting requirement; and third party disclosure requirement.

Total Annual Burden: 29,180 hours.

Total Annual Cost: $72,500.

Needs and Uses: In order to control interference between stations and assure adequate community coverage, AM stations must conduct various engineering measurements to demonstrate that the antenna system operates as authorized. The data is used by station engineers to correct the operating parameters of an antenna. The data is also used by FCC staff in field operations to ensure that stations are in compliance with the technical requirements of the Commission's rules.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–31415 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket Nos. 94–1, 96–45, 96–262, and 99–249; DA 01–2817]

Common Carrier Bureau Seeks Comment on Remand of $650 Million Support Amount Under Interstate Access Support Mechanism for Price Cap Carriers

AGENCY: Federal Communications Commission.

ACTION: Notice; solicitation of comments.

SUMMARY: In a Public Notice in this proceeding released on December 4, 2001, the Common Carrier Bureau (Bureau) sought further comment on the $650 million support amount available under the interstate access support mechanism. Specifically, the Bureau sought comment on the uses of a cost model, including the Commission's forward-looking high-cost model or the study submitted by AT&T in this proceeding, to identify the appropriate amount available under the interstate access support mechanism. The Bureau also sought comment on the use of other studies or analyses to determine whether $650 million is the support amount that best serves the Commission's universal service goals.

DATES: Comments are due on or before January 22, 2002. Reply comments are due on or before February 4, 2002.

ADDRESSES: See Supplementary Information section for where and how to file comments.

FOR FURTHER INFORMATION CONTACT: Ted Burmeister, Attorney, or Sheryl Todd, Management Analyst, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400 TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: On May 31, 2000, the Federal Communications Commission adopted the *CALLS Order,* 65 FR 57739, September 26, 2000, which reformed the interstate access rate structure for price cap carriers by removing implicit universal service support and replacing it with explicit support. To accomplish this, the Commission created a new universal service support mechanism called the interstate access support mechanism. The Commission directed that $650 million annually be made available under the interstate access support mechanism. The Commission concluded that this amount would provide sufficient, but not excessive, support. In adopting this amount, the Commission noted that $650 million fell within a range of proposed amounts submitted in the proceeding, and reflected agreement among disparate interests, including interexchange carriers and price cap carriers.

On September 10, 2001, the United States Court of Appeals for the Fifth Circuit remanded the *CALLS Order* to the Commission for further analysis and explanation regarding the establishment of the $650 million amount. The court concluded that the Commission provided inadequate justification for the support amount. Specifically, the court concluded that the Commission ''failed to exercise sufficiently independent judgment in establishing the $650 million amount,'' by granting too much deference to the fact that many parties agreed that $650 million was an adequate support amount. The court recognized that identifying a specific amount of explicit support to replace implicit support is ''an imprecise exercise,'' but held that the Commission must better explain how it arrived at the $650 million amount. In particular, the court noted that the Commission should better address the relevance of studies filed in the proceeding to the establishment of the support amount, including the AT&T study using the synthesis model, the ALTS and Time Warner studies, and other studies. The court therefore directed that the Commission provide further analysis and explanation justifying $650 million as an appropriate amount of support available under the interstate access universal service support mechanism.

Accordingly, we seek further comment on the $650 million support amount available under the interstate access support mechanism. Specifically, we seek comment on the uses of a cost model, including the Commission's forward-looking high-cost model or the study submitted by AT&T in this proceeding, to identify the appropriate amount available under the interstate access support mechanism. We also seek comment on the use of other studies or analyses to determine whether $650 million is the support amount that best serves the Commission's universal service goals.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before January 22, 2002. Reply comments are due on or before February 4, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554.

Parties also should send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5–A422, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's duplicating contractor, Qualex International, Portals II, 445 12th St., SW, Room CY–B402, Washington, DC 20554.

Pursuant to § 1.1206 of the Commission's rules, this proceeding will continue to be conducted in a permit-but-disclose proceeding in

which *ex parte* communications are permitted subject to disclosure.

Dated: December 14, 2001.

Katherine L. Schroder,

Division Chief, Accounting Policy Division.

[FR Doc. 01–31459 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 01–2716]

Low Power Television Auction No. 81—Mutually Exclusive Proposals—Additional Settlement Period Announced

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document provides notice that the Mass Media Bureau has opened an additional settlement window for proposals filed during the limited low power television/television translator/Class A television auction filing window. That settlement window closes January 22, 2002.

DATES: Settlements must be submitted by January 22, 2002.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, Video Services Division, Mass Media Bureau at (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released November 20, 2001. The complete text of the Public Notice, including attachment, is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW., Washington, DC 20035, (202) 857–3800. It is also available on the Commission's web site at http://www.fcc.gov.

In this Public Notice, the Mass Media Bureau announces an additional settlement window for those proposals filed during the limited low power television, television translator, and Class A television auction filing window that are mutually exclusive. Parties have until January 22, 2002, to file a settlement if they desire to avoid going to auction.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 01–31412 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled ''Deposit Broker Processing Guide.''

DATES: Comments must be submitted on or before February 19, 2002.

ADDRESSES: Interested parties are invited to submit written comments to Thomas E. Nixon, Senior Attorney (Regulatory Analysis), (202) 898–8766, Office of the Executive Secretary, Room 4060, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. All comments should refer to ''Deposit Broker Processing Guide.'' Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Thomas E. Nixon, at the address identified above.

SUPPLEMENTARY INFORMATION:

Title: Deposit Broker Processing Guide.

Affected Public: Deposit Brokers with brokered deposits at failed insured depository institutions.

Estimated Number of Respondents (annual): 70.

Frequency of Response: Occasional.

Estimated Number of responses (annual): 70.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden: 140 hours.

General Description of Collection: In order to assist the FDIC to pay deposit insurance to persons who had deposited funds in a failed depository institution through a deposit broker, the FDIC requests deposit brokers who opened a deposit account in a failed institution to provide the FDIC with information about the parties for whom the broker acted as an agent and the amounts of their deposits.

Request for Comments

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's request to OMB for approval of this collection. All comments will become a matter of public record.

Dated at Washington, DC, this 17th day of December, 2001.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 01–31450 Filed 12–20–01; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: Background.

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board–approved

collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for comment on information collection proposals.

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. ways to enhance the quality, utility, and clarity of the information to be collected; and

d. ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before February 19, 2002.

ADDRESSES: Comments should be mailed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551, or mailed electronically to Regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson may also be delivered to the Board's mail facility in the West Courtyard between 8:45 a.m. and 5:15 p.m., located on 21st Street between Constitution Avenue and C Street, N.W. Members of the public may inspect comments in room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. on weekdays pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Mary M. West, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins (202–452–3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Proposal to approve under OMB delegated authority the or the implementation of the following report:

1. Report title: Intermittent Survey of Businesses
Agency form number: FR 1374
OMB control number: 7100– to be assigned
Frequency: Biweekly and semiannually
Reporters: Purchasing managers, economists, or other knowledgeable individuals at business firms
Annual reporting hours: 125 hours
Estimated average hours per response: 15 minutes
Number of respondents: biweekly, 10; semiannually, 120
Small businesses are affected.
General description of report: This information collection is voluntary (12 U.S.C. §§225a, 263, and 15 U.S.C. §1691b) and is given confidential treatment (5 U.S.C. 552(b)(6)).
Abstract: The proposed survey would be used by the Federal Reserve to gather information that would be specifically tailored to the Federal Reserve's policy and operational responsibilities. It is necessary to conduct the survey biweekly to keep up with the rapidly changing developments in the economy and to provide timely information to staff and Board members. Usually, the surveys would be conducted by staff economists telephoning purchasing managers, economists, or other knowledgeable individuals at selected, relevant businesses. The content of the questions and the businesses contacted would vary depending on changing developments in the economy.

Proposal to approve under OMB delegated authority the extension for three years, with revision, of the following reports:

1. Report title: Notification of Foreign Branch Status
Agency form number: FR 2058
OMB control number: 7100–0069
Frequency: on occasion
Reporters: member banks, bank holding companies, Edge and agreement corporations
Annual reporting hours: 38 hours
Estimated average hours per response: 15 minutes
Number of respondents: 150
Small businesses are not affected.
General description of report: This information collection is mandatory (12 U.S.C. 321, 601, 602, 615, and 1844(c)) and is not given confidential treatment.
Abstract: Member banks, bank holding companies, and Edge and agreement corporations are required to notify the Federal Reserve System of the opening, closing, or relocation of an foreign branch. The notice requires information on the location and extent of service provided by the branch and is filed within thirty days of the change in status. The Federal Reserve System needs the information to fulfill supervisory responsibilities specified in Regulation K, including the supervision of foreign branches of U.S. banking organizations. The information is needed in order to evaluate the organization's international exposure and to update the Federal Reserve's structure files on U.S. banking organizations.
Regulation K, ''International Banking Operations,'' sets forth the conditions under which a foreign branch may be established. According to the final rule on Regulation K, published in the Federal Register on October 26, 2001 (66 FR 54345), organizations must give thirty days prior notice to the Board before the establishment of branches in the first two foreign countries. For subsequent branch establishments into additional foreign countries, organizations must give the Federal Reserve System twelve days prior written notice. The FR K–1, ''International Applications and Prior Notifications Under Subparts A and C of Regulation K'' (OMB No. 7100–0107) will be used for these notices. Organizations use the FR 2058 notification to notify the Federal Reserve when any of these branches has been opened, closed, or relocated.

Current Actions: The proposed revisions include adding the location of the reporting institution and the subsidiary and a few minor technical clarifications.
2. Report title: International Applications and Prior Notifications under Subparts A and C of Regulation K
Agency form number: FR K–1
OMB control number: 7100–107
Frequency: on occasion
Reporters: state member banks, national banks, bank holding companies, Edge and agreement corporations, and certain foreign banking organizations
Annual reporting hours: 695 hours
Estimated average hours per response: Attachments A and B, 11.5 hours; Attachments C through G, 10 hours; Attachments H and I, 15.5 hours; Attachment J, 10 hours; Attachment K, 20 hours
Number of respondents: 39
Small businesses are not affected.
General description of report: This information collection is mandatory (12 U.S.C. 601–604(a), 611–631, 1843(c)(13), 1843(c)(14), and 1844(c)) and is not given confidential treatment. The applying organization has the opportunity to request confidentiality for information that it believes will qualify for a Freedom of Information Act exemption.
Abstract: The FR K–1 comprises a set of applications and notifications that govern the formation of Edge or agreement corporations and the international and foreign activities of U.S. banking organizations. The applications and notifications collect information on projected financial data, purpose, location, activities, and management. The Federal Reserve requires these applications for regulatory and supervisory purposes and to allow the Federal Reserve to fulfill its statutory obligations under the Federal Reserve Act and the Bank Holding Company Act of 1956.
Current Actions: The proposed changes incorporate revisions to Regulation K, published in the Federal Register on October 26, 2001, which became effective November 26, 2001 (66 FR 54345). Technical changes to each of the existing attachments are proposed to conform with the new regulatory language. One new attachment is proposed for applications by U.S. banking organizations to invest in excess of 10 percent of capital and surplus in Edge corporations. This change is necessary as a result of The Economic Growth and Regulatory Paperwork Reduction Act of 1996. In addition, the Federal Reserve proposes to add certain new items, which are often requested after the application has been filed. Finally, several items that are no longer relevant would be deleted from the attachments.
3. Report title: Consolidated Financial Statements for Bank Holding Companies
Agency form number: FR Y–9C
OMB control number: 7100–0128
Frequency: Quarterly
Reporters: Bank holding companies
Annual reporting hours: 252,675 hours
Estimated average hours per response: 33.98 hours
Number of respondents: 1,859
Small businesses are affected.
General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c)). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form.
Abstract: The FR Y–9C consists of standardized consolidated financial statements similar to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031 & 041; OMB No.7100–0036). The FR Y–9C is filed quarterly by top–tier bank holding companies that have total assets of $150 million or more and by lower–tier bank holding companies that have total consolidated assets of $1 billion or more. In addition, multibank holding companies with total consolidated assets of less than $150 million with debt outstanding to the general public or engaged in certain nonbank activities must file the FR Y–9C.
Current Actions: Many of the proposed reporting revisions are being requested to parallel revisions to the March 31, 2002, Call Reports. The Federal Reserve may modify the proposed revisions to the FR Y–9C consistent with any modified revisions to the Call Report ultimately adopted by the FFIEC.

Revisions to parallel proposed changes to the Call Report:

Schedule HI – Report of Income

Replace existing item 7.c, ''Amortization expense of intangible assets (including goodwill),'' with two items: item 7.c.(1), ''Goodwill impairment losses,'' and item 7.c.(2), ''Amortization expense and impairment losses for other intangible assets.'' Along with appropriate revisions to the FR Y–9C instructions (e.g., goodwill should not be amortized), this change will conform the reporting of amortization expense and impairment losses for intangibles in the FR Y– the provisions of Financial Accounting Standards Board (FASB) Statement No. 142, Goodwill and Other Intangible Assets. In July 2001, the FASB issued Statement No. 142, which, in general, is effective for fiscal years beginning after December 15, 2001. Under this standard, goodwill will no longer be amortized, but will be tested for impairment on an annual basis and between annual tests in certain circumstances. Other intangible assets will be tested for impairment in accordance with the standard and some of these intangibles must be amortized. Statement No. 142 also states that ''goodwill impairment losses shall be presented as a separate line item in the income statement before the subtotal income from continuing operations (or similar caption) unless a goodwill impairment loss is associated with a discontinued operation.''

Bank holding companies must adopt Statement No. 142 for reporting purposes upon its effective date based on their fiscal year. At present, bank holding companies report the amortization expense of intangible assets, including goodwill amortization, in item 7.c of the income statement (Schedule HI).

Schedule HI–B, Part II – Changes in Allowance for Loan and Lease Losses

Move the disclosure now made in Notes to the Income Statement, item 1, directly into Schedule HI–B, part II, item 5, ''Adjustments.'' This item would be modified by creating item 5.a, ''LESS: Write–downs arising from transfers of loans to the held–for– sale account,'' and item 5.b, ''Other adjustments.'' On March 26, 2001, the agencies issued Interagency Guidance on Certain Loans Held for Sale to provide instruction about the appropriate accounting and reporting treatment for certain loans that are sold directly from the loan portfolio or transferred to a held–for–sale (HFS) account. While the interagency guidance applies to banks, savings associations, and federal credit unions, it is also to be followed by bank holding companies that file regulatory reports based on Generaaly Accepted Accounting Principles (GAAP) as stated in the Federal Reserve's SR Letter 01–12.

One element of the guidance reminds institutions to appropriately report reductions in the value of loans transferred to held–for–sale through a write–down of the recorded investment to fair value upon transfer. Currently this write–down is reported as a charge–off in part I of Schedule HI–B – Charge–offs and Recoveries on Loans and Leases and Changes in Allowance for Loan and Lease Losses, and the corresponding reduction in the allowance is reported as an ''Adjustment'' to the allowance in item 5 of part II of this schedule. Write–

downs included in part II, item 5, are also disclosed in Notes to the Income Statement and described as ''Write–downs arising from transfers of loans to HFS.'' A preprinted caption to that effect was inserted in Notes to the Income Statement, item 1, in the June 30, 2001, FR Y–9C report. The proposed change would simplify the reporting of these write–downs.

Schedule HC – Consolidated Balance Sheet

Separate the reporting of federal funds sold from securities purchased under agreements to resell (current item 3) and federal funds purchased from securities sold under agreements to repurchase (current item 14). The revised balance sheet would have separate asset and liability items for federal funds transactions (items 3.a and 14.a) and for other securities resale/repurchase agreements (items 3.b. and 14.b). Federal funds transactions would include securities resale/repurchase agreements involving the receipt of immediately available funds that mature in one business day or roll over under a continuing contract.

Schedule HC–L –Derivatives and Off–Balance–Sheet Items

Add four new items to capture the gross positive and gross negative fair values of credit derivatives where the bank holding company or any of its consolidated subsidiaries is the guarantor (items 7.a.(1) and (2)) and where the bank holding company or any of its consolidated subsidiaries is the beneficiary (items 7.b.(1) and (2)).

Schedule HC–N – Past Due and Nonaccrual Loans, Leases, and Other Assets

1. Revise Schedule HC–N to collect the amount of closed–end loans secured by first mortgages on 1–4 family residential properties (in domestic offices) that are past due 30 days or more or in nonaccrual status separately from past due and nonaccrual closed–end loans secured by junior liens on such properties (in domestic offices). A similar change would be made to the reporting of first and junior lien 1–4 family residential mortgages (in domestic offices) in Schedule HI–B, part I, Charge–offs and Recoveries on Loans and Leases. Currently, these two types of residential mortgage loans are combined for purposes of reporting past due and nonaccrual loan data as well as year–to–date charge–offs and recoveries. The revised reporting structure for residential mortgage loans in Schedule HC–N, item 1.c.(2), and Schedule HI–B, part I,item 1.c.(2), would then parallel the reporting for these types of loans (in domestic offices) in Schedule HC–C, Loans and Lease Financing Receivables, item 1.c.(2)(a) and (b).

2. Add new Memorandum item 5, ''Loans and leases held for sale (included in Schedule HC–N, items 1 through 8, above),'' to specifically break out such loans and leases that are past due 30 through 89 days and still accruing, past due 90 days or more and still accruing, or in nonaccrual status. Existing memorandum item 5 would be renumbered to memorandum item 6.

Schedule HC–R Regulatory Capital

Add a new subtotal within the computation of Tier 1 capital. In items 1 through 11 of Schedule HC–R, bank holding companies report their computation of Tier 1 capital. Items 8 and 9 are used to disclose any disallowed Servicing assets and purchased credit card relationships and any disallowed deferred tax assets, respectively. These disallowed amounts are calculated, in part, by reference to a subtotal of Tier 1 capital components. The instructions for Schedule HC–R explain how this subtotal should be derived by adding and subtracting, as appropriate, amounts reported in items 1 through 7 of Schedule HC–R, but the amount of the subtotal is not directly reported in the schedule itself. To help ensure that bank holding companies are using the proper subtotal when determining whether they have any disallowed amounts, existing items 8 and 9 will be renumbered as items 9.a and 9.b and item 8 will become the subtotal of items 1 through 7 (i.e., the sum of items 1 and 6, less items 2, 3, 4, 5, and 7).

Other Revisions Not Related to Call Report Changes:

The following proposed revisions are not directly related to the proposed Call Report changes for March 2002. Some of these changes are proposed to provide greater consistency with current Call Report items that are not part of the March 2002 revisions.

Schedule HI – Report of Income

1. Revise memoranda item 6, ''Other noninterest income (itemize and describe the three largest amounts that exceed 1% of the sum of Schedule HI, items 1.h and 5.m)'' and memoranda item 7, ''Other noninterest expense (itemize and describe the three largest amounts that exceed 1% of the sum of Schedule HI, items 1.h and 5.m),'' to add line item captions for several of the more commonly listed significant components for each item. Blank text fields like those presently contained in memoranda items 6 and 7 will be retained for noninterest income and expense items not specifically covered in the preprinted captions. In addition, memoranda items 6 and 7 would collect all amounts that exceed the 1 percent threshold, not just the three largest amounts. The new line item captions for the noninterest income categories would be: 6(a), ''Income and fees from the printing and sale of checks,'' 6(b), ''Earnings on/increase in value of cash surrender value of life insurance,'' 6(c), ''Income and fees from automated teller machines (ATMs),'' 6(d), ''Rent and other income from other real estate owned,'' and 6(e), ''Safe deposit box rent.'' The new line item captions for the noninterest expense categories would be: 7(a), ''Data processing expenses,'' 7(b), ''Advertising and marketing expenses,'' 7(c), ''Directors' fees,'' 7(d), ''Printing, stationery, and supplies,'' 7(e), ''Postage,'' 7(f), ''Legal fees and expenses,'' and 7(g), ''FDIC deposit insurance assessments.'' These captions are consistent with categories used on the Call Report and were determined from analysis of predominantly listed items on the FR Y–9C. Furthermore, the Federal Reserve proposes to eliminate the use of the three–digit text codes (TEXC) in memoranda items 6 and 7 that are used internally by the Federal Reserve System. With the addition of the proposed line item captions for other noninterest income and expense, the Federal Reserve would find the codes to be of limited use.

2. Eliminate the use of the three–digit text codes (TEXC) in Memoranda item 8, ''Extraordinary items and other adjustments,'' that are used internally by the Federal Reserve System. In addition, the preprinted caption item in 8.a.(1) would be changed to ''Effect of adopting FAS 142, Goodwill and Other Intangible Assets.'' The previous caption identifying the effect of adopting FAS 133, Accounting for Derivative Instruments and Hedging Activities, is no longer pertinent.

3. Modify the criteria for the reporting of Memoranda item 9, ''Trading revenue (from cash instruments and derivative instruments'' to instruct that this item is to be completed by bank holding companies that reported average trading assets (Schedule HC–K, item 4.a) of $2 million or more for any quarter of the preceding calendar year, rather than as of the March 31st report date of the current calendar year. Bank holding companies began reporting average trading assets as of the March 31, 2001, reporting date, so this information was not available for the preceding calendar year. This reporting threshold would now be consistent with the bank Call Report.

4. Breakout existing memorandum item 12(b), ''Premiums,'' into two separate items: Memorandum item 12(b)(1), ''Premiums on insurance related to extension of credit,'' and memorandum item 12(b)(2), ''All other insurance premiums.'' This breakout would provide an indication of the extent to which insurance underwriting activities are credit related.

Schedule HC– Trading Assets and Liabilities

Similar to the change proposed to Schedule HI, Memoranda item 9, ''Trading revenue (from cash instruments and derivative instruments),'' modify the criteria for the filing of Schedule HC–D to instruct that this schedule is to be completed by bank holding companies that reported average trading assets (Schedule HC–K, item 4.a) of $2 million or more for any quarter of the preceding calendar year, rather than as of the March 31st report date of the current calendar year.

Schedule HC–I – Insurance–Related Activities

Several revisions are proposed for Schedule HC–I. The general instructions would be revised to require that this schedule be completed by all top–tier BHCs and not only by top–tier financial holding companies (FHCs) or top–tier BHCs that have an FHC designation at some level in its multi–tiered organization. The schedule would be retitled as ''Insurance–Related Underwriting Activities (including reinsurance)'' and appropriate adjustments would be made to the instructions. The new line items that are proposed for both Part I, Property and Casualty, and Part II, Life and Health, include the separate reporting of (1) total assets, (2) total equity, and (3) net income, for each of these two types of underwriting activities. In addition, Part II, Life and Health, would include a new item for the reporting of reinsurance recoverables. Finally, Part III, All Insurance–Related Activities, would be eliminated because of the revisions made to Parts I and II.

Schedule HC–L Derivatives and Off–Balance–Sheet Items

Revise item 9, ''All other off–balance–sheet items (exclude derivatives) (itemize and describe each component of this item over 25% of Schedule HC, item 28, ''Total equity capital'')'' to add line item captions for some of the more commonly listed significant components for each item. Blank text fields like those presently contained in item 9 will be retained for other off–balance–sheet items not specifically covered in the new line item captions. The new line item captions would be: 9(a), ''Securities borrowed,'' 9(b), ''Commitments to purchase when–issued securities,'' and 9(c), ''Commitments to sell when–issued securities.'' These captions are consistent with categories used on the Call Report. Furthermore the Federal Reserve proposes to eliminate the use of the three–digit text codes (TEXC) in item 9 that are used internally by the Federal Reserve System.

Schedule HC–M – Memoranda

1. Revise the yes/no question asked in item 8 to ask if a business combination occurred during the calendar year that was accounted for by the purchase method of accounting.

The current question asked in item 8 is whether the bank holding company's consolidated financial statements reflect any business combinations for which the pooling–of–interest method of accounting was used. On July 2001, the FASB issued Statement No. 141, Business Combinations. The Statement requires that all business combinations initiated after June 30, 2001, be accounted for using the purchase accounting method, thereby eliminating the use of the pooling–of–interest method.

2. Incorporate into Schedule HC–M two of the items currently reported on the FR Y–9CS, Supplement to the Consolidated Financial Statements for Bank Holding Companies. Only top–tier FHCs would continue to report these items. Top–tier FHCs would report in Memoranda items 20 and 21 the net assets of (1) Broker–Dealer subsidiaries engaged in underwriting or dealing securities pursuant to Section 4(k)(4)(E) of the Bank Holding Company Act as amended by the Gramm–Leach– Bliley Act of 1999 (GLB Act), and (2) Insurance underwriting subsidiaries. In addition, these two items would no longer be considered confidential. The Federal Reserve would continue tracking the growth in these activities by FHCs subsequent to the enactment of the GLB Act.

Schedule HC–R – Regulatory Capital

Make a technical revision to memorandum item 3. The caption to memorandum item 3 would be revised to eliminate the term ''perpetual'' from the caption. The caption for memorandum item 3 would be ''Preferred stock (including related surplus)''. In addition, existing memorandum item 3(a)(3) would be renumbered as memorandum item 3(b) to distinguish between the reporting of perpetual preferred stock (in memorandum items 3(a)(1) and 3(a)(2)) and trust preferred securities that are reported in minority interest on the balance sheet. The line item caption for memorandum item 3(b) would not change – only the line item number to provide clarity for the reporting of these types of securities.

Instructions

Instructional revisions and clarifications will be done in accordance with changes made to the Call Report instructions or will correspond to existing Call Report instructions. In addition, instructional revisions and clarifications will be made as necessary with respect to proposed revisions not directly related to the proposed Call Report changes for March 2002.

4. Report title: Parent Company Only Financial Statements for Large Bank Holding Companies
Agency form number: FR Y–9LP
OMB control number: 7100–0128
Frequency: Quarterly
Reporters: Bank holding companies
Annual reporting hours: 40,495 hours
Estimated average hours per response: 4.55 hours
Number of respondents: 2,225
Small businesses are affected.
General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c)). Confidential treatment is not routinely given to the data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form.
Abstract: The FR Y–9LP includes standardized financial statements filed quarterly on a parent company only basis from each bank holding company that files the FR Y–9C. In addition, for tiered bank holding companies, a separate FR Y–9LP must be filed for each lower tier bank holding company.
Current actions: The Federal Reserve proposes the following revisions to the FR Y–9LP effective with the March 31, 2002, reporting date for the reporting of additional information about trust preferred securities.

Schedule PI–Parent Company Only Income Statement

Add memorandum item 4, ''Interest expense paid to special–purpose subsidiaries that issued trust preferred securities.'' In these types of transactions, a special–purpose subsidiary (typically, a trust) of the parent company issues preferred securities and lends the proceeds to the parent company in exchange for an intercompany note from the parent company. Because of the tremendous growth in the issuance of trust preferred securities by special purpose entities of bank holding companies as a funding source for bank holding companies, the Federal Reserve proposes to isolate the amount of interest expense that is being paid by the parent to the special–

purpose subsidiaries that issue trust preferred securities.

Schedule PC–B – Memoranda

Add item 16, ''Notes payable to special–purpose subsidiaries that issued trust preferred securities.'' Currently, the amount of notes payable to special–purpose subsidiaries that issue trust preferred securities is included as part of the overall amount reported in Schedule PC, item 18(b), ''Balances due to nonbank subsidiaries.'' Because of the tremendous growth in the issuance of trust preferred securities by special purpose entities of bank holding companies as a funding source for bank holding companies, the Federal Reserve proposes to isolate the amount of the notes payable to these special–purpose subsidiaries that issue trust preferred securities as a separate item from the overall intercompany balances due to nonbank subsidiaries by parent bank holding companies.

Instructions

Instructional revisions and clarifications will be made as necessary in an attempt to achieve greater consistency in reporting by respondents.

5. Report title: Parent Company Only Financial Statements for Small Bank Holding Companies
Agency form number: FR Y–9SP
OMB control number: 7100–0128
Frequency: Semiannual
Reporters: Bank holding companies
Annual reporting hours: 28,273 hours
Estimated average hours per response: 3.89 hours
Number of respondents: 3,634
Small businesses are affected.
General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c)). Confidential treatment is not routinely given to the data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form.
Abstract: The FR Y–9SP is a parent company only financial statement filed on a semiannual basis by one–bank holding companies with total consolidated assets of less than $150 million, and multibank holding companies with total consolidated assets of less than $150 million that meet certain other criteria. This report, an abbreviated version of the more extensive FR Y–9LP, is designed to obtain basic balance sheet and income statement information for the parent company, information on intangible assets, and information on intercompany transactions.
Current actions: The Federal Reserve proposes the following revisions to the FR Y–9SP effective with the June 30, 2002, reporting date in a manner consistent with the previously described changes to the FR Y–9C and FR Y–9LP.

Income statement

Add memorandum item 3, ''Interest expense paid to special–purpose subsidiaries that issued trust preferred securities.'' Similar to larger bank holding companies, smaller bank holding companies are also utilizing these types of transactions (see the FR Y–9LP discussion). The Federal Reserve proposes to isolate the amount of interest expense that is being paid by the parent to the special–purpose subsidiaries that issue trust preferred securities.

Balance Sheet

1. Revise memoranda item 11, ''Other assets (itemize and describe amounts that exceed 25% of balance sheet, line item 7)'' and memoranda item 12, ''Other liabilities (itemize and describe amounts that exceed 25% of the balance sheet, line item 13),'' to add line item captions for several of the more commonly listed significant components for each item. Blank text fields like those presently contained in memoranda items 11 and 12 will be retained for other asset and other liability items not specifically covered in the new line item captions. The new line item captions for the other asset categories would be: 11(a), ''Accounts receivable,'' 11(b), ''Income taxes receivable,'' 11(c)''Premises and fixed assets,'' 11(d), ''Deferred tax assets,'' and 11(e), ''Cash surrender value of life insurance policies.'' The new line item captions for the other liability categories would be: 12(a), ''Accounts payable,'' 12(b), ''Income taxes payable,'' 12(c) ''Dividends payable,'' and 12(d), ''Deferred tax liabilities.'' Furthermore, the Federal Reserve proposes to eliminate the use of the three–digit text codes (TEXC) in memoranda items 11 and 12 that are used internally by the Federal Reserve System. With the addition of these preprinted captions for other assets and other liabilities, the Federal Reserve would find the codes to be of limited use.
2. Add a new memorandum item 13, ''Notes payable to special–purpose subsidiaries that issued trust preferred securities.'' Currently, the amount of notes payable to special–purpose subsidiaries that issue trust preferred securities is included as part of the overall amount reported on the Balance Sheet, in item 14(b), ''Balances due to nonbank subsidiaries and related institutions.'' Similar to larger bank holding companies, smaller bank holding companies are also utilizing these types of transactions (see the FR Y–9LP discussion). The Federal Reserve is interested in isolating the amount of intercompany notes payable by the parent to special–purpose subsidiaries that issue trust preferred securities.
3. Incorporate two of the items currently reported on the FR Y–9CS, Supplement to the Consolidated Financial Statements for Bank Holding Companies. Only top–tier FHCs would continue to report these items. Top–tier FHCs would report in memorandum items 21 and 22 the net assets of (1) Broker–Dealer subsidiaries engaged in underwriting or dealing securities pursuant to Section 4(k)(4)(E) of the Bank Holding Company Act as amended by the GLB Act, and (2) Insurance underwriting subsidiaries. In addition, these two items would no longer be considered confidential. The Federal Reserve would continue tracking the growth in these activities by FHCs subsequent to the enactment of the GLB Act.

Instructions

Instructional revisions and clarifications will be made as necessary in an attempt to achieve greater consistency in reporting by respondents.

6. Report title: Supplement to the Consolidated Financial Statements for Bank Holding Companies
Agency form number: FR Y–9CS
OMB control number: 7100–0128
Frequency: on occasion
Reporters: Bank holding companies
Annual reporting hours: 1,200 hours
Estimated average hours per response: 0.50 hour
Number of respondents: 600
Small businesses are affected.
General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c)). The Federal Reserve considers the information on the current version of the report form confidential pursuant to the Freedom of Information Act (5 U.S.C. 554(b)(4)), except for item 4.
Abstract: The FR Y–9CS is a free form supplement that may be utilized to collect any additional information deemed to be critical and needed in an expedited manner. It is intended to supplement the FR Y–9C and FR Y–9SP reports. Due to the enactment of the GLB Act in 1999, the current version of this supplement was implemented in 2000 to collect basic information about the new activities of FHCs.
Current actions: As of March 2002, the current version of this free form supplement will no longer be used and some of the items have been moved to other reporting forms. The disposition of each item on the current supplement is discussed in detail below. However, if other emerging issues arise that

require its use, the Federal Reserve may use the FR Y–9CS to collect other supplementary information.

1. As mentioned above, net assets of broker–dealer subsidiaries engaged in underwriting or dealing securities pursuant to Section 4(k)(4)(E) of the Bank Holding Company Act as amended by the GLB Act (current item 1, Column B), and net assets of insurance underwriting subsidiaries (current item 2, Column B) would now be reported on the FR Y–9C and FR Y–9 SP. However, these two items would no longer be considered confidential. The remaining columns for gross assets (Column A), equity capital (Column C), and net income (Column D) would no longer be collected as separate items.

2. Investments held under merchant banking authority (current item 3) is now collected from institutions that meet the reporting criteria for the Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies (FR Y–12; OMB No. 7100–0300).

3. The information related to current item 4 on whether the FHC has any subsidiaries engaged in newly authorized insurance agency activities is collected on the Report of Changes in Organizational Structure (FR Y–10; OMB No. 7100–0297).

Board of Governors of the Federal Reserve System, December 17, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–31434 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–22–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 4, 2002.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Santo P. Pasqualucci, Falmouth, Massachusetts; to acquire voting shares of Falmouth Bancorp, Inc., Falmouth, Massachusetts, and thereby indirectly acquire voting shares of Falmouth Co-operative Bank, Falmouth, Massachusetts.

B. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. Albert V. Schulze and Michelle A. Schulze, Orwigsburg, Pennsylvania, Albert V. Schulze (custodian for Alan Jacob Schulze, Rebecca Lauren Schulze, Cameron Prescott Keener, Christian James Keener, and Sara Anne Graver), Michelle Schulze (custodian for Zachary David Garland, Alex Nicholas Pellish, Jillian Michelle Pellish, Brianna Noel Horn, and William I. Horn, III), Dale Keener, Hamburg, Pennsylvania, and Janet Keener, Hamburg, Pennsylvania; to retain shares of Union Bancorp, Inc., Pottsville, Pennsylvania, and thereby indirectly retain voting shares of Union Bank and Trust Company, Pottsville, Pennsylvania.

Board of Governors of the Federal Reserve System, December 17, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–31439 Filed 12–20–01; 8:45 am]

BILLING CODE 6210–01–S

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 January 14, 2002.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. River Valley Bancorp, Inc., Eldridge, Iowa; to acquire 100 percent of the voting shares of State Bank of Seaton, Seaton, Illinois.

Board of Governors of the Federal Reserve System, December 14, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–31436 Filed 12–20–01; 8:45 am]

BILLING CODE 6210–01–S

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 January 14, 2002.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Marion County Bancshares, Inc., to merge with Triangle Bancorporation, Carbon Hill, Alabama, and thereby indirectly acquire Bank of Carbon Hill, Carbon Hill, Alabama; Bank of Berry, Berry, Alabama; and Bank of Parrish, Parrish, Alabama.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Baylor Bancshares, Inc., Seymour, Texas, and Baylor/Delaware Bancshares, Inc., Wilmington, Delaware; to acquire 100 percent of the voting shares of Citizens State Bank, Princeton, Texas.

Board of Governors of the Federal Reserve System, December 17, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–31437 Filed 12–20–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 4, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. First Mutual of Richmond, Inc., Richmond, Indiana, and Richmond Mutual Bancorporation, Inc., Richmond, Indiana; to acquire AmTrust Capital Corporation, Peru, Indiana, and thereby indirectly acquire AmericanTrust Federal Savings Bank, Peru, Indiana, and Indiana Financial Service Corporation, Peru, Indiana, and thereby engage in the operation of a savings association, pursuant to § 225.28(b)(4)(ii). Comments on this application must be received not later than January 14, 2002.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Union Planters Corporation, Memphis, Tennessee; to engage *de novo* through its wholly-owned subsidiary, Union Planters Investment Advisors Inc., Memphis, Tennessee, in financial and investment advisory activities, pursuant to § 225.28(b)(6)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, December 17, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–31438 Filed 12–20–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System Federal Register Citation of Previous Announcement:

66 FR 65213, December 18, 2001.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, December 19, 2001.

CHANGES IN THE MEETING: The open meeting has been canceled, and the scheduled items were handled via telephone vote.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement. (The web site also includes procedural and other information about the open meeting.)

Dated: December 19, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–31577 Filed 12–19–01; 11:10 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Oak Ridge Reservation Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Oak Ridge Reservation Health Effects Subcommittee (ORRHES).

Time and Date: 12:30 p.m.–7:30 p.m., February 11, 2001.

Place: YWCA of Oak Ridge, Tennessee, 1660 Oak Ridge Turnpike, Oak Ridge, TN, 37830. Telephone: (865) 482–2008.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 150 people.

Background

A Memorandum of Understanding (MOU), signed in October 1990 and renewed in September 2000 between ATSDR and DOE, delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and

at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles. In addition, under an MOU signed in December 1990 with DOE and replaced by an MOU signed in 2000, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC.

Purpose

This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, pertaining to CDC's and ATSDR's public health activities and research at this DOE site. Activities shall focus on providing the public with a vehicle to express concerns and provide advice and recommendations to CDC and ATSDR. The purpose of this meeting is to receive updates from ATSDR and CDC, and to address other issues and topics, as necessary.

Matters to be Discussed: The agenda includes a discussion of the public health assessment, updates from the Public Health Assessment, Health Needs Assessment, Agenda, Communications and Outreach, and the Ad Hoc Mission Workgroup. Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: La Freta Dalton, Designated Federal Official, or Marilyn Palmer, Committee Management Specialist, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE, M/S E–54, Atlanta, Georgia 30333, telephone 1–888–42–ATSDR(28737), fax 404/498–1744.

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: December 17, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–31464 Filed 12–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities: Proposed Submission to the Office of Management and Budget (OMB) for Clearance; Comment Request; Revision and Reinstatement of Information Collection

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, provides an opportunity for comment on the following proposal for the collection of information in compliance with the Paperwork Reduction Act (PRA; Pub. L. 96–511):

Title of Information Collection: State Program Report (SPR): Reporting Requirements for Titles III and VII of the Older Americans Act (OAA).

Type of Request: Reinstatement with modifications.

Use: The SPR is the source of program data for State programs on behalf of elderly individuals across the nation, administered under the OAA. The data are used by AoA to fulfill reporting requirements mandated under the OAA, the Government Performance and Results Act, and other Federal management statutes. AoA uses the data for program planning, management, assessment, accountability and development. Data for all States are published each year on the AoA website for use by the States, area agencies, providers and research entities for program analysis and other statistical purposes.

Frequency: Annual.

Respondents: State agencies on aging, including comparable agencies in U.S. territories and the District of Columbia, which administer OAA programs.

Estimated Number of Responses: 56.

Total Estimated Burden Hours: 140,000.

Additional Information or Comments: The Administration on Aging (AoA) has initiated a cooperative effort with State agencies on aging, area agencies on aging, and aging service providers to modify the SPR. Multiple factors influence AoA's plans to modify this fundamental information collection requirement at this time, particularly the following: (1) Need to incorporate into the SPR information requirements for the National Family Caregiver Support Program authorized by the 2000 Amendments to the OAA; (2) need to revise information requirements to comply with Office of Management and Budget (OMB) standards for gathering information on race and ethnicity; (3) the need to streamline and reduce the current information requirements of the SPR; and (4) the expiration of OMB approval of the SPR under the Paperwork Reduction Act in August 2002. Written comments and recommendations for the modification of this proposed information collection should be sent within 60 days of the publication of this Notice directly to the following address: Office of Planning and Evaluation, Administration on Aging, Attention: Frank Burns, 330 Independence Avenue, SW., Rm. 4741, Washington, DC 20201.

Dated: December 17, 2001.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 01–31501 Filed 12–20–01; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities: Proposed Submission to the Office of Management and Budget (OMB) for Clearance; Comment Request; Approval of an Information Collection Survey

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, provides an opportunity for comment on the following proposal for the collection of information in compliance with the Paperwork Reduction Act (PRA; Pub. L. 96–511):

Title of Information Collection: National Family Caregiver Support Program Survey: Grandparents and Other Relatives Raising Children.

Type of Request: This request is for approval of a one-time survey to identify agencies currently providing services to grandparents and other relatives caring for grandchildren.

Use: Data will be collected by Generations United, a National Family Caregiver Support Program discretionary grantee, on organizations providing services to grandparents and other relatives caring for children, nature of services provided, number of grandparents and other relative caregivers served annually; number of children assisted annually, and training

needs of these organizations to adequately evaluate the implementation, progress and process of the National Family Caregiver Support Program, Title III–E of the Older Americans Act (42 U.S.C. 3001 *et seq.*), as amended by the Older Americans Act Amendments of 2000 (Pub.L. 106–501). AoA and Generations United will use this data to plan technical assistance to these organizations in the forthcoming year. The data will also be used by the AoA to evaluate and describe all projects funded by this initiative and address the program's evaluation and Government Performance and Results Act (GPRA) requirements. Findings will be used to manage the program and better target future activities.

Frequency: One-time survey administered by Generations United.

Respondents: State Units on Aging, Area Agencies on Aging, Tribal and Native Organizations, Primary Health Care Centers.

Estimated Number of Responses: 1600.

Total Estimated Burden Hours: 10 minutes/organization × 1600 organizations = 267 hours.

Additional Information or Comments: The Administration on Aging plans to submit to the Office of Management and Budget for approval a one-time survey to identify organizations providing services to grandparents and other relative caregivers of children to design technical assistance to those organizations. Written comments and recommendations for the proposed information collection should be sent within 60 days of the publication of this Notice directly to the following address: Office of Program Development, Administration on Aging, Attention: Rick Greene, 330 Independence Avenue, SW., Rm 4748, Washington, DC 20201.

Dated: December 17, 2001.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 01–31502 Filed 12–20–01; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–03–02]

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

Hanford Birth Cohort Study—New—The Agency for Toxic Substances and Disease Registry (ATSDR) is mandated pursuant to the 1980 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and its 1986 Amendments, the Superfund Amendments and Re-authorization Act (SARA), to prevent or mitigate adverse human health effects and diminished quality of life resulting from the exposure to hazardous substances into the environment. This legislation was, in part, in response to the lack of scientific information about potential adverse health effects resulting from exposure of a general population to hazardous substances. Although environmental exposures have been documented at many hazardous waste sites in the United States, most existing data are for occupational exposures. However, environmental exposure of a general population is more likely to include exposure of vulnerable subpopulations (e.g., pregnant women, children, elderly, and the infirm). ATSDR plans activities to address these issues which include conducting health studies at sites on the Environmental Protection Agency's (EPA) National Priorities List (NPL) to determine whether and to what degree exposure to hazardous substances at these sites are harmful to human health.

The Hanford Nuclear Reservation, in south central Washington State, is on EPA's National Priorities List. Between 1944 when it opened until its closing in 1972, radioactive Iodine was released to the air from chemical separation facilities funded to produce plutonium for atomic weapons. The Hanford Environmental Dose Reconstruction Project (HEDR) estimates that the majority of releases of Iodine-131 occurred between 1944 and 1951. Broad-based scientific studies indicate that exposure to radioactive materials (including Iodine-131), may be associated with an increased risk of developing autoimmune or cardiovascular diseases. Children up to five years of age may be at higher risk than the general population of developing these diseases after exposure.

The objective of the Hanford Birth Cohort Study is to compare information on the rates of autoimmune and cardiovascular disease among a population exposed to radioactive contaminants during 1945–1951 and the rates of a less-exposed comparison population. This study may have applicability to other sites where exposure to radioactive contaminants has occurred.

ATSDR currently has underway an information collection at the Hanford Nuclear Reservation to develop educational materials and interventions related to thyroid disease for individuals exposed to I–131 as young children—the Hanford Community Health Project (OMB No. 0923–0031). This Hanford Birth Cohort Study is a separate project which will collect information on rates of autoimmune and cardiovascular disease among the selected population. Integral to designing this project, ATSDR reviewed the work of the National Cancer Institute's (NCI) Committee on Exposure of the American People to I–131 from the Nevada Atomic Bomb Tests as well as the NCI's report titled ''Exposure of the American People to IODINE–131 from Nevada Nuclear-Bomb Tests.''

In another ATSDR project (OMB No. 0923–0006), approximately 6,000 people were located who were born between 1940 and 1951 in three high-exposed counties nearest the Hanford site (Benton, Franklin, and Adams). For the currently proposed study, ATSDR will randomly select and interview up to 1,000 individuals from this entire birth cohort of 15,001 (including the 6,000 people who were previously located). The comparison population will include a random selection of 1,000 persons born in three low-exposed counties located farther away from the Hanford site (San Juan, Whatcom, and Mason).

To reduce the amount of time required by the respondents, Computer Assisted Telephone Interviews (CATI) will be conducted. Following completion of all respondent interviews, the data will be tabulated and analyzed (the high exposed group will be compared with the low exposed group). The information collected in this proposed study will provide reliable baseline information on the incidence of autoimmune and cardiovascular diseases as related to exposure to releases from the Hanford facility and will also provide the information needed to generate appropriate and valid hypotheses for future activities, such as other epidemiologic studies.

The total estimated annualized burden hours are 1025.

Type of respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
High Exposed Population	1,000	1	25/60
Screening	1,150	1	5/60
Low Exposed Population	1,000	1	25/60
Screening	1,150	1	5/60

Dated: December 14, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control, and Prevention.

[FR Doc. 01–31420 Filed 12–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director, Centers for Disease Control and Prevention: 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 Advisory Committee meeting.

Name: Advisory Committee to the Director, CDC.

Time and Date: 8:30 a.m.–4 p.m., January 18, 2002.

Place: Centers for Disease Control and Prevention Headquarters, 1600 Clifton Road, Building 2, Auditorium B, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The committee will anticipate, identify, and propose solutions to strategic and broad issues facing CDC.

Matters to be Discussed: Agenda items will include updates from Dr. Jeffrey P. Koplan, M.D., M.P.H., Director, CDC, regarding CDC's building and facility master plan and the current CDC Director's priorities with discussions of program activities including updates from Advisory Committee workgroups and updates on CDC scientific and programmatic activities.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Kathy Cahill, Executive Secretary, Advisory Committee to the Director, CDC, 1600 Clifton Road, NE, M/S D–24, Atlanta, Georgia 30333. Telephone 404/639–7060.

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: December 17, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–31463 Filed 12–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health: 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: Advisory Board on Radiation and Worker Health (ABRWH).

Times and Dates: 8:30 a.m.–5:30 p.m., January 22, 2002.

8 a.m.–4:30 p.m., January 23, 2002.

Place: Holiday Inn on the Hill, 415 New Jersey Avenue, NW., Washington, DC 20001, telephone 202/638–1616, fax 202/347–1813.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: The Advisory Board on Radiation and Worker Health (the Board) was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Board include providing advice on the development of probability of causation guidelines which are being promulgated by Department of Health and Human Services (HHS), advice on methods of dose reconstruction which have been promulgated as an interim final rule, evaluation of the validity and quality of dose reconstructions conducted by the National Institute for Occupational Safety and Health (NIOSH) for qualified cancer claimants, and advice on the addition of classes of workers to the Special Exposure Cohort.

In December 2000, the President delegated responsibility for funding, staffing, and operating the Board to HHS, which subsequently delegated this authority to the Centers for Disease Control and Prevention (CDC). NIOSH implements this responsibility for CDC. The charter was signed on August 3, 2001, and in November 2001, the President completed the appointment of an initial roster of 10 Board members. The initial tasks of the Board will be to review and provide advice on the proposed and interim rules of HHS.

Purpose: This board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this Program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters to be Discussed: Agenda for this meeting will focus on member orientation and include briefings by NIOSH, CDC Committee Management Office, Office of the General Counsel and/or Office of Government Ethics. The Board will also review, evaluate, and comment on the rule on probability of causation.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION:

Larry Elliott, Executive Secretary, ABRWH, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/841–4498, fax 513/841–4470.

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: December 17, 2001.

John Burkhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention .

[FR Doc. 01–31462 Filed 12–20–01; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACF/ACYF/HS–2002–02]

Fiscal Year 2002 Discretionary Announcement for Child Development Associate (CDA) Credentialing Program; Availability of Funds and Request for Applications

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Announcement of the availability of funds and request for applications to administer the Child Development Associate (CDA) Credentialing Program.

SUMMARY: The Administration for Children and Families (ACF), Administration on Children, Youth and Families (ACYF) announces the availability of $1,000,000 annually for each of five years to support the Child Development Associate (CDA) Credentialing Program through a Cooperative Agreement. A Cooperative Agreement is a form of Federal financial assistance that allows substantial Federal involvement in the activities for which funds are awarded. A detailed description of the Federal involvement is described in the full version of this announcement.

The CDA Program is a national project to credential qualified caregivers who work with children birth to age five in a variety of public and private agency settings, and in a variety of roles, including as center-based caregivers of infants and toddlers or preschool age children, as home visitors, or as family child care providers.

DATES: The closing date and time for receipt of application is 5 p.m. EDT on January 28, 2002.

Note: Applications should be submitted to the ACYF Operations Center at: 1815 N. Fort Myer Drive, Suite 300, Arlington, Virginia 22209. However, prior to preparing and submitting an application, in order to satisfactorily compete under this announcement it will be necessary for potential applicants to read the full announcement which is available through the address listed below.

ADDRESSES: The full announcement and applications, including all necessary forms can be downloaded from the Head Start web site at *www.acf.dhhs.gov/programs/hsb.* Hard copies of the application may be obtaining by writing or calling the ACYF Operations Center (address listed below) or sending an e-mail to *CDA@lcgnet.com*

FOR FURTHER INFORMATION CONTACT: ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209, telephone 1–800–351–2293 or e-mail to *CDA@lcgnet.com*

SUPPLEMENTARY INFORMATION:

Eligible Applicants: An applicant must be a private or public non-profit or for-profit organization. Eligible applicants include colleges and universities, and private or public non-profit or for-profit organizations or associations in the field of early childhood education or the related fields of child development, child care, and family studies. Faith-based organizations are eligible to apply for these funds. Note: For-profit organizations must agree to waive their fee under this program.

Only incorporated agencies and organizations, not individuals, are eligible to apply. On all applications developed jointly by more than one agency or organization, the application must identify only one organization as the lead organization and the official applicant. The other organizations(s) may be included as partners, participants, subgrantees or subcontractors. Before applications are reviewed, each application will be screened to determine that the organization is an eligible applicant as specified. Ineligible applicants will be notified.

Project Duration: The announcement for the Child Development Associate (CDA) Credentialing Program is soliciting applications for a project period of five years. An award will be made on a competitive basis for the first one-year budget period. An application for the continuation grant funded for this award beyond the one-year period, but within the established project period, will be entertained in subsequent years on a non-competitive basis, subject to availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the Government.

Federal Share of Project Costs: A total of approximately $1,000,000 in ACF funds will be available annually for this project. The Federal share is inclusive of indirect costs.

Matching Requirements: There are not matching requirements.

Anticipated Number of Projects to be Funded: It is anticipated that one project will be funded.

Statutory Authority: Section 648(e) of the Head Start Act (42 U.S.C. 9843).

Evaluation Criteria

Reviewers will consider the following criteria when evaluating applicants. The maximum numbers of points available are indicated in parenthesis.

Criterion 1. Objectives and Need For Assistance (20 points)

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Criterion 2. Results and Benefits Expected (15 points)

Identify the results and benefits to be derived. For example describe the extent to which the applicant's recommendations and possible strategies for enhancing the current CDA National Credentialing Program systems and approaches to support Head Start staff qualification requirements as mandated by Section 648A of the Head Start Act and the revised Head Start Performance Standards. Clearly state the results and benefits of CDAs to be credentialed annually, and the extent to which the assessment and credentialing fee is affordable to potential candidates.

Criterion 3. Approach (50 points)

Outline a plan of action, which describes the scope, and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors, which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for

each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF.''

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Criterion 4. Budget and Budget Justification (15 points)

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimated methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs and 45 CFR part 100, Intergovernmental Review of Department of Health and Human Services Program and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-five jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applicants and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date or contact if no submittal is required) on the Standard Form 424, Item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: William Wilson, Head Start Bureau, 330 C Street, SW., Washington, DC 20447, Attn: Head Start—Child Development Associate Credentialing Program.

A list of Single Points of Contact for each State and Territory can be found on the web site. http://www.whitehouse.gov/omb/grants/spoc.html.

Dated: December 18, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–31500 Filed 12–20–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

FDA Food Labeling and Allergen Declaration; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA), Southwest Regional Small Business Program (Small Business Program), Office of Regulatory Affairs, in collaboration with FDA's Center for Food Safety and Applied Nutrition, the State of Missouri Department of Public Health, the Kansas City Department of Health and the Missouri Milk, Food and Environmental Health Association is announcing a public workshop entitled ''FDA Food Labeling and Allergen Declaration.'' This public workshop is intended to provide information about FDA food regulations, food labeling allergen declaration, good manufacturing practices, and other related matters to the regulated industry, particularly small businesses and startups.

Date and Time: The public workshop will be held on January 10 and 11, 2001, from 8:30 a.m. to 5 p.m.

Location: The public workshop will be held at the Kansas City Department of Health Auditorium, 2400 Troost Ave., Kansas City, MO.

Contact: Gala Jaramillo, Missouri Milk, Food and Environmental Health Association, P.O. Box 105017, Jefferson City, MO 65110–5017, 573–634–6418, or Sue Thomason, FDA, 7920 Elmbrook Dr., suite 102, Dallas, TX 75247–4982, 214–655–8100, ext. 128, FAX 214–655–8114.

Registration: Preregistration by January 3, 2002, is encouraged. The Missouri Milk, Food and Environmental Health Association has a $20 preregistration fee to cover the cost of breaks. To preregister, please complete the form below and send along with a check or money order for $20 payable to The Missouri Milk, Food and Environmental Health Association (address above). As an alternative, the registration form and directions to the facility can also be obtained on the Internet at http://www.fda.gov/ora/indust_assit/Default.htm. Seats are limited, please submit registration form as soon as possible. Course space will be filled in order of receipt of registration. Those accepted into the course will receive written confirmation. Registration will close when the course is filled. Registration at the site will be done on a space available basis on the day of the public workshop beginning at 8 a.m. The cost of registration at the site is $25 payable to The Missouri Milk, Food and Environmental Health Association. If you need special accommodations due to a disability, please contact Leslie Foresberg at 816–513–6315 at least 7 days in advance.

Name: _____

Agency: _____

Mailing Address: _____

City: _____

State: _____

Zip Code: _____

Phone: ( ) _____

FAX: ( ) _____

E-mail: _____

Transcripts: Transcripts of the public workshop may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the public workshop at a cost of 10 cents per page.

SUPPLEMENTARY INFORMATION: The workshop is being held in response to a request by the State of Missouri to present information that would be helpful to regulated industry. The Small Business Program presents this workshop to help achieve objectives set forth in section 406 of the Food and Drug Administration Modernization Act of 1997 (21 U.S.C. 393), which include working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. This is consistent with the purposes of the Small Business Program, which are in part to respond to industry inquiries, develop educational materials, sponsor workshops and conferences to provide firms, particularly small businesses, with firsthand working knowledge of FDA's requirements and compliance policies. This workshop is also consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), as outreach activities by Government agencies to small businesses.

The goal of the workshop is to present information that will enable manufacturers and regulated industry to better comply with labeling requirements, especially in light of growing concerns about food allergens. Information presented will be based on agency position as articulated through regulation, compliance policy guides, and information previously made available to the public. Topics to be discussed at the workshop include: (1) FDA food regulations, (2) food labeling, (3) allergen declaration, (4) good manufacturing practices, and (5) the Nutrition Labeling Education Act. FDA expects that participation in this workshop will provide regulated industry with greater understanding of the regulatory and policy perspectives on food labeling and allergen declaration.

Dated: December 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–31572 Filed 12–19–01; 12:37 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0465]

Guidance for Industry on Major, Minor, and Telephone Amendments to Abbreviated New Drug Applications; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Major, Minor, and Telephone Amendments to Abbreviated New Drug Applications.'' This guidance is a second revision of the guidance entitled ''Major, Minor, FAX, and Telephone Amendments to Original Abbreviated New Drug Applications.'' FDA's Office of Generic Drugs (OGD) determined that further revision of the policy regarding determination of major, minor, and telephone amendments was necessary to help streamline the review of abbreviated new drug applications (ANDAs).

DATES: Submit written or electronic comments on the guidance by March 21, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Rita R. Hassall, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5845.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Major, Minor, and Telephone Amendments to Abbreviated New Drug Applications.'' The guidance is intended to document OGDs policy regarding the determination of major, minor, and telephone amendments to original and supplemental ANDAs. This guidance first published in August 1999 and was originally entitled ''Major, Minor, FAX, and Telephone Amendments to Original Abbreviated New Drug Applications.'' It was revised in May 2000 to explain that the issuance of a major, minor, or FAX amendment would stop the review clock.

The second revision of this guidance (1) deletes the FAX amendment designation, which was found to be unnecessary, (2) now applies to supplemental applications as well, and (3) changes the criteria for determining the type of amendment. The changes in criteria should result in more amendments being categorized as ''minor'' and fewer as ''major.'' A minor amendment request (generally reviewed within 30 to 60 days) has a higher priority than a major amendment. Since the review of a minor amendment takes place sooner than a major amendment after the original review, there is not a long break in the review process for a minor amendment. The response to a major amendment request, however, goes into the 180-day queue. This process causes a greater time lapse from when the original review was done and results in reviewers having to refamiliarize themselves with the application. It is expected that the new policy will help in moving applications through the approval process more quickly than under the previous policy. Thus the total time for approval of ANDAs will be reduced.

Because it lessens the burden on industry, this guidance is being issued as a Level 1 guidance for immediate implementation, consistent with FDA's good guidance practices regulation (21 CFR 10.115). As with other Level 1 guidances for immediate

implementation, the agency is soliciting comments from the public. This guidance represents the agency's current thinking on major, minor, and telephone amendments to ANDAs. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments on the guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: December 3, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–31454 Filed 12–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0493]

Draft Guidance for Industry: Exemptions from the Warning Label Requirement for Juice—Recommendations for Effectively Achieving a 5-Log Reduction; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance document entitled ''Exemptions from the Warning Label Requirement for Juice—Recommendations for Effectively Achieving a 5-Log Reduction.'' This draft document is intended to provide guidance to fruit and vegetable juice producers about FDA's revised recommendations for effectively achieving a 5-log pathogen reduction that is the basis for exempting juice products from the warning label requirement established by a July 8, 1998, final rule entitled ''Food Labeling: Warning and Notice Statement; Labeling of Juice Products'' (the juice labeling rule). A 5-log reduction is also a requirement of the January 19, 2001, final rule entitled ''Hazard Analysis and Critical Control Point (HACCP); Procedures for the Safe and Sanitary Processing and Importing of Juice'' (the juice HACCP rule). This draft guidance describes FDA's current recommendations for effectively achieving a 5-log pathogen reduction in juice.

DATES: Submit written or electronic comments to ensure adequate consideration in preparation of the final guidance document by February 19, 2002. Comments on this guidance may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to Jennifer A. Burnham, Center for Food Safety and Applied Nutrition (CFSAN) (address below).

Submit written comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Jennifer A. Burnham, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–260–0773, FAX: 202–205–4422.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has revised its guidance for effectively achieving a 5-log pathogen reduction in juice. The purpose of this guidance is to encourage those juice processors not yet subject to the juice HACCP rule (e.g., small and very small processors who are not subject to the juice HACCP rule until January 21, 2003 and January 20, 2004, respectively) who are performing a 5-log reduction to attain exemption from the warning label requirement to apply effective 5-log reduction treatments based upon current science. This draft guidance also provides guidance to processors at retail who are not subject to the juice HACCP rule and who are performing a 5-log reduction to attain exemption from the warning label requirements.

In the **Federal Register** of July 8, 1998, FDA issued the juice labeling rule (63 FR 37030). That final rule requires a warning statement on fruit and vegetable juices and juice ingredients that have not been processed to prevent, reduce, or eliminate pathogenic microorganisms that may be present. Specifically, under 21 CFR 101.17(g), juice and juice ingredients must bear a warning label if they have not been processed to achieve a 5-log pathogen reduction, or a reduction that is equal to, or greater than, the criterion established for process controls by any final regulation requiring the application of HACCP principles to the processing of juice and juice ingredients. The warning label was intended to provide a measure of public safety until final HACCP regulations could be established and implemented.

In the **Federal Register** of January 19, 2001 (66 FR 6138), FDA issued the juice HACCP rule; this rule mandates the implementation of HACCP principles and an effective 5-log pathogen reduction treatment to ensure the safe and sanitary processing of fruit and vegetable juices and ingredients. In the juice HACCP rule, FDA set forth certain criteria for achieving the 5-log pathogen reduction, which are consistent with current scientific knowledge as described in the juice HACCP rule. This draft guidance will assist juice processors in effectively achieving a 5-log pathogen reduction in a manner consistent with that knowledge.

This document is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance entitled ''Guidance for Industry: Exemptions from the Warning Label Requirement for Juice—Recommendations for Effectively Achieving a 5-Log Reduction'' is being issued as a level 1 draft guidance consistent with GGPs. This draft guidance represents the agency's current recommendations for effectively achieving a 5-log pathogen reduction in juice. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

II. Comments

Interested persons may submit written or electronic comments to the Dockets Management Branch (address above) on the draft guidance by February 19, 2002. However, interested persons may submit written or electronic comments at any time. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in the brackets in the heading of this document. The draft guidance and received comments may

be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at the CFSAN home page at http://www.cfsan.fda.gov.

Dated: December 14, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–31453 Filed 12–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–51]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administrati9on, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; NAVY: Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: December 13, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 12/21/01

Suitable/Available Properties

Building (by State)

Maryland

Stillpond Housing
521 Round Top Road
Chestertown Co: Queen Anne's MD 21620–
Landholding Agency: GSA
Property Number: 54200140013
Status: Excess
Comment: 1000 sq. ft., most recent use—residential
GSA Number: 4–U–MD–603

Stillpond Housing
131 Fairview Drive
Chesterview Co: Queen Anne's MD 21620–
Landholding Agency: GSA
Property Number: 54200140014
Status: Excess
Comment: 1000 sq. ft., most recent use—residential
GSA Number: 4–U–MD–603

Stillpond Housing
100 Farwell Road
Chesterview Co: Queen Anne's MD 21620–
Landholding Agency: GSA
Property Number: 54200140015
Status: Excess
Comment: 1000 sq. ft., most recent use—residential presence of lead paint
GSA Number: 4–U–MD–603

Stillpond Housing
115 Rolling Road
Chesterview Co: Kent MD 21620–
Landholding Agency: GSA
Property Number: 54200140016
Status: Excess
Comment: 750 sq. ft., most recent use—residential
GSA Number: 4–U–MD–603

Stillpond Housing
303 Oriole Road

Chestertown Co: Queen Anne's MD 21620–
Landholding Agency: GSA
Property Number: 54200140017
Status: Excess
Comment: 1000 sq. ft., most recent use—residential, presence of lead paint
GSA Number: 4–U–MD–603

Stillpond Housing
213 Manor Avenue
Chestertown Co: Kent MD 21620–
Landholding Agency: GSA
Property Number: 54200140018
Status: Excess
Comment: 750 sq. ft., most recent use—residential
GSA Number: 4–U–MD–603

Unsuitable Properties

Buildings (by State)

District of Columbia

Bldg. A–150
Naval District
Anacostia Annex
Washington Co: DC 20374–
Landholding Agency: Navy
Property Number: 77200140016
Status: Unutilized
Reason: Extensive deterioration

Bldg. A–057
Naval District
Anacostia Annex
Washington Co: DC 20374–
Landholding Agency: Navy
Property Number: 77200140017
Status: Unutilized
Reason: Extensive deterioration

Bldg. A–087/002
Naval District
Anacostia Annex
Washington Co: DC 20374–
Landholding Agency: Navy
Property Number: 77200140018
Status: Unutilized
Reason: Extensive deterioration

Maryland

Bldg. S–038
Naval District
Solomons Complex
Solomons Co: MD 20688–0147
Landholding Agency: Navy
Property Number: 77200140013
Status: Unutilized
Reason: Extensive deterioration

Bldg. S–046
Naval District
Solomons Complex
Solomons Co: MD 20688–0147
Landholding Agency: Navy
Property Number: 77200140014
Status: Unutilized
Reason: Extensive deterioration

Bldg. F–1676
Naval Air Facility
Andrews AFB Co: MD 20762–5518
Landholding Agency: Navy
Property Number: 77200140015
Status: Unutilized
Reason: Extensive deterioration

[FR Doc. 01–31186 Filed 12–20–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Endangered Species Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application for endangered species permit.

SUMMARY: The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

DATES: Written data or comments on these applications must be received, at the address given below, by January 22, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Victoria Davis, Permit Biologist). Telephone: 404/679–4176; Facsimile: 404/679–7081.

FOR FURTHER INFORMATION CONTACT: Victoria Davis, Telephone: 404/679–4176; Facsimile: 404/679–7081.

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit comments by any one of several methods. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to ''victoria_davis@fws.gov''. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at either telephone number listed above (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). 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 administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Applicant: Living Seas, Walt Disney World, Lake Buena Vista, Florida, TE050053–0.

The applicant requests authorization to take (receive, hold temporarily, provide medical treatment for injury or illness, satellite tag, release, and euthanize) the Loggerhead sea turtle (*Caretta caretta*), Green sea turtle (*Chelonia mydas*), Leatherback sea turtle (*Dermochelys coriacea*), Kemp's ridley sea turtle (*Lepidochelys kempii*), and Hawksbill sea turtle (*Eretmochelys imbricata*). The rehabilitation activities will take place on Walt Disney World property, Lake Buena Vista, Florida. Release activities will take place within the natural range of species.

Applicant: Eric J. McClanahan, Ecological Associates, Inc., TE050048–0

The applicant requests authorization to harass (perform roost checks and install cavities) the Red-cockaded woodpecker (*Picoides borealis*) to provide suitable nesting and roosting cavities for various clusters in the Francis Marion National Forest, Berkeley and Charleston Counties, South Carolina. Artificial cavity construction is a proven management tool for *Picoides borealis* and installation of cavities aid in recruitment of new clusters to populations and aid in maintaining existing clusters.

Applicant: Marine Science Center, County of Volusia Leisure Services, Bill Apgar, TE050044–0.

The applicant requests authorization to take (receive, hold temporarily, transport, provide medical treatment for injury or illness, release, and euthanize) the Loggerhead sea turtle (*Caretta caretta*), Green sea turtle (*Chelonia mydas*), Leatherback sea turtle (*Dermochelys coriacea*), Kemp's ridley sea turtle (*Lepidochelys kempii*), and Hawksbill sea turtle (*Eretmochelys imbricata*). The rehabilitation activities will take place at the Marine Science Center, Ponce Inlet, Florida. The turtles will be transported for medical treatment to Dr. Mark A. Salzburg's

medical facility, Ormond Beach, Florida.

Applicant: Michelle J. Davis, University of California, Santa Cruz, California, TE050040–0.

The applicant requests authorization to take (survey, capture, identify, band, and release) the Cape Sable Seaside sparrow (*Ammodramus maritimus mirablis*) to determine the effects of fire on their demography. The proposed activities will take place in the East Camp, Everglades National Park, Miami-Dade County, Florida.

Applicant: Margaret S. Devall, Center for Bottomland Hardwoods Research, Stoneville, Mississippi, TE049513–0.

The applicant requests authorization to remove and reduce to possession specimens of *Lindera melissifolia*, pondberry. The purposes of removal and possession of *Lindera melissifolia* are to conduct cuttings of plants for rooting and tissue culture and to provide experimental plants for a large study on the effect of the Yazoo Backwater Reformulation Project. Cuttings will be taken from 10 populations on the Delta National Forest, Sharkey County, Mississippi. Cuttings will be rooted in the greenhouse at the Center for Bottomland Hardwoods Research, Stoneville, Mississippi. The study of the effect of the Yazoo Backwater Reformulation Project will take place near the Center for Bottomland Hardwoods Research.

Applicant: Jennifer E. Buhay, Charles Lydeard, and David I. Withers, University of Alabama, TE049506–0.

The applicant requests authorization to take (survey, capture, identify, release, and euthanize four males) the Nashville crayfish (*Orconectes shoupi*). The purpose of the project is to assess the morphological and genetic diversity of the freshwater crayfish genus *Orconectes* which occupy small streams and caves across the Tennessee and Cumberland River systems. The following will be examined: (1) Utility of internal morphological features of males, females, and juveniles are unique for the identification of the twenty-five *Orconectes* species that occur in the Tennessee and Cumberland River systems, (2) evolutionary relationships of the twenty-five *Orconectes* species using mtDNA gene sequences, and (3) levels of intra-specific genetic variation of 13 native stream *Orconectes* species and 1 introduced species using mtDNA fingerprinting. The proposed activities will take place in the Mill Creek watershed and the Cumberland River drainage, Davidson and Williamson Counties, Tennessee.

Dated: December 14, 2001.

Sam D. Hamilton,

Regional Director.

[FR Doc. 01–31465 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Williams) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Michael and Pamela Williams (Applicants) have applied for an incidental take permit (TE–049666–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 73.309-acre property on Lazy Horse Trail, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before January 22, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–049666–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: Michael and Pamela Williams plan to construct a single-family residence, within 5 years, on approximately 0.5 acres of a 73.309-acre property on Lazy Horse Trail, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicants propose to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Bryan Arroyo,

Acting Regional Director, Region 2.

[FR Doc. 01–31421 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Nicholson) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Bruce and Myra Nicholson (Applicants) have applied for an incidental take permit (TE–049665–0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 16.652-acre property on FM 2104, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before January 22, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by

writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–049665–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: Bruce and Myra Nicholson plan to construct a single-family residence, within 5 years, on approximately 0.5 acres of a 16.652-acre property on FM 2104, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicants propose to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Bryan Arroyo,

Regional Director, Region 2.

[FR Doc. 01–31422 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Angulo) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Roberto Angulo (Applicant) has applied for an incidental take permit (TE–049664–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 27.352-acre property on Old Antioch Road, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before January 22, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–049664–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: Roberto Angulo plans to construct a single-family residence, within 5 years, on approximately 0.5 acres of a 27.352-acre property on Old Antioch Road, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $3,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Bryan Arroyo,

Regional Director, Region 2.

[FR Doc. 01–31423 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Kirchner) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Thomas and Elisa Kirchner (Applicants) have applied for an incidental take permit (TE–050153–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence and guest home on approximately 1.0 acre of a 205.0-acre property on Antioch Road, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before January 22, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be

available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–050153–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicants: Thomas and Elisa Kirchner plan to construct a single-family residence and guest home, within 5 years, on approximately 1.0 acre of a 205.0-acre property on Antioch Road, Bastrop County, Texas. This action will eliminate 1.0 acre or less of Houston toad habitat and result in indirect impacts within the lot. The Applicants propose to compensate for this incidental take of the Houston toad by providing $4,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Bryan Arroyo,

Regional Director, Region 2.

[FR Doc. 01–31424 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–921–01–1320–EL–P; NDM 90783]

Cancellation of Competitive Coal Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Cancellation of Competitive Coal Lease Offering (NDM 90783) scheduled for December 11, 2001; Request for Public Comment on Fair Market Value and Maximum Economic Recovery; and Notice of Reschedule of the Competitive Coal Lease Offering (NDM 90783) by Sealed Bid.

SUMMARY: Notice of The Coteau Properties Company's Coal Lease.

The Bureau of Land Management is providing notice of cancellation for the coal lease offering (NDM 90783) by sealed bid scheduled for December 11, 2001. According to Federal coal management regulations at 43 CFR 3422, the BLM must conduct a public hearing for comments on the environmental assessment, the fair market value (FMR), and maximum economic recovery (MER) of the proposed lease tract 30 days prior to holding a lease sale. This required Public Hearing has not occurred. Consequentially, this notice is published to: (1) retract the earlier lease sale date; (2) provide notice for a Public Hearing on the environmental assessment, FMR, and MER; and (3) announce a new date for the coal lease sale.

The lands included in Coal Lease Application NDM 90783 are located in Mercer County, North Dakota. The entire area lies within the Freedom Mine NACT 9501 permit area operated by The Coteau Properties Company.

The coal resource to be offered consists of all recoverable reserves in the following-described lands:

T. 146 N., R. 88 W., 5th P.M.

Sec. 14: SW¼SW¼
Sec. 22: N½N½, SW¼NE¼, S½NW¼ excluding a 4.59-acre tract described by metes and bounds and further described as: Beginning at a point on the west line of said Section 22, said point being 250.00 feet north of the southwest corner of the NW¼ of Section 22; thence north along said west line of Section 22, 500.00 feet; thence east at right angles to the last-described line, 400.00 feet; thence south parallel with said west line, 500.00 feet; thence west at right angles, 400.00 feet to the point of beginning; SW¼ excluding a 12.61-acre tract described by metes and bounds and further described as: Beginning at the southwest corner of the SW¼ of said Section 22, thence easterly along the south line of said Section 22, 500.00 feet; thence north at right angles to said south line, 500.00 feet; thence northwesterly to a point on the west line of said Section 22, said point being 1,700.00 feet north of said southwest corner; thence southerly along said west line to the point of beginning; NW¼SE¼
502.80 acres—Mercer County, North Dakota

For Coal Lease Application NDM 90783, the recoverable Beulah-Zap seam averages 15.2 feet with an average overburden depth of 61.8 feet. The coal, as received, averages 6,817 BTU/lb in heating 3 value, contains 0.72% sulfur content, 37.5% moisture, 6.81% ash, and 6.11% sodium. The BLM estimates recoverable coal reserves to be approximately 7 million tons.

The public is invited to submit written comments on the fair market value and the maximum economic recovery of the tract. Comments must be received on or before 30 days after the publication date of this notice in the **Federal Register**.

Notice is also given that a public hearing will be held on the environmental assessment, the proposed sale, and the fair market value and maximum economic recovery of the proposed lease tract at 1 p.m., on Tuesday, January 8, 2002, at the BLM North Dakota Field Office. The environmental assessment is available for review at the BLM North Dakota Field Office, 2933 Third Avenue West, Dickinson, North Dakota. For further information, please contact Lee Jefferis, geologist, at 701–225–7713.

In accordance with the Federal coal management regulations at 43 CFR 3422 and 3425, not less than 30 days prior to the publication of a notice of sale, the Secretary shall solicit public comments on fair market value appraisal and maximum economic recovery and on factors that may affect these two determinations. Proprietary data marked as ''confidential'' may be submitted to the BLM in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information. A copy of the comments submitted by the public on fair market value and maximum economic recovery, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the BLM, Montana State Office, 5001 Southgate Drive, Billings, Montana, during regular business hours (9 a.m. to 4 p.m.) Monday through Friday.

Comments should be sent to the BLM, Montana State Office, at the above address, and should speak to, but not necessarily be limited to, the following information:

1. The quality of the coal resource;
2. The quantity of coal;
3. The mining method or methods which would achieve maximum economic recovery of the coal, including specification of seams to be mined and the most desirable timing and rate of production;
4. If this tract is likely to be mined as part of an existing mine and, therefore, be evaluated, on a realistic incremental basis, in relation to the existing mine to which it has the greatest value;
5. If this tract should be evaluated as part of a potential larger mining unit and evaluated as a portion of a new potential mine (*i.e.;* a tract which does not in itself form a logical mining unit);
6. The configuration of any larger mining unit of which the tract may be a part;
7. Restrictions to mining which may affect coal recovery;
8. The price that the mined coal would bring when sold:
9. Costs, including mining and reclamation, of producing the coal and the times of production;
10. The percentage rate at which anticipated income streams should be discounted, either in the absence of inflation or with inflation, in which case the anticipated rate of inflation should be given;
11. Depreciation and other tax accounting factors;
12. The value of any surface estate where held privately;
13. Documented information on the terms and conditions of recent and similar coal land transactions in the lease sale area; and
14. Any comparable sales data of similar coal lands.

The values given above may or may not change as a result of comments received from the public and changes in market conditions between now and when final economic evaluations are completed.

In addition, notice is hereby given that the coal resources in the lands previously described in Mercer County, North Dakota, will be offered for competitive lease by sealed bid on Tuesday, February 12, 2002, in accordance with the provisions of the Mineral Leasing Act of February 25, 1920, as amended (41 Stat, 437; 30 U.S.C. 181 *et seq.*).

The lease sale will be held at 11 a.m., Tuesday, February 12, 2002, in the BLM Montana State Office 920 conference room, 5001 Southgate Drive, Billings, Montana 59101. Bids for the tract will be in the form of sealed bids. Sealed bids *clearly marked* ''Sealed Bid for NDM90783 Coal Sale—Not to be opened before 11 a.m., Tuesday, February 12, 2002,'' must be submitted on or before 10 a.m. Tuesday, February 12, 2002, to the cashier, BLM, Montana State Office, 5001 Southgate Drive, P.O. Box 36800, Billings, Montana 59107–6800.

The tract in this lease offering contains split estate lands. Written consent is on file from all qualified surface owners as defined in the regulations at 43 CFR 3400.0–5.

SUPPLEMENTARY INFORMATION: The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid meets the fair market value of the coal resource. The minimum bid for the tract is $100 per acre, or fraction thereof. No bid that is less than $100 per acre, or fraction thereof, will be considered. The bids should be sent by certified mail, return receipt requested, or be hand-delivered bid. *Bids received after 10 a.m., Tuesday, February 12, 2002, will not be considered.* The minimum bid is not intended to represent fair market value. The fair market value will be determined by the authorized officer after the sale.

If identical high bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed-bids must be submitted within 15 minutes following the Sale Official's announcement at the sale that identical high bids have been received.

A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre, or fraction thereof; and a royalty payable to the United States of 12.5 percent of the value of coal mined 7 by surface methods and 8.0 percent of the value of coal mined by underground methods. The value of the coal shall be determined in accordance with 30 CFR 206.250.

Bidding instructions for the tract offered and the terms and conditions of the proposed coal lease are included in the Detailed Statement of Lease Sale. Copies of the statement and the proposed coal lease are available at the Montana State Office. Casefile NDM 90783 is also available for public inspection at the Montana State Office.

FOR FURTHER INFORMATION CONTACT: Connie Schaff (Land Law Examiner) at 406–896–5060, Rebecca Good (Coal Coordinator) at 406–896–5080 or Doug Burger, (North Dakota Field Office Manager) at 701–225–9148.

Dated: December 7, 2001.

Randy D. Heuscher,

Chief, Branch of Solid Minerals.

[FR Doc. 01–31403 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–1320–EL, WYW154595]

Federal Coal, Environmental Document and Notice of Scoping

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an environmental document on one lease application received for one Federal coal tract in the decertified Green River/Hamms Fork Coal Production Region, Wyoming, and Notice of Scoping.

SUMMARY: BLM received a competitive coal lease application on September 28, 2001, from Bridger Coal Company. The tract applied for is approximately 7,054.34 acres in size, and contains approximately 110 million tons of in-place coal reserves. The tract is adjacent to the Bridger Mine in Sweetwater County, Wyoming. The tract, which is referred to as the Ten Mile Rim Lease by Application (LBA) Tract, was assigned case number WYW154595.

The tract was applied for as a tract LBA under the provisions of 43 CFR 3425.1. As part of the LBA process, BLM will prepare an environmental analysis in accordance with the requirements of the National Environmental Policy Act, develop possible stipulations regarding mining operations, determine the fair market value (FMV) of the Federal coal included in the tract, and evaluate the maximum economic recovery (MER) of the coal in the tract. The purpose of the public scoping period and public scoping meeting is to allow interested parties to submit comments and/or relevant information that BLM should consider in preparing an environmental analysis and in evaluating the FMV and MER of the Federal coal included in this coal lease application.

DATES: Scoping comments must be received by 30 days after publication of this notice in order to be fully considered in the draft environmental analysis. A public scoping meeting at

the BLM Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming will be announced in local media.

If you have concerns or issues that you believe the BLM should address in processing this LBA proposal, you can express them verbally at the scoping meeting; or you can mail, e-mail or fax written comments to BLM at the addresses given below.

ADDRESSES: Please address questions, comments or concerns to the BLM Rock Springs Field Office, Attn: Teri Deakins, 280 Highway 191 North, Rock Springs, Wyoming 82901, fax them to 307–352–0329, or email them to the attention of Teri Deakins at *teri_deakins@blm.gov*. Please refer to Ten Mile Rim Lease in the subject field.

FOR FURTHER INFORMATION CONTACT: Teri Deakins or Ted Murphy at the above address, or phone: 307–352–0256.

SUPPLEMENTARY INFORMATION: On September 28, 2001, Bridger Coal Company filed a coal lease application for the following lands adjacent to the Bridger Mine in Sweetwater County, Wyoming:

Ten Mile Rim—WYW154595

T. 21 N., R. 100 W., 6th P.M., Wyoming
Section 2: Lots 5–8, S2N2, S2;
Section 4: Lots 5–8, S2N2, S2;
Section 6: Lots 8–14, S2NE, SENW, E2SW, SE;
Section 8: All;
Section 10: All;
Section 12: W2;
Section 14: All.
T. 22 N., R. 100 W., 6th P.M., Wyoming
Section 30: Lots 5–8, E2W2, E2;
Section 32: All;
Section 34: All;
T. 22 N., R. 101 W., 6th P.M., Wyoming
Section 26: Lots 1–16;
Section 34: Lots 1, 2, 6, 7, 8, 13, NESE, SWSE.
Containing 7,054.34 acres, more or less.

The tract includes an estimated 110 million tons of in place coal reserves. According to the application the coal would be required to provide fuel to the nearby Jim Bridger Power Plant for an additional 15 to 20 years. Land ownership in the area is checkerboard, where BLM manages for the Federal government approximately every even numbered section.

As part of the coal leasing process, BLM will evaluate the tract configuration and may decide to add or subtract Federal coal to avoid bypassing coal or to increase estimated FMV.

The Bridger Mine, which is adjacent to the Ten Mile Rim LBA Tract, has an approved mining and reclamation plan from the Land Quality Division of the Wyoming Department of Environment Quality (DEQ) and an approved air quality permit from the Air Quality Division of the Wyoming DEQ.

The Office of Surface Mining Reclamation and Enforcement (OSM) will be a cooperating agency in the preparation of the environmental document. If the tract is leased as a tract then the lease must be incorporated into the existing Jim Bridger Mining and Reclamation Plan and the Secretary of the Interior must approve the revision to the Mineral Leasing Act (MLA) mining plan before the Federal coal in the tract can be mined. OSM is the Federal agency that would be responsible for recommending approval, approval with conditions, or disapproval of the revised MLA mining plan to the office of the Secretary of the Interior if the tract were leased.

Tentative issues have been identified as occurring in the area of the Ten Mile Rim LBA Tract or during the processing of previous applications to lease Federal coal in the State of Wyoming. These include:

1. The need for resolution of conflicts between existing and proposed oil and gas development, including coal bed methane, and coal mining on the tracts proposed for leasing;

2. Potential impacts on air and water quality, and the Great Divide Basin Watershed.

3. Subsidence.

4. Potential impacts to surface resources including crucial winter range, raptor nesting, sage grouse, and listed, proposed for listing, candidate, and BLM-sensitive plant and animal species.

Comments, including names and street addresses of respondents, will be available for public review at the address listed above during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Preparation of the environmental analysis may include actions that upon review could require an amendment to the Green River RMP. Should actions be found that are not in conformance with the Green River RMP, a planning review of existing land-use decisions would be conducted at that time.

Dated: November 16, 2001.

Darla D. Pindell,

Acting Chief, Branch of Solid Minerals.

[FR Doc. 01–31407 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ES–930–01–1300–241A: MSES 46775, MSES 46780, MSES 46782, MSES 46788, MSES 46798, MSES 46800, MSES 46803, MSES 46806, MSES 46809 MSES 47871, MSES 48069, MSES 48070 and MSES 48071; Notice of Proposed Reinstatement of Terminated Oil and Gas Leases

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per Public Law 97–451, the lessees timely filed a petition for reinstatement of oil and gas leases MSES 46775, MSES 46780, MSES 46782, MSES 46788, MSES 46798, MSES 46800, MSES 46803, MSES 46806, MSES 46809 MSES 47871, MSES 48069, MSES 48070 and MSES 48071, Wayne and Jones Counties, Mississippi. The lessee paid the required rentals accruing from the date of termination.

The Bureau of Land Management has not issued any leases affecting the lands. The lessee paid the $500 administration fee for the reinstatement of each lease. The lessee has met the requirements for reinstatement of the leases per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the leases, effective the date of termination, subject to:

- The original terms and conditions of the leases;
- The increased rental of $5 per acre (Non Competitive)
- The increased rental of $10 per acre (Competitive Leases);
- The increased royalty rate of 16⅔ percent of 4 percentages above the existing competitive royalty rate;
- The $158 cost of publishing this Notice.

FOR FURTHER INFORMATION CONTACT: Ida V. Doup, Chief, Branch of Use Authorization, Division of Resources, Planning, Use and Protection, BLM Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, (703) 440–1541.

Dated: November 30, 2001.

Ida V. Doup,

Chief, Branch of Use Authorization, Division of Resources Planning, Use and Protection.

[FR Doc. 01–31401 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

[MT–920–02–1310–FI–P; MTM 90089]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease MTM 90089

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per Pub.L. 97–451, the lessee timely filed a petition for reinstatement of oil and gas lease MTM 90089, Sheridan County, Montana. The lessee paid the required rental accruing from the date of termination.

We haven't issued any leases affecting the lands. The lessee agrees to new lease terms for rentals and royalties of $10 per acre and 16–2/3 percent or 4 percentages above the existing competitive royalty rate. The lessee paid the $500 administration fee for the reinstatement of the lease and $148 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the lease per sec. 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the lease, effective the date of termination subject to:

- The original terms and conditions of the lease;
- The increased rental of $10 per acre;
- The increased royalty of 16 2/3 percent or 4 percentages above the existing competitive royalty rate; and
- The $148 cost of publishing this Notice

FOR FURTHER INFORMATION CONTACT: Karen L. Johnson, Chief, Fluids Adjudication Section, BLM Montana State Office, PO Box 36800, Billings, Montana 59107, 406–896–5098.

Dated: November 30, 2001.

Karen L. Johnson,

Chief, Fluids Adjudication Section.

[FR Doc. 01–31404 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW 139229]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW139229 for lands in Sweetwater County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $158 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW139229 effective July 1, 2001, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 01–31406 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–924–1430–ET; MTM 26024]

Opening of Land; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Public Land Order No. 6091, which withdrew 13.42 acres of National Forest System land from location and entry under the United States mining laws for a fire guard station, expired November 22, 2001, by operation of law. This action will open the land to mining. The land has been and will remain open to such forms of disposition as may by law be made of National Forest System lands.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–896–5052.

SUPPLEMENTARY INFORMATION: Public Land Order No. 6091, published in the **Federal Register** November 23, 1981 (46 FR 57289), withdrew 13.42 acres of National Forest System land for a period of 20 years for the Thompson Gulch Fire Guard Station. The public land order expired November 22, 2001, by operation of law. The following land is hereby opened to location and entry under the United States mining laws:

Helena National Forest

Principal Meridian, Montana
T. 9 N., R. 4 E.,

Secs. 22 and 27, a tract of land lying in the SE¼SW¼ of section 22 and the NE¼NW¼ of section 27, more particularly described as follows:

Beginning at the brass cap quarter corner monument between sections 22 and 27 which is Corner No. 1, the true point of beginning: thence S. 66°38′ W., 656.82 feet to Corner No. 2; thence N. 40°37′ W., 597.80 feet to Corner No. 3; thence N. 57°01′ E., 994.03 feet to Corner No. 4; thence N. 83°40′ E., 129.10 feet to Corner No. 5; thence S. 02°15′ E., 749.46 feet to the true point of beginning.

The area described contains 13.42 acres in Meagher County.

At 9 a.m. on December 21, 2001, the land shall be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempting adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights, since Congress has provided for such determinations in local courts.

Dated: November 6, 2001.

Thomas P. Lonnie,

Deputy State Director, Division of Resources.

[FR Doc. 01–31402 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–00; NVN–74668]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers, has filed an application to withdraw 40 acres of public land for the United States Air Force to use as a safe zone for departing and arriving aircraft at the Nellis Air Force Base. The land was previously withdrawn by Public Land Order No. 5832, which has expired. The land is still needed as a safe zone.

DATE: Comments and requests for meeting should be received on or before March 21, 2002.

ADDRESS: Comments and meeting requests should be sent to the Nevada State Director, BLM, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, 775–861–6532.

SUPPLEMENTARY INFORMATION: The Department of the Army, Los Angeles District, Corps Engineers, on behalf of the United States Air Force, has filed an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Mount Diablo Meridian

T. 19 S., R. 62 E.,
sec. 35, SE¼SW¼.

The area described contains 40 acres in Clark County.

The purpose of the proposed withdrawal is for a clear zone near the end of the runway at the Nellis Air Force Base. The land was previously withdrawn as a clear zone by Public Land Order No. 5832, which expired in January 2001. The clear zone is critical to support the mission of the Nellis Air Force Base.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Nevada State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Nevada State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

Dated: November 26, 2001.

Jim Stobaugh,

Lands Team Lead.

[FR Doc. 01–31405 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of a revision of a currently approved information collection (OMB Control Number 1010–0104).

SUMMARY: To comply with the Paperwork Reduction Act (PRA) of 1995, we are submitting to OMB for review and approval an information collection request (ICR) titled ''Accounting for Comparison (Dual Accounting).'' We are also soliciting comments from the public on this ICR.

DATES: Submit written comments on or before January 22, 2002.

ADDRESSES: Submit written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0104), 725 17th Street, NW., Washington, DC 20503. Also, submit copies of your written comments to Carol Shelby, Regulatory Specialist, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, Colorado 80225. If you use an overnight courier service, MMS's courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also submit your comments at our email address *mrm.comments@mms.gov.* Include the title of the information collection and the OMB control number in the ''Attention'' line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Ms. Shelby at (303) 231–3151 or FAX (303) 231–3385.

FOR FURTHER INFORMATION CONTACT: Carol Shelby, Regulatory Specialist, phone (303) 231–3151, FAX (303) 231–3385, or email *Carol.Shelby@mms.gov.*

SUPPLEMENTARY INFORMATION:

Title: Accounting for Comparison (Dual Accounting).

OMB Control Number: 1010–0104.

Bureau Form Number: Form MMS–4410.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions for the Secretary.

MMS regulations at 30 CFR 206.172 require lessees to certify on Form MMS–4410, ''Certification for Not Performing Accounting for Comparison (Dual Accounting),'' that dual accounting is not required for a specific Indian lease. This is a one-time certification that remains in effect until there is a change in lease status or ownership. In this information collection request, we are asking approval to add to Form MMS–4410 the lessee's reason for not performing dual accounting. The certification and reason for not performing dual accounting will be submitted on new Part A of Form MMS–4410.

MMS regulations also require lessees to elect to perform either actual dual accounting under 30 CFR 206.176 or the alternative methodology for dual accounting under 30 CFR 206.173. Previously, lessees reported the dual accounting election on a monthly basis on Form MMS–2014, Report of Sales and Royalty Remittance. However, in our reengineering initiative, we redesigned and streamlined Form MMS–2014 (OMB Control Number 1010–0140). The revised Form MMS–2014 no longer contains the dual

accounting election information. Since we must collect the information, we are requesting approval to revise Form MMS–4410 to include the dual accounting election in a new Part B. Lessees will make the actual or alternative dual accounting election every 2 years or whenever lessees elect alternative dual accounting at the beginning of any month rather than monthly as previously required on Form MMS–2014. By moving the dual accounting election to Part B of Form MMS–4410, we are reducing the reporting burden associated with the dual accounting election from a monthly collection to a biennial collection.

The revised Form MMS–4410, Parts A and B, will consolidate the collection of all dual accounting information on one form. The changes will be effective January 2002 if OMB approves our request.

Responses to this information collection are mandatory for all Indian gas leases (except leases on the Osage Indian Reservation). Proprietary information is requested and protected, and there are no questions of a sensitive nature involved in this collection of information.

Frequency: On occasion.

Estimated Number and Description of Respondents: 370 payors on approximately 2,340 Indian leases.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 1,000 hours. See the following chart for a breakdown of the burden estimate.

30 CFR Section	Reporting requirement	Burden hours per response	Annual number of responses	Annual burden hours
206.172(b)(1)(ii)	Gas production that you certify on Form MMS–4410, Certification for Not Performing Accounting for Comparison (Dual Accounting), is not processed before it flows into a pipeline with an index but which may be processed later. (New Part A of revised Form MMS–4410).	4	25	100
206.173(a)(1)	You may elect to perform the dual accounting calculation according to either § 206.176(a) (called actual dual accounting), or paragraph (b) of this section (called the alternative methodology for dual accounting). (New Part B of revised Form MMS–4410).	2	450	900
206.173(a)(2)	You must make a separate election to use the alternative methodology for dual accounting for your Indian leases in each MMS-designated area. (New Part B of revised Form MMS–4410).	See 206.173(a)(1) above.		
206.176(b)	If you are required to account for comparison, you may elect to use the alternative dual accounting methodology provided for in § 206.173 instead of the provisions in paragraph (a) of this section. (New Part B of revised Form MMS–4410).	See 206.173(a)(1) above.		
206.176(c)	If you do not perform dual accounting, you must certify to MMS that gas flows into such pipeline before it is processed. (New Part A of revised Form MMS–4410).	See 206.172(b)(1)(ii) above.		
Total				1,000

Estimated Annual Reporting and Recordkeeping ''Non-hour'' Burden: We have identified no ''non-hour cost'' burden.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) 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.

To comply with the public consultation process, on June 6, 2001, we published a **Federal Register** notice (66 FR 30480) with the required 60-day comment period announcing that we would submit this ICR to OMB for approval. We received comments from one company. We responded to the comments in our ICR submission for OMB approval. We have posted a copy of the ICR at our Internet web site *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm.* We will also provide a copy of the ICR to you without charge upon request.

If you wish to comment in response to this notice, please send your comments directly to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive your comments by January 22, 2002. The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Public Comment Policy: We will post all comments received in response to this notice on our Internet web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm* for public review. We also make copies of these comments, including names and home addresses of respondents, available for public review during regular business hours at our offices in Lakewood, Colorado.

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 comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, telephone (202) 208–7744.

Dated: November 30, 2001.

Milton K. Dial,

Acting Associate Director for Minerals Revenue Management.

[FR Doc. 01–31532 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–MR–W

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement/ General Management Plan, Mount Rainier National Park, Pierce and Lewis Counties, WA; Notice of Availability

SUMMARY: Pursuant to section 102(2)(C) the National Environmental Policy Act of 1969, the National Park Service announces the availability of a Final Environmental Impact Statement and General Management Plan (FEIS/GMP) for Mount Rainier National Park, Washington. Upon approval, the GMP will serve as a ''blueprint'' to guide park managers in implementing park programs and management activities for Mount Rainier National Park over the next 15–20 years.

SUPPLEMENTARY INFORMATION: The FEIS/GMP identifies and analyzes three alternatives for managing resources and visitors in Mount Rainier National Park. The ''no-action'' alternative is a continuation of the present management course regarding the management of visitor use and facilities. The National Park Service's preferred alternative (Alternative 2) would provide a range of high-quality visitor experiences and improve stewardship of park resources. The primary goals of this alternative are to better manage peak-period visitation so that it does not adversely affect park resources and visitor experiences, and encourage more off-peak use of the park. Alternative 3 would offer a different combination of visitor opportunities than those offered in the preferred alternative, while still protecting resources. None of the alternatives would propose major new developments within the park, and no park resources or values would be impaired.

The FEIS/GMP evaluates the environmental consequences of the preferred alternative and the other alternatives on natural resources (e.g., air and water quality, soils and vegetation, special status species), geologic (volcanic and nonvolcanic) hazards, cultural resources (e.g., archeological resources, ethnographic resources), visitor experiences (e.g., visitor access, the range of visitor activities), Wilderness, and the socioeconomic environment (e.g., regional context, gateway communities). A range of mitigation measures appropriate to each alternative are identified and evaluated. It was determined that Alternative 2 is the Aenvironmentally preferred'' alternative.

Public Comment: A Notice of Intent to prepare an EIS was published in the **Federal Register** on September 27, 1994. During the subsequent scoping phase leading to development of the Draft EIS, the NPS conducted six public meetings. The results of these meetings were published in the first of a series of public newsletters (Newsletter 1 was distributed during winter 1995). Also throughout the conservation planning and environmental impact analysis process, numerous county, state and federal agency meetings and consultations with five Tribes were conducted. A Notice of Availability of the Draft EIS/GMP was published in the **Federal Register** on November 20, 2000; the document was on public review through February 9, 2001. The NPS received 143 written responses and many oral comments during seven public meetings held in various Washington towns and cities; all were duly considered in preparing the FEIS/GMP. All comments obtained are filed in the administrative record.

ADDRESSES: Copies of the FEIS/GMP are available from the Superintendent, Mount Rainier National Park, Tahoma Woods, Star Route, Ashford, Washington 98304–9751; (360) 589–2211. Public reading copies of the FEIS/GMP will also be available for review at the following locations:

Office of the Superintendent, Tahoma Woods, Mount Rainier National Park, Ashford, Washington 98304–9751; Telephone (360) 589–2211.

NPS Library, Columbia Cascades Support Office, 909 First Avenue South, Seattle, WA 98104–1060; Telephone: (206) 220–4114.

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets NW., Washington, DC 20240; Telephone: (202) 208–6843.

If individuals responding to this Notice request that their name or and address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. There also may be circumstances wherein the NPS will withhold a respondent's identity as allowable by law. As always: NPS will make available to public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses; and, anonymous comments may not be considered.

Decision: A Record of Decision may be approved by the Regional Director, Pacific West Region, no sooner than 30 days after publication by the Environmental Protection Agency of the Notice of filing of this Final EIS in the **Federal Register**. The official responsible for the final decision is the Regional Director; subsequently the official responsible for implementation of the plan is the Superintendent, Mt. Rainier National Park.

Dated: October 25, 2001.

Martha K. Leicester,

Acting Regional Director, Pacific West Region.

[FR Doc. 01–31398 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Intent To Prepare a Draft Environmental Impact Statement for the Stiltsville, Management Plan, Biscayne National Park, FL

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement for the Stiltsville Management Plan, Biscayne National Park, Florida.

SUMMARY: Under the provisions of the National Environmental Policy Act of 1969, the National Park Service (NPS) is preparing a draft environmental impact statement (DEIS) for the Stiltsville Management Plan for Biscayne National Park. This effort will result in a management plan to guide public use and management of 7 stilt structures located in the northern end of Biscayne National Park in Biscayne Bay, Florida. Management options being considered include public use of the structures consistent NPS policy and best management practices for environmental protection (the preferred alternative), and private lease under NPS management.

Major issues include potential impacts on water quality, biological resources, soundscape, visual resources, cultural resources, and the visitor experience.

To facilitate sound planning and consideration of environmental resources, the NPS intends to gather information necessary for the preparation of the Management Plan/DEIS and to obtain suggestions and information from other agencies and the public on the scope of issues to be

addressed in the Management Plan/DEIS. Comments and participation in this scoping process are invited. Participation in the planning process will be encouraged and facilitated by various means, including newsletters and open houses or meetings.

DATES: The NPS will conduct public scoping meetings to explain the planning process and to solicit opinions about issues to be addressed in the Stiltsville Management Plan/DEIS. Locations, dates, and times of public scoping meetings will be announced in the local press, in NPS newsletters and on the park website, *http://www.nps.gov/bisc* and may also be obtained by contacting Biscayne National Park.

ADDRESSES: Written comments and information concerning the scope of the Management Plan/DEIS and other matters should be sent to the following address, Stiltsville Management Plan, Biscayne National Park, 9700 SW 328th St., Homestead, Florida 33033. Requests to be added to the project mailing list should be directed to the same address.

FOR FURTHER INFORMATION CONTACT: Superintendent, Biscayne National Park, 305–230–1144 ext. 3002

SUPPLEMENTARY INFORMATION: The NPS is developing a management plan for the 7 stilt structures located in the northern part of Biscayne National Park in Biscayne Bay. In 1980, the park's northern boundary expanded and Biscayne National Monument became Biscayne National Park. In 1985, when the State of Florida transferred ownership of the bay bottom within the expansion area to the park, it also transferred the leases for the property, which the structures occupy. The leases expired in July 1999. The park's 1983 General Management Plan, Development Concept Plan, Wilderness Study, and Environmental Assessment recommended removing the structures before the leases expired. Because of numerous expressions of public interest in maintaining the structures, the NPS initiated a multi-stage planning process to identify and recommend future public uses of the structures consistent with NPS policy.

In January 2001, the National Park System Advisory Board established the Stiltsville Committee directing it to identify and recommend future public use of Stiltsville and to develop recommendations to guide the future operations of the structures. The committee made several recommendations based upon an understanding that the structures and the surrounding aquatic environment are critical and important to the citizens of south Florida and to the visitors to Biscayne National Park. These comments are available on the Biscayne National Park web site: *http://www.nps.gov/bisc*

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. If you wish for 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.

Dated: August 24, 2001.

Paul Winegar,

Acting Regional Director, Southeast Region.

[FR Doc. 01–31397 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

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

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collections of information under 30 CFR parts 750 and 877 which relate the surface coal mining and reclamation operations on Indian Lands; and use of police power, if necessary, to effect entry upon private lands to conduct reclamation activities or exploratory studies if the landowner refuses consent or is not available, respectively.

DATES: Comments on the proposed information collection must be received by February 19, 2002, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 210—SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@smre.gov.*

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies information collections that OSM will be submitting to OMB for approval. These collections are contained in (1) 30 CFR part 750, Requirements for surface coal mining and reclamation operations on Indian Lands; and (2) 30 CFR part 877, Rights of entry. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

The following information is provided for the information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: Requirements for surface coal mining and reclamation operations on Indian Lands—30 CFR part 750.

OMB Control Number: 1029–0091.

Summary: Operators who conduct or propose to conduct surface coal mining and reclamation operations on Indian lands must comply with the requirements of 30 CFR part 750 pursuant to Section 710 of SMCRA.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Applicants for coal mining permits.

Total Annual Responses: 75.

Total Annual Burden Hours: 1,400.

Title: Rights of Entry—30 CFR part 877.

OMB Control Number: 1029–0055.

Summary: This regulation establishes procedures for non-consensual entry upon private lands for the purpose of

abandoned mine land reclamation activities or exploratory studies when the landowner refuses consent or is not available.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: State and Tribal abandoned mine land reclamation agencies.

Total Annual Responses: 20.

Total Annual Burden Hours: 30.

Dated: November 29, 2001.

Richard G. Bryson,

Chief Division of Regulatory Support.

[FR Doc. 01–31456 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 253–2001]

Privacy Act of 1974; System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Civil Division, Department of Justice, is establishing a new system of records entitled ''September 11th Victim Compensation Fund of 2001 File System,'' Civil Division (CIV), JUSTICE/CIV–008.

The September 11th Victim Compensation Fund of 2001 File System is a system of records established to support the administration of the program to compensate individuals who were physically injured or the personal representatives of those who were killed as a result of the terrorist-related aircraft crashes of September 11, 2001. The system is being established to enable the prompt adjudication of these claims.

By law, regulations addressing certain administrative matters for the September 11th Victim Compensation Fund of 2001 must be issued by December 21, 2001. This notice is published in accordance with that statutory requirement. It is likely that amendments to this notice, including routine uses, will be published at a later date, with the opportunity to comment.

The Department is providing a report to OMB and the Congress.

Dated: December 18, 2000.

Janis Sposato,

Acting Assistant Attorney General for Administration.

Justice/CIV–008

SYSTEM NAME:

September 11th Victim Compensation Fund of 2001 File System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Civil Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530; Department of Justice—Records Management Unit, 2711 Prosperity Avenue, Fairfax, VA 22031; and Federal Records Center, Suitland, MD 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who claim benefits under the September 11th Victim Compensation Fund of 2001 (*i.e.* individuals claiming to have suffered physical injury or the personal representatives of individuals who were killed as a result of the terrorist-related aircraft crashes of September 11, 2001).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include: Claim forms filed by or on behalf of claimants seeking benefits under the Fund; documents submitted in support of the claims; medical, personal, employment, financial, and other records obtained or generated to adjudicate the claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

September 11th Victim Compensation Fund of 2001 enacted into law as Title IV of Pub. L. 107–42, 115 Stat. 230 (''Air Transportation Safety and System Stabilization Act'').

PURPOSES:

These records are collected or generated for the purpose of determining qualification of and/or compensation to claimants under the September 11th Victim Compensation Fund of 2001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

It is likely that routine uses will be published at a later date with an opportunity for comment. In the interim, disclosures necessary to process claims will be made only with the written consent of claimants.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper case files are maintained in filing cabinets. Automated data, including case files that have been transformed into electronic form, are stored on computer discs or magnetic tapes, which are also stored in cabinets.

RETRIEVABILITY:

Files and automated data are retrieved by name of a claimant or personal representative of a claimant, the name of the deceased, case file number and/or Social Security Number.

SAFEGUARDS:

Files and automated data are maintained under supervision of Civil Division personnel, the Special Master, or their contractors. During working hours—only authorized personnel, with the appropriate password may handle, retrieve, or disclose any information contained therein. Access to electronic records is controlled by password or other user identification code.

RETENTION AND DISPOSAL:

All claim files and automated data pertaining to a claim are destroyed 10 years after the date the claim has been fully adjudicated and/or payment made, as approved by the National Archives and Records Administration. Paper files that have been scanned to create electronic copies may be destroyed after the copies are verified. Automated data is retained in its most current form only, however, and as information is updated, outdated information is deleted.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Assistant Attorney General, Civil Division, 950 Pennsylvania Avenue, NW, Washington, DC 20530.

NOTIFICATION PROCEDURES:

Address inquiries to: Office of the Assistant Attorney General, Civil Division, 950 Pennsylvania Avenue, NW, Washington, DC 20530.

RECORD ACCESS PROCEDURES:

Any individual seeking access to information about a claim in which he/she is a party in interest may write to the Office of the Assistant Attorney General, Civil Division, 950 Pennsylvania Avenue, NW, Washington, DC 20530. The request should state what records are sought and must include the requester's full name, current address, and claim file number (if known). The request must be signed before a notary or submitted under penalty of perjury.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the Office of the Assistant Attorney General, Civil Division, 950 Pennsylvania Avenue, NW, Washington, DC 20530. The request should clearly and concisely state what information is being contested, the reason(s) for

contesting it, and the proposed amendment to the record.

RECORD SOURCE CATEGORIES:

Individuals or entities having information pertinent to the adjudication of compensation claims, including but not limited to: Injured individuals; personal representatives of deceased individuals; eligible claimants; family members; physicians and other medical professionals, hospitals, and clinics; insurers, employers, and their agents and representatives.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01–31461 Filed 12–18–01; 12:28 pm]

BILLING CODE 4410–12–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Premdor Inc. et al.

A Complaint, Hold Separate Stipulation and Order, proposed Final Judgment, and Competitive Impact Statement were filed with the United States District Court for the District of Columbia, in a civil antitrust case, *United States* v. *Premdor Inc., Premdor U.S. Holdings, Inc., International Paper Company, and Masonite Corporation,* Civ. Action No. 1:01CV01696. By August 28, 2001, the United States published a notice in the Washington Post and the **Federal Register,** seeking public comments on the proposed settlement, in accord with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h). The 60 day comment period expired on October 29, 2001. Due to the unanticipated disruption of mail service to the U.S. Department of Justice, the United States requests that anyone who submitted a comment before the expiration of the comment period resubmit the comment by facsimile or e-mail to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530 (facsimile: (202) 307–5802; e-mail: *comments.lit2@usdoj.gov;* telephone: (202) 307–0924). Comments should be resubmitted by facsimile or e-mail within 15 days of the date of this notice.

Constance K. Robinson,

Director of Operations & Merger Enforcement.

[FR Doc. 01–31477 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. 3d Systems Corp. and DTM Corp.

A Complaint, proposed Final Judgment, and Competitive Impact Statement were filed with the United States District Court for the District of Columbia, in a civil antitrust case, *United States* v. *3D Systems Corporation and DTM Corporation*, Civ. Action No. 1:01CV01237. By September 26, 2001, the United States published a notice in the Washington Post and the **Federal Register**, seeking public comments on the proposed settlement, in accord with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h). The 60-day comment period expired on November 26, 2001. Due to the unanticipated disruption of mail service to the U.S. Department of Justice, the United States requests that anyone who submitted a comment before the expiration of the comment period resubmit the comment by facsimile or e-mail to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530 (facsimile: (202) 307–5802; e-mail: *comments.lit2@usdoj.gov*; telephone: (202) 307–0924). Comments should be resubmitted by facsimile or e-mail within 15 days of the date of this notice.

Constance K. Robinson,

Director of Operations & Merger Enforcement.

[FR Doc. 01–31478 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 8, 2001, American Radiolabeled Chemical, Inc., 11624 Bowling Green Drive, St. Louis, Missouri 63146, made application by renewal and by letter dated May 2, 2001, to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Gamma hydroxybutyric acid (2010).	I
Lysergic acid diethylamide (7315)	I
Dimethyltryptamine (7435)	I
Dihydromophine (9145)	I
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Hydromorphone (9150)	II
Oxycodone (9143)	II
Thebaine (9333)	II
Benzoylecgonine (9180)	II
Meperidine (9230)	II
Metazocine (9240)	II
Morphine (9300)	II
Oxymorphone (9652)	II

The firm plans to bulk manufacture small quantities of the listed controlled substances as radiolabeled compounds.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 19, 2002.

Dated: November 15, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–31408 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 11, 2001, Genesis 1:29 Corporation, P.O. Box 2175, 133 Bond Avenue, Petaluma, California 94654, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basis classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I

The firm plans to cultivate marihuana to supply physician's patients within the State of California.

This Notice of Application is being published as required pursuant to section 1301.33(a) of Title 21 CFR and does not authorize the applicant to manufacturer, distribute or possess any controlled substance.

Since Marihuana is a Schedule I controlled substance identified in section 1308.11(d) of Title 21 CFR and has no legitimate medical use, the DEA intends to take all appropriate measures necessary to comply with domestic and international treaty obligations.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 19, 2002.

Dated: December 13, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–31409 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on April 27, 2001, Research Triangle Institute, Kenneth H. Davis, Jr., Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The firm plans to import small quantities of the listed controlled substances for the National Institute of Drug Abuse and other clients.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than January 22, 2002.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import the basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: November 20, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–31410 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

AGENCY INFORMATION COLLECTION ACTIVITIES: Comment Request

ACTION: Notice of information collection under review; application for certificate of citizenship.

The Department of Justice, Immigration and Naturalization Service (Service) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Written comments on the form are encouraged and will be accepted for sixty days until February 19, 2002. Your comments should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: Extension of a currently approved collection.*

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–600. 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. This form is provided by the Service as a uniform format for obtaining essential data necessary to determine the applicant's eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 67,936 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 67,936 annual burden hours.

Organizations and individuals interested in submitting comments regarding this burden estimate or any aspect of this information collection requirement, including suggestions for

reducing the burden, should direct them to the Immigration and Naturalization Service, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Room 4034, 425 I Street, NW., Washington, DC 20536; Attention: Richard A. Sloan, Director, (202)–514–3291.

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, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: December 14, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–31539 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP)–1337C]

Publication of Final Program Plan for Fiscal Year 2002

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice regarding publication of the Office of Juvenile Justice and Delinquency Prevention's Final Program Plan for fiscal year (FY) 2002.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing this notice to inform the public that it will postpone publication of its FY 2002 Final Program Plan to accommodate any written comments sent through the U.S. mail which may not yet have reached OJJDP due to precautions taken in response to the anthrax attacks.

FOR FURTHER INFORMATION CONTACT: OJJDP at 202–307–5911. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: OJJDP's Proposed Program Plan for fiscal year 2002 was published in the **Federal Register** on October 23, 2001 (66 FR 53692–710). The October 23 Notice requested that comments on the Proposed Plan be received by December 7, 2001.

During that time period, however, mail delivery to OJJDP was severely disrupted as a result of the extraordinary circumstances arising from the September 11 terrorist acts and subsequent anthrax attacks involving the U.S. mail.

OJJDP expects to receive its backlogged mail within the next few weeks. Consequently, in order to properly review, consider, and respond to any comments submitted by the public on its Proposed Plan, OJJDP will delay publication of the FY 2002 Final Program Plan. OJJDP will make every effort to respond to comments in a timely manner and to publish its Final Program Plan in the **Federal Register** in early 2002.

Dated: December 18, 2001.

Terrence S. Donahue,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 01–31540 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 13, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E-mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: OSHA Data Initiative (ODI).

OMB Number: 1218–0209.

Affected Public: Business or other for-profit; Farms; and State, Local, or Tribal Government.

Frequency: Annually.

Type of Response: Reporting.

Number of Respondents: 100,175.

Number of Annual Responses: 100,175.

Estimated Time Per Response: 30 minutes.

Total Burden Hours: 48,088.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services: $0.

Description: In accordance with 29 CFR 1904.41, OSHA is proposing to continue its data initiative to collect occupational injury and illness data and information on the number of workers employed and the number of hours worked from establishments in portions of the private sector and from some state and local government agencies. These data will allow OSHA to calculate occupational injury and illness rates and to focus its efforts on individual workplaces with ongoing series safety and health problems. Successful implementation of the data collection initiative is critical to OSHA's outreach and enforcement efforts and the data requirements tied to the Government Performance and Results Act.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–31476 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Employment and Training Administration

Preliminary Finding of No Significant Impact (FONSI) for the Proposed Relocation of the Cleveland Job Corps Center to be Located at 498 East 140th Street in Cleveland, OH

AGENCY: Employment and Training Administration, Labor.

ACTION: Preliminary Finding of No Significant Impact (FONSI) for the proposed relocation of the Cleveland Job Corps Center to be located at 498 East 140th Street in Cleveland, Ohio.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (CEQ) (40 CFR part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Employment and Training Administration (ETA) of the Department of Labor (DOL), Office of Job Corps, in accordance with 29 CFR 11.11(d), gives notice that an Environmental Assessment (EA) has been prepared and the proposed plans for the new Cleveland Job Corps Center will have no significant environmental impact, and this Preliminary Finding of No Significant Impact (FONSI) will be made available for public review and comment for a period of 30 days.

DATES: Written comments must be received by January 22, 2002.

ADDRESSES: Any comments are to be submitted to Eric Luetkenhaus, Office of Job Corps, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Ave., NW, Room N4460, Washington, DC 20210, (202) 693–3109 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Copies of the EA and additional information are available to interested parties by contacting Mr. Stephen Garlington, Regional Director, Region V (Five), U.S. Department of Labor, ETA Office of Youth and Job Corps, Federal Building Room 676, 230 South Dearborn Street, Chicago, IL 60604, (312) 353–2524 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The proposed Job Corps Center site is located at 498 East 140th Street in Cleveland, Cuyahoga County, Ohio. The 22.5-acre site, situated on the northwest corner of East 140th Street and Coit Road and is currently part of the overall 46.7-acre Water Tower Park Development. The 22.5 acre site consists of an open, nearly level plain. It is located 8 miles east of downtown Cleveland in a multizoned area. The vicinity surrounding the Center consists primarily of single and multi-family residential dwellings, interspersed with commercial/industrial establishments. In addition, the culverted Nine-Mile Creek runs through the center of the site.

The EA indicates that the only structure on the site is a water tower, which was used to maintain water pressure in the former General Motors' facility water system. The water tower currently is not in use. A structural inspection in 1993 determined that the tower was in good condition. The foundation of the former manufacturing and administrative buildings are located along the south boundary of the site. Fill material was laid down at various depths, on the western quarter of the site. The remaining portion of the site consists of asphalt-paved parking lots, which is in deteriorating condition. The underlying soil is described as Urban Land, which is a soil unit, which has been extensively remodeled with much of it covered with paved surfaces. A large amount of fill material consisting of clay, clay shale and concrete demolition debris has been used to regrade the site. Underlying the Urban Land soil unit is Wisconsian-age Lake Plain material consisting of a fine layering of silt and clay deposits. Underlying the Lake Plain material in this area is a bedrock formation consisting of the Euclid Member of the Devonian-age Ohio shale at a depth of approximately 40 feet. The EA indicates that the area is a poor source for ground water. There are no wetland areas located within the 22.5-acre site.

The proposed new Cleveland Job Corps Center will consist of new buildings in a campus setting. The campus will provide facilities for 350 resident students and 80 nonresident students. Plans include dormitories, academic and vocational classrooms and workshops, administrative offices, dining and food preparation facilities, recreation facilities, storage and support facilities, and medical/dental facilities. Separate male and female dormitory areas will also be provided. The proposed project will be designed and constructed in accordance with the local fire, building, and zoning code requirements.

The construction of Job Corps Center on this parcel would be a positive asset to the area in terms of environmental and socioeconomic improvements and long-term productivity. The proposed Job Corps Center will provide a new source of employment training for the youth in Cleveland, Ohio and the South Collinwood neighborhood. In addition, the Job Corps Program is designed to graduate students to prepare for today's job market and by providing basic education, vocational skills training, work experience, counseling, health care, and related support.

The construction of the Job Corps Center will also have a positive impact on the redevelopment of the Water Tower Park Development and the surrounding neighborhood. It is also expected to result in an increase of area jobs, since personnel will be needed to provide educational, vocational, custodial, food preparation, and security services.

The proposed project will not have any significant adverse impact on any natural system or resource. There are no ''historically significant'' buildings nor areas of archaeological significance within the boundaries of the site. There is no documentation of threatened or endangered species on the property. There are a number of public parks and the Lake Erie shoreline within 2.5 miles of the property.

The proposal project will not have any significant adverse impact upon air quality and noise levels. The proposed project would not result in degradation of air quality since no new stationary air pollution sources will be constructed. The proposed facility is not expected to result in a significant increase in vehicular traffic since many of the students will either live at the Center or use public transportation. Noise levels in the area are consistent with residential areas. With the exception of the construction period, the noise from the proposed project will be consistent with residential areas as well.

A medical and dental facility will be part of the on-site Job Corps complex to accommodate students. Therefore, there will be no significant adverse effects upon local medical facilities. The Center will have its own security service and meet the latest in applicable fire code requirements. As a result, no significant impact on emergency, fire, and/or police facilities is expected. No significant impact is expected on city utilities such as water, electric, gas, and sanitary since the occupancy rate of the Cleveland Job Corps Center will be significantly less than that of the former General Motors facility.

The proposed project will not have any significant adverse impacts upon the existing surrounding infrastructure represented by water, sewer, and storm water systems. Adequate water is available through the City of Cleveland. The new facility construction is not expected to increase the storm water discharge since the proposed construction would actually reduce the amount of paved surfaces currently on the site. The new facility will result in an increase in sanitary discharge as compared to current conditions. However, the amount of discharge from the new facility will be much less than that of the former General Motors facility, for which the current sanitary sewer system was originally designed. Overall, the increase in sanitary discharges will not have a negative impact on the existing sanitary sewer

system due to its former use design capability.

Based on the information gathered during the preparation of the EA, the location of the Job Corps Center on the property located at 498 East 140th Street, in Cleveland, Cuyahoga County, Ohio will not create any significant adverse impact on the environment and, therefore, it is recommended that the project continue as proposed. It should be noted that no sampling of the soil, water, air or any man-made material was conducted during the preparation of the EA.

Dated this 17th day of December, 2001.

Brian V. Kennedy,

Deputy National Director, Job Corps.

[FR Doc. 01–31431 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a 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. Currently, the Employment Standards Administration is soliciting comments concerning the following forms: Miner's Claim for Benefits Under the Black Lung Benefits Act (CM–911), Employment History (CM–911a); and Miner Medical Reimbursement Form (CM–915).

DATES: Written comments must be submitted to the office listed in the addressee section below within February 19, 2002.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 (this is not a toll-free number), fax (202) 693–1451, EMail *pforkel@fenix2.dol-esa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Black Lung Benefits Act of 1977, as amended, 30 U.S.C. 901 et. seq., provides for the payment of benefits to coal miners who are totally disabled by black lung disease, and to certain of their survivors. The CM–911 is the application form for benefits. The CM–911a, which is completed along with the CM–911, renders a complete history of employment and is used to establish employment criteria for benefit eligibility. Under the program, miners are eligible for reimbursement of out-of-pocket medical expenses for treatment and for medical expenses incurred in the development of a claim. The CM–915 is used to request such reimbursement.

II. Review Focus

The Department of Labor 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.

III. Current Actions

The Department of Labor seeks the approval of the extension of this information collection in order to carry out its responsibility to determine eligibility for black lung benefits.

Type of Review: Extension.

Agency: Employment Standards Administration.

Titles: Miner's Claim for Benefits Under the Black Lung Benefits Act; Employment History; Miner Medical Reimbursement Form.

OMB Number: 1215–0052.

Agency Numbers: CM–911, CM–911a, CM–915.

Affected Public: Individuals or households; Businesses or other for-profit.

Frequency: On occasion.

Total Respondents/Responses: 20,200.

Estimated Total Burden Hours: 9,116.

Form Hours	Respond-ents/Re-sponses	Time per response	Burden hours
CM–911	4,800	45 min	3,600
CM–911a	5,900	40 min	3,933
CM–915	9,500	10 min	1,583

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $4,171.

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: December 14, 2001.

Margaret J. Sherrill,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 01–31432 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–CK–P

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are

based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut
CT010001 (Mar. 2, 2001)
CT010003 (Mar. 2, 2001)
CT010004 (Mar. 2, 2001)
CT010008 (Mar. 2, 2001)
Massachusetts
MA010001 (Mar. 2, 2001)
MA010002 (Mar. 2, 2001)
MA010003 (Mar. 2, 2001)
MA010006 (Mar. 2, 2001)
MA010007 (Mar. 2, 2001)
MA010009 (Mar. 2, 2001)
MA010010 (Mar. 2, 2001)
MA010013 (Mar. 2, 2001)
MA010015 (Mar. 2, 2001)
MA010016 (Mar. 2, 2001)
MA010017 (Mar. 2, 2001)
MA010018 (Mar. 2, 2001)
MA010019 (Mar. 2, 2001)
MA010020 (Mar. 2, 2001)
MA010021 (Mar. 2, 2001)
Maine
ME010012 (Mar. 2, 2001)
New Hampshire
NH010011 (Mar. 2, 2001)
New Jersey
NJ010002 (Mar. 2, 2001)
NJ010003 (Mar. 2, 2001)
NJ010006 (Mar. 2, 2001)
New York
NY010001 (Mar. 2, 2001)
NY010002 (Mar. 2, 2001)
NY010003 (Mar. 2, 2001)
NY010004 (Mar. 2, 2001)
NY010007 (Mar. 2, 2001)
NY010013 (Mar. 2, 2001)
NY010018 (Mar. 2, 2001)
NY010021 (Mar. 2, 2001)
NY010022 (Mar. 2, 2001)
NY010026 (Mar. 2, 2001)
NY010040 (Mar. 2, 2001)
Rhode Island
RI010005 (Mar. 2, 2001)

Volume II

Delaware
DE010008 (Mar. 2, 2001)
Maryland
MD010045 (Mar. 2, 2001)
Pennsylvania
PA010008 (Mar. 2, 2001)
PA010010 (Mar. 2, 2001)
PA010016 (Mar. 2, 2001)
PA010021 (Mar. 2, 2001)
PA010023 (Mar. 2, 2001)
PA010024 (Mar. 2, 2001)
PA010050 (Mar. 2, 2001)
West Virginia
WV010002 (Mar. 2, 2001)
WV010003 (Mar. 2, 2001)
WV010010 (Mar. 2, 2001)

Volume III

North Carolina≤
NC010008 (Mar. 2, 2001)

Volume IV

Indiana
IN010002 (Mar. 2, 2001)
IN010003 (Mar. 2, 2001)
IN010004 (Mar. 2, 2001)
IN010006 (Mar. 2, 2001)
IN010018 (Mar. 2, 2001)
IN010020 (Mar. 2, 2001)
Michigan
MI010004 (Mar. 2, 2001)
MI010027 (Mar. 2, 2001)

Volume V

Iowa
IA010001 (Mar. 2, 2001)

Volume VI

None

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage determinations Issued Under the Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov)of* the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers

value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (Issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, D.C. this 13 day of December 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–31209 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL COUNCIL OF DISABILITY

Advisory Committee Meetings/ Conference Calls

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of meetings/conference calls for working groups of NCD's advisory committees—International Watch. Notice of this meeting is required under section 10(a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

International Watch: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's Foreign Policy Team on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Work Group: International Convention on the Human Rights of People with Disabilities.

Dates and Times:

January 17, 2002, 12:00 p.m.–1:00 p.m. EST

March 21, 2002, 12:00 p.m.–1:00 p.m. EST

May 16, 2002, 12:00 p.m.–1:00 p.m. EDT

July 18, 2002, 12:00 p.m.–1:00 p.m. EDT

September 19, 2002, 12:00 p.m.–1:00 p.m. EDT

November 21, 2002, 12:00 p.m.–1:00 p.m. EST

Work Group: Inclusion of People with Disabilities in Foreign Assistance Programs.

Dates and Times:

February 21, 2002, 12:00 p.m.–1:00 p.m. EST

April 18, 2002, 12:00 p.m.–1:00 p.m. EDT

June 20, 2002, 12:00 p.m.–1:00 p.m. EDT

August 15, 2002, 12:00 p.m.–1:00 p.m. EDT

October 17, 2002, 12:00 p.m.–EDT

December 19, 2002, 12:00 p.m.–1:00 p.m. EST

FOR INTERNATIONAL WATCH INFORMATION CONTACT: Kathleen A. Blank, Attorney/Adviser, NCD, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), kblank@ncd.gov (e-mail).

Agency Mission: NCD is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Open Meetings/Conference Calls: These NCD advisory committee meetings/conference calls will be open to the public. However, due to fiscal constraints and staff limitations, a limited number of additional lines will be available. Individuals can also participate in the conference calls at the NCD office. Those interested in joining these conference calls should contact the appropriate staff member listed above.

Records will be kept of all International Watch meetings/conference calls and will be available after the meeting for public inspection at NCD.

Signed in Washington, DC on December 17, 2001.

Ethel D. Briggs,

Executive Director.

[FR Doc. 01–31474 Filed 12–20–01; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL LABOR RELATIONS BOARD

Order Delegating Authority to the General Counsel Before Chairman Peter J. Hurtgen, and Members Wilma B. Liebman and Dennis P. Walsh

December 14, 2001.

The Board anticipates that in the near future it may for a temporary period have fewer than three Members of its statutorily-prescribed full complement of five Members.[1] The Board also recognizes that it has a continuing responsibility to fulfill its statutory obligations in the most effective and efficient manner possible. To assure that the Agency will be able to meet its obligations to the public, the Board has decided to temporarily delegate to the General Counsel full authority on all court litigation matters that would otherwise require Board authorization. This delegation shall be effective during any time at which the Board has fewer than three Members and is made under the authority granted to the Board under sections 3, 4, 6, and 10 of the National Labor Relations Act.

Accordingly, the Board delegates to the General Counsel full and final authority and responsibility on behalf of the Board to initiate and prosecute injunction proceedings under section 10(j) or section 10(e) and (f) of the Act, contempt proceedings pertaining to the enforcement of or compliance with any order of the Board, and any other court litigation that would otherwise require Board authorization; and to institute and conduct appeals to the Supreme Court by writ of error or on petition for certiorari. This delegation shall be revoked whenever the Board has at least three Members.

This delegation relates to the internal management of the National Labor Relations Board and is therefore, pursuant to 5 U.S.C. 553, exempt from the notice and comment requirements of the Administrative Procedure Act. Further, public notice and comment is impractical because of the immediate need for Board action. The public interest requires that this delegation take effect immediately.

[1] The five-Member Board presently has three Members, one of whom, Member Walsh, is in recess appointment which will expire at the sine die adjournment of the current session of Congress.

All existing delegations of authority to the General Counsel and to staff in effect prior to the date of this order remain in full force and effect. For the reasons stated above, the Board finds good cause to make this order effective immediately in accordance with 5 U.S.C. 553(d).

By direction of the Board.

Dated: Washington, DC, December 18, 2001.

John J. Toner,

Executive Secretary.

[FR Doc. 01–31534 Filed 12–20–01; 8:45 am]

BILLING CODE 7545–01–P

NUCLEAR REGULATORY COMMISSION

Alaron Corp.; Finding of No Significant Impact

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Nuclear Regulatory Commission has made a Finding of No Significant Impact (FONSI) with respect to the potential environmental impact related to the request by Alaron Corporation to utilize a wet waste processing system to dry high-solids wet wastes and aqueous liquid wastes in their Wampum, Pennsylvania facility.

FOR FURTHER INFORMATION CONTACT: John R. McGrath, Senior Health Physicist, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406. Telephone 610–337–5069.

SUPPLEMENTARY INFORMATION: The Alaron Corporation of Wampum, Pennsylvania holds a license issued by the U.S. Nuclear Regulatory Commission (NRC) for performing decontamination of equipment contaminated with radioactive material. Alaron has requested authority to add a system for the treatment of wet wastes by installing a system which includes a concentrate dryer, ultra-filtration, reverse-osmosis, demineralizers and steam generator on its site in Wampum.

Alaron estimates that approximately 214 curies of radioactive materials would be processed per year. Environmental radiation safety concerns include exposure due to airborne releases. To evaluate airborne releases, the licensee utilized a computer code (COMPLY, an EPA computer code for calculating the dose to individuals due to airborne releases) to assess dose from radionuclide emissions. The code assumed that an activity of 740 millicuries would be released in effluents to the air and projected a effective dose equivalent of 0.03 millirem/year to an individual at the nearest site boundary.

NRC has reviewed the assumptions used in the above described codes and concurs with the reported results. The maximum annual dose of 0.03 millirem is well below the regulatory limit of 100 millirem per year.

Copies of the EA and FONSI as well as supporting documentation are available for review at the NRC offices located at 475 Allendale Road, King of Prussia, Pennsylvania 19406, telephone number (610) 337–5000, during normal business hours.

John D. Kinneman,

Chief, Nuclear Materials Safety Branch 2, Division of Nuclear Material Safety, U.S. Nuclear Regulatory Commission, Region I.

Environmental Assessment of Proposal by Alaron Corporation To Perform Processing of Wet Wastes Utilizing a Multi-Methodology Treatment System

1. The Need for the Proposed Action

The Alaron Corporation of Wampum, Pennsylvania holds a license issued by the U.S. Nuclear Regulatory Commission (NRC) for performing decontamination of equipment contaminated with radioactive material. Alaron uses a variety of techniques to perform the decontamination. In a letter dated May 31, 2001, Alaron requested an amendment to their license to authorize a wet waste processing system to dry high-solids wet wastes and aqueous liquid wastes in their Wampum facility. The system will be supplied by NUKEM Nuclear Technologies and includes a concentrate dryer, ultra-filtration units, reverse-osmosis units, demineralizers, steam generator and holding tanks. The purpose of this Environmental Assessment is to determine whether or not the proposed action could contribute to significant impacts on the human environment.

2. Alternatives to the Proposed Action

The only credible alternative is to not allow Alaron to install and use the treatment system. Relocation of the unit to another part of the site would not alter the environment impact of the operation of the unit. To allow the use of some components of the system and not others could actually result in an increase in the amount of activity released to the environment.

3. The Environmental Impacts of the Proposed Action

Alaron is located on a 24 acre site in the Point Industrial Park, Wampum, Pennsylvania. Building F1 is a 67,800 ft^2 steel frame and steel wall building with a flat synthetic membrane type roof. The proposed wet waste processing system would be located inside a curbed area at the east end of the F1 Annex. The F1 Annex is located on the east side of the F1 Building and is a steel frame, steel walled building 32 feet wide and 88 feet long. The curbed area in the F1 Annex is capable of holding all of the contaminated liquid in the wet waste system. The NUKEM system consists of a number of water treatment components, including a concentrate dryer (CD), an ultra-filtration (UF) unit, a reverse osmosis (RO) unit, two demineralizers, and a steam generator. Wet waste will arrive by truck and will transferred to one of two 1400 gallon sludge tanks inside the curbed area of the F1 Annex using a pneumatic pump through a double containment transfer hose.

Alaron's License No. 37–20826–01 was last renewed in its entirety on December 3, 1998. As part of that renewal, NRC issued an Environmental Assessment (NUREG/CR–5549) and published a Finding of No Significant Impact in the **Federal Register** on December 2, 1998. The Environmental Assessment found that no atmospheric emissions containing radioactive contaminants were expected to be released from the operation as then licensed. This was based on the fact that potentially contaminated air within work areas in cycled through HEPA filters and exhausted back into the building. Alaron recognized, though, that fugitive emission, through doors, vents, etc. exist and a conservative estimate of an annual dose to the nearest residence was calculated to be 0.26 millirem. 10 CFR 20.1301 requires that each licensee conduct operations so that the total effective dose equivalent to individual members of the public from the licensed operation does not exceed 0.1 rem (100 millirem) in a year.

The installation of this waste treatment system would add an airborne release point at the Alaron facility. Stream from the steam generator will be vented through an exhaust stack on the roof of the F1 Building. Most of the radioactivity in the wet waste to be processed will be removed by the various treatment methods in the system and will be disposed of as solid waste. After being cleaned by passing through the system, the cleaned or polished water feeds the steam generator. Steam

from the steam generator is exhausted through the stack.

Alaron estimates that the wet waste processing system will process liquid, sludge and/or resin waste whose isotopic distribution is typical of waste currently being disposed from nuclear power facilities. Based on the estimated waste throughput, approximately 214 curies of radioactive material will be processed per year. Assuming that all of the H–3 activity will become airborne, that the polished water feed to the steam generator contains other isotopes at 10 CFR Part 20 effluent limits, and that all of the radioactivity in the feed is released, the total activity emitted per year would be about 740 millicuries. The licensee performed dose calculations using the computer code COMPLY (an EPA computer code for calculating the dose to individuals due to airborne releases) which projects an effective dose equivalent of 0.03 millirem/year to an individual at the nearest site boundary as a result of the estimated release. NRC has performed a dose assessment of the proposal and agrees with the basic assumptions and results of the licensee's analysis.

With regard to direct radiation exposure, the licensee plans to conduct cleaning and back flush evolutions that will assure that accumulation of radioactive material on filter media will not result in high radiation levels around the unit. In addition, there will be shielding in place to avoid creation of high radiation levels. The maximum radiation levels is expected to be 50 millirem per hour one foot from the Concentration Dyer, i.e. within the restricted area. Radiation levels at the closest unrestricted area, including the contribution from existing operations, will be about 10 microrem per hour.

4. Conclusion

In view of the fact that the additional dose of 0.03 millirem/year to an individual at the nearest site boundary as a result of the proposed amendment is a small fraction of the dose attributed to fugitive emissions to an individual at the nearest residence as a result of existing operations, the staff concludes that the proposed action will have a negligible impact on the environment.

[FR Doc. 01–31471 Filed 12–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

Southern California Edison Company; San Onofre Nuclear Generating Station, Units 2 and 3 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission, or NRC) is considering issuance of an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) part 50, Appendix E, sections IV.F.2.b and c to Facility Operating License Nos. NPF–10 and NPF–15, issued to Southern California Edison Company (the licensee), for operation of the San Onofre Nuclear Generating Station, Units 2 and 3, (SONGS), located in San Diego County, California. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action is a one time exemption from the requirements of Appendix E, sections IV.F.2.b and c regarding conduct of a full participation exercise of the onsite and offsite emergency plans every 2 years. Under the proposed exemption, as modified by the staff (which is discussed below), the licensee would reschedule the exercise originally scheduled for September 12, 2001, and complete the exercise requirements by December 31, 2002.

The proposed action is in accordance with the licensee's application for an exemption dated September 18, 2001. The licensee requested a one-time exemption, in accordance with 10 CFR 50.12, ''Specific exemptions,'' from the requirements in 10 CFR part 50, Appendix E, sections IV.F.2.b and c to perform a biennial exercise of the onsite and offsite emergency plans (EPs) with full participation of each offsite authority having a role under the offsite plan (*i.e.*, a full participation exercise), for SONGS. A full participation exercise had been scheduled for SONGS for September 12, 2001; however, as a result of the national security events occurring in the United States on September 11, 2001, this exercise was canceled. The licensee requested that the biennial exercise for 2001 not be conducted as required by Appendix E, and the next full participation exercise be conducted in 2003 and every two years thereafter.

Because the NRC's staff has concluded that it cannot grant the licensee's request to cancel the full participation exercise for 2001, and because the scheduled 2001 full participation exercise to meet the regulations was canceled for good cause, there is insufficient time before January 1, 2002, when the licensee would be in violation of the regulations, to prepare and conduct the exercise and the licensee has provided sufficient information to provide a basis for a one-year schedular extension to the requirements in the regulations, the NRC has concluded that such a one-year schedular exemption to the biennial exercise requirements in Appendix E to 10 CFR part 50 can be granted SONGS. The full participation exercise for SONGS scheduled for 2001 would be conducted by December 31, 2002. Future exercises, however, will be performed as previously scheduled (*i.e.,* granting of a schedular exemption for the current exercise does not reset the 2-year clock and the licensee will be expected to complete the next scheduled exercise in 2003).

The Need for the Proposed Action

Sections IV.F.2.b and c, of Appendix E to 10 CFR part 50, require each licensee at each site to conduct an exercise of its onsite and offsite EPs every 2 years. Federal agencies (the NRC for the onsite exercise portion and the Federal Emergency Management Agency for the offsite exercise portion) observe these exercises and evaluate the performance of the licensee, State and local authorities having a role under the emergency plan.

The licensee had initially planned to conduct an exercise of its onsite and offsite EPs on September 12, 2001, within the required 2-year interval. However, as a result of the national security events occurring in the United States on September 11, 2001, this exercise was canceled.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the revised proposed action to grant a one-year schedular extension exemption to SONGS for the biennial exercise requirements in Appendix E to 10 CFR part 50 and concludes that it involves an administrative activity (a schedular change in conducting an exercise) unrelated to plant operations.

The revised proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no

significant radiological environmental impacts ass ociated with the revised proposed action.

With regard to potential non-radiological impacts, the revised proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the revised proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the revised proposed action.

Environmental Impacts of Alternatives to the Proposed Action

As an alternative to the revised proposed action, the NRC staff considered denial of the action (*i.e.*, the ''no-action'' alternative). Denial of the revised proposed action would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for SONGS dated April 1981.

Agencies and Persons Consulted

On November 29 and December 17, 2001, the NRC staff consulted with the California State official, Ben Tong of the Governor's Office of Emergency Services, regarding the environmental impact of the proposed action. The State official had no comments on the environmental impact; however, the State official did not agree with rescheduling the exercise. The State official's comments will be addressed in the safety evaluation supporting the exemption. In addition, by phone on December 3, 2001, the Federal Emergency Management Agency (FEMA) indicated that it had no disagreement with rescheduling the exercise.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the revised proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the revised proposed action.

For further details with respect to the proposed action, see the licensee's letter dated September 18, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 17th day of December, 2001.

For the Nuclear Regulatory Commission.

Jack Donohew,

Senior Project Manager, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31472 Filed 12–20–01; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Sunshine Act Meeting

Board Votes To Close December 13, 2001, Meeting

By paper and telephone vote on December 11–13, 2001 the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting held in Washington, DC via teleconference. The Board determined that prior public notice was not possible.

ITEM CONSIDERED: Rate Case R2001–1.

GENERAL COUNSEL CERTIFICATION; The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Request for information about the meeting should be addressed to the Secretary of the Board, David G. Hunter, at (202) 268–4800.

David G. Hunter,

Secretary.

[FR Doc. 01–31636 Filed 12–19–01; 2:05 pm]

BILLING CODE 7710–12–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection

Statement Regarding Contributions and Support of Children, RRB Form G–139 Section 2(d)(4) of the Railroad Retirement Act (RRA), provides, in part, that a child is deemed dependent if the conditions set forth in Section 202(d)(3), (4) and (9) of the Social Security Act are met. In accordance with amendments to the Social Security Act (section 104 of Public Law 104–21) the RRB amended its regulations to eliminate to ''living-with'' requirement (as an alternative to actual dependency) as a basis for eligibility for an annuity as the stepchild of a railroad employee, and also to provide for the termination of the inclusion of a stepchild in the computation of the social security overall minimum guarantee provision when the stepparent's marriage to the natural parent is terminated.

The regulations outlining child support and dependency requirements are prescribed in 20 CFR 222.50.

Prior to the amendments to the Social Security Act, almost all child dependency determinations were ''deemed'' based on a child living with the railroad employee. To determine entitlement based on actual dependency, the RRB must solicit financial information regarding a child's means of support. A comparison is then made between the amount of support received from the railroad employee and the amount received from other sources.

The RRB uses Form G–139, Statement Regarding Contributions and Support of Children, to collect information needed to adequately determine if the child meets the dependency requirement. Completion will be required to obtain a benefit. One response is required of each respondent. The RRB estimates that 500 Form G–139's will be

completed annually. The completion time is estimated at 60 minutes. The RRB proposes non-burden impacting editorial changes to Form G–139.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–31425 Filed 12–20–01; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection

Financial Disclosure Statement: OMB 3220–0127.

Under Section 10 of the Railroad Retirement Act and Section 2(d) of the Railroad Unemployment Insurance Act, the RRB may recover overpayments of annuities, pensions, death benefits, unemployment benefits, and sickness benefits that were made erroneously. An overpayment may be waived if the beneficiary was not at fault in causing the overpayment and recovery would cause financial hardship. The regulations for the recovery and waiver of erroneous payments are contained in 20 CFR 255 and CFR 340.

The RRB utilizes Form G–423, Financial Disclosure Statement, to obtain information about the overpaid beneficiary's income, debts, and expenses if that person indicates that (s)he cannot make restitution for the overpayment. The information is used to determine if the overpayment should be waived as wholly or partially uncollectible. If waiver is denied, the information is used to determine the size and frequency of installment payments. The beneficiary is made aware of the overpayment by letter and is offered a variety of methods for recovery. One response is requested of each respondent. Completion is voluntary. The RRB proposes non-burden impacting editorial changes to Form G–423.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Forms #(s)	Annual responses	Time (Min)	Burden (Hrs)
G–423	1,200	85	1,700

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–31426 Filed 12–20–01; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection

Certification of Relinquishment of Rights: OMB 3220–0016

Under Section 2(e)(2) of the Railroad Retirement Act (RRA), an age and service annuity, spouse annuity, or divorced spouse annuity cannot be paid unless the Railroad Retirement Board (RRB) had evidence that the applicant has ceased railroad employment and relinquished rights to return to the service of a railroad employer. Under Section 2(f)(6) of the RRA, earnings deductions are required each month an annuitant works in certain non-railroad employment termed Las Pre-Retirement Non-Railroad Employment. Normally, the employee or spouse relinquishes rights and certifies that employment has ended as part of the annuity process. However, this is *not always* the case. In limited circumstances, the RRB utilizes Form G–88, Certification of Termination of Service and Relinquishment of Rights, to obtain an applicant's report of termination of employment and relinquishment of rights. One response is required of each respondent. Responses are required to obtain or retain benefits. The RRB proposes non-burden impacting editorial changes to Form G–88.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Forms #(s)	Annual responses	Time (Min)	Burden (Hrs)
G–88	3,600	6	360

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–31427 Filed 12–20–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25318; 812–12726]

HSBC Holdings plc, et al.; Notice of Application

December 17, 2001.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Temporary order and notice of application for a permanent order under section 9(c) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Applicants have received a temporary order exempting them and other entities of which Republic New York Securities Corporation (''RNYSC'') is or becomes an affiliated person from section 9(a) of the Act, with respect to a cooperation and plea agreement entered into on December 17, 2001 between RNYSC and the U.S. Attorney for the Southern District of New York, until the Commission takes final action on the application for a permanent order. Applicants also have requested a permanent order.

Applicants: HSBC Holdings plc (''HSBC Holdings''), HSBC Asset Management (Americas) Inc. (''HAMU''), HSBC Asset Management (Taiwan) Ltd. (''HAMT'') and Framlington Overseas Investment Management Ltd. (''Framlington'').

Filing Date: The application was filed on December 17, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 11, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants: Winthrop N. Brown, Esq., Milbank, Tweed, Hadley & McCloy, LLP, 1825 Eye Street, Suite 1100, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 942–0614, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. HSBC Holdings is a U.K. corporation that, together with its subsidiaries and affiliates, provides a wide range of banking and financial services worldwide. HAMU, a New York corporation, is registered under the Investment Advisers Act of 1940 (the ''Advisers Act'') and acts as an investment adviser and subadviser to several registered investment companies (''funds''). HAMU is wholly owned by HSBC Bank USA (''HSBC Bank''), a New York state-chartered banking corporation and the principal U.S. bank subsidiary of HSBC Holdings. HAMT and Framlington, each indirect subsidiaries of HSBC Holdings, are registered under the Advisers Act and act as investment advisers and subadvisers to funds.[1] An indirect wholly owned subsidiary of HSBC Holdings, HSBC USA Inc. (''HSBC USA''), is the parent company of RNYSC. HSBC Holdings acquired Republic New York Corporation, the then parent company of RNYSC, on December 31, 1999.

2. On December 17, 2001, the U.S. Attorney for the Southern District of New York filed a two-count information (the ''Information'') in the U.S. District Court for the Southern District of New York alleging conspiracy in violation of 18 U.S.C. 371 and securities fraud in violation of 15 U.S.C. 78j(b) and 78ff. The Information charges RNYSC with conspiring to defraud certain Japanese entities (the ''Japanese Entities'') as a result of the conduct of certain employees of RNYSC. The conduct arises out of the involvement of the Futures Division of RNYSC with its customers, which included various special purpose entities with ''Princeton Global Management Limited'' in their names, Princeton Economics International (together, ''Princeton'') and the latter's chairman, Martin Armstrong. Mr. Armstrong sold approximately $3 billion (face value) of promissory notes to the Japanese Entities, the proceeds of which were deposited in Princeton accounts maintained at the Futures Division of RNYSC. Employees of the Futures Division of RNYSC issued letters containing inflated balances of the net asset values of certain of the Princeton accounts, some of which were provided by Mr. Armstrong to some of the Japanese Entities. The conduct at issue in the Information occurred over a four-year period beginning in 1995.

3.On December 17, 2001, RNYSC entered a plea of guilty to the charge in the Information pursuant to a written cooperation and plea agreement (the ''Cooperation and Plea Agreement'').[2] In the Cooperation and Plea Agreement, RNYSC agreed to compensate certain of

[1] Applicants request that any relief granted pursuant to the application also apply to any other entity of which RNYSC is or hereafter becomes an affiliated person (together with applicants, the ''Covered Persons'').

[2] Applicants have agreed to promptly file a copy of the Information and the Cooperation and Plea Agreement as an amendment to this Application.

the Japanese Entities by making restitution payments, and HSBC USA agreed to compensate the Japanese entities to the extent that the restitution amount exceeds the capital of RNYSC. As a result of the events leading up to the Information and the Cooperation and Plea Agreement, the Commodity Futures Trading Commission is entering an administrative order and simultaneously settling an administrative enforcement action against RNYSC alleging violations of sections 4b, 4d(a)(2), and 4(g) of the Commodity Exchange Act. Also as a result of the events leading to the Information and Cooperation and Plea Agreement, on December 17, 2001, the Commission entered an administrative order and simultaneously settled an administrative enforcement action against RNYSC alleging violations of section 17(a) of the Securities Act of 1933, as amended, and section 10(b) of the Securities Exchange Act of 1934, as amended, and revoking RNYSC's registrations as a broker-dealer.

Applicants' Legal Analysis

1. Section 9(a)(1) of the Act, in relevant part, prohibits a person from serving or acting in the capacity of an investment adviser, principal underwriter, or depositor for any registered investment company if the person has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of the person's conduct, among other things, as an underwriter, broker, dealer, investment adviser, or transfer agent. Section 9(a)(3) of the Act makes the prohibition in section 9(a)(1) applicable to a company any affiliated person of which has been convicted of a crime described in section 9(a)(1). The entry of the Cooperation and Plea Agreement makes the applicants subject to the prohibition in section 9(a)(3) of the Act. Other Covered Persons would be similarly disqualified pursuant to section 9(a)(3) of the Act were they to act in any of the capacities stated in section 9(a) of the Act with respect to a fund.

2. Section (c) of the Act provides that the Commission shall grant an application for an exemption from the disqualification provisions of section 9(a) of the Act if it is established that these provisions, as applied to applicants, are unduly or disproportionately severe or that applicants' conduct has been such as not to make it against the public interest or the protection of investors to grant the application. Applicants have filed an application pursuant to section 9(c) of the Act seeking temporary and permanent orders exempting them from the provisions of section 9(a) of the Act.

3. Applicants state that the prohibitions of section 9(a) as applied to applicants and other Covered Persons would be unduly and disproportionately severe and that the conduct of applicants has been such as not to make it against the public interest or protection of investors to grant the application. Applicants state that, if the exemption were not granted, the prohibition in section 9(a) would have a severe impact on the businesses of applicants that involve providing investment advisory services to funds even though those businesses were not involved in the matters underlying the Cooperation and Plea Agreement.

4. Applicants state that the prohibitions of section 9(a) of the Act would be especially unfair as applied to applicants and other Covered Persons, because they became subject to the section 9(a) prohibition solely because RNYSC became an affiliated person of applicants after the conduct underlying the Cooperation and Plea Agreement occurred.

5. Applicants assert that their conduct has been such as not to make it against the public interest or the protection of investors to grant the exemption from section 9(a). Applicants state that the matters forming the basis of the Cooperation and Plea Agreement are unrelated to the investment company business of applicants. The activities of RNYSC giving rise to the Cooperation and Plea Agreement do not involve or relate in any way to investment advisory services for funds, and applicants have not been able to identify any fund clients of applicants or any stockholders of any investment company client of applicants as having been affected by the matters giving rise to the Cooperation and Plea Agreement.

6. Applicants undertake to provide the funds that are advised or sub-advised by them with all information concerning the Cooperation and Plea Agreement and the exemptive application necessary for those funds to fulfill their disclosure and other obligations under the federal securities laws.

7. Applicants state that the employees of RNYSC who were identified by HSBC Holdings and RNYSC as having been responsible for the matters underlying the Cooperation and Plea Agreement are no longer employed by RNYSC or any Covered Person. Applicants also state that neither they nor any other Covered Person has ever previously applied for an exemption pursuant to section 9(c) of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involved or against, applicants, including without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

2. Neither applicants nor any of the other Covered Persons will employ any of the former employees of RNYSC who have previously or who may subsequently be identified as having been responsible for the conduct underlying the Cooperation and Plea Agreement, in any capacity without first making further application to the Commission pursuant to section 9(c).

Temporary Order

The Commission has considered the matter and finds that applicants have made the necessary showing to justify granting of a temporary exemption.

Accordingly,

It Is Hereby Ordered, under section 9(c), that applicants are granted a temporary exemption from the provisions of section 9(a), effective forthwith, solely with respect to the Cooperation and Pleas Agreement, subject to the conditions in the application, until the Commission takes final action on the application for a permanent order.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–31482 Filed 12–20–01; 8:45 am]

BILLING CODE 8010–01–P

permanent order.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–31482 Filed 12–20–01; 8:45 am]

BILLING CODE 8010–01–P

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given that Chapter S8 for the Office of the Inspector General (OIG) is being amended to reflect the retitling of five Divisions and the amendment to some of their functions. The new material and changes are as follows:

Section S8C.10 The Office of Audit—(Organization)

Retitle:

E. The Operational Audit Division (OAD)(S8CE) to the Southern Audit Division (SAD).

F. The Disability Program Audit Division (DPAD)(S8CG) to the Northern Audit Division (NAD).

G. The Program Benefits Audit Division (PBAD)(S8CH)to the Western Audit Division (WAD).

H. The Systems Audit Division (SAD)(S8CK) to the Data Analysis and Technology Audit Division (DATAD).

I. The Financial Management and Performance Monitoring Audit Division (FMPMAD)(S8CL) to the Financial Audit Division (FAD).

Section S8C.20 The Office Audit—(Functions)

Retitle and Amend in its entirety:

E. The Operational Audit Division (OAD)(S8CE) to the Southern Audit Division (SAD). Plans, and conducts, oversees and reports on the results of audits related to the SSA's Retirement, Survivors, and Disability Insurance Program; and the Supplemental Security Income Program. Specific audit responsibilities may include: Enumeration, Retirement, Survivors and Disability Insurance Initial Claims and Postentitlement Operations; Earnings Operations; Supplemental Security Income Initial Claims and Postentitlement Operations; Field Office Operations; Hearings and Appeals; Disability Determination Services; Representative Payees, Performance Measures; and various general management and administrative issues related to, but not limited to facilities management, personnel, payroll, and budgeting.

F. The Disability Program Audit Division (DPAD)(S8CG) to the Northern Audit Division (NAD). Plans, conducts, oversees and reports on the results of audits related to SSA's Retirement, Survivors and Disability Insurance Program; and the Supplemental Security Income Program. Specific audit responsibilities may include: Enumeration, Retirement, Survivors and Disability Insurance Initial Claims and Postentitlement Operations; Earnings Operations; Supplemental Security Income Initial Claims and Postentitlement Operations; Field Office Operations; Hearings and Appeals; Disability Determination Services; Representative Payees, Performance Measures; and various general management and administrative issues related to, but not limited to, facilities management, personnel Payroll, and budgeting.

G. The Program Benefits Audit Division (PBAD)(S8CH) to the Western Audit Division (WAD). Plans, conducts, oversees and reports on the results of audits related to SSA's Retirement, Survivors and Disability Insurance Program; and the Supplemental Security Income Program. Specific audit responsibilities may include: Enumeration, Retirement, Survivors and Disability Insurance Initial Claims and Postentitlement Operations; Earnings Operations; Supplemental Security Income Initial Claims and Postentitlement Operations; Field Office Operations; Hearings and Appeals; Disability Determination Services; Representative Payees, Performance Measures; and various general Management and administrative issues related to, but not limited to, facilities management, personnel, payroll, and budgeting.

Retitle:

H. The Systems Audit Division (SAD)(S8CK)to the Data Analysis and Technology Audit Division (DATAD).

Retitle and Add:

I. The Financial Management and Performance Monitoring Audit Division (FMPMAD)(S8CL) to the Financial Audit Division (FAD).

4. The division may also perform various financial related audits of SSA's Retirement, Survivors and Disability Insurance Program; and the Supplemental Security Income Program. Specific audit responsibilities may include: Enumeration, Retirement, Survivors and Disability Insurance Initial Claims and Postentitlement Operations; Earnings Operations; Supplemental Security Income Initial Claims and Postentitlement Operations; Field Office Operations; Hearings and Appeals; Disability Determination Services and Representative Payees.

Dated: December 10, 2001.

James G. Huse,

Inspector General for SSA.

[FR Doc. 01–31455 Filed 12–20–01; 8:45 am]

BILLING CODE 4191–02–U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–120]

Extension of Investigation and Request for Public Comment: Wheat Trading Practices of the Canadian Wheat Board

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: The United States Trade Representative (Trade Representative) has decided to extend his investigation of the wheat trading practices of the Government of Canada and the Canadian Wheat Board until January 22, 2002. The Office of the United States Trade Representative (USTR) invites public comments on the issues in the investigation.

DATES: Comments are due on or before 5 pm on Monday, January 14, 2002.

ADDRESS: Comments should be submitted (i) electronically, to *FR0011@ustr.gov,* with Docket 301–120 in the subject line, or (ii) by mail, to Sybia Harrison, Staff Assistant to the Section 301 Committee, ATTN: Docket 301–120, Office of the United States Trade Representative, 1724 F Street, NW, Room 217, Washington, DC 20508, with a confirmation copy sent electronically or by fax to 202–395–9458.

FOR FURTHER INFORMATION CONTACT: Sharon Bomer Lauritsen, Director of Agricultural Affairs, (202) 395–6127, or William Busis, Associate General Counsel, (202) 395–3150. For information concerning procedures for submitting public comments, please contact Sybia Harrison, Staff Assistant to the Section 301 Committee, (202) 395–3419.

SUPPLEMENTARY INFORMATION: On September 8, 2000, the North Dakota Wheat Commission filed a petition pursuant to section 302(a) of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2412(a)), alleging that certain wheat trading practices of the Government of Canada and the Canadian Wheat Board (CWB) are unreasonable, and that such practices burden or restrict U.S. commerce. In response to the petition, the Trade

Representative initiated an investigation on October 23, 2000 to determine whether such acts, policies or practices of the Government of Canada and the Canadian Wheat Board with respect to wheat trading are unreasonable and burden or restrict U.S. commerce and are, therefore, actionable under section 301. See 65 FR 69,362 (Nov. 16, 2000).

On March 30, 2001 the Trade Representative requested that the United States International Trade Commission (ITC) conduct an investigation, pursuant to section 332 of the Tariff Act of 1930, of the conditions of competition between the U.S. and Canadian wheat industries in the United States and third-country markets. The ITC issued a confidential version of its Section 332 report on November 1, 2001, and a public version is scheduled for release on December 21, 2001. The report is entitled: ''Wheat Trading Practices: Competitive Conditions Between U.S. and Canadian Wheat (Inv. No. 332–429).''

On September 24, 2001, the petitioner requested in writing that the Trade Representative delay a decision on the actionability of CWB practices until January 22, 2002. In light of the petitioner's request and in order to have sufficient time to analyze the ITC Section 332 report, the Trade Representative decided to extend his investigation until January 22, 2002. Accordingly, on October 5, 2001 the Trade Representative determined under Section 304(a)(1) of the Trade Act that he had insufficient information at that time to make a final determination that the wheat trading practices of the Government of Canada and the Canadian Wheat Board are actionable under Section 301(b), and announced that he would make a determination as to actionability by January 22, 2002.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments on any issues raised in the petition or in other submissions to USTR in this investigation. In particular, comments are invited regarding (i) The actionability under Section 301(b) of the Trade Act of the acts, policies and practices of the Government of Canada and the Canadian Wheat Board that are the subject of this investigation; (ii) the burden or restriction, if any, on U.S. commerce caused by these acts, policies and practices; and (iii) appropriate action under section 301 which could be taken in response. In preparing comments, interested persons may wish to draw on the information or analysis contained in the ITC report.

Persons submitting comments in response to this notice should, by no later than 5 pm on Monday, January 14, 2002, either send one copy by U.S. mail, first class, postage prepaid, to Sybia Harrison at the address listed above or transmit a copy electronically to *FR0011@ustr.gov,* with Docket 301–120 in the subject line. For documents sent by U.S. mail, USTR requests that the submitter provide a confirmation copy, either electronically or by fax to 202–395–9458. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. For any document containing business confidential information submitted by electronic transmission, the file name of the business confidential version should begin with the characters ''BC'', and the file name of the public version should begin with the characters ''P''. The ''P'' or ''BC'' should be followed by the name of the submitter. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments will be placed in a file (Docket 301–120) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top of each page, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection. Copies of the public version of the petition, other documents submitted in the investigation, and the public version of the ITC Section 332 report are available for public inspection in the USTR Reading Room. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, and is located in Room 3, First Floor, Office of the United States Trade Representative, 1724 F Street, NW, Washington, DC 20508. An appointment to review the docket (Docket No. 301–120) may be made by calling Brenda Webb at (202) 395–6186.

William L. Busis,

Chairman, Section 301 Committee.

[FR Doc. 01–31589 Filed 12–20–01; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Board of Directors on Thursday, January 17, 2002. The meeting begins at 1:00 p.m. The session includes the following items: (1) Welcome & Introductions, & ITS America Antitrust Policy & Conflict of Interest Statements; (2) Approval of Minutes from the September 21, 2001 Board Meeting; (3) December 17, 2001 Executive Committee Meeting Report; (4) Federal Report; (5) President's Report; (6) Finance Committee Report and Approval of 2002 Budget; (7) Nominating Committee Report; (8) Bylaws Task Force Report; (9) 511 Guidelines Resolution Review and Approval; (10) Coordinating Council Reorganization; and (11) Adjournment.

ITS America provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities.

The charter for the utilization of ITS America establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 USC app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Board of Directors of ITS AMERICA will meet on Thursday, January 17, 2002 at 1 p.m.

ADDRESSES: Marriott Wardman Park Hotel, 2660 Woodley Road, NW, Washington, DC 20008, (202) 328–2000; Fax (202) 234–0015.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW, Suite 800, Washington, DC 20024. Persons needing further information or who request to speak at this meeting should contact Debbie M. Busch at ITS

AMERICA by telephone at (202) 484–2904 or by Fax at (202) 484–3483. The DOT contact is Kristy Frizzell, FHWA, HOIT, Washington, DC 20590, (202) 366–9536. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: December 17, 2001.

Jeffrey Paniati,

Program Manager, ITS Joint Program Office, US Department of Transportation.

[FR Doc. 01–31516 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Coordinating Council on Tuesday, January 15, 2001, at its headquarters. The meeting begins at 1 p.m.

The General Session includes the following items: (1) Housekeeping Items: Welcome, Introductions, Antitrust statement, previous minutes, etc.; (2) Coordinating Council Reorganization; (3) Closing Housekeeping (Next meeting dates/locations?); (4) Adjournment.

ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities.

The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Coordinating Council of ITS AMERICA will meet on Tuesday, January 15, 2001 from 1 p.m.–4 p.m. at the ITS America Offices in Conference Room #1.

ADDRESS: ITS America, 400 Virginia Avenue, SW., Suite #800, Washington, DC 20024. (202) 484–4847 and the fax (202) 484–3483.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW., Suite 800, Washington, DC 20024. Persons needing further information or who request to speak at this meeting should contact Debbie M. Busch at ITS AMERICA by telephone at (202) 484–2904 or by FAX at (202) 484–3483. The DOT contact is Kristy Frizzell, FHWA, HOIT, Washington, DC 20590, (202) 366–9536. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: December 18, 2001.

Jeffrey Paniati,

Program Manager, ITS Joint Program Office, Department of Transportation.

[FR Doc. 01–31525 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2001–10816

Applicant: Montana Rail Link, Incorporated, Mr. Richard L. Keller, Chief Engineer, Post Office Box 16390, Missoula, Montana 59808–6390.

Montana Rail Link, Incorporated seeks approval of the proposed modification of the signal system, on the Eastward Main Track, at milepost 224.5, on the First Subdivision Division, near Billings, Montana, consisting of the discontinuance and removal of intermediate signal 2245.

The reason given for the proposed changes is to upgrade the signal system and improve train operations between East Billings and milepost 224.6 on the Eastward Main Track.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. 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.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on December 17, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards, and Program Development.

[FR Doc. 01–31520 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Preparation of an Environmental Impact Statement on a Transit Connection Between the 6400 West Light Rail Station and South Jordan in Metropolitan Salt Lake City, UT

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA), in cooperation with the Wasatch Front Regional Council (WFRC) and Utah Transit Authority (UTA), is issuing this notice to advise interested agencies and the public that, in accordance with the National Environmental Policy Act (NEPA), an Environmental Impact Statement (EIS) will be prepared for a transit connection from the North-South Light Rail (TRAX) Station at 6400 West, extending westward along, or near, an existing rail corridor to a logical terminus in the city of South Jordan. The need for the proposed

transportation project was identified in the South Salt Lake County ''Transit Corridors Analysis'' completed in December 2000. In addition to the rail transit alternatives from the ''Transit Corridors Analysis,'' the No-Build Alternative and any new alternatives generated through the scoping process will be evaluated. Scoping will be accomplished through coordination with interested persons, organizations, and federal, state, and local agencies. FTA is serving as the federal lead agency for the project in anticipation of a grant application from UTA for its construction. Based on the results of the scoping process, FTA will establish the scope of the environmental review under NEPA, including the identification of environmental issues and effects to be addressed and the reasonable alternatives to be retained for detailed evaluation.

DATES: Interagency and public scoping and information meetings will be held on the following dates at the locations indicated:

Interagency Scoping Meeting: Wednesday, January 9, 2002 from 2:00 p.m. to 4:00 p.m., at the Wasatch Front Regional Council, 295 North Jimmy Doolittle Road, Salt Lake City, UT 84116.

Public Scoping Meeting No. 1: Wednesday, January 9, 2002 from 5:00 p.m. to 8:00 p.m. at the Utah Transit Authority Board Room, located at 3600 South 700 West, Salt Lake City, UT 84119–0810.

Public Scoping Meetings No. 2: Saturday January 12, 2002 from 9:00 a.m. to 11:00 a.m. at the West Jordan City Hall, located at 8000 South Redwood Road, West Jordan, UT 84088.

Written comments on the scope of the environmental study should be sent by January 28, 2002, to Barry Banks, Project Manager, Wasatch Front Regional Council, 295 North Jimmy Doolittle Road, Salt Lake City, UT 84116.

ADDRESSES: The addresses where scoping meeting will be held and where comments on the scope of the study may be sent, appear above in the **DATES** section. A Scoping Booklet is available from Barry Banks, Project Manager, Wasatch Front Regional Council, 295 North Jimmy Doolittle Road, Salt Lake City, UT 84116 or by calling the project information line at (801)–904–4127.

FOR FURTHER INFORMATION CONTACT: Don Cover, Federal Transit Administration, 216 16th Street, Suite 650, Denver, Colorado 80202; telephone (303) 844–3242.

SUPPLEMENTARY INFORMATION:

I. Scoping

The WFRC and UTA will hold interagency and public scoping meetings as presented in the **DATES** section above. At these meetings, WFRC and UTA will present the results of the ''Transit Corridors Analysis'' and the alternatives proposed for detailed evaluation in the EIS. At the public meetings, interested persons will have an opportunity to speak individually with a WFRC or UTA representative. In addition, a WFRC or UTA person will be available to receive written and record verbal comments on the scope of the NEPA review. All scoping meeting locations are accessible to persons with disabilities. Individuals who require special accommodations, such as a sign language interpreter, to participate in the meeting should contact Ms. Sherry L. Repscher, ADA Compliance Officer, Utah Transit Authority, 3600 South 700 West, Salt Lake City, UT 84119–0810 or by telephone at (801) 262–5626 or TDD at (801)–287–4657. Interested individuals, organizations, and public agencies are invited to attend the scoping meetings and participate in identifying any important environmental impact issues related to the proposed alternatives and suggesting alternatives which would be more economical or would have less environmental impact while achieving similar transportation objectives. An information packet, referred to as the Scoping Booklet, will be distributed to all public agencies and interested individuals and will be available at the meetings. Others may request the Scoping Booklet by contacting Barry Banks at the address listed above in *ADDRESSES.* Anyone wishing to be placed on the project mailing list to receive meeting notices and further information as the project develops should also contact Barry Banks at the address listed in **ADDRESSES** or call the project information line (801) 904–4127. Comments during the scoping period should focus on identifying the social, economic, and environmental concerns associated with the proposed action, and alternatives that deserve consideration, and not on a preference for a particular alternative. Comments regarding preference for a particular alternative may be submitted during subsequent public meetings or at a hearing on the Draft Environmental Impact Statement, when it is published. Scoping comments may be made at the scoping meetings or may be directed in writing to Barry Banks, Project Manager, at the address given in **ADDRESSES.**

II. Description of the Project Area and Transportation Need

The UTA North-South TRAX system that now includes the extension from the Salt Lake City Central Business District (CBD) to the University of Utah provides the spine for an expanded Light Rail Transit (LRT) system to serve more communities in Salt Lake County. Recent passage of a ¼ cent regional sales tax increase indicates broad public support for expansion and improvement of transit services throughout Salt Lake, Davis and Weber Counties. Expanded and improved bus service and extensions of the existing LRT system have been studied for several years by WFRC and UTA, and the Mid-Jordan Transit Corridor has been identified as a high priority for the proposed LRT extension.

In December 2000, a ''Transit Corridor Analysis'' evaluated alternatives for transit improvements in the existing rail corridor extending from the North-South Light Rail (TRAX) line westward through the cities of Midvale and West Jordan. This analysis identified significant and growing demand for transit service in this corridor and concluded that implementation of rail transit in this corridor held advantages over other alternatives. A copy of the ''Transit Corridor Analysis'' (executive summary) is available for review by contacting Barry Banks, Project Manager, as previously presented, or on the Internet at *www.wfrc.org.* The proposed alternative emerging from this study was the extension of rail service, using either LRT or ''diesel multiple unit'' (DMU) technology, to the Salt Lake City Community College in West Jordan. The proposed alignment crosses Interstate Highway 15 and the Union Pacific mainline on existing structures and would connect several major trip generators in Midvale and West Jordan with TRAX. Since completion of this analysis in December 2000, Kennecott Development Corporation has announced a major planned residential community called ''Sunrise'' in South Jordan. The proposed project would extend westward to include service to this community, so the City of South Jordan is included within the study area boundary.

The Mid-Jordan Transit Corridor Project is included in Phase I (2002–2012) of the Wasatch Front Regional Council's 2030 regional Long-Range Transportation Plan, which is expected to be approved by spring of 2002. The proposed project will be coordinated with on-going efforts to preserve a Western Transportation Corridor (WTC) in Salt Lake County. The WTC has been

identified as a north-south, multi-modal corridor; located at approximately 5800 West. The regional Long-Range Transportation Plan calls for corridor preservation, construction of highway facilities and improved transit service in the WTC.

III. Alternatives To Be Studied

A feasibility analysis was conducted as part of the South Salt Lake County Transit Corridors Analysis. During scoping, the alternatives, findings and issues covered in the earlier studies will be reviewed and will be either affirmed or, if necessary, reconsidered in detail during the NEPA process.

The alternatives expected to be considered in detail in the EIS include:

• A ''no-build'' alternative: This alternative represents no change in transportation services or facilities in the corridor beyond already committed projects. Committed projects include those transit improvements defined in the transportation agencies' Long-Range Transportation Plans and Transit Development Plans for which funding has been committed.

• Transportation Systems Management Alternative: This alternative consists of low-cost infrastructure and bus transit improvements, Intelligent Transportation Systems (ITS) improvements, improvements in bus routes and operations, and other transportation systems management improvements.

• Rail Transit Alternatives: These alternatives represent the construction of a rail transit system using either LRT (electric powered from overhead wires) or DMU (diesel powered by on-board motors) technology. The eastern terminus of the project would be the North-South (TRAX) LRT Line at the 6400 South Station. Opportunities for interlining with the existing (TRAX) system will be explored for the LRT alternative. The rail alternatives would also include all facilities associated with the construction and operations of a rail transit line, including right of way, structures, track, stations, park-and-ride lots, storage and maintenance facilities, and the respective rail and bus operating plans.

IV. Probable Effects

The EIS will be prepared in accordance with NEPA and its implementing regulations including those of the Council on Environmental Quality (CEQ) implementing NEPA (40 CFR parts 1500–1508), and the FTA regulation on environmental procedures shared with the Federal Highway Administration (23 CFR part 771). The EIS will evaluate the social, economic, and environmental impacts of the alternatives. Primary concerns to be addressed include: Safety at grade crossings, site contamination in railroad rights-of-way, property effects including business disruptions and relocation, impacts on local traffic and travel patterns, noise and vibration impacts, land use impacts, wetland impacts, and aesthetic/visual impacts. The cumulative impacts of the project together with other reasonably foreseeable actions and activities will be addressed.

V. FTA New Starts Procedures

Following public review of the Draft EIS, the UTA will request FTA approval to initiate Preliminary Engineering, in accordance with the FTA New Starts regulation (49 CFR part 611). FTA will consider the merits of the project at that time, in comparison with other projects across the nation competing for New Starts funding, and either recommend or not recommend that the preferred alternative advance into Preliminary Engineering, which would include the preparation of the Final EIS.

Issued on: December 12, 2001.

Lee O. Waddleton,

Regional Administrator, Federal Transit Administration.

[FR Doc. 01–31526 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Preparation of An Environmental Impact Statement on a Transit Connection Between the 2100 South Light Rail Station and the Cities of West Valley City and Taylorsville in Metropolitan Salt Lake City, UT

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA), in cooperation with the Wasatch Front Regional Council (WFRC) and Utah Transit Authority (UTA), is issuing this notice to advise interested agencies and the public that, in accordance with the National Environmental Policy Act (NEPA), an Environmental Impact Statement (EIS) will be prepared for a transit connection westward from the North-South Light Rail line to a logical terminus near the West Valley City center. Possible extensions or other transit improvements extending southward to the city of Taylorsville will also be evaluated. This proposed transportation project was identified in a Type I Major Investment Study (MIS) completed in March 2000. In addition to the rail transit alternatives from the ''Transit Corridors Analysis,'' the No-Build Alternative and any new alternatives generated through the scoping process will be evaluated. Scoping will be accomplished through coordination with interested persons, organizations, and federal, state, and local agencies. FTA is serving as the federal lead agency for the project in anticipation of a grant application from UTA for its construction. Based on the results of the scoping process, FTA will establish the scope of the environmental review under NEPA, including the identification of environmental issues and effects to be addressed and the reasonable alternatives to be retained for detailed evaluation.

DATES: Interagency and public scoping and information meetings will be held on the following dates at the locations indicated:

Interagency Scoping Meeting: Wednesday, January 9th, 2002 from 10 a.m. to noon, at the Wasatch Front Regional Council, 295 North Jimmy Doolittle Road, Salt Lake City, UT 84116.

Public Scoping Meeting No. 1: Wednesday, January 9, 2002 from 5 p.m. to 8 p.m. at the Utah Transit Authority Board Room, located at 3600 South 700 West, Salt Lake City, UT 84119–0810.

Public Scoping Meeting No. 2: Saturday, January 12, 2002 from 9 a.m. to 11 a.m. at the West Valley City Hall located at 3600 South Constitution Blvd., West Valley City, UT 84119–3720.

Written comments on the scope of the environmental study should be sent by January 28, 2002, to Barry Banks, Project Manager, Wasatch Front Regional Council, 295 North Jimmy Doolittle Road, Salt Lake City, UT 84116.

ADDRESSES: The addresses where scoping meetings will be held and where comments on the scope of the study may be sent, appear above in the **DATES** section. A Scoping Booklet is available from Barry Banks, Project Manager, Wasatch Front Regional Council, 295 North Jimmy Doolittle Road, Salt Lake City, UT 84116 or by calling the project information line at (801) 904–4127.

FOR FURTHER INFORMATION CONTACT: Don Cover, Federal Transit Administration, 216 16th Street, Suite 650, Denver, Colorado 80202; telephone (303) 844–3242.

SUPPLEMENTARY INFORMATION:

I. Scoping

The WFRC and UTA will hold interagency and public scoping meetings as presented in the **DATES** section above. At these meetings, WFRC and UTA will present the results of the ''Type 1 MIS'' and the alternatives proposed for detailed evaluation in the EIS. At the public meetings, interested persons will have an opportunity to speak individually with a WFRC or UTA representative. In addition, a WFRC or UTA person will be available to receive written and record verbal comments on the scope of the NEPA review. All scoping meeting locations are accessible to persons with disabilities. Individuals who require special accommodations, such as a sign language interpreter, to participate in the meeting should contact Ms. Sherry L. Repscher, ADA Compliance Officer, Utah Transit Authority, 3600 South 700 West, Salt Lake City, UT 84119–0810 or by telephone at (801) 262–5626 or TDD at (801) 287–4657. Interested individuals, organizations, and public agencies are invited to attend the scoping meetings and participate in identifying any important environmental impact issues related to the proposed alternatives and suggesting alternatives which would be more economical or would have less environmental impact while achieving similar transportation objectives. An information packet, referred to as the Scoping Booklet, will be distributed to all public agencies and interested individuals and will be available at the meetings. Others may request the Scoping Booklet by contacting Barry Banks at the address listed above in **ADDRESSES.** Anyone wishing to be placed on the project mailing list to receive meeting notices and further information as the project develops should also contact Barry Banks at the address listed in **ADDRESSES** or call the project information line (801) 904–4127. Comments during the scoping period should focus on identifying the social, economic, and environmental concerns associated with the proposed action, and alternatives that deserve consideration, and not on a preference for a particular alternative. Comments regarding preference for a particular alternative may be submitted during subsequent public meetings or at a hearing on the Draft Environmental Impact Statement, when it is published. Scoping comments may be made at the scoping meetings or may be directed in writing to Barry Banks, Project Manager, at the address given in **ADDRESSES.**

II. Description of the Project Area and Transportation Need

The UTA North-South TRAX system that now includes the extension from the Salt Lake City Central Business District (CBD) to the University of Utah provides the spine for an expanded Light Rail Transit (LRT) system to serve more communities in Salt Lake County. Recent passage of a ¼ cent regional sales tax increase indicates broad public support for expansion and improvement of transit services throughout Salt Lake, Davis and Weber Counties. Expanded and improved bus service and extensions of the existing LRT system have been studied for several years by WFRC and UTA, and the West Valley City Transit Corridors has been identified as a high priority among five proposed LRT corridors previously studied by WFRC and UTA.

In March 2000, a Major Investment Study (MIS) was completed for a transportation corridor connecting West Valley City, Utah's second most populous, with Salt Lake City. The Locally Preferred Alternative (LPA) emerging from this MIS was an LRT extension extending from the existing North-South (TRAX) Light Rail line near Andy Avenue to the West Valley City center. The proposed alignment crosses Interstate Highways 15 and 215 utilizing existing structures and would connect several major trip generators in West Valley City with TRAX. The MIS identified significant and growing demand for transit service in this corridor and concluded that construction of LRT in this corridor held far more advantages than other alternatives. This concept enjoys strong support from local government. The Project Sponsors propose to advance the West Valley City Corridor through the EIS–PE phase of development in two contract phases. This first phase (DEIS) includes all work necessary to gain FTA approval to commence PE in the corridor. The current planning and project approval status for this corridor follows.

A copy of the ''Type I MIS'' (executive summary) is available for review by contacting Barry Banks, Project Manager, as previously presented, or on the Internet at *www.wfrc.org.*

III. Alternatives To Be Studied

A feasibility analysis was conducted as part of the South Lake County Transit Corridors Analysis. During scoping, the alternatives, findings and issues covered in the earlier studies will be reviewed and will be either affirmed or, if necessary, reconsidered in detail during the NEPA process.

The alternatives expected to be considered in detail in the EIS include:

- A ''no-build'' alternative: This alternative represents no change in transportation services or facilities in the corridor beyond already committed projects. Committed projects include those transit improvements defined in the transportation agencies' Long-Range Transportation Plans and Transit Development Plans for which funding has been committed.
- Transportation Systems Management Alternative: This alternative consists of low-cost infrastructure and bus transit improvements, Intelligent Transportation Systems (ITS) improvements, improvements in bus routes and operations, and other transportation systems management improvements.
- Rail Transit Alternatives: These alternatives represent the construction of a rail transit system using LRT technology. The eastern terminus of the project would be the North-South (TRAX) LRT Line at the 2100 South Station. Opportunities for interlining with the existing (TRAX) system will be explored for the LRT alternative. The rail alternatives would also include all facilities associated with the construction and operations of a rail transit line, including right of way, structures, track, stations, park-and-ride lots, storage and maintenance facilities, and the respective rail and bus operating plans.

IV. Probable Effects

The EIS will be prepared in accordance with NEPA and its implementing regulations including those of the Council on Environmental Quality (CEQ) implementing NEPA (40 CFR parts 1500–1508), and the FTA regulation on environmental procedures shared with the Federal Highway Administration (23 CFR part 771). The EIS will evaluate the social, economic, and environmental impacts of the alternatives. Primary concerns to be addressed include: safety at grade crossings, site contamination in railroad rights-of-way, property effects including business disruptions and relocation, impacts on local traffic and travel patterns, noise and vibration impacts, land use impacts, wetland impacts, and aesthetic/visual impacts. The cumulative impacts of the project together with other reasonably foreseeable actions and activities will be addressed.

V. FTA New Starts Procedures

Following public review of the Draft EIS, the UTA will request FTA approval

to initiate Preliminary Engineering, in accordance with the FTA New Starts regulation (49 CFR part 611). FTA will consider the merits of the project at that time, in comparison with other projects across the nation competing for New Starts funding, and either recommend or not recommend that the preferred alternative advance into Preliminary Engineering, which would include the preparation of the Final EIS.

Issued on: December 12, 2001.

Lee O. Waddleton,

Regional Administrator, Federal Transit Administration.

[FR Doc. 01–31527 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–11185]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before February 19, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Thomas, Maritime Administration, MAR–250, 400 Seventh St., SW., Washington, DC 20590. Telephone: 202–366–2646 or Fax 202–493–2288.

Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Regulations for Making Excess or Surplus Federal Property Available to the U.S. Merchant Marine Academy and State Maritime Academies.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0504.

Form Numbers: None.

Expiration Date of Approval: June 30, 2002.

Summary of Collection of Information: In accordance with U.S.C. 12959, MARAD requires approved maritime training institutions seeking excess or surplus property to provide a statement of need/justification prior to acquiring the property.

Need and Use of the Information: This information collection is used by the requestor to provide a justification of the intended use of the surplus property, and is needed by MARAD to determine compliance with applicable statutory requirements.

Description of Respondents: Maritime training institutions.

Annual Responses: 60.

Annual Burden: 60 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at *http://dmses.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT, Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

By Order of the Maritime Administrator.

Dated: December 17, 2001.

Joel C. Richard,

Secretary.

[FR Doc. 01–31451 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–10902]

Insurer Reporting Requirements; Reports under 49 U.S.C. on Section 33112(c)

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of availability.

SUMMARY: This notice announces publication by NHTSA of the annual insurer report on motor vehicle theft for the 1996 reporting year. Section 33112(c) of Title 49 of the U.S. Code, requires this information to be compiled periodically and published by the agency in a form that will be helpful to the public, the law enforcement community, and Congress. As required by section 33112(c), this report provides information on theft and recovery of vehicles; rating rules and plans used by motor vehicle insurers to reduce premiums due to a reduction in motor vehicle thefts; and actions taken by insurers to assist in deterring thefts.

ADDRESSES: Due to the voluminous content of this report, interested persons may obtain a copy of this report by contacting the Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. Docket hours are from 9:30 a.m. to 5 p.m., Monday through Friday. Requests should refer to Docket No. 99–001; Notice 04. This report without appendices may also be viewed on-line at: *http://www.nhtsa.dot.gov/cars/rules/theft.*

FOR FURTHER INFORMATION: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: The Motor Vehicle Theft Law Enforcement Act of 1984 (Theft Act) was implemented to enhance detection and prosecution of motor vehicle theft (Pub. L. 98–547). The Theft Act added a new Title VI to the Motor Vehicle Information and Cost Savings Act, which required the Secretary of Transportation to issue a theft prevention standard for identifying major parts of certain high-theft lines of passenger cars. The Act also addressed several other actions to reduce motor vehicle theft, such as increased criminal penalties for those who traffic in stolen vehicles and parts, curtailment of the exportation of stolen motor vehicles and off-highway mobile equipment, establishment of penalties for dismantling vehicles for the purpose of trafficking in stolen parts, and development of ways to encourage decreases in premiums charged to consumers for motor vehicle theft insurance.

Title VI (which has since been recodified as 49 U.S.C. chapter 331), was designed to impede the theft of motor vehicles by creating a theft prevention standard which required manufacturers of designated high-theft car lines to inscribe or affix a vehicle identification number onto major components and replacement parts of all vehicle lines selected as high theft. The theft standard became effective in Model Year 1987 for designated high-theft car lines.

The Anti Car Theft Act of 1992 (Pub. L. 102–519) amended the law relating to the parts-marking of major component

parts on designated high-theft vehicles. One amendment made by the Anti Car Theft Act was to 49 U.S.C. 33101(10), where the definition of ''passenger motor vehicle'' now includes a ''multipurpose passenger vehicle or light-duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight.'' Since ''passenger motor vehicle'' was previously defined to include passenger cars only, the effect of the Anti Car Theft Act is that certain multipurpose passenger vehicle (MPV) and light-duty truck (LDT) lines may be determined to be high-theft vehicles subject to the Federal motor vehicle theft prevention standard (49 CFR part 541).

Section 33112 of Title 49 requires subject insurers or designated agents to report annually to the agency on theft and recovery of vehicles, on rating rules and plans used by insurers to reduce premiums due to a reduction in motor vehicle thefts, and on actions taken by insurers to assist in deterring thefts. Rental and leasing companies also are required to provide annual theft reports to the agency. In accordance with 49 CFR 544.5, each insurer, rental and leasing company to which this regulation applies must submit a report annually not later than October 25, beginning with the calendar year for which they are required to report. The report would contain information for the calendar year three years previous to the year in which the report is filed. The report that was due by October 25, 1999 contains the required information for the 1996 calendar year.

The annual insurer reports provided under section 33112 are intended to aid in implementing the Theft Act and fulfilling the Department's requirements to report to the public the results of the insurer reports. The first annual insurer report, referred to as the Section 612 Report on Motor Vehicle Theft, was prepared by the agency and issued in December 1987. The report included theft and recovery data by vehicle type, make, line, and model which were tabulated by insurance companies and, rental and leasing companies. Comprehensive premium information for each of the reporting insurance companies was also included. This report, the twelfth, discloses the same subject information and follows the same reporting format.

Issued on: December 17, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–31517 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–11165]

Decision That Certain Nonconforming Motor Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that certain nonconforming motor vehicles Are eligible for importation.

SUMMARY: This document announces decisions by NHTSA that certain motor vehicles not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and/or sale in the United States and certified by their manufacturers as complying with the safety standards, and they are capable of being readily altered to conform to the standards.

DATE: These decisions are effective as of the date of their publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

NHTSA received petitions from registered importers to decide whether the vehicles listed in Annex A to this notice are eligible for importation into the United States. To afford an opportunity for public comment, NHTSA published notice of these petitions as specified in Annex A. The reader is referred to those notices for a thorough description of the petitions. No comments were received in response to these notices. Based on its review of the information submitted by the petitioners, NHTSA has decided to grant the petitions.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. Vehicle eligibility numbers assigned to vehicles admissible under this decision are specified in Annex A.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that each motor vehicle listed in Annex A to this notice, which was not originally manufactured to comply with all applicable Federal motor vehicle safety standards, is substantially similar to a motor vehicle manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. 30115, as specified in Annex A, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 18, 2001.

Marilynne Jacobs, Director,

Office of Vehicle Safety Compliance.

Annex A

Nonconforming Motor Vehicles Decided to be Eligible for Importation

1. Docket No. NHTSA–2001–9848

Nonconforming Vehicle: 1997 Chevrolet Cavalier passenger cars.

Substantially similar U.S.-certified vehicle: 1997 Chevrolet Cavalier passenger cars.

Notice of Petition Published at: 66 FR 35503 (July 5, 2001).

Vehicle Eligibility Number: VSP–369.

2. Docket No. NHTSA–2001–9631

Nonconforming Vehicles: 1999–2001 BMW 7 Series passenger cars.

Substantially similar U.S.-certified vehicles: 1999–2001 BMW 7 Series passenger cars.

Notice of Petition Published at: 66 FR 28026 (May 21, 2001).

Vehicle Eligibility Number: VSP–366.

3. Docket No. NHTSA–2000–9739

Nonconforming Vehicles: 1998–2001 BMW R1100 motorcycles.

Substantially similar U.S.-certified vehicles: 1998–2001 BMW R1100 motorcycles.

Notice of Petition Published at: 66 FR 31748 (June 12, 2001).

Vehicle Eligibility Number: VSP–368.

4. Docket No. NHTSA–2001–9562

Nonconforming Vehicles: 1992 Chevrolet Corvette passenger cars.

Substantially similar U.S.-certified vehicles: 1992 Chevrolet Corvette passenger cars.

Notice of Petition Published at: 66 FR 28019 (May 21, 2001).

Vehicle Eligibility Number: VSP–365.

5. Docket No. NHTSA–2001–9649

Nonconforming Vehicles: 1995–2000 KTM Duke II motorcycles.

Substantially similar U.S.-certified vehicles: 1995–2000 KTM Duke II motorcycles.

Notice of Petition Published at: 66 FR 28024 (May 21, 2001).

Vehicle Eligibility Number: VSP–363.

6. Docket No. NHTSA–2001–9560

Nonconforming Vehicle: 2000–2001 Audi TT passenger cars.

Substantially similar U.S.-certified vehicle: 2000–2001 Audi TT passenger cars.

Notice of Petition Published at: 66 FR 28023 (May 21, 2001).

Vehicle Eligibility Number: VSP–364.

7. Docket No. NHTSA–2001–9732

Nonconforming Vehicles: 1993 Ford Mustang passenger cars.

Substantially similar U.S.-certified vehicles: 1993 Ford Mustang passenger cars.

Notice of Petition Published at: 66 FR 30264 (June 5, 2001).

Vehicle Eligibility Number: VSP–367.

8. Docket No. NHTSA–2001–9947

Nonconforming Vehicles: 2000–2001 Mercedes Benz S500 and S600 passenger cars.

Substantially similar U.S.-certified vehicles: 2000–2001 Mercedes Benz S500 and S600 passenger cars.

Notice of Petition Published at: 66 FR 37722 (July 19, 2001).

Vehicle Eligibility Number: VSP–371.

9. Docket No. NHTSA–2001–10512

Nonconforming Vehicles: 2002 Harley Davidson FX, FL, and XL motorcycles.

Substantially similar U.S.-certified vehicles: 2002 Harley Davidson FX, FL, and XL motorcycles.

Notice of Petition Published at: 66 FR 46678 (September 6, 2001).

Vehicle Eligibility Number: VSP–372.

[FR Doc. 01–31519 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 558 (Sub–No. 5)]

Railroad Cost of Capital—2001

AGENCY: Surface Transportation Board.

ACTION: Notice of decision instituting a proceeding to determine the railroads' 2001 cost of capital.

SUMMARY: The Board is instituting a proceeding to determine the railroad industry's cost of capital for 2001. The decision solicits comments on: (1) The railroads' 2001 cost of debt capital; (2) the railroads' 2001 current cost of preferred stock equity capital; (3) the railroads' 2001 cost of common stock equity capital; and (4) the 2001 capital structure mix of the railroad industry on a market value basis.

DATES: Notices of intent to participate are due no later than January 14, 2002. Statements of the railroads are due by March 29, 2002. Statements of other interested persons are due by April 22, 2002. Rebuttal statements by the railroads are due by May 13, 2002.

ADDRESSES: Send an original and 10 copies of statements and a copy of the statement on a 3.5 inch disk in WordPerfect 9.0, and an original and 1 copy of the notice of intent to participate to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K Street, NW, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Leonard J. Blistein, (202) 565–1529. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To obtain a copy of the full decision, write to, call, or pick up in person from the Board's contractor, Dā- To Dā Legal, Suite 405, 1925 K Street, NW, Washington, DC 20006, phone (202) 293–7776. [Assistance for the hearing impaired is available through TDD services 1 (800) 877–8339.] A copy of the decision can also be obtained from the Board's Internet site (www.stb.dot.gov).

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10704(a).

Decided: December 13, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31368 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 602X)]

CSX Transportation, Inc.—Abandonment Exemption—in Limestone County, AL

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.56-mile line of railroad between milepost 000–290.2 and milepost 000–290.76 in Athens, Limestone County, AL. The line traverses United States Postal Service Zip Code 35614.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 22, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent

Continued

expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 31, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 10, 2002, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to CSXT's representative: Paul R. Hitchcock, Assistant General Counsel, CSX Transportation, Inc., 500 Water Street, J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

CSXT has filed an environmental report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 28, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by CSXT's filing of a notice of consummation by December 21, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: December 11, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30993 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–43 (Sub-No. 172X)]

Illinois Central Railroad Company-Abandonment Exemption—in Adams County, MS

On December 4, 2001, Illinois Central Railroad Company (ICR), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad known as the Natchez Spur, between milepost LN 94.48 and milepost LN 98.38, a distance of 3.9 miles in Natchez, Adams County, MS.[1] The line traverses U.S. Postal Service Zip Code 39120. There are no stations on the line.

The line does not contain federally granted rights-of-way. Any documentation in ICR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by March 22, 2002.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than January 10, 2002. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–43 (Sub-No. 172X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Michael J. Barron, Jr., 455 North Cityfront Plaza Drive, Chicago, IL 60611–5317. Replies to the IC petition are due on or before January 10, 2002.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition.

The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our web site at ''*WWW.STB.DOT.GOV.*''

Decided: December 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31369 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

[1] According to petitioner, the southernmost 0.56 miles of the line is ICR terminal trackage and former Natchez & Southern trackage not formally included in ICR's milepost numbering system. The southern boundary of the abandonment is the equivalent of milepost LN 98.38 under the numbering system used on the remainder of the line.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–596]

New York City Economic Development Corporation—Adverse Abandonment—New York Cross Harbor Railroad, Inc., in New York, NY

On December 4, 2001,[1] New York City Economic Development Corporation (NYCEDC) on behalf of the City of New York (City) filed an adverse application under 49 U.S.C. 10903 requesting that the Surface Transportation Board

[1] On December 4, 2001, NYCEDC filed a petition for a 1-day extension of time in order to gather the information necessary to file its application for adverse abandonment. Board regulations and case law permit extension of time for filing when good cause is shown and no party will be prejudiced by the delayed submission. *See Huron Valley Steel Co. v. Seaboard System RR, Inc.,* ICC Docket No. 39886 (ICC served Feb. 12, 1988). The extension is granted and the application is accepted because NYCEDC has shown good cause and no party will be prejudiced by the delay.

(Board) authorize the abandonment by New York Cross Harbor Railroad, Inc. (NYCH), of the Bush Terminal Yard (a/k/a ''First Avenue Yard'') and the Harborside Industrial Center (a/k/a ''Brooklyn Army Terminal'') (jointly the Tracks and Facilities), in New York, Kings County, NY. The line traverses United States Postal Service ZIP Codes 11232 and 11220. There is no indication that there are stations on the line.

NYCEDC maintains that NYCH has caused and will continue to cause significant environmental damage to the tracks and facilities by dumping chemicals and pesticides used in the operation and maintenance of a railroad. NYCEDC indicates that it filed the adverse abandonment application so that it could proceed with plans to bring suit in state court to evict NYCH from the tracks and facilities.[2] NYCEDC also claims that NYCH has incurred $20,107.61 in late fees since July 1995.

In an application by a third party for a determination that the public convenience and necessity permits service over a line to be discontinued or abandoned, the issue before the Board is whether the public interest requires that the line in question be retained as part of the national rail system. By granting a third party application, the Board withdraws its primary jurisdiction over the line. Questions of the disposition of the line, including the adjudication of various claims of ownership or other rights and obligations, are then left to state or local authorities. *See Kansas City Pub. Ser. Frgt. Operations Exempt.—Aban.,* 7 I.C.C.2d 216, 224–26 (1990).

NYCEDC states that, to the best of its knowledge, the line does not contain any federally granted rights-of-way. Any documentation in NYCEDC's possession will be made available promptly to those requesting it. The applicant's entire case for abandonment was filed with the application.[3]

The interests of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

Any interested person may file written comments concerning the proposed abandonment or protests (including protestant's entire opposition case) by January 18, 2002. Applicant's reply is due on February 4, 2002. Because the line is publicly owned and is expected to remain in rail service under some new arrangement, trail use/rail banking, and public use requests are not appropriate. In light of the proposed eviction and subsequent resumption of rail service, offers of financial assistance to acquire or subsidize service on the line are not required by the public interest and will not be entertained in this proceeding.

Persons opposing the abandonment who wish to participate actively and fully in the process should file a protest. Persons who may oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons seeking information concerning the filing of protests should refer to 49 CFR 1152.25.

All filings in response to this notice must refer to STB Docket No. AB–596 and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Charles A. Spitulnik and Alex Menendez, One Massachusetts Ave, NW, Suite 800, Washington, DC 20001. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment or discontinuance proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 545–1552. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in abandonment or discontinuance proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Board decisions and notices are available on our website at *WWW.STB.DOT.GOV.*

Decided: December 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31504 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

[2] NYCH does not own the tracks and facilities or the underlying land; rather it leases the tracks and facilities from the City. NYCEDC contends that NYCH has breached its lease by violating local fire codes and state and Federal environmental law. In its Combined Environmental and Historic Report, NYCEDC indicates that the tracks and facilities will continue to be used for rail purposes because of the planned re-development and expansion of the adjacent maritime terminals in order to promote water to rail movement of cargo.

[3] In a decision served in this proceeding on December 3, 2001, NYCEDC was granted a waiver from many of the filing requirements of the Board's abandonment regulations at 49 CFR 1152 that were found to be not relevant to NYCEDC's adverse abandonment application. On December 10, 2001, NYCEDC filed a supplement to its application to address the requirements not waived in the December 3 decision. The supplement is accepted for filing.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 221X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Wise County, VA

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.9-mile line of railroad between milepost RC–0.0, at Russell Creek, and milepost RC–0.9, at Caledonia, in Wise County, VA (line).[1] The line traverses United States Postal Service Zip Code 24293.

Applicant has certified that: (1) no local or overhead traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

[1] NSR notes that authority to discontinue operations on the line was granted by the former Interstate Commerce Commission. *See Norfolk and Western Railway Company-Discontinuance Exemption-in Wise County, VA*, Docket No. AB 290 (Sub-No. 98X) (ICC served July 16, 1990).

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 23, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 3, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 14, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, *Esq.,* Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Applicant has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 28, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 21, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: December 10, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30919 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1,000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 226X)]

Norfolk Southern Railway Company—Abandonment Exemption in Mingo County, WV, and Pike County, KY

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 Subpart—*Exempt Abandonments* to abandon a 2.28-mile line of railroad between milepost CR–0.0, at Cedar, Mingo County, WV, and milepost CR–2.28, at Majestic, Pike County, KY (line). The line traverses United States Postal Service Zip Codes 25676, in the State of West Virginia, and 41547, in the State of Kentucky.

Applicant has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 24, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 3, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 14, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, Esq., Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Applicant has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 28, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

consummation by December 21, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: December 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31505 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 220X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Wise County, VA

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 3.03-mile line of railroad between milepost A–0.0, at Arno Jct., and milepost A–3.03, at Derby, in Wise County, VA (line). The line traverses United States Postal Service Zip Code 24293.

Applicant has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 22, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 31, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 10, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, Esq., Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Applicant has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 28, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 21, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1,000. *See* 49 CFR 1002.2(f)(25).

Decided: December 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31506 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of D.C. Pensions; Proposed Collection: Comment Request

ACTION: Notice and Request for Comments.

SUMMARY: The Department of the Treasury, as part of its continuing efforts to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c)(2)(A)). Currently, the Office of D. C. Pensions within the Department of the Treasury is soliciting comments concerning the D. C. Pension Plans Customer Satisfaction Survey.

DATES: Written comments should be received on or before February 19, 2002 to be assured of consideration.

ADDRESS: Direct all written comments to the Department of the Treasury, Office of D. C. Pensions, Kristi H. Greenslade, 1500 Pennsylvania Avenue, NW., Room 6131 Metropolitan Square, Washington, DC 20220, (202) 622–0800.

FOR FURTHER INFROMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Office of D. C. Pensions, Kristi H. Greenslade, 1500 Pennsylvania Avenue, NW, Room 6131 Metropolitan Square, Washington, DC 20220, (202) 622–0800.

SUPPLEMENTARY INFORMATION:

Title: D. C. Pension Plans Customer Satisfaction Survey.

Abstract: Under the National Capital Revitalization and Self-Government Improvement Act of 1997, Title XI of the Balanced Budget Act of 1997 [Pub. L. 105–33], as amended, (the Act), the U.S. Department of the Treasury assumed certain responsibilities for some of the District of Columbia's pension plans, including administration of fund assets and distribution of pension benefits. Treasury is responsible for paying the benefits earned through June 30, 1997, under the Police Officers and Firefighters' Retirement Plan and the Teachers' Retirement Plan. The District of Columbia is responsible for paying

benefits earned after June 30, 1997, through its replacement plans. Treasury is also responsible for paying all benefits earned under the Judges' Retirement Plan.

The Office of D. C. Pensions seeks to collect information from pension benefits recipients in order to establish a customer service baseline and for use in developing a customer service plan. The survey also will be used to gauge improvements in customer service. This is a new program for Treasury. The Office of D. C. Pensions plans to develop a comprehensive customer service strategy and this survey is part of that effort.

Current Actions: This is a new collection. The information being collected will be used to determine the level of satisfaction with current service delivery, identify areas for improvement and provide overall information for developing a comprehensive customer service plan for the Office of D. C. Pensions programs.

Type of Review: New.

Affected Public: Individuals or households.

Estimated Number of Respondents: 2,157.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 539 hours.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information of respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start up costs and cost of operation, maintenance, and purchase of services to provide information.

Dated: December 17, 2001.

Mary Beth Shaw,

Director, Office of D. C. Pensions, Department of the Treasury.

[FR Doc. 01–31419 Filed 12–20–01; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Customs Service

Expansion of General Program Test: Quota Preprocessing

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces that the quota preprocessing program test, which provides for the electronic processing of certain quota-class apparel merchandise prior to arrival of the carrier, will be expanded to the following additional ports: Atlanta; Boston seaport; Logan Airport, Boston; Buffalo-Niagara Falls; Champlain-Rouses Point; Chicago; Columbus; Memphis; Miami; Miami International Airport; Newport/Portland, Oregon (area port of Portland); Puget Sound (the ports of Seattle; and Seattle/Tacoma International Airport); San Francisco seaport; and San Francisco International Airport.

The program test is currently being conducted at ports located in New York/Newark and Los Angeles. The test is being expanded to the additional ports so that Customs can evaluate the program's effectiveness on a much larger scale and determine whether the program should be established nationwide on a permanent basis through appropriate amendments to the Customs Regulations. Public comments concerning any aspect of the program test as well as applications to participate in the test are requested.

DATES: The expansion of the test to include the additional ports is effective on January 1, 2002. The program test is currently scheduled to run until December 31, 2002. Applications to participate in the test and comments concerning the test will continue to be accepted throughout the testing period.

ADDRESSES: Written comments regarding this notice or any aspect of the program test should be addressed to Stephen Silvestri, Quota Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Room 5.3–D, Washington, DC 20229, or may be sent via e-mail to *Stephen.Silvestri@customs.treas.gov.* An application to participate in the program test must be sent to the program coordinator for each port where the applicant intends to submit quota entries for preprocessing. The list of ports and corresponding program coordinators are as follows:

(1) Port of Atlanta: Spaulding Wyche, 4641 International Parkway, Suite 600, Atlanta, GA 30354;

(2) Boston seaport and/or Logan Airport: Harry Spirytus, 10 Causeway St., Boston, MA 02222;

(3) Port of Buffalo-Niagara Falls: Jim Neubert, 111 West Huron St., Buffalo, NY 14202;

(4) Port of Champlain-Rouses Point: Brenda Harrigan, 198 West Service Rd., Champlain, NY 12919;

(5) Port of Chicago: Bonita Hooks, 2571 Busse Rd., Elk Grove, IL 60007;

(6) Port of Columbus: Thomas Barnhart, 7400 Alum Creek Drive, Columbus, OH 43217;

(7) Port of Los Angeles: Nancy Petagna, 300 S. Ferry St., Terminal Island, CA 90731;

(8) Los Angeles International Airport: Tony Piscitelli, 11099 S. La Cienaga Blvd., Los Angeles, CA 90045;

(9) Port of Memphis: Terry Wright, 3150 Tchulahoma, Suite 1, Memphis, TN 38118;

(10) Port of Miami; and/or Miami International Airport: Constance Price, P.O. Box 025280, Miami, FL 33102;

(11) Ports of New York/Newark: John Lava, 1210 Corbin Street, Elizabeth, NJ 07201;

(12) JFK Airport: Barry Goldberg, JFK Building 77, Jamaica, NY 11430;

(13) Port of Newport/Portland, Oregon (area port of Portland): Megan Fishel, P.O. Box 55580, Portland, OR 97238;

(14) Port of Puget Sound (ports of Seattle; and Seattle-Tacoma International Airport): Sharon Delawyer, 1000 Second Ave., Suite 2000, Seattle, WA 98104;

(15) San Francisco seaport; and/or San Francisco International Airport: Diana Santiago, 555 Battery St., San Francisco, CA 94111; and/or

FOR FURTHER INFORMATION CONTACT: Stephen Silvestri, Quota Branch, (202–927–5397).

SUPPLEMENTARY INFORMATION:

On July 24, 1998, Customs published a general notice in the **Federal Register** (63 FR 39929) announcing the limited testing, pursuant to the provisions of § 101.9(a), Customs Regulations (19 CFR 101.9(a)), of a new operational procedure regarding the electronic processing of quota-class apparel merchandise. The test was to be conducted at the ports located in New York/Newark and Los Angeles.

Quota preprocessing permits certain quota entries (merchandise classifiable in chapter 61 or 62 of the Harmonized Tariff Schedule of the United States (HTSUS)) to be filed, reviewed for admissibility, and to have their quota priority and status determined by Customs prior to arrival of the carrier, similar to the method of preliminary review by which non-quota entries are

currently processed. The purpose of quota preprocessing is to reduce Customs processing time for qualified quota entries and to expedite the release of the subject merchandise to the importer. To this end, participants in quota preprocessing have been allowed to submit quota entries to Customs up to 5 days prior to vessel arrival or after the wheels are up on air shipments.

The July 24, 1998, **Federal Register** notice principally described the new procedure, specified the eligibility and application requirements for participation in the program test, and noted the acts of misconduct for which a participant in the test could be suspended and disqualified from continued participation in the program.

The initial test of the quota preprocessing procedure began on September 15, 1998, and was intended to continue for a six-month period that expired on March 14, 1999. However, on March 25, 1999, and on January 6, 2000, Customs published general notices in the **Federal Register** (64 FR 14499 and 65 FR 806, respectively) that extended the program test through 1999 and 2000. In addition, on November 30, 2000, Customs published another general notice in the **Federal Register** (65 FR 71356), further extending the program test through December 31, 2002. These respective extensions of the test procedure were undertaken so that Customs could further evaluate the effectiveness of the program and determine whether the program test should be expanded to other ports.

Customs has now concluded, following successful evaluations of the program to date, that the test should be expanded to other ports in order to enable Customs to evaluate the program's effectiveness on a much larger scale and determine whether the program should be established nationwide on a permanent basis through appropriate amendments to the Customs Regulations.

Expansion of Program Test to Additional Ports

In addition to the ports in Los Angeles and New York/Newark where the test is ongoing, Customs has determined that the program test should be expanded as of January 1, 2002 through December 31, 2002 to a number of additional ports as follows: Atlanta; Boston seaport; Logan Airport, Boston; Buffalo-Niagara Falls; Champlain-Rouses Point; Chicago; Columbus; Memphis; Miami; Miami International Airport; Newport/Portland, Oregon (the area port of Portland); Puget Sound (the ports of Seattle; and Seattle/Tacoma International Airport); San Francisco seaport; and San Francisco International Airport. The expansion of the test to these ports was determined by the volume of quota lines of apparel merchandise entered at these ports.

Furthermore, under the expanded program test, because two of the ports will receive shipments by land (Buffalo-Niagara Falls; and Champlain-Rouses Point), quota entries in these circumstances may be submitted to Customs after the carrier departs from its location in Canada destined for the U.S. border.

Eligibility and Application Criteria for the Program Test

Given the impending significant expansion of the program test and the consequent influx of additional applications to participate in the test that is anticipated, the eligibility criteria and application instructions for the program, based largely on the July 24, 1998, **Federal Register** notice, are essentially repeated below, albeit revised as appropriate to reflect the expanded test. Prospective applicants may refer to the July 24, 1998, **Federal Register** notice for a more detailed discussion of the quota preprocessing program.

Importer/Entry Eligibility Criteria

Only importers who currently import qualifying apparel through one or more of the ports listed in item ''(6)'' below may participate in the expanded program test. Participants are not permitted to change their importing patterns in order to take advantage of quota preprocessing. In this regard, during the test, Customs will monitor import volumes for noticeable increases of eligible quota entries through the ports covered by the expanded test.

Customs will only accept consumption entries of apparel merchandise subject to quota (types 02 and 07) for preprocessing which meet the following criteria:

(1) The entry must be filed using the Automated Broker Interface (ABI);

(2) Payment must be made electronically through the Automated Clearinghouse (ACH);

(3) Arriving carriers must use the Automated Manifest System (AMS);

(4) The quota category must be less than 85% full;

(5) The entry must contain at least one line classifiable in chapter 61 or 62 of the Harmonized Tariff Schedule of the United States (HTSUS); and

(6) The entry must be submitted at one of the following ports: the port of Atlanta (Port code: 1704); Boston seaport (Port code: 0401); Logan Airport, Boston (port code: 0417)); the port of Buffalo-Niagara Falls (Port code: 0901); the port of Champlain-Rouses Point (Port code: 0712); the port of Chicago (Port code: 3901); the port of Columbus (Port code: 4103); the port of Los Angeles (Port code: 2704); Los Angeles International Airport (Port code: 2740); the port of Memphis (Port code: 2006); the port of Miami (Port code: 5201); Miami International Airport (Port code: 5206); the ports of New York/Newark, including JFK Airport (Port codes: 1001/4601/4701); the port of Newport/Portland, Oregon (area port of Portland (Port code: 2904)); the port of Puget Sound (the ports of Seattle (Port codes: 3001, 3002, 3081); and Seattle/Tacoma International Airport (Port code: 3029)); San Francisco seaport (Port code: 2809); or San Francisco International Airport (Port code: 2801).

If an importer submits a quota entry for preprocessing and the entry does not meet all of the criteria in items ''(1)'' through ''(6)'' above, the entry summary will be rejected and the filer may not resubmit the entry summary to Customs until after the carrier has arrived. Upon arrival of the carrier, merchandise covered by a preprocessed entry will be released unless Customs decides to perform an examination. In this respect, the fact that merchandise has been processed under the quota preprocessing program will not interfere with or impede Customs ability to examine the merchandise upon its arrival, should such an examination be found to be warranted. If an examination of the merchandise is necessary, the examination will occur during the port's regular inspectional hours.

Application To Participate in Quota Preprocessing

An importer wishing to participate in quota preprocessing must submit a written application that includes the following information to the program coordinator for each port where the applicant intends to submit quota entries for preprocessing:

1. The specific port(s) included under the program where entries of the quota merchandise are intended to be made;

2. The importer of record number(s), including suffix(es), and a statement of the importer's/filer's electronic filing capabilities;

3. Names and addresses of any entry filers, including Customs brokers, that will be electronically filing entries at each port under the program on behalf of the importer/participant; and

4. The total number of consumption quota entries (types 02 and 07) filed at each of the ports subject to the program during the preceding 12-month period

and the estimated number of eligible entries expected to be filed at each designated port during the course of the test. If it is expected that a significantly higher number of eligible entries will be filed over the test period than were filed over the preceding 12-month period, an explanation for this increase will be necessary.

Applicants will be notified in writing of their selection or nonselection to participate in quota preprocessing. An applicant denied participation may appeal in writing to the port director at the port where the application was denied.

Current participants in quota preprocessing that also wish to file entries under the program at any of the additional ports must notify in writing, the additional part at least 5 working days before submitting entries at that port. Also, for those that are selected to participate in the test, the July 24, 1998, **Federal Register** notice should be consulted regarding the acts of misconduct that may result in a participant being suspended from the program and the extent to which a participant may appeal a proposed suspension from the program.

Dated: December 18, 2001.

John H. Heinrich,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–31475 Filed 12–20–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–Q

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Notice and request for comments

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–Q, Qualified Tuition Program Payments (Under Section 529).

DATES: Written comments should be received on or before February 19, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5577, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Qualified Tuition Program Payments (Under Section 529).

OMB Number: 1545–1760.

Form Number: 1099–Q.

Abstract: Form 1099–Q is used to report distributions from private and state qualified tuition programs as required under Internal Revenue Code section 529.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 150.

Estimated Time Per Respondent: 190 hours.

Estimated Total Annual Burden Hours: 28,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 12, 2001.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 01–31530 Filed 12–20–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8878

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8878, IRS e-file Signature Authorization—Application for Extension of Time To File.

DATES: Written comments should be received on or before February 19, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5575, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: IRS e-file Signature Authorization—Application for Extension of Time To File.

OMB Number: 1545–1755.

Form Number: 8878.

Abstract: Form 8878 is used to allow taxpayers to enter their PIN on their electronically filed application for extension of time to file.

Current Actions: There are no changes being made to the form at this time.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,000,000.

Estimated Time Per Respondent: 37 mins.

Estimated Total Annual Burden Hours: 610,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 10, 2001.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 01–31531 Filed 12–20–01; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 66, No. 246

Friday, December 21, 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.

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Correction

In notice document 01–29055 appearing on page 58532 in the issue of Wednesday, November 21, 2001, make the following corrections:

On page 58532, in the second column, under the **Summary of Proposal(s)** heading:

a. ''(8)'' should read ''(9)''; and

b. Insert between ''(7)'' and ''(9)'', ''(8) *Total annual responses*: 239.''

[FR Doc. C1–29055 Filed 12–20–01; 8:45 am]

BILLING CODE 1505–01–D

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Correction

In notice document 01–29056 beginning on page 58532 in the issue of Wednesday, November 21, 2001, make the following correction:

On page 58533, in the first column, under the **Summary of Proposal(s)** heading, in ''(2)'', ''BAZ–4'' should read, ''BA–4.''.

[FR Doc. C1–29056 Filed 12–20–01; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL REGISTER

Vol. 66 Friday,
No. 246 December 21, 2001

Part II

General Services Administration

Federal Supply Service; Household Goods Tender of Service; Notice

GENERAL SERVICES ADMINISTRATION

Federal Supply Service

Household Goods Tender of Service

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of issuance of the GSA Household Goods Tender of Service for comment.

SUMMARY: The General Services Administration (GSA), in compliance with 41 U.S.C. 418b, is publishing the GSA Household Goods Tender of Service (HTOS) for comments. The HTOS combines the Domestic Tender of Service (DTOS), effective January 2, 1996 and the International Tender of Service (ITOS), effective October 1, 1995, into a single document. It establishes a uniform basis for purchasing transportation, accessorial services, and storage-in-transit for personal effects, unaccompanied baggage, and privately owned vehicles of Federal civilian employees relocated in the interest of the Government. Agreement to abide by the provisions of the HTOS is a prerequisite for any carrier or household goods forwarder that wishes to participate in GSA's Centralized Household Goods Traffic Management Program (CHAMP). GSA's Federal customer agencies benefit from the HTOS which leverages the Government's buying power to provide agencies standardized cost effective household goods transportation services. All submitted comments will be considered prior to issuance of the HTOS. Publication of the HTOS in the **Federal Register** will effectively cancel the DTOS, the ITOS and their respective supplements.

DATES: Please submit your comments by February 19, 2002.

ADDRESSES: Mail comments to the General Services Administration, Travel and Transportation Management Division (FBL), Washington, DC 20406, Attn: Gorman Purdy.

FOR FURTHER INFORMATION CONTACT: Mr. Gorman Purdy, Transportation Programs Branch by phone at 703–305–7999 or by e-mail at *gorman.purdy@gsa.gov.*

Dated: December 6, 2001.

Tauna T. Delmonico,

Director, Travel and Transportation Management Division.

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Explanation of Acronyms Used Throughout This HTOS

Acronyms and Explanation

BL Bill of Lading
CFR Code of Federal Regulations
CHAMP Centralized Household Goods Traffic Management Program
CONUS Points in the United States
CSI Customer Satisifaction Index
DA Dispatch Agent
DOD Department of Defense
DOS Department of State
DOT Department of Transportation
DPM Direct Procrement Method
DRN Document Reference Number
EC Electronic Commerce
FAR Federal Acquisition Regulations
FMC Federal Maritime Commission
FMR Federal Management Regulations
FTR Federal Travel Regulation
GBL Government Bill of Lading
GRT Government Rate Tender
GSA General Services Administration
GSO General Services Officer
HHG Household Goods
HTOS Household Goods Tender of Service
IFF Industrial Funding Fee
I–FTP File Transfer Protocal
ITGBL International Governmnet Bill of Lading
ITMS Interagency Transportation Management System
MMS Move Management Serivce
MOU Memorandum of Understanding
MTMC Military Traffic Management Command
NADA National Autombile Dealers Association
NTS Non-Temporary Storage
OCONUS Points Outside the United States
OFAC Common Financial & Administration Control
OT Overtime
OTO One Time Only
P/D Pickup/Delivery
PMO Program Management Office
POC Principal Operating Comany
Principal Operating Comany
POD Port of Debarkation
POE Port of Embarkation
POF Privately Owner Firearms
POV Privately Owned Vehicles
RDD Required Delivery Date
RFO Request For Offers
RTO Responsible Transportation Officer
SA Service Area
SAP Service Area Pairs
SCAC Standard Carrier Alpha Code
SFR Single Factor Rate
SIT Storage in Transit
SPIES Service Perfromance Index & Evaluation System
TIN Tax Identification Number
TPA Trading Partner Agreement
UB Unaccompanied Air Baggage
USC United States Code
W/H Warehouse Handling

Section 1—General

1–1. Scope of the Tender of Service (HTOS) [old 1–1]

1–1.1. General. [old D1–1]

This HTOS is for the transportation, accessorial services, and storage-in-transit of the personal effects and property of employees of civilian, non-Department of Defense, Departments and agencies of the United States Government when relocating pursuant to permanent change of station orders between or within the continental United States and trust territories, or possessions of the U.S., or between or within the continental United States and foreign countries. (as specified in Section 14.)

1–1.2. Services To Be Furnished

1–1.2.1. General [old D1–1]

Services to be furnished are premove surveys; packing at origin residence; the use of packing containers; materials including protective pads from origin to destination; loading; movement or transportation of property from origin to destination; unpacking at destination; removal and placement of each article in the residence, warehouse, or other building; servicing and unservicing of appliances including when a third party is required to perform the service; and storage-in-transit and delivery to the residence.

1–1.2.2. Unaccompanied Air Baggage [old I1.1.1]

Services as may be required in the preparation, movement, and delivery of unaccompanied air baggage.

1–1.2.3. Privately Owned Vehicles [old I1.1.1]

Services as may be required in the preparation, movement, and delivery of privately owned vehicles.

1–1.3. DoD Tender of Service Application [old I1.1.1]

This HTOS and its associated terms, conditions, and rules are separate and distinct from the DOD (MTMC) GBL and ITGBL Tender of Service and its terms, conditions, and rules.

1–1.4. Description of Freight [old D1–1]

1–1.4.1. Freight Included

The property to be moved under this HTOS consists of personal effects and property defined as household effects (HHE) used or to be used in a dwelling

when part of the equipment or supply of such dwelling includes, but is not limited to, household furnishings, equipment and appliances, furniture, clothing, books, and privately owned vehicles.

1–1.4.2. Freight Excluded [old D1–1]

Excluded from the scope of this HTOS are shipments that can be more advantageously or economically moved via parcel post or small package carrier; shipments of unusual value, explosives and other dangerous articles, commodities in bulk, commodities injurious or contaminating to other freight, property which by its inherent nature is liable to impregnate, contaminate or otherwise cause damage to other property or equipment, and shipments that the Government may elect to move in Government vehicles. Also excluded are airplanes, mobile homes, camper trailers, boats, birds, pets, livestock, cordwood, building materials, and items which cannot be taken from or delivered to the premises without damage to the items or the premises. Also excluded are packing crating services performed pursuant to a Direct Procurement Method (DPM) contract awarded by a federal civilian agency.

1–2. Acceptance of the Tender of Service (HTOS) [old D1–2]

The acceptance of the General Services Administration (GSA) Tender of Service (HTOS) is a prerequisite for a Participant which wishes to be considered for transportation of personal property routed by civilian executive agencies of the U.S. Government via the Domestic Government Bill of Lading (GBL) method or International Through Government Bill of Lading (ITGBL) method. The conditions of this HTOS are in addition to or in lieu of, as the case may be, all service provisions of any applicable tender or tariff under which a shipment may be routed, except where these conditions may be in conflict with applicable Federal, State, and local laws and regulations, including for international shipments. The acceptance of the GSA HTOS by a Participant shall be accomplished as specified in Section 2.

1–3. Application [old D1–3]

1–3.1. Routed Pursuant to Cost Comparisons [old D1–3]

The terms and conditions of this HTOS apply to firms participating in the GSA Centralized Household Goods Traffic Management Program-Domestic and/or International and servicing household goods shipments routed pursuant to domestic or international cost comparisons issued by GSA.

1–3.2. Routed Pursuant to Contracts [old D1–3]

The terms and conditions of this HTOS apply to firms participating in the GSA Centralized Household Goods Traffic Management Program and servicing household goods shipments routed pursuant to any contract awarded to a participating carrier or to a broker by GSA or a Federal civilian, non-DOD, agency.

1–3.3. Use of Term Participant [old I1.3]

The term Participant shall be used throughout this HTOS when referring to a firm approved to participate in the CHAMP and in order not to prejudice the attribution of any right or responsibility. To the extent that any specific right or responsibility pertains solely to a carrier, that responsibility shall not be attributed to or expected of an agent. To the extent that any specific right or responsibility pertains solely to an agent, that responsibility shall not be attributed to or expected of a carrier. To the extent that any right or responsibility may be considered as mutually shared by both carrier and agent during the performance of a specific move, that responsibility shall be attributed to and expected of both the carrier and the agent it uses. In the event that the terms carrier or agent appear within this HTOS, they shall be understood to mean Participant unless it is clear from the context that carrier or agent is appropriate, as the case may be.

1–3.4. Mileage Determination

Highway mileage determination for services performed in this HTOS will be as follows: (1) Shipments between any two locations within the contiguous United States (i.e., the 48 States, the District of Columbia and Alaska) apply the mileages based on 5-digit ZIP Codes, provided by ALK Technologies, Inc. Version 15, as amended. Note: For shipments to, from or within Canada, Rand McNally mileage is used. (2) Shipments performed outside the contiguous United States, apply the applicable mileage guide, book, or other method used in that particular country to determine mileages.

1–4. Revising HTOS Provisions and Method of Canceling Original or Revised Pages [old D1–4]

This Tender of Service (TOS) will be revised by the General Services Administration, Centralized Household Goods Traffic Management Program Office (6FBX) (hereinafter referred to as PMO), 1500 East Bannister Road, Kansas City, Missouri, 64131 through publication of the changes on the World Wide Web Page (*http://www.kc.gsa.gov/fsstt),* or the reissuance of the document on an "as needed" basis. HTOS updates will also be included on the Interagency Traffic Management System (ITMS) CD.

1–4.1. Page Revisions [old D1–4]

This TOS will be revised through issuing page revisions. When there are page revisions, cancellation of prior pages will be effected by means of this rule. Pages will be inserted in the document in numerical sequence. (for example: "FIRST REVISED PAGE 10" will have the effect of canceling "ORIGINAL PAGE 10", "SECOND REVISED PAGE 10" will have the effect of canceling "FIRST REVISED PAGE 10". Pages should be inserted in the following order, as page 10 would be followed by pages 10–A, 10–B, 10–C, 11, and 12.) Except where a specific cancellation is shown on a revised page, a revised page cancels any and all uncancelled revised or original pages, or uncancelled portions thereof, which bears the same page number. TEXT THAT IS CHANGED ON THE REVISED PAGES WILL BE HIGHLIGHTED.

1–4.2. Reissuing Document [old D1–4]

Reissues of this document will be identified by a number in numerical sequence, before the word "Edition". (For example, the first reissue of this TOS would be designated as the HOUSEHOLD GOODS TENDER OF SERVICE, NOVEMBER 1, 1998 EDITION, the next would be HOUSEHOLD GOODS TENDER OF SERVICE, NOVEMBER 1, 1999 EDITION, etc.). Each reissue will cancel the previous issue. When this HTOS is reissued ONLY TEXT THAT HAS BEEN CHANGED FROM THE PREVIOUS ISSUE OF THE TOS WILL BE HIGHLIGHTED.

1–4.3. Effective Date of Revisions

Unless otherwise specified on the Web document, the effective date shall be the date of publication on the WWW.

1–4.4. Issuance of Versions Other Than the WWW Version

1–4.4.1. By the PMO

The issuance of versions of the HTOS, changes thereto, or reissues thereof, on paper or electronically, shall be at the sole discretion of the PMO.

1–4.4.2. By Parties Other Than the PMO

Unless specifically endorsed by the PMO in writing as part of the publication, versions of the HTOS issued by parties other than the PMO,

including reprints of the WWW pages, copies of floppy disks, or any other form of publication, are null and void.

Section 2—Participation

2–1. General [old D2–1]

2–1.1. Transportation Services

Participation in the GSA Centralized Household Goods Traffic Management Program, Domestic and International, is open to any carrier, freight forwarder, holding authority (certificates, licenses, or permits, as appropriate) from the U.S. Department of Transportation (successor to the Interstate Commerce Commission), Federal Maritime Commission (FMC), and/or State regulatory authority.

2–2. Application To Participate

2–2.1. Application For Approval

2–2.1.1. General [old D2–2.]

Except as specified in 2–2.1.3 and 2–2.1.4, below, and subject to the restrictions set out in 2–3, below, any firm desiring to participate in the program must request approval during the open approval window.

2–2.1.2. Definitions [old I2–2.1.2]

For the purposes of this section, the following definitions apply.

2–2.1.2.1. Transportation Services

Transportation services include line haul transportation, carrier services, accessorial services, and storage-in-transit (SIT) of the personal effects and property of employees of civilian, non-Department of Defense, Departments and agencies of the United States Government when relocating pursuant to permanent change of station orders between or within the continental United States and offshore states, trust territories, or possessions of the U.S, or between or within the continental United States and foreign countries. (as specified in Section 14)

2–2.1.2.2. Carrier [old I2–2.1.2.1]

A person authorized by the appropriate regulatory body (U.S. Department of Transportation (successor to the Interstate Commerce Commission), Federal Maritime Commissions, State authority, or other authority of cognizant jurisdiction) to engage in for-hire transportation of household goods and personal effects as defined in Section 1 of this HTOS.

2–2.1.2.3. Carrier Services [old I2–2.1.2.2]

For domestic and international household goods shipments, as appropriate, carrier services include, but are not limited to, providing origin agents for the performance of premove surveys, packing, the stuffing of containers and liftvans, line-haul transportation from origin to port of debarkation, providing debarkation port agent and broker services, providing ocean transportation, providing embarkation port agent and broker services, customs clearance, inland transportation to destination, and providing destination agents for the performance of storage-in-transit, delivery, unpacking, placement of property, and removal of debris, containers, and liftvans.

2–2.1.2.4. Agent [old I2–2.1.2.3]

A person under contract to a carrier for the provision of accessorial and terminal services.

2–2.1.2.5. Agent Services [old I2–2.1.2.4]

For domestic and international household goods moves, as appropriate, agent services include, but are not limited to, providing premove surveys, packing, crating, stuffing containers and liftvans, local transportation within the origin or destination locality, storage-in-transit (SIT), delivery, unpacking, placement of property, and removal of debris, containers, and liftvans. An agent's provision of line-haul transportation services under the terms of the firm-agent contract and under the operating authority of the firm is not part of agent services.

2–2.1.3. Carriers [old I2–2.1.3]

Any carrier, hereinafter referred to as a firm, except in those instances where an agent is clearly intended or otherwise indicated as "carrier," desiring to participate in the program must apply for approval. Approval to participate in any domestic program is not qualifying for participation in any international program.

2–2.1.4. Agents [old I2–2.1.4]

Based on the requirements of the shipping Federal agency, a firm desiring to provide agent services for a carrier may require that Federal agency's approval.

2–2.1.5. Instructions for Application Submission and Evaluation [old I2–2.1.4.1]

Each Federal agency requiring agent approval is responsible for the establishment of approval application submission requirements, approval standards, and approval processing and issuance.

2–2.2. Requests To Participate [old D2–2.]

Requests to participate must be sent to: General Services Administration, Federal Supply Service Bureau, Transportation Management Branch (6FBX), 1500 East Bannister Road, Room 1076, Kansas City, MO 64131–3088, Telephone: (816) 823–3646, Fax No. (816) 823–3656; (hereafter referred to as Program Management Office or PMO).

2–3. Restriction on Application for Approval [old 2–3]

2–3.1. Previous CHAMP Participants [old I2–3.1]

Applications for approval from previous Participants in CHAMP, whether terminated by GSA or voluntarily withdrawn, are subject to the following restrictions.

2–3.1.1. Terminated Firm [old I2–3.1.1]

Subject to the provisions of 2–4, below, a firm terminated by GSA may reapply in the approval cycle after the first anniversary of the firm's termination from the program.

2–3.1.2. Withdrawn Firm [old I2–3.1.2]

Subject to the provisions of 2–4, below, a firm that has voluntarily withdrawn from the program may reapply in the next approval cycle following the firm's withdrawal from the program.

2–4. Application [old 2–4]

2–4.1. General [old D2–3. & I2–4.1]

When submitting an application for approval, a firm must submit an application in its own name for approval as a Participant. A firm that on its own behalf or on behalf of an agent (a) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (b) makes any false, fictitious or fraudulent statements or representations; or (c) makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry on any part of the application or on any document furnished pursuant to this HTOS is punishable by fines, imprisonment, or both (U.S. Code, Title 18, Section 1001). In order to be considered for approval, the following requirements must be met by either the firm or the designated agent, as specified.

2–4.2. Agreement To Abide by the HTOS [old D2–3. & I2–4.2]

2–4.2.1. Firm [old D2–3 & I2–4.2.1]

The applicant must agree to abide by the terms and conditions of the CHAMP

HTOS. If applicant is applying for both Domestic & International Programs, only one Agreement To Abide By The HTOS must be completed and signed.

2–4.2.2. Agent [old I2–4.2.2]

The applicant firm must certify that each agent it will use has agreed to abide by the terms and conditions of the CHAMP HTOS.

2–4.3. Operating Authority [old I2–4.3]

2–4.3.1. Firm [old I2–4.3.1]

The applicant firm must hold all necessary operating authorities, permits, and business licenses issued in its name, from appropriate regulatory bodies, for the transportation of personal property and will provide copies of each authority, permit, or business license to the PMO upon demand, or that it is exempt from such regulatory certification by operation of law or order of an appropriate regulatory body and, in addition to tariff and legal requirements, agrees to the provisions of this HTOS. The firm must also meet any applicable ownership requirement established by law for the type of carriage of goods in which it engages.

2–4.3.2. Agent [old 2–4.3.2]

2–4.3.2.1. Business Licenses [old I2–4.3.2.1]

The applicant firm must certify that each agent it will use holds all necessary operating authorities, permits, business licenses, issued in its name, from appropriate regulatory bodies, for the provision of agent services as defined in this section and will provide copies of each authority, permit, or business license, to the PMO upon demand, or that it is exempt from such regulatory certification by operation of law or order of an appropriate regulatory body and, in addition to tariff and legal requirements, agrees to the provisions of this HTOS. The agent must also meet any applicable ownership requirement established by law for the type of services in which it engages.

2–4.3.2.2. Carrier-Agent Agreement [old I2–4.3.2.2]

The applicant carrier must certify that each agent it will use to provide agent services is at the time of application or will be at the time of use party to a valid written agency agreement between itself and the applicant carrier. The agreement must, at a minimum, contain the language set out in Section 8 [Agency Agreements], set out the terms and conditions of the agent's representation of the carrier, the services to be provided, the terms and method of payment for services rendered, the quality control standards expected by the firm and the method of quality measurement, and the terms under which the agreement may be terminated.

2–4.4. SCAC (Standard Carrier Alpha Code) Designation [old D2–3. & I2–4.4]

An applicant firm must have a valid SCAC as issued by the National Motor Freight Association, Washington, DC. An applicant's request will not be processed without the SCAC.

2–4.5. Trading Partner Agreement

The applicant firm must complete and sign the Trading Partner Agreement and send it back in hard copy with all other required documentation. If applying for both the Domestic and International Programs, you need only to complete one TPA. An applicant's request will not be processed without the Trading Partner Agreement.

2–4.6. Cargo Insurance [old D2–3 & I2–4.5]

The applicant shall maintain cargo liability insurance during the term of this agreement at a minimum, in the amount of $65,000 for any one shipment per vehicle and $150,000 for any one disaster causing loss or damage to the contents of two or more shipments per vehicle or property otherwise located. The insurance policy must not contain any provision excluding liability for loss and/or damage for which the firm is responsible under the terms of this HTOS.

2–4.7. Provision of Bond. International Only [old I2–4.6]

In the event the applicant carrier is applying for approval to handle international shipments, the carrier shall maintain a performance bond during the term of this agreement (to be renewed on the approval anniversary of each following year) during the term of this agreement at a minimum in the amount of $75,000 or 2.5%, whichever is greater, of the firm's (principal) gross annual revenue derived from CHAMP ITGBL shipments the preceding calendar year executed by a surety appearing on the list contained in the Department of Treasury Circular 570, "Surety Companies Acceptable on Federal Bonds."

2–4.8. Experience

2–4.8.1. Firm [old D2–3 & I2–4.7.1]

The applicant shall have and maintain operations consistent with standard industry practices and this HTOS such that an acceptable level of service has been and will continue to be provided.

2–4.8.2. Agent

2–4.8.2.1. Carrier

The applicant carrier must certify that each agent it will use has and maintains operations consistent with standard industry practices and this HTOS such that an acceptable level of service has been and will continue to be provided.

2–4.9. Quality Control Program [old 2–4.8]

2–4.9.1. Firm [old I2–4.8.1]

The applicant must have a published corporate quality control system which will provide total visibility of all facets of the CHAMP and ensures that the service provided is equal to or greater than the standards of service established by this HTOS.

2–4.9.2. Agent [old I2–4.8.2]

2–4.9.2.1. Carrier

The applicant carrier must certify that each agent it will use has a published corporate quality control system which will provide total visibility of all facets of the CHAMP, and ensure that the service provided is equal to or greater than the standards of service established by this HTOS.

2–4.10. Financial Responsibility

2–4.10.1. Firm [old D2–3. & I2–4.9.1]

The applicant must demonstrate its financial responsibility, working capital, and other financial, technical, and management resources to perform.

2–4.11. Agent Facilities [old I2–4.10]

Applicant carrier agents must have the following: (a) 2,000 cubic feet of storage space available for the use of the applicant carrier (b) two vehicles, one of which must be a weather tight van of at least 1,000 cubic feet capacity and one open bed vehicle with a minimum length of 16 feet each; and (c) one mobile lifting device with a minimum lifting capacity of 4,000 pounds.

2–4.12. Previously Approved Firms [old I2–4.11]

Firms, whether terminated by GSA or voluntarily withdrawn, reapplying for approval must have the support of former federal civilian, non-DOD, customers.

2–5. Submission Requirements [old 2–5]

2–5.1. General [old I2–5.1]

The request for approval is subject to the requirements set forth below. Unless otherwise provided, the term applicant shall mean the applicant carrier.

2–5.2. Waiver Of Submission Requirements [old I2–5.2]

In the event an applicant has been formally registered as compliant with the International Organization for Standardization Standard 9000 or one of the standards within the 9000 series (referred to hereafter as ISO 9000) by an internationally recognized ISO 9000 registrar, GSA reserves the right to waive any or all approval requirements pertaining to *qualitystandards.*

2–5.3. ISO 9000 Registration [old I2–5.3.1]

A certified true copy of the certificate of conformity.

2–5.4. HTOS Certification [old D2–3 & I2–5.3.2]

An original signed copy of the HTOS Certification Sheet (included in Section 15 of this HTOS), entitled Request to Participate and Agreement to Abide by the Terms and Conditions of the General Service Administration's Centralized Household Goods Traffic Management Program.

2–5.5. SCAC Designation [old D2–3 & I2–5.3.3]

The applicant must submit a copy of the letter from the National Motor Freight Association, Washington, DC, assigning that firm a SCAC.

2–5.6. Applicant Information [old I2–5.3.4]

Information concerning the applicant, such as name, postal address, electronic mail address, telephone and facsimile numbers, corporate office, operating authorities, and other carriers with which the applicant does business. The applicant will indicate whether or not it is under the financial or administrative control of any other household effects carrier or forwarder, and state the name of the carrier, or forwarder controlling the applicant. The applicant will provide a list of household effects carrier(s), and/or forwarder(s) which are under its common financial or administrative control.

2–5.7. Business Statistics [old D2–3. & I2.5.3.5.]

Information concerning the applicant's household goods transportation business, including, but not limited to shipments booked, shipments serviced, and claims.

2–5.8. Scope Of Operation [old D2–3 & I2–5.3.6]

Information concerning the applicant's proposed and actual scopes of operation. For its actual scope of operation, the applicant will also provide the actual number of shipments handled between each serviced service-area pair during the past five years.

2–5.9. Financial Information [old D2–3 & I2–5.3.7]

The applicant must submit such financial information as is required by the instructions. If requested by GSA during the conduct of the initial financial review, the applicant must provide any additional or supplemental financial information. If considered necessary to assure satisfactory performance and avoidance of firm/forwarder financial problems, GSA reserves the right to request any of the following, individually or in combination: (1) Company certified financial statements; (2) CPA review (including footnotes) of financial statements; and (3) CPA audit and opinion (including footnotes) of financial statements.

2–5.10. Additional Information [old D2–3. & I2–5.3.8]

Except as otherwise provided in the HTOS, GSA reserves the right to request additional or supplemental information when that contained in the application is insufficient for a proper evaluation. Unless requested by GSA, additional or supplemental information will not be accepted.

2–5.11. Firm Processes And Process Controls [old D2–3. & I2–5.4.1]

A questionnaire dealing with various aspects of the applicant's processes and process controls, such as booking and registration, tracing, claims adjudication, SIT warehouse selection, and quality control.

2–5.12. Quality Control Program

2–5.12.1. General [old I2–5.4.2.1]

The applicant will furnish information regarding its published internal quality control program covering the functions of traffic management (routing, tracing, and billing), packing/packaging/containerization, employee training, supervision, and, if appropriate, agent supervision and include quality goals and objectives with measurable performance standards, measurement techniques, and actions based on those standards.

2–5.12.2. Carrier-Agent Interface [old I2.5.4.2.2]

The applicant will furnish information on how its quality control program is applied to its agents and how it is monitored. In addition, the applicant will describe how its program relates to and reinforces the quality control program of its agents.

2–5.13. Corporate Account Trends [old D2–3. & I2–5.4.3]

The applicant will provide information concerning its corporate account activity during the preceding five calendar years.

2–5.14. HTOS Questionnaire [old D2–3. & I2–5.4.4]

A questionnaire designed to familiarize the applicant with the requirements of the HTOS. GSA reserves the right to require that the HTOS Questionnaire be recompleted when the applicant has failed to complete a substantial number of the questions correctly.

2–5.15. Performance Bond—International Only [old I2–5.4.6]

An original written statement from the surety company indicating that it will provide, using the format set out in the approval package and at the request of the applicant, the required performance bond to the PMO no later than the due date for the filing of rates in the Filing Cycle in which the applicant first files rates. In the event the performance bond is not submitted as specified or does not meet the requirements for the performance bond, the applicant's rate filing will be handled in accordance with the Request for Offers provisions regarding non-rate related deficiencies.

2–5.16. Federal Support [old I2–5.4.7]

In the event the application is from a firm covered by 2–4.12, above, the approval application must be supported by statements from all federal agencies that had previously used that firm for household goods transportation services. The statements of support must be in the form and format specified by GSA.

2–6. Evaluation [old I2–6]

The request for approval will be evaluated in accordance with the criteria set forth below. As used in the following, the term "applicant" shall include both the firm and its sponsored agents, unless otherwise provided.

2–6.1. ISO 9000 Registration [old I2–6.1.1]

Each submitted certification will be reviewed to determine its legitimacy and applicability, and that the required periodic audits have been performed.

2–6.2. HTOS Certification [old D2–3. & I2–6.1.2]

The certification will be reviewed to determine that the applicant has agreed

to abide by the Terms and Conditions of the General Services Administration's Centralized Household Goods Traffic Management Program.

2–6.3. SCAC Designation [old D2–3. & I2–6.1.3]

GSA will verify that the National Motor Freight Association, Washington, DC, has issued the SCAC.

2–6.4. Business Statistics, Scope of Operations, Applicant Operations and Processes and Facilities [old D2–3. & I2–6.1.4]

GSA will evaluate the applicant's responses in terms of whether the applicant has demonstrated actual and potential ability to perform in accordance with the HTOS, performance consistent with that of applicant's already participating in the program, and performance that will meet the levels of quality expected of approved Participants.

2–6.5. Financial Information [old D2–3. & I2–6.1.5]

GSA will evaluate this information to determine whether the applicant has sufficient financial capacity to provide service.

2–6.6. Firm Processes and Process Controls [old D2–3. & I2–6.2.1]

GSA will evaluate the applicant's responses in terms of whether the applicant has demonstrated actual potential ability to perform in accordance with HTOS, performance consistent with that of firms or agents, as appropriate, already participating in the program, and performance that will meet the levels of quality expected of approved program Participants.

2–6.7. Quality Control Program [old I2–6.2.2]

GSA will determine whether the applicant's internal quality control program has been formally published, contains quality goals and objectives with measurable performance standards, measurement techniques, and actions based on those standards, and is sufficient to ensure that the applicant's operations, employees, and agents, if appropriate, are familiar with and will be held accountable for the achievement of the program's goals and objectives. GSA will also determine that the interface of quality control programs between the applicant firm and each of its designated agents is such that the quality goals and objectives and the performance standards are relatively consistent and will result in a unified approach to the quality of service delivery.

2–6.8. Corporate Account Trends [old D2–3. & I2–6.2.3]

GSA will determine how well the applicant has managed and handled its corporate account businesses.

2–6.9. HTOS Questionnaire [old D2–3 & I2–6.2.4]

GSA will evaluate the responses to the questionnaire in terms of whether the applicant has an understanding of the HTOS sufficient to performance that will meet the levels of quality expected of approved program Participants.

2–6.10. Certificate of Insurance [old D2–3 & I2–6.2.5]

Upon receipt of the vendor certification statement of cargo liability insurance from the carrier, and in accordance with the instructions listed in the RFO, GSA will verify the primary underwriter of the cargo insurance policy is licensed by the appropriate regulatory authority. The insurance must also provide for notice of termination or cancellation be provided thirty (30) days prior thereto to the PMO. (SATISFACTORY/UNSATISFACTORY).

2–6.11. Performance Bond.—International Only [old I2–6.2.6]

Upon receipt of the performance bond from the surety, GSA will verify that the surety company executing the bond appears on the list contained in the Department of Treasury Circular 570, "Surety Companies Acceptable on Federal Bonds," and that the sum of the bond is correct. (Acceptable/Unacceptable).

2–6.12. Federal Support [old I2–6.2.7]

In the event the application is from a firm covered by 2–3.1, above, GSA will evaluate the federal support for the applicant to determine whether the applicant's recommencement of operations or its initiation of operations is supported by at least 75% of its former federal, non-DOD customers.

2–7. Approval [old D2–4. & I2–7]

A firm will be approved when the evaluation results in a determination that the applicant possesses sufficient qualifications, experience, facilities, quality control processes, and financial capacity.

2–8. Approval Limitation. [old D2–5 & I2–8]

2–8.1. General [old D2–5. & I2–8.1]

The approval of a firm shall include a limitation on the scope of that firm's operations within the program. The limitation shall be determined in accordance with the following criteria.

2–8.2. New Participants [old D2–5 & I2–8.2]

2–8.2.1. Transportation Services

Except as provided in Paragraphs 2.8.3 and 2.8.4 below, new firms are those applicants approved as Participants during a specific approval window. The designation "new" shall apply until November of the calendar year following the year in which approval was granted (for example, an applicant approved in 1997 shall be considered a new firm until November, 1998). GSA will limit the new Participant's scope of operation to that consistent with the applicant's experience, resources, quality control processes, and financial responsibility.

2–8.3. Applicants Whose Approval Has Been Terminated [old D2–5 & I2–8.3]

For those applicants whose approval as a firm has been terminated by GSA and have subsequently reapplied as a firm, the applicant's scope of operation will not exceed that previously approved, unless GSA determines that a lesser scope is consistent with the applicant's experience, resources, quality control processes, financial responsibility, and prior performance in the program.

2–8.4. Applicants Which Have Voluntarily Withdrawn [old D2–5 & I2–8.4]

For those firm applicants which have voluntarily withdrawn from the program and reapplied as firms, the applicant's scope of operation will not exceed that previously approved, unless GSA determines that a lesser scope is consistent with the applicant's experience, resources, quality control processes, financial responsibility, and prior performance in the program.

2–8.5. Scope Of Operation Adjustments [old D2–5. & I2–8.5]

For other than new firm Participants, the approved scope of operation will be adjusted based on customer satisfaction with the firm's performance within its assigned scope of operation as indicated by the Customer Satisfaction Index effective on November 1 of the year of adjustment. The adjustment shall be calculated in accordance with the following.

2–8.5.1. Adjustment When the Customer Satisfaction Index (CSI) Is Greater Than 105 [old D2–5 & I2–8.5.1]

A CSI greater than 105.00 indicates better than average customer satisfaction. A firm with a CSI greater than 105.00 may increase its scope of operation by an amount equal to the

difference between its CSI and 100.00. For example, a CSI of 109.83 would permit a 9.83% increase in the number of service area pairs (SAP) in the approved scope of operation, as demonstrated by the following computations:

Program Average = 100.00
CSI = 109.83
# of SAPs approved = 3
Step 1: 109.83 − 100.00 = 9.83 (move the decimal two places to the left of the decimal position—example: change 109.83 to .0983)
Step 2: 3 × .0983 = .29 or an increase of 1 SAP

Note: Round all percentages relating to the number of SAP's to the next greater whole number—For example, .29 to 1.

2–8.5.2. Adjustment When the Customer Satisfaction Index (CSI) Is Between 95 and 105 [old D2–5. & I2–8.5.2]

A CSI between 95.00 and 105.00 indicates average customer satisfaction. A firm with a CSI between 95.00 and 105.00 may not change its scope of operation.

2–8.5.3. Adjustment When the Customer Satisfaction Index (CSI) Is Less Than 95 [old D2–5. & I2–8.5.3]

A firm with a CSI less than 95.00 must decrease its scope of operation by an amount equal to the difference between its CSI and 100.00.

2–8.5.4. Reduction of a Multi-Service Area Pair Scope (Old D2–5. & I2–8.5.3.1)

When a firm has a multi-service area scope, the firm will be required to reduce its scope of operation by an amount equal to the difference between its CSI and 100.00. For example, a CSI of 88.23 would require an 11.77% decrease in the number of service area pairs (SAP) in the approved scope of operation, as demonstrated by the following computations:

Program Average = 100.00
CSI = 88.23
# of SAPs approved = 115
Step 1: 100.0 − 88.23 = 11.77% (move decimal two places to the left for calculation purposes in step 2).
Step 2: 115 × .1177 = 13.54 or decrease of 14 SAP's.

Note: Round all percentages relating to the number of SAP's to the next greater whole number—For example, round 13.54 to 14.

2–8.5.4.1. Reduction of a Single Service Area Pair Scope [old D2–5. & I2–8.5.3.2]

When a firm's CSI is less than 95.00 and the firm's scope of operation must be reduced as provided in 2-8.5.3, above, and when the resultant scope of operation would be zero (0) service area pairs or service areas, as the case may be, the scope will not be changed for the filing cycle during which the Customer Satisfaction Index will be effective, subject to the provisions of 2–8.5.6, Adjustment, when the firm is unindexed.

2–8.5.5. Adjustment When There Is No CSI [old D2–5. & I2–8.5.4]

The lack of a CSI indicates that GSA has been unable to establish the quality of the firm's performance. An unindexed firm may not change its scope of operation.

2–8.5.6. Adjustments Based on Factors Other Than the Customer Satisfaction Index [old D2–5. & I2–8.5.5]

For firms other than new that have filed rates since their approval, the approved scope of operation under the circumstances and in accordance with the provisions described below may be adjusted upon written request by the firm. Any approved adjustment will be effective as determined by GSA.

2–8.5.6.1. Adjustment Based on an Increase in Operating Authority [old D2–5. & I2–8.5.5.1]

If subsequent to a firm's approval and the assignment of or any adjustment to a scope of operation, a firm's operating authority increases, no adjustment in the assigned scope of operation will be made unless the firm's current published Customer Satisfaction Index is greater than 105.00; provided, however, that GSA reserves the right to require the firm to submit current information in accordance with the requirements set out in 2–5 above, and to increase, decrease, or not change the firm's scope of operation based on the evaluation of that information.

2–8.5.6.2. Adjustment Due to Mergers and Acquisition [old D2–5. & I2–8.5.5.2]

If subsequent to a firm's approval and the assignment of or any adjustment to a scope of operation, a firm's operating authority increases because of a merger and/or acquisition, no adjustment in the assigned scope of operation will be made unless the firm's current published Customer Satisfaction Index is greater than 105.00; provided, however, that GSA reserves the right to require the firm to submit current information in accordance with the requirements set out in 2–5 above, and to increase, decrease, or not change the firm's scope of operation based on the evaluation of that information.

2–8.5.6.3. Adjustments Based on Reorganization Plans [old D2–5. & I2–8.5.5.3]

If subsequent to a firm's approval and the assignment of or any adjustment to a scope of operation, a firm's plan for reorganization is approved under the laws of the United States, GSA will require the submission of current information in accordance with the requirements set out in 2–5 above, and increase, decrease, or not change the firm's scope of operation based on the evaluation of that information.

2–8.5.6.4. Adjustment Based on Financial Capacity [old D2–5. & I2-8.5.5.4]

Subsequent to a firm's approval and the assignment of or any adjustment to a scope of operation, GSA reserves the right to require a firm to submit current financial information and increase, decrease, or not change the firm's scope of operation based on the evaluation of that information.

2–8.5.6.5. Adjustment Based on Redesignation of Principal Operating Company [old D2–5. & I2–8.5.5.5]

Subsequent to a firm's approval and the assignment of or any adjustment to the scope of operation, the scope of operation will not be adjusted due to the redesignation of the principal operating company (POC) by the parent company.

2–8.5.6.6. Adjustment Based on Firm Name Change [old D2–5. & I2–8.5.5.6]

An approved firm may change its name upon submission of a copy of its approval by the U.S. Department of Transportation (successor to the Interstate Commerce Commission), or appropriate regulatory authority to the PMO. Such documentation must clearly demonstrate a change of name as can be determined by the PMO. No adjustments in the assigned scope of operation will be made; provided, however, that GSA reserves the right to require the firm to submit current information in accordance with the requirements set out in 2–5 above, and to increase, decrease, or not change the firm's scope of operation based on the evaluation of that information.

2–8.5.6.7. Adjustment When More Than One of the Factors Cited in 2–8.5.6.1 Through 2–8.5.6.6 Applies [old D2–5. & I2–8.5.5.7]

When more than one of the factors cited in 2–8.5.6.1 through 2–8.5.6.6 applies (for example, an approved reorganization coupled with a name change), GSA reserves the right to determine the factor under the terms of

which any adjustment action will be taken.

2–8.5.7. Restructuring of Scope of Operation [old D2–5. & I2–8.5.6]

2–8.5.7.1. Restructuring Under the Provisions of 2–8.5.9.3 [old D2–5. & I2–8.5.6.1]

Upon approval of a reorganization plan by the cognizant Bankruptcy Court of the United States, a firm is required to submit a plan for restructuring of its scope of operation and the information required in 2–5, above.

2–8.5.7.2. Restructuring Based on Changes in Traffic Patterns [old D–2.5 & I2–8.5.6.2]

Over a period of time and for various reasons, a firm's predominant, long-term traffic patterns may change. Such changes may result in the approved scope of operation no longer matching the traffic patterns of the firm. Accordingly and notwithstanding any of the provisions set out in 2.8.5, above, a firm may request in writing a restructuring of its scope of operation.

2–8.5.7.2.1. Time of Request [old D2–5. & I2–8.5.6.2.1]

No earlier than five (5) years after the year in which the firm was approved to participate in the program and in five (5) year increments thereafter, a firm may request a review of its scope of operations; for example, a firm approved in calendar year 1989 may request a review of its scope of operation in calendar year 1994 and thereafter in calendar years 1999, 2004, and so on). [See Section 5, Restructuring of Scope of Operations.]

2–8.5.7.2.2. Procedure [old D2–5. & I2–8.5.6.2.2]

When a firm has determined that it wants to exercise its rights to request a restructuring, the firm shall notify the PMO in writing of its intent to file a request for restructuring under the terms of this HTOS. Upon receipt of such notice, the PMO shall transmit to the firm the instructions for the submission of its requests. The firm must then file the formal request in the anniversary year. Formal request, as opposed to the notice of intent to request, received by GSA prior to or after the anniversary year will be rejected.

2–8.5.7.2.3. General Content of Instructions [old D2–5. & I2–8.5.6.2.3]

Generally, the firm will be required to submit the information identified in 2–5 together with sufficient traffic flow statistics and such other information as may be needed to support a conclusion that a substantial, long term change in traffic patterns different from the approved scope of operation has occurred.

2–8.5.7.2.4. Action On The Request [old D2–5. & I2–8.5.6.2.4]

GSA reserves the right to restructure, decrease, or not change the firm's scope of operation based on the evaluation of that information.

2–8.5.7.3. Needs Of The Program [old D2–5. & I2–8.5.6.3]

GSA reserves the right to increase or restructure a firm's scope of operation without regard to the firm's Customer Satisfaction Index when the needs of the program require such increase or restructuring.

2–9. Rejection Of Application To Participate [old D2–6. & I2–9]

2–9.1. Timeliness [old D2–6. & I2–9.1]

An applicant's failure to file by the respective due dates will result in the rejection of its application.

2–9.2. Reserved For Future Use [old I2–9.2]

This Subparagraph reserved for future use.

2–9.3. Financial Responsibility [old D2–6. & I2–9.3]

An applicant not meeting the financial qualification standards will not be approved.

2–9.4. Business And Operational Responsibility [old D2–6. & I2–9.4]

An applicant not meeting the business and operational responsibility standards such that a scope of operation cannot be established will not be approved.

2–10. Continued Participation [old D2–7. & I2–10]

2–10.1. General [old D2–7. & I2–10.1]

Once an applicant has been approved to participate, continued participation depends upon (1) The Participant showing a willingness and ability to meet the transportation requirements of the United States Government and the HTOS; and (2) the Participant's maintenance of financial responsibility, working capital, and other financial, technical, quality control processes, and management resources to perform.

2–10.2. Continuation Of ISO 9000 Certification [old I2–10.2]

In the event that a firm's approval is predicated in part on ISO 9000 certification and that certification lapses or is terminated by the certification registrar, the firm's approval will become conditional until it has completed all parts of the application that were waived because of the ISO 9000 certification; provided, however, that should the firm not meet the evaluation standards, approval will be terminated.

2–10.3. Continuation of Insurance [old I2–10.3]

If at any time the firm's certification statement of cargo liability insurance is not provided to the PMO in accordance with the RFO, the firm's participation in the program will be immediately terminated.

2–10.4. Continuation of Performance Bond—International Only [old I2–10.4]

If at any time the firm's performance bond is canceled and not replaced with an acceptable new bond, the firm's participation in the program will be immediately terminated.

2–10.5. Assignment Of Rights [old I2–10.5]

Except for assignment of payment of the Participant's original bills to a bank for collection and in the event that a Participant exercises any right under a currently existing agreement nor enters into agreements with parties not subject to its control which in any way infringe, controvert, or otherwise subordinate or prevent the Participant from deciding unilaterally whether it will or will not submit a claim or file suit against the Government or pay a claim by the Government after the original bill for services performed under this HTOS, the Participant's approval will be immediately terminated.

2–10.6. Conditional Approval Based on a Customer Satisfaction Index Less Than 95.00 When a Single Service Area Scope of Operation is Involved—Firm [old I2–10.6]

Under the conditions specified in 2–8.5.4.1, above, the following applies.

2–10.6.1. Change in Approval Status [old D2–7. & I2–10.6.1]

The firm's approval will be changed to conditional for the filing cycle during which the Customer Satisfaction Index will be effective.

2–10.6.2. Revocation of Approval [old D2–7. & I2–10.6.2]

In the event the firm's Customer Satisfaction Index for the subsequent customer satisfaction rating period remains less than 95.00, the firm's approval will be terminated.

2–10.6.3. Termination of Conditional Approval [old D2–7. & I2–10.6.3]

If the firm's Customer Satisfaction Index for the subsequent customer

satisfaction rating period is 95.00 or greater or the firm is unindexed for the subsequent customer satisfaction rating period, the conditional approval will be terminated.

2–10.7. Submission of False Information [old D2–7. & I2–10.7]

Willful submission of false information on any document furnished by the applicant or Participant pursuant to this HTOS is punishable by fines, imprisonment, or both (U.S. Code Title 18, Section 1001), and may be grounds for terminating the Participant's approval to participate in the program. Federal agencies are responsible for the final evaluation of firm performance and selections of firms which best serve their needs. In the event it is later discovered that the firm was in CFAC and did not declare that fact, the Participant's approval will be terminated.

2–10.8. Updating Approval Information [old D2–7. & I2–10.8]

Whenever an approved Participant makes substantive changes in its organization or operation as described in its approval application, the Participant must advise the PMO in writing of such changes.

2–10.9. Bankruptcies [old D2–7. & I2–10.9]

2–10.9.1. General [old D2–7. & I2–10.9.1]

A Participant filing a petition for reorganization, or bankruptcy under the laws of the United States or a foreign country must notify the Program Management Office.

2–10.9.2. Reorganization [old D2–7. & I2–10.9.2]

When a Participant files a petition for reorganization under the laws of the United States or a foreign country, the Participant's approval to participate in the program will be subject to review and redetermined in accordance with the provisions of 2–8.5.6.3 and 2–8.5.7.1, above.

2–10.9.3. Bankruptcy [old D2–7. & I2–10.9.3]

When a Participant files a petition for bankruptcy, the Participant's approval to participate will be immediately terminated.

2–10.9.4. Failure To Notify PMO [old D2–7. & I2–10.9.4]

In the event the Participant fails to notify the PMO in accordance with 2–10.9.1 of its filing for reorganization and/or bankruptcy, its approval to participate in the Centralized Household Goods Program shall be terminated.

2–10.9.5. Firm Withdrawal Of Approval [old 2–10.10]

2–10.9.5.1. General [old D2–7. & I2–10.10.1]

A Participant may terminate (withdraw) its participation in the program at any time. A Participant terminating (withdrawing) its approval to participate in the Centralized Household Goods Traffic Management Program must notify the PMO in writing.

2–10.9.5.2. Constructive Withdrawal [old I2–10.10.2]

If a Participant is a principal operating company or is independently owned and operated, it will be construed as having withdrawn from participation in the program if it does not file rates in two consecutive years.

Section 3—Offers of Service

3–1. Filing [old D3–1]

Subject to Paragraph 3–4 below, Participants approved to participate in the Program may submit offers to provide the transportation services covered by this HTOS.

3–2. Time of Filing [old D3–2]

Except for newly approved Participants, offers may be filed only during the period designated in the filing instructions for the filing of offers. Newly approved Participants may file offers during the first open filing period, as set out in the filing instructions, after their approval.

3–3. Filing Restrictions [old D3–3]

3–3.1. Approved Participants [old D3–3]

The filing of offers is restricted to an approved Participant in the Centralized Household Goods Traffic Management Program (CHAMP).

3–3.2. Scope of Operation. [old D3–3]

The filing of offers is restricted to an approved Participant's scope of operation.

3–4. Acceptance/Rejection of Offers [old D3–4]

Offers submitted shall be accepted/rejected in accordance with such terms and conditions as the PMO deems necessary to assure maintenance of service, fair and reasonable pricing, and free and open competition. Offers outside the Participants approved scope of operations will be rejected.

3–5. Issuance of Special Offers.

3–5.1. General [old D3–5]

Except as provided in HTOS Paragraph 3–5.1.1. below, it is expressly prohibited for Participants party to this HTOS, their affiliates, or agents to offer, whether solicited or unsolicited, to a Federal agency subject to GSA's Centralized Household Goods Traffic Management Program any services, rates, rules, or charges different from those available in the Program. Availability in the Program shall be construed as a Participant's rate offer accepted in the normal course of a rate filing cycle; or if a Participant's rate offer had been rejected, any action by the Participant to make an offer to Federal agencies independent of GSA action. Violation of this paragraph will result in immediate placement of the principle operating company (POC) in temporary non-use for a period of 90 days, potential revocation of the POC's approval, and possible referral for Government-wide debarment.

3–5.1.1. Exception [old D3–5]

Participants may issue a special rate tender for first proviso household goods shipments for the use of a cost-reimbursable contractor of the United States Government. The terms of the rate tender must be such as to preclude use of that rate tender by the contracting Federal agency. For example, a Participant may issue a rate tender for "Department of Energy's Cost-Reimbursable Contractors", but not for "the Department of Energy and its cost-reimbursable contractors". The rates and charges offered in such rate tenders must be equal to or better than those set out in any rate tender accepted and otherwise available to Federal agencies.

3–6. Filing Instructions [old D3–6]

3–6.1. General

Instructions for the filing of offers, Request for Offers (RFO), will be issued by the PMO on an annual basis, unless changes in the program or other factors require the issuance of instructions on a different basis. Except as provided below, all terms, conditions, and instructions will be setout in the RFO.

3–6.2. Geographic Coverage [old D3–6]

3–6.2.1. Domestic

The geographic areas included in domestic offers are defined in Section 14. Offers for service within Alaska or between Alaska and all other points defined as domestic will include only those points identified in the RFO. Offers for all other domestic service must be for all points within the defined

service areas for interstate and for the full state for intrastate.

3–6.2.2. International

The geographic areas included in international offers are defined in Section 14. Offers for all international service may be between international areas or between international and domestic areas. In any case, offers for international service must be for all points within the defined service areas and/or countries.

3–6.3. Supplements [old 3.6.1.6.2]

Supplements to an initially accepted offer must be submitted in accordance with the RFO. If supplements do not conform to the requirements of the RFO, they will be rejected.

3–6.4. Liability for error [old D3–6]

GSA is not liable for any error in the formatting or content of a Participant's offer. In the event of differences between a Participant's submitted offer and its accepted offers as set out in the ITMS, the accepted offer as set out in ITMS will take precedence.

Section 4—Statement of Work

4–1. Performance Of Services

4–1.1. Scope of Service [old D4–1]

The responsible transportation officer (RTO) or the owner of the goods, or his/her designated representative, shall establish firm service dates in conjunction with Participants accepting shipments offered under this HTOS for the prompt performance of all necessary origin and destination services. Origin services shall include packing, necessary servicing of appliances and electrical equipment, pickup from owner's residence or place of storage, and loading and removal of packing debris. Destination services shall include delivery, unpacking, single placement of household goods in owner's residence, servicing of appliances and electrical equipment, removal of unpacking debris, and customs services, as required. These services shall be performed on, before, or after the date shown on the Government Bill of Lading (GBL). The required delivery date noted on the GBL will not be construed by the Participant as expedited service, unless specifically authorized by the RTO. The physical transfer of individual shipments from one line-haul vehicle to another will be held to a minimum.

4–1.2. Scope of Service—International Only [old I4.1.2]

Unless directed otherwise by the employing Federal agency, the Participant will be required to place goods in Type II containers at origin, provide surface transportation to the ocean Participant terminal, transfer of goods to sea container, if necessary, transportation to port of debarkation, transfer of goods loaded in Type II containers from sea containers to motor Participant, if necessary, and delivery into storage or to destination residence; or place Type II containers in sea containers at origin residence and transportation to destination residence or storage facility.

4–1.2.1. Use of American Flag Vessels—International Only

4–1.2.1.1. General—International Only [old I4.4]

Except as provided below, the Participant will use ships of United States registry for the ocean portion of overseas shipments and book shipments for container or below deck stowage.

4–1.2.1.2. Use of Foreign Flag Shipping.—International Only [old I4.4]

When it is determined that the use of a vessel of United States registry will not provide the required service, the Participant will request permission to use Foreign Flag vessel prior to start of movement. Requests for permission to use a Foreign Flag vessel must be made to RTO on the form "Request for Approval of Use of a Foreign Flag Vessel". Authority will be granted only when US flag shipping is not available or the use of foreign flag shipping is necessary to meet delivery requirements to which the Participant will certify in writing.

4–1.2.2. Overflow And Split Shipments—International Only.

4–1.2.2.1. Ocean Shipments.—International Only. [old I4.1]

The Participant will book all items of a single shipment together on the same vessel, same voyage or departure. In the event that a portion of any shipment should be shut out by the ocean Participant, the Participant will notify the RTO. Shipments may be split between ocean containers but not between ocean voyages.

4–1.2.2.2. Non-Ocean Shipments.—International Only [old I4.1]

If it is necessary to split a shipment for the non-ocean line-haul movement, the established RDD is applicable to all parts of the shipment.

4–1.2.3. Use of Agents In Unnamed Localities—International Only [old I4.1]

An agent furnishing agent services in a locality not named in Section 14 may provide agent services to a requesting Participant; provided, however, that the Participant has obtained the permission of the RTO to use that agent prior to commencement of performance.

4–1.3. Pickup And Delivery Service [old D4–1]

When a shipment is accepted at origin, the Participant agrees to meet the specified pickup date and shall deliver the shipment in accordance with the transit time specified in Section 12, or the required delivery date (RDD) stated on the GBL, or as otherwise directed by the RTO. The required delivery date noted on the GBL will not be construed by the Participant as expedited service, unless specifically authorized by the RTO. Pickup maybe performed by the Participant's local agent with transfer to a line-haul Participant at the Participant's origin terminal facility. Shipments will not be scheduled by the Participant for pickup or delivery on Saturdays, Sundays, local holidays, or US holidays unless so directed by the RTO. In the event that the final date of the transit time or the RDD falls on a Saturday, Sunday, local holiday, or US holiday, the final date shall become the first workday following the Saturday, Sunday, local holiday, or US holiday. The Participant will not begin any service that will not allow completion by 5 p.m., local time, without prior approval of the RTO and will return the following workday morning to complete the job.

4–1.4. Adverse Weather Conditions [old D4–1]

When packing, loading, unloading or unpacking during adverse weather conditions could create a potential hazard to the owner's household goods or personal effects, such services will be suspended until more favorable weather conditions exists, unless otherwise mutually agreed in writing by the Participant and the owner. Participants must, if requested, produce a copy of this in writing to GSA.

4–1.5. Continuous Control [old D4–1]

Participants shall maintain continuous control of shipments and shall be responsible for monitoring and tracing to ensure prompt completion of all services.

4–1.6. Electronic Communications [old D4–1]

In those instances when a Participant has the capability, it may make available (at no cost to Federal agencies) electronic communications capabilities for such purposes as shipment booking, tracing, and claims settlement

information. This provision does not apply to electronic mail (e-mail); provided, however, that should both the Participant and the agency have the capability to exchange e-mail, nothing in this HTOS Paragraph prohibits the use of e-mail for such purposes as shipment booking, tracing, and claims settlement information.

4–1.7. Commencement of Transportation Services [old I4–1]

Transportation service of a shipment to its ultimate destination shall be commenced only upon receipt of the Government bill of lading by the Participant, unless otherwise mutually agreed upon by the Participant and the RTO.

4–1.8. Services Beyond those Specified in the HTOS [old I4–1]

Services beyond those specified in this HTOS will not be provided by the Participant, unless such service(s) are authorized in writing with the charge(s) agreed thereto.

4–2. Premove Survey

4–2.1. Conduct of Surveys [old D4–3]

The Participant must conduct an on-site premove survey of the property to be moved to determine those items to be shipped, the approximate net weight of the shipment, packing material and container requirements, and to schedule dates for packing and pickup of the shipment. The survey must list the major items of furniture, appliances and equipment which are to be included in the shipment. It must also indicate the number of wooden crates required to protect fragile items and the approximate number of cartons required for the shipment. At the time of the onsite survey, the Participant, at its own expense, must furnish the owner a copy of the General Services Administration's (GSA) pamphlet entitled "Your Rights and Responsibilities" an estimate, and such other documents as the HTOS specifies. The Federal Highway Administration publication OCE–100 does not satisfy this requirement.

4–2.2. Telephone Surveys [old D4–3]

Telephone premove surveys shall not be conducted unless specifically authorized by the RTO.

4–3. Accessorial Services-Moving Services

4–3.1. Packing And Padding [old D4–2]

The Participant shall perform all of the packing and/or crating and padding necessary for the protection of the goods to be transported.

4–3.2. Materials [old D4–2]

The Participant shall furnish packing containers, including, but not limited to, boxes, wardrobes, and cartons; all crating materials; and all padding materials and equipment.

4–3.3. Disassembling and Reassembling [old D4–2]

The disassembling of property (e.g., beds, waterbeds, and sectional bookcases) and the preparing of appliances (e.g., washers, dryers, and record players) for shipment shall be performed by the Participant. The Participant shall reassemble the property and service the appliances upon delivery at the new location. NOTE: The disassembling and reassembling of waterbeds does not include draining or refilling.

4–3.4. Unpacking And Placement. [old D4–2]

Unloading at destination will include the one-time laying of rugs and the one-time placement of furniture and like items in the appropriate room of the dwelling or a room designated by the property owner. On a one-time basis, all boxes, cartons and/or crates will be unpacked and the contents will be placed in the room designated by the property owner. This includes placement of articles in cabinets, cupboards, or on shelving in the kitchen when convenient and consistent with safety of the article(s) and proximity of the area desired by the owner, but does not include arranging the articles in a manner desired by the owner. The Participant shall also place the property in the new location as instructed by the owner of the property or authorized representative, and shall remove all packing and similar or related material from the premises as requested by the owner or authorized representative. Placement shall not be construed to include storage of unpacked articles in cupboards, cabinets, drawers, or closets (except when articles are returned from hanging wardrobes).

4–3.5. Removal or Placement of Property From or to Inaccessible Locations [old I4.2]

When the location of property and goods to be shipped or delivered is (1) not accessible by a permanent stairway (does not include ladders of any type), (2) not adequately lighted, (3) does not have a flat continuous floor, or (4) does not allow a person to stand erect, the Participant is not responsible for the removal or placement of such property unless the property owner requests and the RTO authorizes such removal or placement and the labor charges incident thereto.

4–4. Packing

4–4.1. General [old I4.7]

All packing will be accomplished in accordance with provisions of this section. The Participant is liable and responsible for all packing. The Participant has the responsibility to inspect all prepacked goods to ascertain the contents, condition of the contents and that only articles not otherwise prohibited by the Participant's tariff/tender are contained in the shipment. Furthermore, when it is determined by the Participant that goods require repacking, such packing will be performed by the Participant.

4–4.2. Number and Weight of Containers [old D4–4]

The number and weight of containers will not be greater than necessary to accomplish efficient movement.

4–4.3. Least Cubic Measurement [old D4–4]

All packing by the Participant must be performed in a professional manner which will result in the least cubic measurement producing packages that will withstand normal movement without damage to the transporting vehicle, liftvan/container or contents, and at a minimum of weight. Care shall be exercised to prevent loss or damage of personal property.

4–4.4. Use Of Materials

4–4.4.1. General

The Participant shall:

4–4.4.1.1. Domestic [old D4–2]

Ensure that all cartons, boxes, containers and materials are clean and of sufficient quality for protection of the goods.

4–4.4.1.2. International [old I4.7]

Ensure that all cartons, boxes, containers and materials are new and of sufficient quality for protection of the goods. The use of damp, wet, or unclean packing is prohibited.

4–4.4.2. Use of Original Containers

4–4.4.2.1. General [old D4–4]

At the property owner's request, articles such as electronic equipment and computer type equipment will be packed in original containers by the Participant when furnished by the owner and if the containers are considered to be in good condition for shipping purposes. When original cartons are utilized, the provisions of

HTOS Paragraph 4–4.4.4, below, do not apply.

4–4.4.2.2. When Original Containers Are Not Available [old I4.7]

When the original containers are not available and when necessary to protect electrical equipment for safe transportation or during SIT, such equipment will be completely wrapped in paper or unicellular polypropylene foam and packed in a carton with enough padding to provide insulation necessary to prevent contact of one article with another and to eliminate movement of any article in the liftvan/container. When packing in a carton is not necessary, the items will be properly wrapped and padded for protection.

4–4.4.3. Boxes [old I4.7]

When using wooden boxes for the packing of property and when such boxes will be stored within an exterior shipping container, such wooden boxes will be new; i.e., used for the first time. The boxes used will be wood cleated plywood or nailed wood. Boxes will be made of new lumber and new plywood and will be well manufactured and free from imperfections which may affect their utility. Size and spacing of nails will be in accordance with the best commercial practice. The use of wood cannibalized from used boxes, recoopered, or rebuilt wooden boxes is prohibited.

4–4.4.4. Cartons [old I4.7]

Cartons of solid or corrugated fiberboard will be used for packing linens, books, bedding, lampshades, draperies or other similar articles. After packing, cartons must be sealed by taping lengthwise at the joint on top and bottom. The inside dimensions of the carton (length, width, and depth totaled) will not exceed 75 inches with a weight limitation of 65 pounds. All corrugated cartons shall be stamped with a manufacturer's certificate indicating name of manufacturer, minimum combined weight of facings, size limit, gross weight limit and information indicating type of carton. Cartons lacking such certification are not authorized for use. Egg crates, fruit or vegetable crates, tea crates and similar type boxes will not be used, even when packed by the property owner. Overflow boxes will not be of triwall or corrugated cardboard construction.

4–4.4.5. Barrels, Fiber Drums, And Cartons [old I4.7]

Wood barrels, fiber drums or cartons with a capacity of not less than 5 cubic feet are to be used for packing glassware, chinaware, bric-a-brac, table lamp bases, and other fragile articles. When packing of fragile items has been completed and space is left in a dish pack, such space may be used for packing other lightweight items. These containers will not contain more than 120 pounds. Corrugated containers may be used instead of barrel or drum-type containers. Not more than 120 pounds of material will be packed therein. The sum of the interior horizontal and vertical girths will be not less than 157 inches for wooden barrels, fiber drums or other drum-type containers. The cube of corrugated containers will be determined by actual measurements. All barrels or fiber drums will be securely headed and marked "This End Up."

4–4.4.6. Crates [old D4–4]

Except for the packing of grandfather clocks, glass and marble tabletops, projection televisions, and pool table slate, the use of crates must be authorized by the RTO.

4–4.4.7. Filler Material [old I4.7]

Good quality wood excelsior pads, wood wool excelsior pads, shredded paper pads, cellulosic (bubble pack, etc.) cushioning material, fiberboard, corrugated fiberboard, unicellular polypropylene foam, unprinted newsprint, and/orkraft paper will be used as a filler.

4–4.4.8. Padding [old I4.7]

New and good quality used-wood excelsior pads, unicellular polypropylene foam, shredded paper pads or other equally suitable material will be used when required.

4–4.4.9. Wrapping [old I4.7]

Wrapping paper or unicellular polypropylene foam will be new, clean and appropriate for the purposes intended. Each item of silverware, silver ornamentation or brass that is not coated to prevent tarnishing will be completely wrapped in unicellular polypropylene foam or nontarnish tissue paper.

4–4.4.10. Paper, Waxed or Treated [old I4.7]

All waxed paper used will be manila wax or equivalent. Treated paper may be used if it is butcher type paper.

4–4.4.11. Unicellular Polypropylene Foam [old I4.7]

All unicellular polypropylene foam wrapping material will be new, clean and will conform to Federal Specification PPP-C–1797.

4–4.4.12. Marking Requirements [old I4.7]

All cartons must be marked on the exterior in general terms as to the nature of the contents. Each carton must be identified with an inventory number, full last name of the employee, and lot number if storage-in-transit is applicable. These numbers and the employee's name must also be shown on the outside of each piece that is not going to be placed in a carton for shipment.

4–4.5. Special Items

4–4.5.1. Bicycles For Overseas Shipment—International Only [old I4.7]

When shipped as a separate item and not included within a container as specified in HTOS Paragraph 4–4.4.4, above, bicycles shall be packaged and packed in the following manner: the handle bar shall be loosened, lowered, turned at a right angle from its usual position, swung downward and retightened when necessary. Wheels or mechanisms shall not be removed or disassembled from the frame. When necessary, pedals shall be removed and secured on edge forward of the seat post or above the back fender. Before placement into the carton, the bicycle will be wrapped with protective wrapping and padding. Empty areas in the container will be filled to prevent shifting or movement during transit. The container must be constructed or fabricated in a manner which will accept the bicycle without removal of the front or rear wheel assemblies and meets the requirement of HTOS Paragraph 4–4.4.5, above.

4–4.5.2. Books [old D4–4]

Books will be placed in cartons. All books of similar size will be packed together in rows. Pads of solid or corrugated fiberboard will be inserted between rows and packaged tightly, wedged with pads or paper, if necessary, to fill out the carton and prevent chafing. Books normally will be packed not more than two rows high in a book carton.

4–4.5.3. Fragile items [old D4–4]

Use of clean bubble type or other modern method of packing is required for the packing of glassware, chinaware, bric-a-brac, table lamp bases, and other fragile articles. Packing of fragile items must be such as to keep the articles safe from the normal hazards of transportation to the ultimate destination. Use of excelsior or shredded paper is not acceptable.

4–4.5.4. Kitchenware [old D4–4]

All kitchenware will be padded and packed into cartons. Kitchenware must not be packed with other items.

4–4.5.5. Linens, Clothing, And Draperies

4–4.5.5.1. Domestic Only [old D4–4]

Linen, clothing, draperies, and similar items may remain in drawers, chests, dressers, trunks, etc., when considered safe for carriage. If considered unsafe for carriage, these items will be packed carefully into new cartons which will be properly sealed at residence.

4–4.5.5.2. Use Of Regular Cartons.—International Only [old I4.7]

Small, lightweight, unbreakable items, e.g., clothing items, certain linens, will be packed into new (regular) cartons which will be properly sealed at residence.

4–4.5.6. Use of Wardrobes

4–4.5.6.1. Domestic Only [old D4–4]

On domestic door-to-door shipments, clothing normally on hangers will be hung in the wardrobes.

4–4.5.6.2. International Only [old I4.7]

Clothing normally on hangers in closets and draperies will be packed in flat wardrobes with hangers removed from clothing and drapery hooks removed from the draperies. If requested by the employee, the Participant may use hanging wardrobes for clothing normally on hangers.

4–4.5.7. Mirrors, Pictures, Stone Table Tops [old D4–4]

Subject to the restriction contained in HTOS 4–4.4.6., above, mirrors, pictures and paintings, both glass-faced and nonglass-faced, glass or stone table tops and similar fragile articles will be wrapped and packed in a crate, if authorized by the RTO, or suitable fiberboard carton. When more than one article is packed in any one crate or carton, a divider will be provided. No more than four articles will be packed in any one crate or fiberboard carton. Stone or marble tabletops will be packed separately. Small pictures, paintings, mirrors, and similar articles will be carefully packed into cartons and properly sealed at residence.

4–4.5.8. Lampshades, Ornaments [old D4–4]

Lampshades, ornaments, small toys, and other small items easily crushed will be wrapped and placed in cartons and will be insulated from the carton walls and from other items. Lampshades will be wrapped individually with new paper or new unicellular polypropylene foam placed in cartons and cushioned to prevent shifting or damage.

4–4.5.9. Mattresses [old D4–4]

Mattresses will be placed in new mattress cartons at the residence and sealed with tape.

4–4.5.10. Rugs and Pads [old D4–4]

All rugs and rug pads will be properly rolled (not folded). Rugs will not be subsequently folded or bent to an extent that may cause damage to the rug.

4–4.5.10.1. International Only [old I4.7]

For international shipments, rugs and pads will be moth flaked, wrapped in kraft paper and placed in rug boxes/cartons for shipment. A wooden crate may also be used, if authorized by the RTO.

4–5. Preparation Of Articles For Transportation

4–5.1. Appliance Servicing

4–5.1.1.1. General [old I4.7]

Each appliance serviced will be appropriately labeled to indicate that it must be serviced at destination before use (reversing the process performed at origin). Appliance servicing includes the servicing and unservicing of household appliances and other articles which have free moving parts, mechanisms, attachments or accessories which, if not properly serviced, might be damaged or rendered inoperative during transit.

4–5.1.1.2. Washers [old I4.7]

Washers requiring servicing will be secured with washer kits, washer packs, washer locks, or special plastic inserts. The use of sheet fiberboard/cardboard is prohibited.

4–5.1.1.3. Appliances and Electrical Equipment

Appliances and electrical equipment requiring other servicing will be serviced in accordance with the best prevailing industry shipping practices.

4–5.1.1.4. Exclusion [old I4.7]

Servicing will not include disconnecting or reconnecting appliances including personal computers and related peripheral devices, repairing articles, removal or installation of radio/TV antennas or air conditioners, wiring or plumbing service, and the securing of stereo arms or turntables.

4–5.2. Items of Unusual Nature [old I4.8]

The disassembling and reassembling of items of unusual nature such as, but not limited to, German shranks, grandfather clocks, waterbeds with attached wall units, steel shelving, pool tables, elongated work tables, and counters may require special service by a third party. This third party service, including disassembly and reassembly, must be approved in advance by the RTO. Participant will not perform these services unless requested and approved by the RTO.

4–5.3. Firearms [old I4.7]

All Privately Owned Firearms (POF) must be placed in the Number 1 external shipping container. For international shipments, containers must be positioned so that they are readily accessible for examination by customs officials when required. This shipping container will be closed and sealed at the employee's residence. Under no circumstances will the Participant be permitted to remove the POF to the warehouse or other facility for placement in shipping containers.

4–5.4. Surfaces [old D4–8]

All articles having surfaces liable to damage by scratching, marring, soiling, or chafing will be wrapped at time of loading at residence in textile or paper furniture pads, covers (other than burlap) or other acceptable wrapping materials. When storage of these articles is necessary, they will be afforded the same protection against damage.

4–5.5. Disassembly/Reassembly [old D4–8 & I4.8.2]

Except as provided in HTOS Paragraph 4–5.2, above, the Participant will disassemble at point of origin and so shown on the inventory form all items of personal property including waterbeds without attached wall units (excluding draining or refilling) which, in the judgment of the Participant, require disassembly to ensure safe delivery at destination. The Participant is not responsible for removing any outdoor article embedded in the ground or secured to a building, nor the assembling or disassembling of any outdoor articles such as steel utility cabinets, swing sets, slides, sky rides, jungle gyms, television and radio antennas or other outdoor articles of similar nature. If items are disassembled by owner, it will be so indicated on the inventory form.

4–5.6. Hardware [old D4–8]

All nuts, bolts, screws, small hardware and other fasteners removed from articles by the Participant in the preparation for shipment will be placed in a cloth bag or similar durable container and securely attached to the

article from which removed and will be so noted on the inventory. The Participant, in such cases, will be required to furnish, at the time of reassembling, any new hardware, nuts, bolts, etc., necessary to reassemble the property.

4–5.7. Items Removed From Furniture [old D4–8]

Legs and other articles removed from furniture will be properly wrapped, bundled together and identified, e.g., dining room table legs, six each, and listed as a separate item on the inventory.

4–5.8. Unaccompanied Air Baggage [old D4–6]

Unaccompanied air baggage shall be handled in accordance with the instructions of the shipping Federal agency. Participant will be required to provide the movement of unaccompanied air baggage including packing and crating of goods at origin, surface transportation to origin airport, air transportation to destination airport, and surface transportation to destination residence. Unaccompanied baggage will be unpacked by the Participant unless waived by the owner. Certification that unpacking was performed by the Participant will be by the owner on a DD Form 619, or comparable commercial document.

4–6. Authorized Privately Owned Vehicles (POV)

4–6.1. Domestic Only

Transportation of privately owned vehicles (POV) within CONUS shall be handled in accordance with the instructions of the shipping Federal agency. Participant will be required to provide for the preparation of vehicle; pickup at origin; transportation from origin to destination; delivery to final destination; and valuation based on the current value of the vehicle.

4–6.2. International Only [old I4.1 & I4.8]

Privately owned vehicles shall be handled in accordance with the instructions of the shipping Federal agency. An agency may ship only one POV to a post of duty outside CONUS, excluding replacement vehicles. Participant will be required to provide for the movement of POVs whereby provisions are made for truck-away to the port of exit and delivery to destination residence from port of entry. If the distance between origin residence/destination residence and port of exit/entry is 30 miles or less, the vehicle may be driven. The employing Federal agency reserves the option of Door-to-Door or Port-to-Port services.

4–7. Preparation of Shipment Inventory

4–7.1. Inventory Forms [old D4–9]

Inventory forms will be of multiple copy design, must specify the name and address of the Participant, and contain an explanation of the exception symbols used to describe the condition of the goods. In addition, there shall be space for indicating the name of the owner of the goods and the date of shipment. The same inventory prepared at origin will be used to verify condition and count upon delivery of the shipment.

4–7.2. Preparation of Origin Inventory

4–7.2.1. General [old D4–9]

The Participant must, in conjunction with the owner or his designated representative, prepare an inventory list of all articles received for shipment. The inventory list should clearly and legibly indicate each article of furniture or personal effects to the extent necessary to properly identify it (them). Words such as "household goods" or other general descriptive terms will not be used. An automated inventory may be used if completed at the place of pickup as long as the appropriate data are recorded and copies provided as required. Each copy of the inventory of the shipment will bear the signature of the employee, or the employee's agent, together with the signature of the Participant's representative certifying to its accuracy and completeness.

4–7.2.1.1. International Only [old I4.10]

Each liftvan shall contain a seal serial number which shall be annotated on the original inventory form.

4–7.2.2. Items Containerized at Warehouse—International Only [old I4.10]

If the RTO permits the Participant to partially containerize a shipment at the warehouse, each item removed from the residence will be annotated on the inventory as containerized at warehouse (CW).

4–7.2.3. Preparation of Container Inventory—International Only [old I4.10]

"Bingo cards" or comparable inventory form will be used to record and identify by inventory line item number those items placed in each liftvan or overflow container. This, in effect, will be an individual liftvan inventory which can be cross referenced with the employee's master inventory.

4–7.2.4. Listing of Firearms [old D4–9]

For all firearms being shipped pursuant to this TOS with a serial number attached and packed in the original container or a Participant-packed container, the Participant must place the serial number on the corresponding line in the "condition at origin" column on the descriptive inventory.

4–7.2.5. Receipt of Firearms

Participants who deliver firearms in interstate or foreign commerce must obtain a written acknowledgment of receipt from the recipient of any package containing a firearm.

4–7.2.6. Preparation of Inventory for High Risk Items [old I4.10]

Unless specifically authorized by the RTO, the inventory prepared in accordance with HTOS Paragraph 4–7.2.1, above, will not be used for or contain a listing of high risk items.

4–7.2.7. Preparation of Inventory for Overflow Items [old I4.10]

A separate inventory will be prepared for overflow items, one copy dispatched immediately to the RTO and one copy to the property owner at the time of delivery.

4–7.2.8. Annotation of Inventory Upon Change in Custody [old I4.10]

The Participant shall annotate the inventory to show any overage, shortage, and damage found, including visible damage to external shipping containers each time custody of the property changes from a storage container (warehouseman) to a Participant or from one Participant to another.

4–7.2.9. Listing of Cartons and Contents [old D4–9]

All cartons must be marked to clearly identify the size of the carton and its contents. The same general identification of contents must also be shown on the inventory. Nothing herein shall be construed as prohibiting the Participant from preparing a detailed or itemized list of carton contents. Each article must be identified with an inventory number and such numbers shall be recorded on the inventory form.

4–7.2.10. Omission of an Exception Symbol [old D4–9]

Special care must be exercised to ensure that the inventory list reflects the true condition of the property. Omission of an exception symbol will indicate the article is in good condition except for normal wear.

4–7.2.11. Exceptions to the Condition [old D4–9]

Exceptions to the condition of the goods must be recorded specifically for each article and brought to the attention of the owner before the goods are removed from the residence. General terms, such as marred, scratched, dented, worn, torn, gouged, etc., must not be used without supplemental description as to the degree and location of the exception. If the owner takes exception to the manner in which the Participant describes the condition of an item, such exception will be noted on each copy of the inventory.

4–7.3. Preparation of Destination Inventory [old D4–9]

When unloading and/or unpacking articles at the destination residence, the Participant must use the same inventory prepared at origin to verify delivery at destination and inspect each article for damage and check the inventory against possible loss of and/or damage to articles in conjunction with the owner or his representative. A record will be made of any difference in count and condition from that shown on the inventory list prepared at origin and such record will be jointly signed by the Participant and the owner or his authorized agent. Such record of count and condition will be indicated on the inventory form, or other delivery document or the form prescribed by the shipping Federal agency. Discrepancies will be noted on the last page of the inventory. If articles are missing, every effort will be made to locate these items and forward them to the owner by expedited means, at no additional cost to the Government or the owner.

4–7.3.1.1. International Only [old I4.10]

The seal serial numbers for each liftvan will be verified against the numbers as applied at origin residence.

4–8. Shipping Containers

4–8.1. Protection of Containers [old D4–5]

All household effects (HHE) shipping containers, i.e., liftvans, moving in line-haul service by flatbed equipment will be covered with a waterproof tarpaulin or other material providing equal protection, and such material will cover the cargo on the top and sides down to the vehicle bed and all surfaces of the overhang. Note: Shipments moving to port agent facilities in Baltimore are considered as moving in line-haul service even though they may be moving within the named localities of Washington, DC, or Baltimore, MD.

4–8.2. Shipments Held at Terminal Facilities—International Only [old I4.9]

Shipments not loaded in sea vans, but under the Participant's control and held at terminal facilities awaiting transportation will be placed in a secured, fenced and covered area which will provide complete protection from the elements. In any case, all shipments held at terminal facilities will be placed within a secured fenced area.

4–8.3. Containers—International Only [old I4.9]

The Participant will use liftvans/containers which meet the following specifications.

4–8.3.1. General—International Only [old I4.9]

All household effects containers, i.e., liftvans, used by the Participant must have been constructed to the specifications of the containers tested in accordance with MIL–STD 1489, Performance Testing of Commercially Owned Household Effects Containers. The primary liftvan for surface shipments under this HTOS is the 206 cubic foot (exterior) box which conforms to the approved material and structure requirements for MTMC container number 186–A (as modified by MTMC Approval Code 186–1) and MTMC container number 152–A–1 (Mod) as specified in MTMC Pamphlet 55–12. All containers are new, clean, and swept. Liftvans will be free from holes or other conditions such as dry rot which could permit the entry of water and that sides and doors, when closed, fit tightly and securely. Liftvans are to be constructed so as to require a sealant/caulking material to be applied to the joints and door(s) to ensure water tightness. Before each shipment, they will be appropriately caulked, sealed, and banded with a material that, when subjected to varying climatic temperatures, will not stain or otherwise damage the contents of the shipment. The interior of all containers shall be lined with either a kraft-asphalt-kraft barrier paper of the reinforced type or polyethylene sheeting with a minimum thickness of 0.004 mil on all sides and the top. New liftvans will be used for each shipment regardless of origin. Liftvans will not be the property of the US Government.

4–8.3.2. Overflow Boxes (Containerized Shipments)—International Only [old I4.9]

Overflow containers must, at the time of use, be new wooden boxes and shall be limited to use for oversized items that cannot be packed into HHE shipment containers (liftvans) prescribed by this HTOS. The overflow container normally is of a lesser size than a PPP–B–580 container or those described in MTMC Pamphlet 55–12. Overflow boxes will be constructed in accordance with Federal Specification PPP–B–601, Boxes, Wood, Cleated-Plywood, Style A or B, and will be caulked and lined with plastic during assembly.

4–8.4. Packing And Stuffing of Containers [old I4.9]

Containers, i.e., liftvans, or overflow boxes, when used in door-to-door service, will be packed and stuffed at origin residence unless specific exception is authorized by the RTO. For the authorized exceptions, such items will be listed on the inventory and will be annotated that items will be containerized at the warehouse. A notation will also be made of the name of the employee who authorized the exception.

4–8.5. Container Marking [old I4.9]

Unless the shipping Federal agency directs otherwise, containers will be marked pursuant to U.S. Department of State instructions.

4–8.6. Container Seals [old I4.9]

The external shipping containers (liftvans) for all containerized household effects will be sealed at the origin pick up point with accountable seals. Six serial numbered metal seals are required for each household goods liftvan. These seals will secure both ends by overlapping one seal on each side to the ends or door panels and one from the top panel to the ends or doors of the liftvan. Seal numbers will be recorded on the inventory, either beside the container number or annotated by individual container number on the last page of the inventory. The owner or his/her representative will initial on the last page of the inventory attesting to the correct seal numbers listed on the inventory.

4–8.7. Position of Containers [old I4.9]

When a shipment is moved via flatbed type vehicle, the containers, i.e., liftvans, will be loaded in an upright position and will not protrude beyond the rear edge of the vehicle bed surface more than 12 inches (no protrusion is permitted for the sides or front). In all cases of rear overhang, the container must be resting on the weight-bearing surface of the skid.

4–9. Pickup and Delivery

4–9.1. Loading

4–9.1.1. Domestic Only [old D4–10]

The Participant must provide for the physical removal of the property from the owner's residence, and placement in the transporting vehicle. Property will not be loaded onto the tailgates of motor vans or precariously loaded on extensions to flat bed trailers or equipment.

4–9.1.2. International Only [old I4.12]

The Participant must provide for the physical removal of the property from the owner's residence and placement into liftvans. Liftvans will not be loaded onto the tailgates of motor vans or precariously loaded on extensions to flat bed trailers or equipment. When authorized by the RTO, the Participant may use moving vans to transport loose property between the residence and the Participant's facility at origin.

4–9.2. Unloading

4–9.2.1. Domestic Only [old D4–10]

The Participant must provide for the physical unloading of the property from the transporting vehicle into a warehouse for SIT or the unloading of the property into the owner's residence at destination.

4–9.2.2. International Only [old I4.12]

The Participant must provide for the physical unloading of the property from the liftvans into a warehouse for SIT or the unloading of the contents of the liftvans into the owner's residence at destination.

4–9.2.3. Unpacking at Destination [old I4.12]

If requested, the Participant shall unpack and/or uncrate all property that was packed and/or crated for movement under this HTOS. All articles disassembled by the Participant or originating from storage will be reassembled. The unpacking service and removal of debris will be performed at the time the goods are delivered to the residence unless specifically waived in writing by the employee or the employee's agent. The waiver will be held in the Participant's files for further reference.

4–9.3. Containers Moving in Local Service [old D4–5 & I4.9]

Containers (storage or liftvans) moving in local pickup or delivery service will be covered with a waterproof tarpaulin or other material providing equal protection when local weather conditions dictate. In any event, such protective covering must be available. Containers will not extend beyond the side or end of flatbed equipment.

4–9.4. Removal Of Debris [old D4–2 & I4.12]

Packing and loading at origin will include removing from the employee's residence, to include driveway and curbside, all empty Participant-provided containers, packing materials, cartons and other debris, e.g., nails accumulated incident to packing and loading. All "debris" which may have accumulated on the street, or next-door neighbor's property or in parking spaces will be removed.

4–9.5. Protection of Residence Floors and Protection for Buildings [old D4–2 & I4.8]

The floor and carpeting or the employee's residence will be appropriately covered during packing, loading, and delivery to prevent damage or soiling. "Appropriately covered" is generally defined as substantial protection from scratching, gouging, or soiling the floor or carpet of the residence. The Participant shall furnish or cause to be furnished, when necessary, padding or other protective material for the interior of the buildings, including elevators, from and to which the property will be moved under this HTOS.

4–9.6. Impracticable Operation and Auxiliary Services

4–9.6.1. General [old I4.13]

Nothing in this Section will require the Participant to perform any line haul service or any pick up or delivery service or any other service from or to, or at any point or location where, through no fault or neglect of the Participant, the furnishing of such services is impracticable because: (a) the conditions of roads, streets, driveways, alleys or approaches thereto would subject operations to unreasonable risk of loss or damage to life or property; (b) loading or unloading facilities are inadequate; (c) any force majeure, war, insurrection riot, civil disturbance, strike, picketing or other labor disturbance would (c) (1) subject operations to unreasonable risk of loss or damage to life or property or (c) (2) unreasonably jeopardize the ability of the Participant to render line haul or pick up or delivery or any other service from or to or at other points or locations; (d) Participant's hauling contractors, Participant's employees or Participant's agents are precluded, for reasons beyond Participant's control, from entering premises where pickup or delivery is to be made; (e) local, state or federal restrictions, regulations or laws prohibit performance of such services by line-haul equipment; (f) when service is impracticable for reasons stated in this rule, and service can be completed through the employment of services of third persons, the RTO or the origin/destination GSO may order such service.

4–9.6.2. Provision of Smaller Equipment [old I4.13]

Upon request of the RTO, the Participant will use or engage smaller equipment than its normal road haul equipment or provide extra labor for the purpose of transferring the shipment between the origin or destination address and the nearest point of approach by the Participant's road equipment.

4–9.7. Lack of Proper Delivery Address [old I4.14]

If the Government bill of lading sets out a specific residential delivery address and delivery cannot be made at the address specified on the Government bill of lading for other than the fault of the Participant, and neither the shipping Federal agency, the destination RTO, nor the property owner designates another address at which delivery can be made, the Participant will place the property in storage-in-transit only after the RTO authorizes the storage.

4–9.8. Constructive Delivery

4–9.8.1. Tender at Nearest Point of Approach [old I4.15]

When it is physically impossible for Participant to perform pickup of shipment at origin address or to complete delivery of the shipment at the destination address with normally assigned road equipment, due to the structure of the building, its inaccessibility by highway, inadequate or unsafe public or private road, overhead obstructions, narrow gates, sharp turns, trees, shrubbery, the deterioration of roadway due to rain, flood, snow or nature of an article or articles included in the shipment, the Participant will hold itself available at point of pickup or tender delivery at destination at the nearest point of approach to the desired location where the road equipment can be made safely accessible.

4–9.8.2. Owner Non-Acceptance of Delivery

4–9.8.2.1. General [old I4.15]

If the owner does not accept the shipment at nearest point of safe

approach by Participant's road equipment to the destination address, the Participant may place the shipment or any part thereof not reasonably possible for delivery, in storage at the nearest available warehouse (see exception below, for international shipments). The RTO must be informed of and approve such action prior to placement in warehouse. The liability on the part of the Participant will cease when the shipment is unloaded into the warehouse and the shipment will be considered as having been delivered.

4–9.8.2.2. Exception—International Only [old I4.15]

Storage authorized in accordance with this subparagraph for international shipments must occur in the nearest available DOD or DOS approved warehouse.

4–9.9. Detention By Participant or Agent [old I4.6]

Personal property shipments moved under this HTOS are sponsored by the Government of the United States of America and, as such, will not under any condition or for any reason be detained by Participants or agents.

4–10. Determination Of Weight

4–10.1. Weighing Requirement [old I4.19]

Participants will determine the weight of each shipment transported prior to the assessment of any charges depending on the shipment weight. Except as otherwise provided in this item, the weight shall be obtained on a scale approved by the appropriate regulatory authority for use in determining the weight of household goods shipments.

4–10.1.1. Weight Variance

In the event the actual shipment weight is greater than 115% of the premove survey weight, the Participant must notify the RTO or its third party representative prior to billing the Federal Agency of the original weighing and be prepared to justify the difference. In the event the Participant fails to notify the RTO or third party representative, the Participant stipulates that the agreed weight of the shipment will be 115% of the premove survey weight. In the event the Participant fails to adequately justify the difference between the actual and premove survey weights, the Participant stipulates that the agreed weight of the shipment will be 115% of the premove survey weight. The agreed weight shall take precedence over the actual weight for the assessment of transportation, accessorial, and storage-in-transit charges when based on weight. The RTO has the authority to waive this provision.

4–10.1.2. Verification of Weight Variance

A copy of the premove survey must accompany the billing voucher and associated documents when the weight variance rule is applied.

4–10.2. Weighing Procedure Household Effects

4–10.2.1. General [old I4.19]

Except as otherwise provided herein, the weight of each shipment will be obtained by determining the difference between the tare weight of the vehicle on which the shipment is to be loaded prior to the loading and the gross weight of the same vehicle after the shipment is loaded or, the gross weight of the same vehicle after the shipment is loaded or the gross weight of the vehicle with the shipment loaded and the tare weight of the same vehicle after the shipment is unloaded.

4–10.2.2. Included In Weighing

4–10.2.2.1. General [old D11–2 & I4–9]

At the time of both weighings, the vehicle will have installed or loaded all pads, dollies, hand trucks, ramps and other equipment required in the transportation of each shipment. Neither the driver nor any other persons shall be on the vehicle at the time of either weighing. Participants will bill for the net weight of a household goods shipment described on the GBL. The net weight will consist of actual goods (including a separate weight for designated PBP&E and for privately-owned automobiles), plus special wooden crates (when approved by the RTO), cartons, barrels, fiber drum, and wardrobes used to pack linens, books, bedding, mattresses, lampshades, draperies, glassware, chinaware, bric-a-brac, table lamp bases, kitchenware and other fragile articles and the necessary wrapping, packing and filler material incident thereto. Nothing else will be included in the net weight.

4–10.2.2.2. Included in Net Weight [old D11–2]

In determining net weight on containerized shipments, Participants will include in the tare weight all padding material, e.g., paper pads, cloth blankets, or any wrapping material used as a substitute for cloth blankets, and blocking and bracing material used for a Participant's convenience to protect and secure a shipment.

4–10.2.2.3. Lift Van Weights—International Only [old I4.19]

The net weight of shipments transported in lift vans will be the difference between the tare weight of the empty lift van, and the gross weight of the packed lift van.

4–10.2.3. Fuel Tanks [old I4.19]

The fuel tanks on the vehicle will be full at the time of each weighing or, in the alternative, no fuel may be added between the two weighings, when the tare weighing is the first weighing performed.

4–10.2.4. Detaching Equipment [old I4.19]

The trailer of a tractor-trailer vehicle combination may be detached from the tractor and the trailer weighed separately at each weighing providing the length of the scale platform is adequate to accommodate and support the entire trailer at one time.

4–10.2.5. Time of Weighing [old I4.19]

Shipments may be weighed on a certified platform or warehouse scale prior to loading for transportation or subsequent to unloading.

4–10.2.6. Right To Observe Weighing [old I4.19]

The shipper, the Government or its representative or any other person responsible for payment of the freight charges will have the right to observe all weighings of the shipment. The Participant must advise the shipper or any other person entitled to observe the weighings, of the time and specific location where each weighing will be performed and must give that person a reasonable opportunity to be present to observe the weighings. Waiver by a shipper of the right to observe any weighing or reweighing is permitted and does not affect any rights of the shipper under these regulations or otherwise.

4–10.3. Weight Tickets [old I4.19]

The Participant will obtain a separate weight ticket for each weighing required under this item except when both weighings, are performed on the same scale, one weight ticket may be used to record both weighings. Every weight ticket must be signed by the person performing the weighing and must contain the following minimum information: (1) The complete name and location of the scale; (2) the date of each weighing; (3) identification of the weight entries thereon as being the tare, gross and/or net weights; (4) the company or Participant identification of the vehicle; (5) the name of the owner of the household effects as it appears on

the GBL; (6) the Participant shipment registration or GBL number; (7) the original weight ticket or tickets relating to the determination of the weight of a shipment must be retained by the Participant as part of the file on the shipment. All freight bills presented to collect any shipment charges dependent on the weight transported must be accompanied by true copies of all weight tickets obtained in the determination of the shipment weight.

4–10.4. Reweighing of Shipments [old D4–12 & I4.19]

The Participant, upon request of the shipper or his representative, made prior to delivery of the shipment, and when approved by the RTO, will reweigh the shipment. Reweigh of the shipment must be performed on a scale different from the one on which the original weighing occurred. If a reweigh is required, shipment will be reweighed upon final delivery and performed on a scale different from the one on which the original weighing occurred.

4–10.5. Constructive Weight [old D11–2 & I4.19]

The application of constructive weight will occur only upon written approval of the RTO. If approved, constructive weight will be applied based on seven pounds per cubic foot. When PBP&E or a privately owned automobile is included as part of the shipment, the weight of such articles will be annotated separately on the GBL.

4–10.6. Platform Scales [old D11–2 & I4.19]

HTOS Participants may use platform scales to obtain tare and gross weight of containerized shipments.

4–11. Storage-In-Transit

4–11.1. General [old D4–11 & I4.17]

The Participant must provide SIT at destination when required. (SIT may not occur at origin unless authorized by the RTO). SIT is the holding of a shipment or portion thereof at a facility or warehouse the Participant uses for storage, pending further transportation. A shipment may be held in SIT for a period not to exceed 180 days. The Participant must advise the employee when the storage period will end and determine from the employee whether the shipment or any portion thereof, will be delivered to employee's residence or held in storage. If SIT is required beyond 180 days, the employee will inform the RTO and any SIT extension will be by mutual agreement between the RTO and the Participant. After the initial 180 day period ends, the Participant's liability terminates; the applicable interstate, intrastate or international character of the shipment or portion thereof ceases; the warehouse is considered the destination of the property; the warehouseman becomes the agent for the shipper; the property then is subject to the rules, regulations, and charges of the warehouseman; and storage charges are the employee's responsibility.

4–11.2. Facilities [old D4–11]

The facilities or warehouses used by the Participant for SIT must be commercial facilities or warehouses used by the Participant or its agent in the normal course of business for receipt and storage of household goods awaiting further transportation and furnishing the services set out in 4–11.3 through 4–11.9, below. Unless approved by the RTO, the use of trailers, vans, public warehouses, and self storage units is prohibited.

4–11.3. Location of SIT

4–11.3.1. General [old D4–11]

The Participant will perform SIT only when specified on the bill of lading. Authorized SIT must be at the participant's nearest available SIT facility at the destination shown in the "consignee" block (or at origin shown in the "consignor block" when the RTO specifically authorized SIT at origin). However, in no case may SIT be more than 50 miles from the origin/destination municipality the bill of lading specifies or the RTO authorizes. Placing a shipment in SIT does not constitute a delivery or completion of service. Delivery of the shipment to the final destination and completion of destination services must be performed as part of the through service after the household goods are removed from SIT.

4–11.3.2. Exception—International Only [old I4.17]

For international shipments, the Participant must place shipments in SIT at the nearest available SIT facility of the Participant's agent at destination shown in the "Consignee Block" unless specified on the GBL or authorized by the RTO.

4–11.4. Lot Identification [old D4–7 & I4.16]

All lots will be properly identified by the owner's name, order number, warehouse lot number and GBL number. Such identification will be in plain view on each lot.

4–11.5. Rugs and Pads—Domestic Only [old D4–7]

Rugs, carpets, and padding will be stored on racks in a horizontal position without folding any portion of the rug, carpet, and padding.

4–11.6. Overstuffed Furniture—Domestic Only [old D4–7]

Upholstered or overstuffed furniture will be placed in an upright normal position and covered for protection against dust. No boxes, cartons or other pieces of furniture will be placed upon this type of furniture. When placed in individual room storage or when containers are employed for warehouse storage, upholstered or overstuffed furniture will have protection, padding, blocking, and bracing to preclude damage from any pressure against the upholstery, including pressure from its own weight as well as from conditions external to the container.

4–11.7. Palletization of Property [old D4–7 & I4.16]

Personal property will be stored on skids, pallet bases, elevated platforms or similar storage aids maintaining a minimum of at least two inches clearance from the floor to the under most portion of the personal property. In addition, property will not be stored in contact with exterior walls. Trash cans, extension ladders, lawn mowers, television antennas, swing sets, and other like items are excluded from this requirement.

4–11.8. Removal From Shipping Containers—International Only [old I4.17]

The contents of containerized shipments will not be removed from the containers when placed in SIT.

4–11.9. Marking of SIT Containers [old I4.17]

All containerized shipments of household effects shall be marked with the employees' name and the GBL number.

4–11.10. Partial Withdrawal From Storage in Transit (SIT)

4–11.10.1. Identification of Item To Be Withdrawn [old I4.17]

Items for withdrawal from SIT should be indicated by the property owner/agent at the time of packing whenever possible. When the shipment has already been packed, inventory item numbers will be furnished by the employee to the RTO who shall provide the information to the Participant.

4–11.10.2. Ordering Partial Withdrawal [old I4.17]

In accordance with the previous HTOS Paragraph, partial withdrawal shall only be ordered by the RTO who

shall so certify on the DD Form 619–1 or other commercial form.

4–11.10.3. Consist of Withdrawal [old I4.17]

Only complete cartons or item numbers on the inventory may be withdrawn. Individual cartons will not be opened.

4–11.10.4. Weight of Partial Withdrawal [old I4.17]

Participant is responsible for obtaining the weight of the portion withdrawn.

4–11.10.5. Billing for Partial Withdrawal [old I4.17]

Participant shall bill for the partial withdrawal of property as directed by the RTO.

4–12. Tracing

4–12.1. Shipment [old I4.16]

The Participant shall trace a shipment upon request from the RTO or property owner and will promptly report to the requesters the location of the shipments.

4–12.2. Missing Household Effects [old I4.16]

The Participant shall take action to trace missing loose household effects.

4–12.3. Missing Liftvans/Containers [old I4.16]

The Participant shall take action to trace missing liftvan(s)/container(s) when a containerized shipment is placed into SIT and the liftvan(s)/container(s) are found to be missing with an annotation of the GBL or inventory to explain the shortage.

4–13. Non-Temporary Storage [old D4–6 & I4.1]

If requested by the employing Federal agency, the Participant will be responsible to provide or arrange non-temporary storage for those household goods and personal effects authorized by the appropriate Federal agency. Tender rates will apply into the carrier warehouse. Rates for monthly non-temporary storage per 100 pounds and rates for full value protection per each $100 of value to be negotiated between the carrier and the Federal agency.

Section 4A—Move Management Services (MMS) Statement of Work

4A–1. Performance of Services

The MMS provider must provide the MMS outlined in this section 4A in conjunction with HHG transportation services. The MMS provider must comply with all requirements of this HTOS including the service, delivery timeframe, billing, reporting, and liability requirements.

4A–2. Memorandum of Understanding (MOU)

The MMS provider and the agency must enter into a written MOU setting out the terms and conditions of the MMS provider responsibilities as identified in this section 4A. In instances when the agency requests bill of lading (BL) preparation and maintenance under HTOS paragraph 4A–6.5, the MOU should contain at a minimum specific instructions on the BL preparation and maintenance, including instructions to complete each portion of the BL. If requested by the MMS provider and/or the agency, the GSA PMO will review the agreement before implementation.

4A–3. Performance as Participant

The MMS provider must file rates within its current approved scope of operations; be subject to the Customer Satisfaction Index (CSI) rating system; and must comply with the requirement to collect and pay GSA its IFF as specified in RFO Section 2–7.6.

4A–4. Commissions

An MMS provider must not charge a commission to a participant to which it tenders a HHG shipment.

4A–5. Required Services

4A–5.1. General

The MMS provider must arrange, coordinate, and monitor each relocating employee's HHG move from initial notification of the move by the agency through completion of all move-related transactions required under HTOS paragraphs 4A5.1 through 4A–5.9. An HHG move within the continental United States (CONUS) is defined as a basic move consisting of one shipment of HHG and, when specifically authorized by the agency, shipment of one or more privately owned vehicles (POV). A HHG move to/from an international location is defined as a basic move consisting of one surface shipment of HHG and, when specifically authorized by the agency, one or more unaccompanied baggage shipments and shipment of one or more POV's. Multiple origins and/or destinations may be involved for both CONUS and international shipments. The MMS provider must provide the services specified in HTOS paragraphs 4A–5.2 through 4A–5.9.

4A–5.2. Participant Selection

An agency may select the participant to transport the relocating employee's HHG or may delegate this responsibility to the MMS provider in which case the agency will furnish the MMS provider criteria to use in selecting the participant. The selected participant must be currently approved to participate in CHAMP and must have approved rates on file with GSA. The MMS provider must be capable of accessing the GSA Interagency Transportation Management System (ITMS) to obtain cost comparison information for use in making the participant selection when delegated this responsibility by the employing agency.

4A–5.3. Shipment Booking

The MMS provider must perform the following:

(1) Schedule the move with the selected participant;

(2) Order a pre-move survey;

(3) Identify any special services needed and obtain the RTO's written authorization. The RTO is responsible for authorizing storage-in-transit (SIT) or any special service. Special services include, but not limited to: shuttle service, special crating, third party servicing, elevator charges, long carry, and/or stair carry;

(4) Indicate in writing all services authorized and identify those that will be paid as an entitlement of the relocating employee as well as those which the relocating employee requests, but for which the relocating employee has no entitlement and which may be advanced and charged back to the relocating employee; and

(5) Inform the relocating employee before service performance of any service that will be advanced and charged back to the employee.

The provider may develop a generic form for the purpose of this item. Any service shown on a generic form that is not applicable to a particular shipment must be "crossed out" or marked "none" or "not applicable" before submitting the form to the RTO for written authorization/approval.

4A–5.4. Ensuring Participant Performance

The MMS provider must ensure that transportation services are in keeping with procedures under this HTOS, notwithstanding the Origin and Destination On-Site Quality Control procedures specified in HTOS paragraph 4A–6.7. The MMS provider also must take any action deemed necessary and appropriate to protect the interests of the agency to ensure proper participant performance, and to protect both the real and personal property of the relocating employee. When the MMS provider fails to direct

performance as required which could causes the agency or relocating employee to incur damages (other than damage to HHG), the MMS provider will be liable to the agency and/or the relocating employee, as appropriate for such damages.

4A–5.5. Arranging Storage in Transit (SIT)

If an agency authorizes SIT, the MMS provider must arrange the storage under provisions of this HTOS. The MMS provider must notify the relocating employee of the authorized SIT duration and location and provide the relocating employee's SIT-provider contact information within five (5) calendar days after delivery into SIT.

4A–5.5.1. Monitoring Shipments in SIT

The MMS provider must monitor shipments in SIT and provide a written request for disposition instructions from the relocating employee or the agency's destination facility representative at least ten (10) working days before expiration of the authorized SIT period. The written request must inform the relocating employee of his/her personal financial responsibility for any charges incurred for storage in excess of the maximum period authorized. The MMS provider is responsible for arranging delivery of shipments from SIT.

4A–5.5.2. SIT in Excess of 180 Days

If storage exceeds 180 days, the MMS provider must determine the condition of the relocating employee's property at the end of the 180-day SIT period to protect the Government's and the relocating employee's right to recover for participant-caused loss or damage. The warehouse automatically will be considered the shipment's destination upon expiration of the 180-day SIT period at which time the MMS provider's responsibility for the shipment ends. The shipment then becomes subject to the warehouse's rules, procedures, and charges, including local drayage out of storage. The relocating employee is responsible for payment of storage charges for any period of storage in excess of 180 days. If any discrepancy exists between other HTOS provisions and the provisions of this HTOS paragraph 4A–5.5.2 for purposes of SIT, the provisions of HTOS paragraph 4A–5.5.2 apply.

4A–5.6. Completion of GSA Form 3080

The MMS provider must furnish the relocating employee a GSA Form 3080, "Household Goods Carrier Evaluation Report" for completion of the section entitled, "Relocating Employee's Response". This form is available for downloading and printing at *http://hydra.gsa.gov/forms* (other forms-external forms-numeric by form number). The provider must instruct the relocating employee to return the evaluation form upon completion to the agency for completion of the section entitled, "BL/GBL Issuing Officer's Response." The provider also must follow up in an attempt to ensure both the relocating employee and the agency completes their respective portions of the form and return it to the PMO. If the relocating employee has not completed the appropriate section on the form within thirty (30)-days from the date of delivery of the HHG to the new residence, the provider will so advise the agency.

4A–5.7. Service Performance Audit

The MMS provider must conduct an independent service performance audit of transportation billings and complete a certification document certifying by line item whether billed services (including any services specifically requested by the relocating employee) were or were not necessary, properly authorized, and actually performed. The provider may develop a form for this purpose and must, if requested, have it pre-approved by the agency. This audit is unrelated to an agency's audit of the actual billing charges which also is an optional "provider" service under paragraph 4A–6.3. If prepayment audit of transportation bills is performed under procedures in HTOS paragraph 4A–6.6, the provider must furnish the service performance audit certification along with the transportation billing to the prepayment auditor for audit of the actual billing charges.

4A–5.8. Management Information Reports

The Government requires certain management information reports that may or may not be commercially standard. If the MMS provider has a commercial report that would meet an agency's stated specific need, it may propose that the agency use that report instead of the one specified as long as it can satisfactorily demonstrate how the proposed substitution would meet the agency's needs. Reports must contain monthly, quarterly, and year-to-date totals, when appropriate. The MMS provider must provide required reports to the agency within fifteen (15) business days following the month/quarter services were performed.

4A–5.8.1. Agency Reports

If requested by the shipping agency, the MMS Provider must furnish the following reports in the manner specified by the agency with regard to format, content, and frequency. Data elements may be revised by the ordering activity.

4A–5.8.2. Shipment Summary

A summary of the total number of shipments handled for the specified period further broken down into the following incremental categories:

(1) Number of shipments by agency activity;

(2) Number of shipments by participant;

(3) Number of interstate shipments;

(4) Number of intrastate shipments; and

(5) Number of shipments to an international location.

For each category the provider must show total line-haul and accessorial charges.

4A–5.8.3. Claims Summary

A summary of the total number of loss/damage claims handled for the specified period further broken down into the following incremental categories:

(1) Number of claims by agency activity;

(2) Number of claims by participant;

(3) Number of intrastate claims;

(4) Number of interstate claims;

(5) Number of international location claims;

(6) Average number of days between the date of claim filing and date of issue of initial settlement offer;

(7) Average number of days between the date of receipt of the initial settlement offer and the date of final settlement;

(8) Average amount claimed and settled interstate;

(9) Average amount claimed and settled intrastate; and

(10) Average amount claimed and settled on shipments to an international location.

For each claim not settled within thirty (30) days and/or sixty (60) days as requested by the agency's RTO, an explanation for the delay must be supported by the appropriate Delay Codes identified in the HTOS Section 9.

4A–5.8.4. Counseling Contact Summary Report

(Applies only when an agency has chosen the optional "Employee Pre-Move Counseling" service)

A summary report of counseling contacts showing relocating employee's name, date of initial contact, and current status of the move including date(s) for the pre-move survey, packing, pickup, and actual or proposed delivery into SIT and/or residence.

4A–5.8.5. On-time Services Summary Report

A summary report listing:
(1) Relocating employee(s) name;
(2) Scheduled pickup date;
(3) Actual pickup date;
(4) Scheduled delivery date(s) into SIT and/or residence;
(5) Actual delivery date(s) into SIT and/or residence;
(6) Scheduled date for delivery out of SIT;
(7) Actual date for delivery out of SIT; and
When scheduled and actual dates are different, an explanation must be provided.

4A–5.8.6. Specially Requested Reports

Special one-time reports furnished to the RTO when the agency requests and the PMO approves.

4A–5.9. Customer Service

The contractor shall provide a 24-hour, toll-free telephone number to assist in tracking/tracing shipments; resolving problems that occur during any phase of the move, including quality control problems; and in filing post-delivery claims for agencies that choose that optional service.

4A–6. Optional Services

4A–6.1. General

If specifically requested by the agency, the MMS provider must provide the following optional services specified in HTOS paragraphs 4A–6.1 through 4A–6.9.

4A–6.2. Employee Pre-Move Counseling

Employee pre-move counseling (as distinguished from a participant provided pre-move survey) must include information on the participant's commercial moving practices affecting all aspects of the HHG move. It also may include Government-specific information on HHG entitlements and allowances prescribed in the Federal Travel Regulation (41 CFR chapters 300–304) as well as information on any agency internal implementing regulations, including weight allowance information. Additionally, the provider must counsel the relocating employee about services the relocating employee is authorized at Government expense as well as any requested services that are not the Government's financial responsibility and which the employing agency will charge back to the relocating employee. Some of these services are:
(1) Extra pickup/delivery;
(2) Temporary SIT authorized by the agency;
(3) Non-temporary (permanent) storage (NTS);
(4) Unauthorized items;
(5) Assembly/ disassembly of property;
(6) Shipment of perishable items;
(7) Firearms and hazardous material exclusions;
(8) Level of service coverage, options, and costs;
(9) Reporting concealed damages, relocating employee rights and responsibilities, third-party servicing;
(10) Packing/unpacking and crating/ uncrating;
(11) Preparation and filing of claims;
(12) Name and address of origin/ destination storage provider; and
(13) Local drayage out of storage.
The counseling also includes explaining the Government's role concerning Commuted Rate Schedule moves as prescribed in the Federal Travel Regulations (FTR) and limitations on the Government's financial obligation for reimbursement on such moves. Following is an availability listing of publications that contain information important in the relocating employee's pre-move counseling process:

(1) FTR: Available on the Internet at: http://policyworks.gov/org/main/mt/homepage/mtt/FTR/FTRHP.shtml
(2) CHAMP: Available on the Internet at: http://r6.gsa.gov/fsstt/
(3) Agency specific regulations/ procedures: (Contact appropriate agency for availability)

4A–6.3. Prepayment Audit

(1) *MMS Provider Responsibilities.* The MMS provider will conduct, or arrange to have conducted, a prepayment audit of each transportation billing and supplemental billing for service performed under this HTOS.
(2) *Certification.* Any auditor (other than a GSA Prepayment Audit Schedule contractor) desiring to perform a prepayment audit service must be certified by the GSA Audit Division (FBA) to do so. Certification may be obtained by contacting: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW., Washington, DC 20405, *http://pub.fss.gsa.gov/transtrav.*
(3) *Procedures.* The Prepayment Audit procedures under this HTOS paragraph 4A–6.3 are subject to provisions of the Federal Management Regulations (FMR) part 102–118 (41 CFR parts 102–118). Procedures stated in this HTOS paragraph 4A–6.3 reflect requirements and may be used in addition to any other required procedures published in the FMR, in developing the MMS provider/agency MOU. The prepayment auditor must adjust billed charges as appropriate based on the service performance audit as specified in HTOS paragraph 4A–5.7 and the prepayment audit before submitting the billing invoice, along with the service performance audit certification, to the agency for payment.
(4) *Adjustments.* Upon instructions from the agency, the MMS provider must advise the participant and/or the agency via a statement of differences submitted either electronically or in writing within seven (7) days of receipt of the bill of any adjustment the auditor makes. The statement of differences must include the following:
(a) Participant's standard alpha code (SCAC);
(b) Participants' bill number;
(c) Amount billed;
(d) Amount paid;
(e) Agency name;
(f) Participant's taxpayer identification number (TIN);
(g) Document reference number (DRN);
(h) Payment voucher number;
(i) Complete tender or tariff authority, including the governing item or section number.
The MMS provider must annotate the following information on all transportation bills that have been completed:
(a) Participant's standard carrier alpha code (SCAC);
(b) Participants bill number;
(c) Amount billed;
(d) Amount paid;
(e) Agency name;
(f) Participant's taxpayer identification number (TIN);
(g) Document Reference Number (DRN);
(h) Payment voucher number;
(i) Complete tender or tariff authority with the applicable rate authority, including the governing item or section number;
(j) Copy of any statement of differences sent to the participant; and
(k) The date invoice received from the participant.
(5) *Appeal Procedures.* The agency must establish an appeal process that directs participant appeals to an agency official or to the MMS provider with responsibility for providing adequate consideration and review of the circumstances of the claim. Review of an appeal must be completed within thirty (30) days. If the participant disputes the findings and the agency or MMS provider as appropriate, cannot resolve the dispute with the participant, all relevant documents including a complete billing history and the appropriation or fund charged should be forwarded to GSA for the rendering of a decision. Carrier claims must be

submitted within three (3) years beginning the day after the latest of the following dates (except in time of war):

(a) Accrual of the cause of action;

(b) Payment of charges fore the transportation involved;

(c) Subsequent refusal for over payment of those charges; or

(d) Deduction made to a carrier claim by the Government under 31 U.S.C. 3726.

4A–6.4. Performance Standards for Service Performance Audit and Prepayment Audit-6.5

The Government must comply with provisions of the Prompt Payment Act (31 U.S.C. 3901(a)(5). The MMS provider therefore must ensure that within seven (7) days of receiving the participant's bill, it has completed the service performance as described in HTOS paragraph 4A–5.7 and prepayment audits as described in HTOS paragraph 4A–6.3 and has the consolidated transportation/MMS billing, accompanied by the service performance audit certification, in the hands of the agency for payment. The MOU between the agency and the MMS provider must stipulate whether the agency or the MMS provider will be responsible for remitting payment to the participant. If the MMS provider is to remit payment to the participant, the agency must issue and forward the remittance by check or electronic transfer to the MMS provider in time for the agency to be deemed "in compliance" with provisions of the Prompt Payment Act. The MMS provider will not be liable for any late payment interest charge the agency may accrue on a transportation payment that is not in compliance with the Prompt Payment Act requirements.

4A–6.5. Preparation of Shipment Documentation

If an agency exercises its option to have the contractor prepare a GBL or BL, the contractor must comply with the terms and conditions set forth in FMR part 102–117 (41 CFR Part 102–117. On international shipments the MMS provider must complete, and distribute copies of, each GBL following instructions published in the GSA Federal Supply Service Guide, "How to Prepare and Process U.S. Government Bills of Lading" (National Stock Number 7610–00–682–6740, 41 CFR 101–41.305–1 and 2). The provider must furnish a legible memorandum copy of all GBL's or a legible copy of all BL's prepared and distributed to the RTO before the shipment pickup date.

4A–6.6. Data Communications Capabilities

The MMS provider must:

(1) Provide on-line electronic access to all database information pertaining to task orders and applicable shipment records;

(2) Provide the RTO or designee and the GSA PMO in Kansas City, Missouri, on-line access to all database information pertaining to task orders and shipment records for all accounts established under the terms of this HTOS;

(3) Establish sufficient safeguards to prevent unauthorized access to the database information;

(4) Make the electronic access available through an asynchronous modem with a baud rate of at least 2400; and

(5) Furnish clear documentation setting out procedures for access to and use of the database.

4A–6.6.1. Data Elements

The database must contain, but is not limited to, the following elements: (1) task order information; and (2) shipment information sufficient to generate the reports specified in HTOS paragraph 4A–5. The shipment database must be maintained in a separate directory with separate shipment records for each relocating employee move. Shipment files must not be commingled with data maintained for shipments not subject to this HTOS. Each shipment record must contain all information required for that particular shipment, including any claims filed by the participant, status of the claim, etc. using a continuous computer terminal screen, if necessary. Performance data documenting how the move was handled must be collected independently and maintained in this file. The provider must provide the facility for the RTO's and the GSA PMO to extract and consolidate data such as participant performance if specific reports are required.

4A–6.6.2. Database Maintenance

The MMS provider must update the database on a twenty (24)-hour basis, at a minimum, and provide for on-line electronic access to database elements for a period of one year from date of pickup. After one year, only a hard copy of the records is required to be maintained as specified under the Examination of Records Clause in GSA Form 3504.

4A–6.7. On-site Quality Control Service

If an agency requests, the MMS provider must arrange for quality control personnel to provide on-site inspection service at the origin/destination residence at pickup/delivery. Inspection services include, but are not limited to:

(1) Verification of correct inventory coding;

(2) Use of proper packing materials;

(3) Appropriate article servicing;

(4) Equipment and personnel suitability; and

(5) Satisfactory performance of unpacking.

The actual cost of any on-site quality control service requested is negotiable between the MMS provider and the agency. The agreed upon price must be stated in a written document and retained by both parties. The document will be construed as a one-time only amendment to the provider's rate filing. A copy of the written document must be included with the MMS provider's voucher. The provider may engage a third party to perform these services provided they are representatives or employees of a HHG carrier, forwarder, or an agent thereof.

4A–6.8. Quality Assurance Plan

If requested by the agency, the MMS provider must provide the agency a quality assurance plan to assist in ensuring quality service and must designate quality assurance personnel to execute the plan.

4A–6.9. Claims Preparation, Filing, and Settlement Assistance

If the relocating employee or agency requests, the MMS provider must provide timely loss/damage claim preparation/filing assistance, including follow-up assistance for any subsequently discovered loss or damage. The provider must review and negotiate any settlement offer that is inconsistent with the participant's liability or HTOS provisions, and in the case of an impasse must refer the complete file to the agency. The MMS provider also must counsel the employee about potential consequences of signing any full and unconditional release on any offer of settlement before all claims resulting from a particular move have been resolved.

Section 5—Time of Performance

5–1. Approval

5–1.1. Filing of Application [old D5–10 & I5.1]

Unless otherwise specified by the PMO, a Participant or agent filing for approval in accordance with the HTOS Section 2 must file its application for approval in accordance with the dates specified in the application instructions. To be considered timely filed, the application must be received at the

address specified in HTOS Section 2. Receipt at any other address of the General Services Administration will not constitute receipt by the PMO.

5–1.2. Filing of Supplemental Information

5–1.2.1. Non-Financial Information [old D5–10]

In the event the PMO determines that the non-financial material submitted is deficient, the applicant will be notified by certified mail dated no later than February 1 to provide the supplemental information. A Participant required to submit supplemental information must do so no later than the due date specified in the request. To be considered timely filed the supplemental information must be received at the address specified in HTOS Paragraph 2–2.2. Receipt at any other address of the General Services Administration will not constitute receipt by the PMO.

5–1.2.2. Financial Information [old D5–10]

Supplemental financial material will not be requested or accepted.

5–1.3. Notice of Action on Application

5–1.3.1. Approved Applicants, No Supplemental Information Requested [old D5–10]

Applicants approved without a request for supplemental information will be notified by certified mail dated no later than February 1 of the year following submission of the application.

5–1.3.2. Approved Applicants, Supplemental Information Requested. [old D5–10]

Applicants approved subsequent to a request for supplemental information will be notified by certified mail dated no later than June 1 of the year following submission of the application.

5–1.3.3. Non-Approved Applicants

5–1.3.3.1. Non-Approved Applicants on Non-Financial Basis [old D5–10]

Applicants' applications not approved on a non-financial basis will be notified by certified mail dated no later than June 1 of the year following submission of the application.

5–1.3.3.2. Non-Approval on Financial Basis [old D5–10]

Applicants' applications not approved on a financial basis will be notified by certified mail dated no later than February 1 of the year following submission of the application.

5–2. Restructuring of Scope of Operations

5–2.1. Time of Request [old D5–10]

A request for restructuring of a Participant's approved scope of operation based on changes in traffic patterns may be submitted at any time during the fifth anniversary year and subsequent fifth anniversary years. Formal requests, as opposed to the notice of intent to request, received by GSA prior to or after the anniversary year will be rejected.

5–2.2. Notice of Intent [old D5–10]

A notice of intent to request a restructure of a Participant's scope of operation may be presented to the PMO at any time in the calendar year prior to the anniversary year or during the anniversary year.

5–3. Establishment of Pickup Date [old I5.7]

Participants will be provided at least five (5) working days advance notice when tendered shipments. Under unusual circumstances, Participants may agree but are not obligated to accept pickups on less than 5 working days notice. Once shipments are accepted with less notice, the Participant is obligated to the agreed pickup date.

5–3.1. Domestic

For domestic shipments, the employee and/or his designated representative, and the Participant shall establish and agree to a pickup date.

5–3.2. International

For international shipments, the RTO and the Participant shall establish and agree to a pickup date.

5–4. Origin and Destination Services [old D5–4 & I5.6]

All origin and destination services shall be performed between 8AM and 5PM, local time, on regular business days, excluding Saturdays, Sundays, local holidays, or U.S. holidays, unless mutually agreed upon in writing. No liability on the part of the Government will be incurred for overtime labor or any other additional charges. Participant must, if requested, produce a copy of this writing to an authorized inspector.

5–4.1. Domestic Only [old D5–4]

For domestic shipments, agreeing parties include the Participant, the owner of the household goods or his designated representative *and/or* the RTO.

5–4.2. International Only [old I5.6]

For international shipments, agreeing parties include the Participant, the owner of the goods or his designated representative, *and* the RTO.

5–5. Obtaining Another Agent—International Only [old I5.18]

The Participant must obtain another approved agent within 30 calendar days of the cessation of the relationship between a Participant and its designated agent.

5–6. Transit Time.

5–6.1. General [old D5–1]

Shipments handled pursuant to this HTOS and delivered directly to a residence or delivered to SIT at destination will be transported and delivered in accordance with the time periods specified in HTOS Section 12, as appropriate, corresponding to the type, weight and distance of any shipment.

5–6.1.1. Measurement of Transit Times [old D5–1]

Transit time will be measured in calendar days from the date loading is completed to the date on which the shipment is offered for delivery at the residence, except when the last day of the transit time falls on Saturday, Sunday, local holiday, or a Federal holiday, then the next United States Government working day will be considered the last day of transit. In the event SIT occurs at origin, transit time will be measured based on the transportation from the point of SIT to the delivery residence.

5–6.1.2. Transit Time Basis [old D5–1]

The transit times are based on the assumption that a Participant will be given a minimum of five (5) days notice before the pickup date of shipments. If less than five (5) days notice is given the Participant, the transit times will be increased one (1) day for each day under the five (5) day notice period.

5–6.1.3. Transit Times for a Privately Owned Vehicle (POV) [old I5.9.3]

(1). The transit time for a POV, except as provided in subsection (2) below, is the same as that for a surface shipment specified in HTOS Section 12.

(2). The transit time for a POV between CONUS and a point in Alaska, Guam, the Hawaiian Islands, Puerto Rico, or the Virgin Islands (St. Thomas, St. Croix, or St. John) is specified in HTOS Section 12. The Participant must notify the applicable Federal department or agency in writing of the

port(s) it intends to use to meet the transit time required.

(3). A transit time penalty applies if the Participant fails to meet the transit time specified in HTOS Section 12. The Participant must notify the applicable department or agency within twenty-four (24) hours of any expected delay. Also, the Participant must arrange for the transferee's use of a rental car at the Participant's expense. The rental must be the same or comparable, size/model as the POV the transferee shipped. The RTO may waive this penalty in whole or in part based on the circumstances of the delay.

5–6.2. Interstate Transit Times [old D5–1]

Interstate transit times apply to shipments picked up at an address in one State and delivered to an address in another State, both States being in the continental United States, or picked up/delivered between an address in the continental United States and an address in Canada. The transit times in Section 12 are the maximum transit times in days applying to interstate shipments unless waived by the RTO in writing.

5–6.3. Intrastate Transit Times [old D5–1]

Intrastate transit times apply to shipments picked up and delivered within the same State. The transit times in Section 12 are the maximum transit times in days applying to intrastate shipments unless waived by the RTO in writing.

5–6.4. International Transit Times

5–6.4.1. Unaccompanied Air Baggage [old D5–1]

Transit time for unaccompanied air baggage is 15 days unless waived by the RTO in writing.

5–6.4.2. Surface Shipments [old I5.9]

International transit times apply to shipments picked up/delivered between the named State, Trust Territory, or Possession of the United States and the named countries. The transit times in Section 12 are the maximum transit times in days applying to international shipments unless waived by the RTO in writing.

5–7. Notice of Shipment Availability for Delivery—International Only [old I5.10]

5–7.1. Availability for Delivery—International Only [old I5.10]

Upon notification from the Participant/agent that a shipment has arrived and is available for delivery, the RTO will have 24 hours in which to confirm delivery arrangements. If delivery arrangements cannot be confirmed by the expiration of the 24 hour period, storage will be authorized and effective as of the date on which the 24 hour period expired.

5–7.2. Delivery of Shipments Not Involving SIT

5–7.2.1. Arrival Prior to RDD—International Only [old I5.10]

For shipments that arrive prior to the RDD, Participant will deliver to the owner or owner's agent prior to the RDD.

5–7.2.2. Arrival After the RDD—International Only [old I5.10]

For shipments that arrive after the RDD, the Participant will deliver in accordance with the instructions or within two workdays after notifying the destination RTO of the shipment's arrival.

5–7.3. Notification of SIT Pickup/Delivery—International Only [old I5.10]

If requested by the RTO, the notification of SIT pickup or delivery availability on the afternoon preceding the scheduled pickup or delivery will be provided to the RTO.

5–8. Notice of SIT Location [old D5–3]

A written electronic transmission, including facsimile or other form of notice of the SIT location (street address, City/state) together with a telephone number for the warehouse, as provided in HTOS Paragraph 9–2.4, must be furnished to the RTO within five (5) calendar days after placement of the shipment in SIT or change in SIT location. The Property Owner must be notified as soon as possible after placement of the shipment in SIT or change in SIT location.

5–9. Delivery From Storage in Transit [old D5–2]

Unless the property owner agrees to the contrary, delivery from SIT must be accomplished on the date requested, excluding Saturdays, Sundays, local holidays, and Federal holidays. If because of prior commitments, the Participant cannot deliver on the day requested, delivery must be completed no later than three business days thereafter. If the shipment is not removed from the storage warehouse within three working days (excluding Saturday, Sunday, and holidays) after the delivery date requested, storage charges will cease to accrue as of the requested delivery date.

5–10. Shipment Tracing [old D5–7 & I5.19]

When the owner of the household goods or RTO requests information concerning shipments in transit, Participants will retain a written record as provided in HTOS 8–5.14.5.3.2, of such requests and acknowledge and make a prompt report, by electronic transmission, including facsimile or other form of electronic transmission, if available, to the requestor as to the location of the shipment. Time frames for completing the above include seventy-two (72) hours for an international shipment, and twenty-four (24) hours on a domestic shipment, including interstate and intrastate.

5–11. Notice of Concealed Loss/Damage [old I5.12]

In order for the Participant to be liable as specified in Section 10–1.3.7.1, for loss and/or damage discovered by the owner within seventy-five (75) days after delivery (concealed), the Government or the property owner must notify the Participant, in writing, of the concealed loss and/or damage within seventy-five (75) days from the date of delivery.

5–12. Acknowledgment and Settlement of Claims

5–12.1. Acknowledgment [old D5–8)

The Participant shall acknowledge directly, unless otherwise instructed, to the property owner all claims for loss and damage or delay within 10 calendar days after receipt.

5–12.2. Settlement [old D5–8]

The Participant shall make settlement of all claims for loss and damage or delay directly, unless otherwise instructed, to the owner of the property for any loss or damage for which the Participant is liable within 30 days after receipt thereof.

5–12.3. Delay in Settlement [old D5–8]

If the claim cannot be processed and disposed of within 30 days after receipt thereof, an additional 30 day period shall be available for settlement of the claim; provided, however, that the Participant shall, at that time, advise the claimant and the RTO in writing or electronically of the status of the claim and the reason for the delay in making final disposition thereof and that Participant shall retain a copy of such advice to the claimant in its claim file thereon. Failure to make settlement within the initial 30 day period, or the maximum 60 day period if proper notice is given, shall be construed as a refusal by the Participant to settle the claim.

5–12.4. Payment of Transportation Charges for Partial Loss [old D5–8]

The Participant shall refund in accordance with the provisions of HTOS Paragraph 7–5.2 that portion of its freight charges (including any charges for accessorial or terminal service) corresponding to that portion of the shipment which is lost or destroyed in transit at the time it disposes of claims of loss, damage, or injury to the articles in the shipment.

5–13. Waiver of Requirements

5–13.1. Requests [old D5–5 & I5.4]

Written confirmation of a request for a waiver of requirements, including requests for approvals as provided in 8–1.1, must be submitted to the RTO within five (5) business days of the verbal request. If the RTO has not issued the approval/waiver as required in HTOS Paragraph 8–1.1.3 through 8–1.1.21 in the time period specified in 5–13.2, below, the Participant may contact the PMO for assistance.

5–13.2. Issuance of an Approval or Waiver of Requirements [old D5–6 & I5.5]

The RTO shall issue the approvals required in HTOS Paragraph 8–1.1.3 through 8–1.1.21 or a waiver of requirements as provided in writing within seven (7) calendar days.

5–14. Documents To Be Furnished

5–14.1. To Property Owner

5–14.1.1. Domestic Only [old D8–6]

The documents specified in HTOS Paragraph 8–5.8.2 will be provided by the Participant to the property owner within ten (10) business days after performance of the specified service.

5–14.1.2. International Only [old I5.15]

The documents specified in HTOS Paragraph 8–5.8.2 will be provided by the Participant to the property owner within seven (7) business days after performance of the specified service.

5–14.2. To the Responsible Transportation Officer

5–14.2.1. Domestic Only [old D8–6]

The documents specified in HTOS Paragraph 8–5.8.3 will be provided by the Participant within 14 business days after performance of the specified service, except that the DD Form 1840, when required by the Federal agency, will be provided within 30 days of shipment delivery.

5–14.2.2. International Only [old I5.16]

The documents specified in HTOS Paragraph 8–5.8.3 will be provided by the Participant within seven (7) business days after performance of the specified service, except that the DD Form 1840, when required by the Federal agency, will be provided within 30 days of shipment delivery.

5–15. Reports to the RTO

5–15.1. Unusual Incidents [old D5–9]

A Participant must report unusual incidents (see HTOS Paragraph 9–2.2) no later than the first working day after discovery by the Participant.

5–15.2. Pickup and Delivery [old D5–9]

A Participant must notify the RTO and if practicable, the owner immediately upon in determining that scheduled pickup or delivery dates cannot be met.

5–15.3. Report of Shipment Arrival—International Only [old I5.19]

Participant will notify the RTO and the employee within one (1) workday of a shipment's arrival at agent's facility, and advise of the shipment's first available delivery date.

5–15.4. Agency Shipment Reports—International Only [old I5.19]

The report specified in HTOS Paragraph 9–2.7.1 will be provided to the shipping federal agency within not more than five (5) calendar days following date of pickup of a shipment in either CONUS or overseas.

5–15.5. Settlement Report.—International Only [old I5.14]

Simultaneously with the transmission of the settlement to the employee, the Participant will report to the RTO both the final action taken on any claim, including the date, and the total amount of settlement.

5–15.6. Notice of Reorganization/Bankruptcies [old D5–9]

The Participant must report to the PMO the filing for reorganization or bankruptcy (see HTOS 2–10.9) within ten (10) calendar day after the date of filing.

5–15.7. Report of Loss/Damage Tracing [old I5.19]

In the event the shipping Federal agency requires the use of DD Forms 1840 and 1840R, the Participant will report the results of the tracing action to the RTO in writing within thirty (30) working days of notification of loss.

5–15.8. Change in Designated Agent—International Only [old I5.19]

The Participant must report to the PMO any change in its designated agents within 15 calendar days of the cessation of the Participant-agent relationship.

5–15.9. Report of Real Property Damage [old I5.19]

The Participant will notify the RTO in writing no later than the first working day following the discovery of the damage, however caused, to an employee's real property.

5–15.10. Report of Shipments on Hand—International Only [old I5.19]

The carrier will provide the shipments on hand report specified in HTOS Paragraph 9–2.7.4 no later than 4 p.m., local time, on the first business day of the week.

5–15.11. Commercial Port Level Report—International Only [old I5.19]

The carrier will provide the Commercial Port Level Report specified in HTOS Paragraph 9–2.8 no later than 4 p.m., local time, on the first business day of the week.

5–16. Reports to the PMO

5–16.1. Shipment Reports [old D5–9]

The shipment report specified in HTOS Paragraph 9–3.1.2 shall be submitted to the PMO within sixty (60) calendar days after the end of each calendar quarter. Participants submitting their reports electronically as required in HTOS Paragraph 9–3.1.2.1 may submit their reports more frequently.

5–16.2. Claims Settlement Report [old D5–9]

The claims settlement report required in HTOS Paragraph 9–3.1.1 shall be submitted to the PMO within sixty (60) calendar days after the end of each calendar quarter.

5–17. GSA Industrial Funding Fee [old D5–11 & I5.20]

The Participant must remit the GSA industrial funding fee (IFF) specified in HTOS Paragraph 7–1.11 within sixty (60) calendar days after the end of each calendar quarter upon which the shipment reports are required.

5–18. Maintenance of Insurance

5–18.1. Notice of Termination [old I5.2]

The cargo liability insurance certificate must provide that notice of termination or cancellation be furnished to the PMO thirty (30) days prior to such termination or cancellation.

5–18.2. Submission of Certificate of Insurance [old I5.1]

Cargo insurance certification meeting the requirements of Paragraph 5–18.1

must be submitted in accordance with the instructions set out in the Request for Offers.

5–19. Maintenance of Performance Bond

5–19.1. Duration of Bond—International Only [old I5.3]

The bond is continuous until canceled by carrier or surety company. In the event a bond is canceled, it must be replaced effective close of business on the date of the canceled bond in order to maintain approval.

5–19.2. Submission of Performance Bond [old 5.1.2.3]

Performance bond meeting the requirements of Paragraph 5–19.1 must be submitted in accordance with the instructions set out in the Request for Offers.

5–20. Limitation of Action

5–20.1. Claims for Charges

5–20.1.1. Filing of Claims by Participants [old I5.18]

All claims and actions at law by Participants for recovery of their charges on shipments subject to the provisions of this HTOS will be filed within three (3) years (not including any time of war) from the date of any one of the following: (1) Final delivery of the property; (2) Payment of the transportation charges thereon; (3) Subsequent refund of excess charges; or (4) Deduction of such excess charges from Participant's account, whichever is later.

5–20.1.2. Filing of Claims Against Participants [old I5.18]

All claims and actions at law against Participants for recovery of excess charges on shipments subject to the provisions of this HTOS will be filed within three (3) years (not including any time of war) from the date of payment of the charges thereon.

5–20.1.3. Government's Breach of Limitation—International Only [old I5.18]

Provided, however, that if the limitation of actions set forth in this item is breached by the Government by the filing of a claim or action at law (other than by mistake or inadvertence) at a time other than stated in this HTOS Paragraph, this HTOS Paragraph will be of no force and effect and will be void ab intitio.

5–20.2. Claims for Property Loss/Damage [old I5.18]

The time frame for the filing of claims for property loss and damage shall be in accordance with the laws of the United States of America and the terms and conditions of the applicable Government bill of lading.

Section 6—Inspection

6–1. Inspection by the Government

6–1.1. Inspection of Facilities and Operations

6–1.1.1. Right To Review [old D6–1 & I6.1]

The PMO or its designee shall have the right to review and inspect the facilities and operations of any Participant in the Program or its agents to determine if the equipment, facilities, operations, and personnel are adequate and capable of performing the services required by United States Government, or have been performed in accordance with the provisions of this HTOS and the Participant's approval and the requirements of the Federal ordering office. Reviews will be conducted during regular office hours or at any time work is in progress. Published Corporate Participant Quality Control Programs will be presented and explained to authorized inspectors when the Participant's facilities are inspected.

6–1.1.2. Facilities [old D6–1]

The Participant must furnish PMO representatives with free access and reasonable facilities and assistance required to accomplish the review. The Participant shall also provide without cost to the Government legible reproductions of any documents required in the performance of the inspection.

6–1.1.3. Reports of Review [old D6–1]

Upon completion of an on-site review, the PMO shall furnish the Participant within ninety (90) days of completion of the on-site review with a report showing the findings of the review and corrective actions, if any, which must be taken by the Participant to bring its operation into compliance with requirements as set forth in this HTOS. A Participant receiving a report showing corrective actions which need to be taken shall have its approval changed to conditional, and shall have thirty (30) calendar days from its receipt of the report to institute these corrective actions identified as requiring immediate action and to notify the PMO of doing so. In the event the Participant objects to the stated necessary corrective actions and the reasons behind such actions, the Participant may appeal in accordance with the provisions of HTOS Paragraph 8–5.10.2.

6–1.2. Inspection of Service Performance

6–1.2.1. General [old D6–1]

Authorized representatives of the RTO shall have the right to inspect the packing, loading, weighing, pickup, delivery, unpacking, warehousing, and any other services performed or being performed by the Participant. Authorized representatives of the RTO shall include personnel of the GSA designated to perform quality assurance, or in the absence of such GSA personnel, the owner of the property or personnel of the Federal agency employing the owner. Authorized representatives may inspect the performance of services at the residence of the owner of the goods or at the warehouse or other facility of the Participant or its agents during regular office hours or at any time that work is in process.

6–1.2.2. Corrective Action [old D6–1]

When authorized representatives of the RTO find that packing, loading, unpacking, or any other work being performed or already completed does not comply with the terms, conditions or specifications set out in this HTOS, the authorized representative shall so advise the Participant. The Participant must promptly correct the deficiency by taking whatever action is necessary at no additional cost to the Government or the owner.

6–1.2.3. Facilities [old D6–1]

The Participant must furnish Government representatives with free access and reasonable facilities and assistance required to accomplish their inspection.

6–1.2.4. Reports [old D6–1]

6–1.2.4.1. General

Reports of inspection shall be furnished to the PMO. Except as provided in Subparagraph 6–1.2.4.2.2.3.2. below, reports of inspection shall be construed as final and conclusive of the performance of services.

6–1.2.4.2. GSA Form 3080, Household Goods Carrier Evaluation Report

6–1.2.4.2.1. Completion

While any written statement from an authorized representative as specified in HTOS Paragraph 6–1.2.1, above, is an acceptable report of inspection, GSA Form 3080, Household Goods Participant Evaluation, is normally used as a report of inspection and will be provided to the owner of each shipment and to the RTO to assist the GSA in the

overall evaluation of customer satisfaction on personal property shipments. Upon completion of services by the Participant at destination, the owner will complete the appropriate section of GSA Form 3080 and transmit it to the RTO for completion of the appropriate section. After completion by both the property owner and the RTO, GSA Form 3080 is returned to the PMO. The PMO will review each completed form to ensure that all shipments routed under the GSA HTOS received high quality service. After the PMO has reviewed the form, the information contained on the form will be entered into the Service Performance Index and Evaluation System (SPIES) data base.

6–1.2.4.2.2. Appeal Procedures

In the event that the rated Participant disagrees with the evaluation contained on the GSA Form 3080, Household Goods Carrier Evaluation, the Participant has the right to appeal such evaluation as specified below. Except as provided below, an appeal received by the PMO directly from a rated Participant will be rejected.

6–1.2.4.2.2.1. Shipment Not Tendered

In the event the rated Participant carrier determines that a shipment was not tendered to its company, the Participant must advise the PMO in writing requesting review and correction.

6–1.2.4.2.2.2. Disagree With the Rating by the Property Owner

In the event the rated Participant disagrees with the property owner's evaluation and the property owner's evaluation had not been changed by the RTO prior to submission to the PMO, the rated Participant must first notify the property owner in writing setting out the basis of the disagreement and requesting the opportunity to resolve it. In the event the rated Participant disagrees with the property owner's evaluation and the property owner's evaluation had been changed by the RTO prior to submission to the PMO, the procedures set out the in Paragraph "Disagree with rating by RTO" apply.

6–1.2.4.2.2.2.1. Disagreement is Resolved

If the property owner and the rated carrier resolve the disagreement and that resolution changes the property owner's rating, the property owner and the rated Participant must jointly advise the RTO by a single memo signed by both. The RTO will then in writing notify the PMO and request that the rating be changed.

6–1.2.4.2.2.2.2. Disagreement is not Resolved

If the property owner and the rated Participant cannot resolve the disagreement, the rated Participant must notify the RTO in writing requesting review and resolution. The request will set out the basis of the disagreement, actions taken to resolve the disagreement, and include a copy of the letter to the property owner and any records that may have been made of conversations, meetings, or correspondence with the property owner. The RTO will then investigate the disagreement, determine whether any changes should be made in the rating, and if so, advise the PMO in writing. The RTO's determination is final and not reviewable by the PMO.

6–1.2.4.2.2.3. Disagree with Rating by the RTO

In the event the rated Participant disagrees with the RTO's evaluation, the rated Participant must first notify the RTO in writing setting out the basis of the disagreement and requesting the opportunity to resolve it.

6–1.2.4.2.2.3.1. Disagreement is Resolved

If the RTO and the rated Participant resolve the disagreement and that resolution changes the RTO's rating, the RTO and the rated carrier must jointly advise the PMO in single memo signed by both.

6–1.2.4.2.2.3.2. Disagreement is Not Resolved

If the RTO and the rated Participant cannot resolve the disagreement, the rated Participant and the RTO must jointly request in a single memo signed by both to the PMO that they request resolution of the disagreement by the PMO and agree to accept the findings of the PMO without further appeal. The request will set out the basis of the disagreement, actions taken to resolve the disagreement, and include a copy of the letter to the RTO and any records that may have been made of conversations, meetings, or correspondence by either party. The PMO will then investigate the disagreement, determine whether any changes should be made to the rating, and if so, advise the rated Participant and the RTO in writing, and correct the rating. If the rated Participant and the RTO cannot agree to jointly request review and resolution by the PMO, the original rating will remain in effect.

6–1.2.4.2.2.4. Oral Appeals

Oral appeals will be construed as without merit and rejected.

6–1.3. Inspection of Sorting for Partial Withdrawal From Sit [old I6.1]

The employee or any other person responsible for payment of the freight charges will have the right to be present at the Participant's facility during the sorting of the property. The Participant will deliver, or the employee has the option to pick up, the property.

6–2. Acceptance by the Government [old D6–2]

Acceptance of the services as satisfactorily performed shall be as determined under such conditions as the RTO specifies.

6–3. Inspection by the Participant (Prepacked Items)

6–3.1. General [old D6–3]

The Participant is responsible for all packing. The Participant is authorized to inspect all prepacked goods to ascertain the contents and determine that only articles not otherwise prohibited by this HTOS are contained in the shipment.

6–3.2. Repacking of Owner-Packed Items [old D6–3]

The Participant is authorized to determine that owner packed goods require repacking. Such repacking will be performed by the Participant in a Participant-provided container. The Government will bear the costs for repacking in this instance, subject to the provisions of Paragraph 7–6 of this HTOS.

Section 7—Payment of Charges

7–1. Payment of Charges

7–1.1. Billing of Charges

7–1.1.1. Applicable Rate [old D7–1 & I7.1]

All charges for transportation and related services for shipments handled shall be in accordance with the lowest applicable tariff or tender, and will be billed to the civilian executive agency shown in the "Bill Charges to" block on the GBL (SF1103 or SF1203). The Participant's public voucher for charges must be supported by the documents specified in HTOS Paragraphs 7–1.2 through 7–1.10, below as applicable. Failure to submit any of the documents shall result in non-payment of the associated charges.

7–1.1.2. Applicable Rate in Absence of Accepted Rate [old I7.1]

Acceptance and movement of a shipment by the Participant over routes for which the Participant has no accepted rates or whose rates have been canceled shall constitute an agreement

by that Participant to perform the transportation services at the lowest rate filed by any Participant on that route.

7–1.1.3. Applicable Charges on Overweight Shipments [old I7.1]—International Only

In accordance with HTOS Paragraph 9–2.1.2.2 and in the event that the RTO requires notification of overweight shipments and the Participant fails to notify the RTO in accordance with his/her instructions and moves the shipment from origin to destination, including any intermediate point(s) and the location of SIT, the Participant may collect from the Government without recourse to the relocating employee as transportation and accessorial service charges, including terminal services, an amount equal to the charges accruing to the authorized shipment weight.

7–1.1.4. Applicable Weight When Reweigh Performed [old I7.1]

When a shipment is reweighed in accordance with HTOS Paragraph 4–10.4, charges will be based on the reweigh weight. In the event the reweigh information is not available at the time of the Participant's initial submission of its Public Voucher for Transportation Charges, SF1113, the Participant will either present a supplemental billing adjusting the transportation charges, or adjust supplemental billings to reflect the reweigh weight.

7–1.1.5. Substitute Documents In Lieu of Lost Government Bill of Lading (SF1103 or SF1203) [old I7.1]

If the original GBL is lost or destroyed, the Participant shall forward the freight waybill original (SF1105 or SF1205) to the Federal agency billing office for payment. Duplicate or reproduced copies of SF1105's or SF1205's are not acceptable. If both the original GBL, SF1103 or SF1203, and the freight waybill, SF1105 or SF1205, are lost, the Participant shall request and be provided a certified true copy of the issuing office's Memorandum Copy, SF1103A or SF1203A, for use as a substitute billing document. If the original GBL is located and made available to the Participant before settlement is made, the Participant shall return the memorandum copy to the issuing office. If the original GBL is found after settlement, the Participant shall forward the bill to the appropriate issuing office for proper voiding.

7–1.2. Original Public Voucher for Transportation Charges (SF1113) [old D7–1]

The Participant must include on the SF1113 the following items: (a) The required transit time for the shipment, as set forth in this HTOS; (b) The actual transit time for the shipment; (c) Taxpayer ID Number; and (d) The Late Delivery Reduction assessed as a deduction from total charges in accordance with HTOS Paragraphs 11–1.3 or 11–1.4, as applicable.

7–1.3. Government Bill of Lading (GBL) [old D7–1]

Original Government Bill of Lading or certified copy of the original waybill and other Government approved documentation.

7–1.4. Scale Tickets [old D7–1]

Scale tickets determining net weight (original weighing and reweighing) with proper identification of the shipment thereon and, if applicable, a copy of the written request for reweighing.

7–1.5. Authorization for Diversion or Reconsignment [old D7–1]

Written authorization for diversion or reconsignment.

7–1.6. Approvals and Authorization for Waiver [old D7–1]

If additional charges are to be assessed as a result of a waiver or approval, written authorization is required for a waiver of any requirements stated herein and any written approvals for changes.

7–1.7. Advanced Charges [old I7.1]

Charges advanced by Participant for services of others engaged with the authorization of the RTO will be supported by the Participant with the RTO's authorization, a copy of the invoice setting forth services rendered, charges and basis thereof (including reference to any applicable tariff, price list, rate schedule, or similar statement of rates and charges). The charges so advanced are in addition to and shall be paid with all other lawful rates and charges.

7–1.8. Miscellaneous Charge [old I7.1]

Any cost incurred by the Participant for a service outside the terms of this HTOS, authorized by the RTO, and provided by the Participant will be billed as a miscellaneous charge. A description of the service, the RTO's authorization, and the basis for the computation of the charge is required.

7–1.9. DD Form 619 or Comparable Commercial Form [old D7–1]

Original "Statement of Accessorial Services Performed" (DD Form 619) or comparable commercial form when charges are assessed for accessorial services, not including SIT. Each household appliance serviced will be identified to show the kind, make, model, or the name of the manufacturer; and

7–1.10. DD Form 619–1 or Comparable Commercial Form [old D7–1]

Original "Statement of Accessorial Services Performed—SIT Delivery and Reweigh" (DD Form 619–1) or comparable commercial form, when charges are assessed for SIT delivery. Net or gross weight, whichever is applicable, will be noted on the DD Form 619–1.

7–1.11. GSA Industrial Funding Fee (IFF)

7–1.11.1. Remittance of GSA IFF. [old D7–1]

The GSA IFF will be remitted to GSA on the basis of shipments billed as reported, in accordance with the provisions of HTOS Paragraph 9–3.1.2. The remittance may be transmitted either by check or by electronic funds transfer.

7–1.11.1.1. Remittance by Check [old D7–1]

Checks shall be made payable to "GSA–GL474.1[SCAC Code]"; e.g., "GSA–GL474.1 [YZAB] and mailed to General Services Administration, Accounts Receivable, P.O. Box 73221, Chicago, IL 60673.

7–1.11.1.2. Remittance by Electronic Funds Transfer [old D7–1]

Payments submitted by electronic funds transfer should be submitted in accordance with the below listed format.

Sample Funds Transfer Message Format

[
[1]
[2] [3]
[4] [5] [7]
[8]
[9]
[10]
[11]
[12]

EXPLANATION OF REFERENCES

Ref.	Name	GSA required fill	Explanation
{1}	Priority code		Provided by the sending bank. Note: Some Federal Reserve district banks may not require this item.
{2}	Treasury Department Code	021030004	The nine-digit identifier is the routing symbol of the United States Treasury. This item is a constant and is required for all funds trasnfer messages note to the United States Treasury.
{3}	Type Code		The type code will be provided by the bank.
{4}	Sending Bank Code		The nine-digit sending bank code will be provided by the sending bank.
{5}	Class Code		The class code may be provided by the sending bank at its option (if permitted by the Federal Reserve district bank).
{6}	Reference Number		The reference number may be inserted by the sending bank to identify the transaction.
{7}	Amount		The amount will include the dollar sign and the appropriate punctuation including cents digits. This item will be provided by the depositor.
{8}	Sending Bank Name		The telegraphic abbreviation which corresponds to item {4} will be provided by the sending bank.
{9}	Treasury Department Name	Treas NYC/(47000016) GSA	This item is of critical importance. It must appear on the funds transfer message in the precise manner as stated to allow for the automated processing and classification of the funds transfer message to the agency location code of the appropriate agency. The item is comprised of a rigidly formatted, non-variable sequence of 15 characters as shown.
{10}	Information	GSA Shipment Surcharge	This item identifies the purpose of payment.
{11}	Information plus SCAC	GL474.1 [YZAB]	This item identifies the account in GSA.
{12}	Information	Payment for [SCAC]	This identifies the Participant making the payment. For [SCAC] substitute the Participant's Standard Carrier Alpha Code.

Example:

2
02103004 10
011000390 0650 $1,500.00
FIRST BOS
TREAS NYC/(47000016)GSA
GSA INDUSTRIAL FUNDING FEE
GL474.1 YZAB
PAYMENT FOR YZAB

7–1.11.1.3. Remittance by Credit Card
RESERVED.

7–1.11.2. Failure To Submit Remittance [old D7–1]

The failure to submit the remittance as required by this HTOS Paragraph and in accordance with the time frames established in HTOS Paragraph 5–17 will result in immediate placement in temporary nonuse pending revocation of the Participant's approval to participate in the CHAMP.

7–1.11.3. Application

7–1.11.3.1. First Shipment [old I7.1]

The first shipment of a relocation performed pursuant to this HTOS is defined as a surface shipment of household effects, shipment of a privately owned vehicle, and/or a shipment of unaccompanied air baggage, all or any one of which are tendered to the Participant by the shipping Federal agency at the same time or within six months of the tender of the first component of the first shipment.

7–1.11.3.1.1. Supplemental Shipments [old I7.1]

A supplement shipment of a relocation performed pursuant to this HTOS is defined as any surface shipment, shipment of a privately owned vehicle, or unaccompanied air baggage shipment tendered to the Participant by the shipping Federal agency after six months from the date of the tender of the first component of the first shipment.

7–1.11.3.2. Exclusions

7–1.11.3.2.1. Shipments in Storage-In-Transit [old I7.1]

The GSA Shipment Surcharge does not apply to the pickup or delivery of a shipment to or from SIT when that shipment was stored in transit as part of the first shipment of a relocation as defined in HTOS Paragraph 7–1.11.3.1, above, or when that shipment was a supplemental shipment as defined in HTOS Paragraph 7–1.11.3.1.1, above.

7–1.12. Adjustment Based on Rate Differentials Involved in the Use of Foreign Flag Shipping—International Only [old I7.1]

Adjustments in rates will be permitted when rate differentials are involved due to the use of Foreign Flag Shipping. A Justification Certificate (HTOS Section 15) is required for the use of a Foreign Flag vessel. When increases or decreases occur in rates due to the use of Foreign Flag Shipping, billing and documentation submitted in connection with the ITGBL shipment, will have differences between the Foreign Flag vessel rate and the rate used in computing the accepted transportation single factor rate (SFR), adjusted in favor of the Participant or the Government on the basis of the ocean freight bill which must be submitted to support each Government Bill of Lading. An example of the adjustment required in the event of an ocean rate increase would be.

ITGBL Shipment Adjustment Example.

PROBLEM. 3,000 lb., 450 × $32.00 per cwt. Cubic Ft., ITGBL Rate $32.00 per cwt.

STEP 1. 3,000 lb. = $960.00.

STEP 2. Ocean rate used in constructing the effective ITGBL rate. 81 cents per cubic foot.

STEP 3. Paid to Foreign Flag ocean Participant as shown on freight bill. 90 cents per cubic foot.

STEP 4. Supplemental charge for ocean freight as stated on the ocean freight bill and computed in accordance with the measurement rule stated in tariff governing the rate. 450 cubic feet at 9 cents per cubic foot = $40.50.

STEP 5. Total charges due ITGBL Participant $1,000.50.

7–2. Payment in the Event of Shipment Termination [old I7.2]

7–2.1. Domestic Only

In the event a Participant's right to provide services is terminated by the RTO as provided in HTOS Paragraph 8–1.1.17.1, the Participant will be paid up to the point of termination for services actually performed. Payment to the terminated Participant will be based on the actual services performed, less the difference between the terminated Participant's billing and the billing of the replacement Participant.

7–2.2. International Only

In the event a Participant's right to provide services is terminated by the RTO as provided in HTOS Paragraph 8–1.1.17.2, the Participant will be paid up to the point of termination on a prorated basis for the services actually performed. The basis of proration shall be negotiated between the RTO and the Participant. Upon determination, the RTO's decision shall be final and conclusive.

7–3. Valuation Charges [old D7–2]

Although the liability in excess of that declared by the shipping Federal agency is an expense of the owner, the charges will be billed by the Participant to the finance office of the Federal civilian executive agency sponsoring the shipment and identified as a separate item of billing.

7–4. Charges Storage-In-Transit

7–4.1. General.—International Only [old I7.4]

Except as specifically provided for herein, each portion of the shipment will be rated at the applicable rate in effect on the date of initial pickup of the shipment, based of the total weight of the entire shipment.

7–4.2. Warehouse Handling Charges [old D7–4]

Warehouse handling charges for shipments placed in SIT will be in accordance with the applicable tariff and/or tender for the destination municipality shown on the GBL, unless otherwise specifically authorized by the RTO. In the event the use of trailers, vans, public warehouses, and self storage units is approved, one-half the applicable warehouse handling rate will be paid.

7–4.3. Storage Charges [old 7.4.3]

Storage charges for shipments placed in SIT will be in accordance with the applicable tariff and/or tender for the destination municipality shown on the GBL, unless otherwise specifically authorized by the RTO. In the event the use of trailers, vans, public warehouses, and self storage units is approved, one-half the applicable storage rate will be paid.

7–4.3.1. Storage Charges at Destination—International Only [old I7.6]

When storage-in-transit is at destination, charges, including charges for additional services, advances, and other properly authorized charges will be billed after storage-in-transit is completed. This provision is applicable to temporary storage only.

7–4.4. Pickup or Delivery Charges.—Domestic Only [old D7–4]

Pickup or delivery charges for shipments placed in SIT will be in accordance with the applicable tariff and/or tender for the destination point shown on the GBL, unless otherwise specifically authorized by the RTO.

7–4.4.1. Pickup or Delivery Charges.—International Only [old I7.6]

On shipments delivered from SIT, the applicable transportation charges will be the delivery transportation rate from nearest available Participant's agent DoD/DOS approved SIT facility at destination shown in the "Consignee Block" to final destination point.

7–4.4.2. Use Of A Facility For The Participant's Convenience [old I7.6]

Should the Participant use a more distant facility in excess of it's nearest facility for its own convenience, SIT and related charges will be based on the Participant's agent's nearest available DoD/DOS approved facility. Nearest available Participant's agent DoD/DOS approved storage facility is defined as that Participant's agent's facility which has DoD/DOS approval, has space for the shipment, and is accepting Federal civilian non-DoD traffic from the Participant.

7–4.4.3. Agent Refusal Of SIT Shipment.—International Only [old I7.6]

If the agent refuses to accept a shipment, e.g., because of the Participant's refusal to provide a waiver and/or due to the Participant's poor payment history, the agent's facility will be considered "available" for purpose of determining charges irrespective of what destination warehouse the Participant uses.

7–4.4.4. Delivery/Pickup at a Mini-Storage Warehouse [old I7.6]

Except as otherwise provided herein, if shipment is delivered to or picked up at a mini storage warehouse, the rates for transportation include only the unloading or loading at door, platform, or other point convenient or accessible to the vehicle.

7–4.4.5. Reduction In Charges [old I7.6]

In the event the storage occurs at a point other than the Participant's agent's nearest available facility, regardless of the cause and without the approval of the RTO, and in the event that the transit time for delivery from the actual point of storage to the final destination exceeds the transit time between the Participant's agent's nearest available facility and the final destination, the total charges shall be subject to a reduction equal to the Government paid cost of temporary quarters for the excess transit time.

7–4.5. Charges Applicable to Portion [old I7.6]

The transportation charges to apply on a portion of a storage-in-transit shipment delivered from warehouse location to destination will be the applicable transportation rate based on the weight of such portion, subject to the provisions of HTOS Paragraph 7–4.7.

7–4.6. Overflow [old I7.6]

On property consigned to storage-in-transit wherein an overflow of property requires that a split shipment be delivered to the warehouse on different dates, the charges for such property will be as follows: (1) Transportation charges from initial point of pick up to warehouse location will be based on the combined weight of the property stored in transit, and computation of transportation charges will be as provided in HTOS Paragraph 7–4.8; (2) storage charges in effect on date of initial pick up will apply and be assessed separately on each portion of shipment stored in transit, except the 1,000 pound minimum weight will apply to the combined weight of property stored in transit. Storage will be rated separately on each portion added; (3) warehouse handling charges will apply only once, based on the combined weight of the property stored in transit; (4) all subsequent charges will be based on the combined weight of the property stored in transit.

7–4.7. Withdrawal of Property [old I7.6]

During storage-in-transit, the property owner may withdraw a portion of the property. When the selection of items requires unstacking and/or restacking of the shipment or a portion of the shipment, charges for such handling will be assessed in accordance with labor charges. Charges for transportation furnished, if any, for portion selected for delivery will be assessed on the same basis as would apply to that portion as an individual shipment. The following will be applicable to the portion remaining in storage: (1) Storage charges will continue to apply on the weight of remainder of the property and (2) Charges for transportation furnished, if any, for the delivery of the remainder of the property will be assessed on the same basis as would apply to that portion as an individual shipment. Billing of charges incident to partial withdrawal of property will be in accordance with the instructions of the RTO.

7–4.8. Placement in SIT on Different Dates [old I7.6]

When property is placed in SIT in segments on different dates, the transportation rates and additional service charges in effect on the date of the pickup of the initial shipment will apply to each property segment placed in SIT.

7–4.9. Removal From SIT and Extra Pickup [old I7.6]

When property is removed from storage-in-transit and extra pickups are ordered, the transportation rates and additional service charges in effect on the date of the pickup of the initial shipment will apply based on the weight of the property removed from SIT or constituting the extra pickup.

7–4.10 Exceptions to Item 118 of the GRT (RFO 2–7.13)

The provisions of item 118 of the GRT, Attempted Delivery to Residence from SIT, will not apply: (1) When the delivery is attempted after 5:00 p.m. or before 8:00 a.m., unless previously agreed to or requested by the shipper; (2) when the delivery is attempted between the hours of 8:00 a.m. and 5:00 p.m. but at a time other than that previously requested or agreed to by the shipper; or (3) if delivery is not attempted or shipper is not otherwise contacted within 90 minutes of the prearranged and agreed to delivery time.

7–5. Charges For Lost Or Destroyed Shipment

7–5.1. Total Loss [old D7–5]

The Participant shall not collect, or require, a payment of any charges when the shipment is totally lost or destroyed in transit. Notwithstanding any other provisions of this HTOS Paragraph, the Participant shall collect, and the shipper shall be required to pay, any specific valuation charge that may be due. This HTOS Paragraph shall not be applicable to the extent that any such loss or destruction is due to the act or omission of the shipper.

7–5.2. Partial Loss [old D7–5]

In the event that any portion, but less than all, of a shipment of household goods is lost or destroyed in transit, the Participant shall refund that proportion of its charges (including any charges for accessorial or terminal services) corresponding to that portion of the shipment which is lost or destroyed in transit. In order to calculate the charges applicable to the shipment as delivered, the Participant shall multiply the percentage corresponding to the portion of the shipment delivered by the total charges applicable to the shipment as tendered by the shipper. If the charges so computed exceed the charges otherwise applicable to the shipment as delivered, the lesser of those charges shall apply. Notwithstanding any other provisions of this HTOS Paragraph, the Participant shall collect, and the shipper shall be required to pay any specific valuation charge that may be due. The provisions of this HTOS Paragraph shall not be applicable to the extent that any such loss or destruction is due to the act or omission of the shipper or Acts of God. Participants shall determine, at their own expense, the proportion of the shipment not lost or destroyed in transit.

7–5.3. Partial Loss Involving More Than One Vehicle—International Only [old I7.7]

In the event of the loss or destruction of any part of a shipment being transported on more than one vehicle, the collection of charges as provided in HTOS Paragraph 7–5.2 of this item will also be in conformity with the requirements of this item.

7–6. Charges for Repacking Prepacked Items [old D7–6]

The Government will bear the costs for the Participant repacking owner-packed goods that the Participant has determined require repacking. The charges for such repacking shall be based on the actual size of the carton(s) provided, subject to the Max-pack provisions of the Participants' bureau issued interstate government rate tender.

7–7. Charges for Reweigh [old I7.5]

There will be no charge for a reweigh.

7–8. Application of Prompt Payment Act [old I7.4]

The Prompt Payment Act, 31 USC 3901, *et seq.*, applies to shipments transported under this HTOS.

7–9. Payment of Debt [old I7.10]

Should any Federal agency be advised that a Participant filing rates under the

terms of this HTOS has failed to comply with the terms of an arrangement entered into between the Participant and an agency of the Federal Claims Collection Act of 1966 relating to transportation services, that Federal agency may place the Participant in nonuse or disqualification status until such time as the arrangement entered into by the Participant has been complied with.

7–10. Excess Costs—International Only [old I7.11]

To enable the Government to collect excess costs incurred due to Participants/forwarders defaulting on shipments contained in transit, Participants assuming the onward movement will maintain records of all excess costs including demurrage, storage, etc., over and above those normally associated with a shipment.

7–11. Charges for Crating Services

Crating services will be quoted, billed and paid as provided in the GRT. If a third party is used to provide crating services and the charges are in excess of those provided in the GRT, the GBLIO/RTO has the authority to waive and negotiate the excess crating charges in whole or in part, based on the circumstances of the use of third party services.

7–12. Excessive Distance Carry

Notwithstanding any other provisions of the Item 160 of the GRT, any reference to a distance of less than 100 feet will be construed as 100 feet.

Section 8—Responsibilities and Authorities

8–1. Responsible Transportation Officer Responsibilities and Authorities

8–1.1. General

8–1.1.1. Contractor As Responsible Transportation Officer. [old D8–1 & I8.1]

In those instances where a shipment is managed by a third party relocation contractor, pursuant to a contract awarded by GSA or a Federal civilian, non-DOD, agency, the contractor shall have the responsibilities and authorities, to the extent not limited or modified by the contract, set out in this HTOS for the RTO and/or the GBL Issuing Office.

8–1.1.2. General Services Officer (GSO) As Responsible Transportation Officer (RTO) [old I8.1]

For the purposes of this HTOS and where reference is made to the RTO for the authorization of services at foreign origins/destinations, the GSO shall be construed to have the same authority as the RTO.

8–1.1.3. Participant Liability [old D8–1]

The RTO must establish and authorize in writing on the GBL the level of service, as set out in HTOS Paragraph 10–1.2, to be provided by a Participant in furnishing transportation services.

8–1.1.4. Expedited Service [old D8–1]

The RTO must authorize in writing expedited service.

8–1.1.5. Designation of Agent—International Only [old I8.1]

If required by the shipping Federal agency, the RTO is authorized to direct the use of specific agents for performance of origin and destination services.

8–1.1.6. Telephonic Premove Surveys [old D8–1]

The RTO must, in accordance with HTOS Paragraph 4–2.2, approve in writing telephonic premove surveys.

8–1.1.7. Use of Crates [old D8–1]

The RTO must in accordance with HTOS Paragraphs 4–4.2, 4–4.4.2.1, and 4–4.5.7 approve in writing the use of crates.

8–1.1.8. Shuttle Service (Impracticable Operation) [old D8–1]

The RTO must approve in writing the use of shuttle service.

8–1.1.9. Transit Time [old D8–1]

The RTO must approve in writing changes in transit time.

8–1.1.10. Inspection of Services and Facilities [old D8–1]

The RTO is authorized, in accordance with HTOS Paragraph 6–1.1 & 6–1.2, to perform inspections of Participant facilities and of Participant performance of service.

8–1.1.11. Defective Performance [old D8–1]

The RTO is authorized, in accordance with HTOS Paragraphs 6–1.2.1 and 11–1.1.3, to direct the Participant to correct or reperform defective services.

8–1.1.12. Shipment Weight

8–1.1.12.1. Constructive Weight [old D8–1]

The RTO must, in accordance with HTOS Paragraph 4–10.5, approve in writing the use of constructive weight.

8–1.1.13. Indirect Routing [old D8–1]

The RTO must, in accordance with Paragraph 8–5.14.5.7.1, approve in writing indirect routing of a shipment.

8–1.1.14. Use of Foreign Flag Shipping—International Only [old I8.1]

The Responsible Transportation Office must, in accordance with HTOS Paragraph 4–1.2.1.2, approve in writing the use of foreign flag shipping.

8–1.1.15. Use of Alternate Participant.—Domestic Only [old D8–1]

The RTO must, in accordance with Paragraph 8–5.15, approve use in writing of an alternate Participant.

8–1.1.16. Diversion and Reconsignment

8–1.1.16.1. General [old D8–1]

The RTO must authorize and approve in writing the diversion and/or reconsignment of a shipment to a destination area other than that specified on the GBL.

8–1.1.16.1.1. International Shipments [old I8.1]

The destination area is the territory within a fifty (50) air mile radius of the principal building of the United States Embassy or United States Consulate in the destination city or municipality shown on the GBL. Instructions furnished by the owner or his representative to the Participant or its agent to perform local drayage to any point within the destination area shall not constitute an order for diversion or reconsignment. A shipment terminated by the RTO in accordance with HTOS Paragraph 8–1.1.17 will not constitute a diversion.

8–1.1.17. Termination of Performance [old D8–1]

The RTO is authorized to terminate the right of the Participant to provide the services or such part or parts thereof as to which there has been delay, refusal, or failure to complete and to procure similar services on the open market by contract or otherwise, charging against the Participant any excess cost occasioned to the Government thereby, including any applicable Late Delivery Reduction.

8–1.1.17.1. Domestic Only

Included with the meaning of delay, refusal, or failure to complete performance is the frustration of a shipment or shipments due to (1) nonpayment of agent's fees and/or charges by the Participant whereby the shipment is being detained at an agent's facility; (2) detention of a shipment by an origin/destination local agent for any reason relative to Participant/agent disputes; (3) non-traceable or non-available documentation attributable to the fault of the Participant or its agents; (4) inability of the agent and/or

Participant to pick up, transport, or deliver a shipment in a timely manner.

8–1.1.17.2. International Only [old I8.1]

Included with the meaning of delay, refusal, or failure to complete performance is the frustration of a shipment or shipments due to (1) nonpayment of charges by the ITGBL Participant whereby the shipment is being detained by the ocean or motor Participant either aboard a vessel or within an ocean or motor terminal; (2) nonpayment of port agent's fees and/or charges by a Participant whereby the shipment is being detained at a port agent's facility by a port agent; (3) detention of a shipment by an origin/destination local agent for any reason relative to Participant/agent disputes; (4) non-traceable or non-available documentation attributable to the fault of the Participant or its agents; (5) port congestion arising from the inability of the port agent and/or Participant to book and clear shipments in a timely manner.

8–1.1.18. Taking Possession of Shipments.—International Only [old I8.1]

When a Participant is placed in worldwide nonuse by a civilian agency, the RTO may take possession of their agency's shipments in the Participant's possession and move them via another Participant to their final destinations. The RTO or his/her authorized agents may inspect local and port agent facilities located in their area of responsibility for shipments of subject Participant still on hand and will be responsible for the termination of these shipments and arranging alternate transportation to final destination.

8–1.1.19. Removal of Property From Disapproved Facilities [old D8–1]

When a Participant's facilities or the facilities of its agent are disapproved for further use, and the RTO or his authorized representative considers it necessary to remove the household goods shipment to prevent damage or contamination, the RTO is authorized to direct the Participant to immediately remove the property and place it in a Government approved warehouse. The cost of such removal will be at the Participant's expense and at no expense to the Government or the property owner.

8–1.1.20. Storage-In-Transit

8–1.1.20.1. SIT at Destination.—Domestic Only [old D8–1]

The RTO must approve in writing SIT in excess of 50 miles from the destination and the charges applicable to such storage location.

8–1.1.20.2. SIT at Destination.—International Only [old I8.1]

The RTO must, prior to placement, authorize and approve in writing the placement of a shipment in SIT at destination. The RTO must, in accordance with HTOS Paragraphs 4–11.3.2 and 7–4.3.1, authorize and approve in writing SIT at a destination location other than the Participant's agent's nearest available DOD/DOS approved storage facility, when used for other than Participant convenience and the charges applicable to such storage location.

8–1.1.20.3. SIT at Other Than Destination [old I8.1]

The RTO must, in accordance with HTOS Paragraphs 4–11.3.1 and 7–4.3, authorize and approve in writing SIT at origin; or SIT at a destination location other than the Participant's agent's nearest storage facility, when used for other than Participant convenience and the charges applicable to such storage location; or in excess of 50 miles from the destination on an interstate or intrastate location; or SIT involving the use of trailers, vans, public warehouses, and self storage units.

8–1.1.21. Approvals/Waivers of Requirements [old D8–1]

Notwithstanding the provisions of this Paragraph 8–1.1.3 and 8–1.1.20.3, above, the RTO is authorized to waive the requirements set forth is this TOS, in whole or in part, on an individual shipment because of the incompatibility of such requirements with the prevailing circumstances.

8–1.2. Filing of Claims

8–1.2.1. Claims for Equitable Adjustment for Incomplete or Non-Performance of Services [old D8–1]

The RTO is authorized to and responsible for filing claims with the Participant for equitable adjustment of the shipment costs in the event of incomplete or non-performance of services.

8–1.2.2. Claims for Loss and/or Damage to Property [old D8–1]

Unless waived to the property owner (see HTOS Paragraph 8–4.6, below), the RTO is authorized to and responsible for filing claims for loss and/or damage with the Participant.

8–1.3. Initial Decisions

8–1.3.1. Excusable Delay, Refusal, or Failure [old D8–1]

When delay, refusal, or failure to provide services is alleged by the Participant to be excusable, the decisions as to whether such delay, refusal, or failure is excusable shall be made only by the RTO. Causes beyond the control and without the fault or negligence of the Participant include, but are not restricted to, acts of God or the public enemy, strikes, freight embargoes, and unusually severe weather; provided, however, that this provision shall not take effect unless the Participant shall notify the Ordering Officer immediately of the cause of any such delay, refusal, or failure. In such event, the Ordering Office will ascertain the facts and the extent of delay, refusal, or failure, advise the RTO who shall then decide the excusability of the delay, refusal, or failure to complete the services. In the event the RTO determines that the alleged delay, refusal, or failure is inexcusable, the Ordering Office shall determine whether to terminate the order. The RTO shall advise the PMO of its decision.

8–1.3.2. Settlement of Claims [old D8–1]

In the event the Participant fails to settle a claim within thirty (30) days of receipt, or an additional thirty (30) days in accordance with HTOS Paragraph 5–12.3, or fails to settle a claim to the full extent of its legal liability as determined and to the satisfaction of the property owner, the Federal agency paying the costs of the services furnished pursuant to this HTOS, or by the Ordering Office, the RTO is authorized to make initial decisions determinative of Participant liability for: (a) Equitable adjustment for incomplete or non-performance of services; and/or, (b) loss of and/or damage to real and personal property. In making decisions determinative of Participant liability, the RTO has the right to interview the Participant, the property owner or his designated representative, review the Participant's settlement and all supporting schedules and documentation, determine the propriety of that settlement and, when appropriate, direct the Participant to resettle in the amount or amounts determined proper by the RTO.

8–1.3.2.1. Delay in Claim Settlement [old I8.1]

The RTO shall, in accordance with HTOS Paragraph 5–12.3, authorize extensions in time for Participant settlement of a claim.

8–1.3.2.2. Claim Settlement Penalty

In the event that the Participant fails to settle a claim within 30 days after receipt due to Participants failure, the Participant will pay a $25.00 per day penalty to the Federal agency. The total penalty shall not exceed $250.00. The

RTO has the authority to waive the penalty in whole or in part based on circumstances of the delay.

8–1.3.3. Effect of Initial Decisions [old D8–1]

Unless appealed to the Program Manager, initial decisions of the RTO shall be final and conclusive upon the Participant.

8–1.3.4. Setoff [old D8–1]

In the event the Participant refuses to settle a claim in accordance with the RTO's initial decision or after a final decision by the Program Manager, the RTO is authorized to initiate such action as is necessary to collect from any monies due the Participant, by setoff or otherwise, the settlement determined proper by the RTO or the Program Manager.

8–1.3.4.1. High Risk Item Programs [old I8.1]—International Only

The RTO must establish and authorize in writing, in accordance with HTOS Paragraph 10–1.6, the terms and conditions of any program limiting a Participant's liability for items of high risk.

8–1.3.5. Scheduling Service

8–1.3.5.1. On Saturday, Sunday, or Holidays [old I8.1]

The RTO must authorize and approve in writing prior to performance the beginning of any service that may be scheduled for Saturday, Sunday, local holidays, or Federal holidays.

8–1.3.5.2. For Completion After 5PM, Local Time—Domestic Only [old D5–4]

The RTO, the owner or his/her designated representative may authorize and must approve in writing the beginning of any service that will not allow completion by 5pm, local time. Work completed after 5pm is at no cost to the Government.

8–1.3.5.3. For Completion After 5PM, Local Time.—International Only [old I8.1]

The RTO must authorize and approve in writing the beginning of any service that will not allow completion by 5pm, local time. Work completed after 5pm is at no cost to the Government.

8–1.3.6. Services Beyond Those Specified in the HTOS [old I8.1]

The RTO must authorize and approve in writing prior to performance the Participant furnishing of any services and the charges therefor that are outside the scope of this HTOS.

8–1.3.7. Packing and Stuffing of Containers [old I8.1]

The RTO must, prior to performance, authorize and approve in writing the packing and stuffing of liftvans and overflow boxes at a location other than the origin residence.

8–1.3.8. Inaccessible Locations [old I8.1]

The RTO must in accordance with HTOS Paragraph 4–3.5 approve in writing the removal or placement of property from or to inaccessible locations.

8–1.3.9. Shipment Weight

8–1.3.9.1. Reweigh [old I8.1]

The RTO must, in accordance with HTOS Paragraph 4–10.4, approve the reweigh of a shipment.

8–1.3.10. Use of Third Parties [old I8.1]

The RTO must, in accordance with HTOS Paragraphs 4–5.2, approve the use of third parties.

8–1.3.10.1. Payment of Release Fees and Setoff—International Only [old I8.1]

The RTO is authorized to pay any charges necessary to release a shipment, and to initiate action for setoff of expenses incurred by the Government which are in excess to those which would have been incurred if the Participant had maintained total through movement of the shipment.

8–1.3.10.2. Extension of Storage—International Only [old I8.1]

The RTO is authorized in accordance with HTOS Paragraph 4–11.1 to negotiate storage beyond 180 days.

8–1.3.10.3. Use of Non-Commercial Facilities [old I8.1]

The RTO must in accordance with HTOS Paragraph 4–11.2 approve in writing the use for storage-in-transit of trailers, vans, public warehouses, self storage units, or any other facility not normally used in the normal course of business for the receipt and storage of household goods.

8–1.3.10.4. Ordering Partial Withdrawal From Sit [old I8.1]

The RTO must prior to withdrawal authorize and approve the partial withdrawal of property from SIT and inform the Participant of the billing instructions.

8–1.3.11. Removal or Placement of Property From or to Inaccessible Locations [old I8.1]

The RTO must prior to commencement of performance authorize and approve in writing the removal or placement of property from or to attics, basements, and other locations, and to make property available to the Participant where the location of property and goods to be shipped or delivered is (1) not accessible by a permanent stairway (does not include ladders of any type), (2) not adequately lighted, (3) does not have a flat continuous floor, or (4) does not allow a person to stand erect. The RTO must also, prior to commencement of performance, authorize and approve in writing the charges therefor.

8–1.3.12. Document Preparation and Annotation [old I8.1]

To the extent applicable and not otherwise specifically stated herein, the Ordering Office is responsible for preparation of the GBL, SF1103 or SF1203.

8–1.3.13. Document Distribution [old I8.1]

The Ordering Office is responsible for distributing the GBL in accordance with its agency procedures.

8–2. Program Manager Responsibilities and Authorities [old 8.3]

8–2.1. Participant Request to Participate [oldD8–3]

The Program Manager is authorized to approve or reject, in accordance with Section 2, an applicant's request to participate in the Centralized Household Goods Traffic Management Program.

8–2.2. Participant Rate Filing [old D8–3]

The Program Manager is authorized, in accordance with Section 3 to approve, reject, or require the correction of a Participant's rate filing.

8–2.3. Handling of Participant Appeals

8–2.3.1. Revocation of Approval [old D8–3]

In the event a Participant appeals in accordance with the provisions of HTOS Paragraph 8–5.11.1 a proposal to revoke approval of the Participant to participate in this Program, the PMO shall handle the appeal in accordance with the provisions of Federal Acquisition Regulations (FAR), Subpart 9.407–3 (48 CFR 9.407–3); provided, however, that any reference to temporary nonuse in said regulation shall be construed as meaning revocation of approval.

8–2.3.2. Temporary Nonuse, Suspension, and Debarment [old D8–3]

In the event a Participant appeals the Government's proposal to place it in temporary nonuse, suspension, or debarment, the Government shall

handle the appeal in accordance with the provisions of FAR Subpart 9.407–3 (48 CFR 9.407–3).

8–2.3.3. Corrective Actions [old D8–3]

In the event a Participant appeals in accordance with the provisions of HTOS Paragraph 8–5.11.3 corrective actions required as a result of an on-site review in accordance with HTOS Paragraph 6–1.1, the PMO shall handle the appeal in accordance with the provisions of FAR Subpart 9.407–3 (48 CFR 9.407–3); provided, however, that any reference to temporary nonuse in said regulation shall be construed as meaning corrective actions.

8–2.3.4. Performance Reports [old D8–3]

In the event a Participant appeals in accordance with the provisions of HTOS Paragraph 8–5.11.4 performance information provided in accordance with HTOS Paragraph 9–5.1.1, the PMO shall consider only those items which are factual in nature and shall inform the Participant of the result of its review within 30 workdays of receiving the Participant's submission or presentation.

8–2.3.5. Claims [old D8–3]

In the event a Participant disagrees with an initial decision of the RTO and a satisfactory agreement cannot be reached, the Program Manager is authorized after review of all relevant and necessary information to issue a final decision on the matter in dispute.

8–2.4. Review of Records [old D8–3]

The Program Manager and any of his duly authorized representatives shall, until the expiration of three years after final payment under this agreement, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Participant involving transactions related to this HTOS or compliance with any clauses thereunder. The Participant shall furnish, upon request, copies of all documents/records deemed necessary by the Program Manager or his designee. The Participant shall furnish copies of such records at no cost to the Government.

8–2.5. Performance Reports (Quarterly) [old D8–3]

The PMO shall furnish Participants a performance report. This report will be furnished to the Participant on a calendar quarter basis, and shall either contain information derived from GSA Forms 3080 received during the previous quarter pertaining to shipments handled by the Participant or consist of copies of the GSA Forms 3080 received during the previous quarter.

8–2.6. Performance Reports (Annual) [old D8–3]

The PMO shall publish an annual report based upon information from GSA Forms 3080 received during the previous calendar year and such other information as the PMO deems appropriate.

8–3. Temporary Nonuse, Suspension, Debarment

8–3.1. By Program Management Office [old D8–4]

The PMO is authorized to place a Participant in a temporary non-use status in accordance with the procedures in the Federal Management Regulations (FMR) Part 102–117. (41 CFR Part 102–117) The PMO, in accordance with the procedures in the FMR Part 102–117, is authorized to refer a Participant for suspension or debarment.

8–3.1.1. Basis for Temporary Nonuse

8–3.1.1.1. General [old I8.3]

The bases specified below supplement those cited in the applicable FMR and are not to be considered exclusive. Repeated instances of the following or other acts within the compass of the FMR may form the basis for suspension or debarment. Temporary nonuse action may be initiated without regard to other Participants or their individual performance.

8–3.1.1.1.1. Agency Agreement Termination-International Only [old I8.3]

In the event the Participant's agent is terminated and the Participant does not establish an agency agreement with a new agent within the time period specified in HTOS 5–5, the Participant may be placed in temporary nonuse until a new agency agreement is effected.

8–3.2. By Shipping Federal Agencies

8–3.2.1. General [old I8.3]

RTOs of the shipping Federal agency are authorized to place a Participant or agent in a temporary nonuse status in accordance with the procedures in the Federal Management Regulations (FMR) Part 102–117. (41 CFR Part 102–117) The RTO, in accordance with the procedures in the FMR Part 102–117, is authorized to refer a Participant for suspension or debarment.

8–3.2.2. Basis for Temporary Nonuse

8–3.2.2.1. General [old I8.3]

The basis specified below supplement those cited in the applicable FMR and are not to be considered exclusive. Repeated instances of the following or other acts within the compass of the FMR may form the basis for suspension or debarment. Temporary nonuse action may be initiated without regard to other Participants or their individual performance.

8–3.2.2.2. Movement of Shipments Without Proper Tarping [old I8.3]

The RTO may immediately place a Participant in temporary nonuse when it is discovered that the Participant has moved shipments in line-haul service which have not been properly tarped.

8–3.2.2.3. Violation of Tender of Service [old I8.3]

The RTO may place a Participant in temporary nonuse because of any substantial violation or repeated violation of any item of this HTOS or failure to perform in accordance with tariff/rate tender and/or other legal requirements. If the action by the Participant is sufficiently serious, the RTO may place the Participant immediately in temporary nonuse.

8–3.2.2.4. Lack of or Incomplete Corrective Action [old I8.3]

The RTO may immediately place a Participant in temporary nonuse in the event that the Participant's corrective actions have not been actually taken.

8–3.2.2.5. Inventory Coding [old I8.3]

The RTO may place a Participant in temporary nonuse for the continued inventory practice of "mass" coding or the totally inaccurate use of coding so as to falsify the actual condition of articles.

8–3.2.2.6. Improper Conduct [old I8.3]

The RTO may place a Participant in temporary nonuse when Participant personnel are reported by the RTO or the owner as being under the influence of alcohol, drugs, as using abusive language, or engaging in abusive conduct.

8–4. Owner Responsibilities

8–4.1. Limitation of Authority [old D8–5 & I8.4]

Except for the reweigh service provision in Section 4, no owner or owner's designated representative shall have authority to make any agreement with the Participant which shall diminish the rights or increase the

obligations of the United States Government.

8–4.2. Adverse Weather Conditions [old I8.4]

When packing, loading, unloading or unpacking during adverse weather conditions could create a potential hazard to the owner's household goods or personal effects, such services will be suspended until more favorable weather conditions exists, unless otherwise mutually agreed upon (in writing) between the Participant and the owner.

8–4.3. Removal or Placement of Property From or to Inaccessible Locations [old I8.4]

The owner is responsible for the removal or placement of property from or to attics, basements, and other locations, and to make property available to the Participant where the location of property and goods to be shipped or delivered is (1) not accessible by a permanent stairway (does not include ladders of any type), (2) not adequately lighted, (3) does not have a flat continuous floor, or (4) does not allow a person to stand erect. Employees are not authorized to make the Government liable for the charges incident to the removal or placement of property from or to inaccessible locations.

8–4.4. Inspection and Acceptance [old D8–5]

For the purpose of inspection of the services provided pursuant to this HTOS and in the absence of an authorized representative of GSA, the employing agency, the RTO, or the property owner is authorized to perform inspection of services in accordance with the provisions of this HTOS, the owner's report of inspection shall be administratively final.

8–4.5. Valuation [old D8–5]

Prior to the commencement of services, the owner is authorized to establish a level of service or declared value in excess of that established by the Government for the performance of transportation services.

8–4.6. Claims [old D8–5]

When authorized by the RTO, the owner of the property or his designated representative is authorized to file claims with the Participant for loss of and/or damage to the property. Such authorization need not be in writing. (NOTE: Participants should note that it is common practice for owners to file claims directly with the Participant. Owner filing of a claim is not grounds to refuse settlement.)

8–4.7. Service Dates [old D8–5]

Unless otherwise established by the RTO, the owner of the property is authorized to and is responsible for establishing with the Participant specific dates for the performance of the premove survey, packing, loading, and, if applicable, delivery from storage-in-transit.

8–4.8. Document Preparation and Annotation.

8–4.8.1. Verification of Origin Inventory [old D8–5]

The owner of the property is responsible for verification of the inventory listing and condition of items at the time of pickup.

8–4.8.2. Verification of Destination Inventory [old D8–5]

The owner of the property is responsible for verification of the inventory listing and condition of the items at the time of delivery.

8–4.8.3. Annotation of Loss/Damage at Delivery [old D8–5]

The owner of the property is responsible in conjunction with the Participant for annotating loss and/or damage on the delivery documents.

8–4.8.4. Appraisals Of Property [old D8–5]

The owner of the property is responsible for having appraised by a reputable company any highly valued and/or antique property. A copy of the appraisal may be furnished the Participant prior to the move.

8–4.8.5. Extraordinary Value Inventory [old D8–5]

If required by the Federal agency and prior to packing, loading, and subsequent pickup by the Participant, the owner of property is responsible for identifying and providing the Participant with a listing of all items of extraordinary (unusual) value.

8–4.8.6. Disassembly and Reassembly of Property [old D8–5]

The owner of the property is responsible for the disassembly and reassembly of swing sets, other playground equipment, television and radio antennas, satellite dish antennas, storage sheds, and other similar articles. The draining and refilling of waterbeds is the responsibility of the owner.

8–5. Participant Responsibilities

8–5.1. General [old D8–6 & I8.5]

The responsibilities specified in HTOS Paragraphs 8–5.6 and old 8–5.15 below, are in addition to all other requirements of this HTOS. To the extent that any specific responsibility pertains solely to a Participant, that responsibility shall not be attributed to or expected of an agent. To the extent that any specific responsibility pertains solely to an agent, that responsibility shall not be attributed to or expected of a Participant. To the extent that any responsibility may be considered as mutually shared by both Participant and agent, that responsibility shall be attributed to and expected of both the Participant and the agent it uses. In order not to prejudice the attribution of responsibility, the term "Participant" shall be used through this HTOS Paragraph.

8–5.2. Responsible for Acts or Omissions [old D8–6]

Each Participant providing transportation of household goods subject to the provisions of the HTOS shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) and which are within the actual or apparent authority of the agent from the Participant or which are ratified by the Participant.

8–5.3. Responsible for Diligence and Reasonable Care [old D8–6]

Each Participant providing transportation of household goods subject to the provisions of the HTOS shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this HTOS and by such Participant.

8–5.4. Shipment Refusal [old I8.5]

The Participant is responsible for refusing shipments offered for any route for which the Participant has no accepted rate or for service areas outside its approved scope of operations.

8–5.5. Shipment Routings

8–5.5.1. Open Routing [old I8.5]

The Participant is responsible for determining the routing of shipments handled under this HTOS.

8–5.5.2. Exception to Open Routing—International Only [old I8.5]

The Participant may not route shipments through ports which historically become congested during peak shipping months with the resultant frustration of HTOS shipments.

8–5.6. Complaint and Inquiry Handling [old D8–6]

Each Participant engaged in the transportation of household goods subject to the provisions of this HTOS shall establish and maintain a procedure for receiving and responding to complaints and inquiries from the RTO and the owner of the household goods or his/her representative. The procedure shall include a means whereby the RTO and the property owner or his/her representative are aware of the telephone number by which they can communicate with the principal office of the Participant. The Participant shall retain and make part of the file relating to a shipment a written record of all complaints received in writing or by telephone from the RTO and the property owner or his/her representative.

8–5.7. Document Preparation and Annotation [old D8–6]

To the extent applicable and not otherwise specifically provided herein, the Participant is responsible for properly preparing and annotating the shipping, billing, and claims settlement (see HTOS Paragraph 8-5.10.2, Claims Settlement Documentation) documents.

8–5.8. Document Distribution [old D8–6]

The Participant is responsible for distributing the shipping documents in accordance with the following.

8–5.8.1. Retained by the Participant [old D8–6]

Original GBL (SF1103 or SF1203), copy of estimate, copy of inventory, originals of DD Form 619 and 619–1, or comparable commercial forms, original weight and reweigh tickets.

8–5.8.2. Documents to be Provided to the Employee [old 8.6.8.2]

8–5.8.2.1. Domestic [old D8–6]

The Participant shall furnish the employee or the employee's agent (1) One copy of the shipping Federal agency GBL, SF1103B or SF 1203B; (2) original estimate; (3) original inventory; (4) copies of DD Forms 619 and 619–1, or comparable commercial forms.

8–5.8.2.1.1. After Delivery [old D8–6]

The Participant shall furnish the employee or the employee's agent (1) A legible copy of DD Form 619–1 or comparable commercial form, if SIT or reweigh services are performed en route or at destination; (2) a legible copy of the reweigh tickets prepared by a certified weighmaster on a certified scale, if requested by the owner or his designated representative, or the RTO; and, (3) if required by the shipping Federal agency, three copies of the DD Form 1840, Joint Statement of Loss or Damage at Delivery. The Participant will provide the documents listed in this HTOS Paragraph to the owner or his designated representative and the RTO within 10 business days after delivery.

8–5.8.2.2. International

8–5.8.2.2.1. After Pickup [old I8.5]

The Participant shall furnish the employee or the employee's agent (1) The consignee's memorandum copy of the shipping Federal agency GBL, SF1103B or SF1203B, as appropriate; (2) a legible copy of the completed Household Effects Descriptive Inventory; and (3) a completed and legible copy of DD Form 619, Statement of Accessorial Service Performed.

8–5.8.2.2.2. After Delivery [old I8.5]

The Participant shall furnish the employee or the employee's agent (1) A legible copy of the DD Form 619–1 or comparable commercial form, if storage-in-transit, reweigh, or other accessorial services are performed en route or at destination; and, if required by the shipping Federal agency, (2) three copies of the DD Form 1840, Joint Statement of Loss or Damage at Delivery.

8–5.8.2.3. Reweigh Tickets [old D8–6]

A legible copy of the reweigh tickets prepared by a certified weighmaster on a certified scale, if requested by the owner or his designated representative, or the RTO.

8–5.8.2.4. Signing of Forms [old I8.5]

The employee or employee's agent will not under any circumstances be asked to sign a blank or partially completed DD Form 619, DD Form 619–1, or any other form, except for the "Unit Price" and "Charge" columns which may be incomplete.

8–5.8.3. Furnished to the Responsible Transportation Officer

8–5.8.3.1. Domestic [old D8–6]

The Participant will provide the RTO the following documents, no later than 14 business days after receipt of shipment or GBL, whichever is later:

8–5.8.3.2. International [old 5.15]

The Participant will provide the RTO the following documents, no later than 7 business days after receipt of shipment or GBL, whichever is later:

8–5.8.3.2.1. After Pickup

8–5.8.3.2.2. One Memorandum Copy of the GBL [old D8–6]

One memorandum copy of the Government Bill of Lading (SF1103A or SF1203A, as appropriate) annotated with the gross, tare, and net weights and charges, including any ITGBL charges (when applicable), to date. For containerized shipments, the Participant will also indicate the total number of containers and the gross cube of the shipment.

8–5.8.3.2.3. Statement of Accessorial Services Performed (DD Form 619) or Comparable Commercial Form [old I8.5]

One signed copy of the Statement of Accessorial Services Performed (DD Form 619 or comparable commercial form) itemizing accessorial services performed will be prepared by the Participant's representative and the employee or his/her agent when such services are required and separately charged. Each household appliance serviced will be identified to show the make, model or name of the manufacturer. All entries for appliance servicing by a third party will be supported by an invoice stating the type of service performed. No accessorial services will be billed when such services are included in single factor rates.

8–5.8.3.2.4. Inventory [old D8–6 & I8.5]

One legible signed copy of the Household Goods Descriptive Inventory, together with on international shipments, a copy of the "bingo cards" which identify the contents of each liftvan or overflow container by inventory line item number.

8–5.8.3.2.5. Weight Tickets [old D8–6]

One legible copy of the weight tickets signed by the person performing the weighing which must contain the information required by the U.S. Department of Transportation (successor to the Interstate Commerce Commission). If the shipment is to be delivered prior to the submission of the aforementioned documents, the RTO will be advised of the weight of the shipment by telephone, or other appropriate means, prior to delivery, unless an exception to this requirement is granted. Confirmation by hard copy, facsimile or expedited delivery may be requested by the RTO.

8–5.8.3.2.6. Reweigh Tickets.—International Only [old I8.5]

A legible copy of the reweigh tickets prepared by a certified weighmaster on a certified scale, if requested by the

owner or his designated representative, or the RTO.

8–5.8.3.3. After Delivery

8–5.8.3.3.1. DD Form 1840 [old I8.5]

If required by the Federal agency, the Participant will furnish the responsible Federal agency official at destination with a copy of the DD Form 1840 within 30 days of shipment delivery.

8–5.8.3.3.2. Reweigh Tickets [old I8.5]

A legible copy of the reweigh tickets prepared by a certified weighmaster on a certified scale, if requested by the RTO.

8–5.9. Requests for Approval and Waivers [old D8–6]

Because of the incompatibility of an HTOS requirement with the circumstances prevailing on a given shipment, a Participant may request from the RTO at any time but prior to performance, a waiver of a requirement or approval to provide a special service. If requested verbally, the request must be confirmed in writing.

8–5.10. Claims Documentation

8–5.10.1. Preparation [old I8.5]

The Participant must furnish to the property owner all reasonable and necessary assistance in the preparation and filing of claims. Included in such assistance are inspections of the damaged property, if requested, completion of claim forms, and obtaining estimated repair costs at no cost to property owner.

8–5.10.2. Settlement [old D8–6]

In those instances when a claim is denied in full or compromised in part, the Participant shall, as part of the claims settlement transmittal to the claimant include a written item-by-item analysis of the denial or compromise. Such analysis must be sufficient to establish the reasons and method for denial or compromise. For example, a settlement based on depreciation must include an explanation of how the depreciation was determined. The use of such phrases as "pre-existing damage," "depreciation allowance," or "other" is unacceptable.

8–5.11. Appeal Procedures

8–5.11.1. Revocation of Approval [old D8–6]

In the event the PMO proposes to revoke the approval of a Participant to participate in this Program, the Participant has the right to appeal such proposal in accordance with the provisions of FAR Subpart 9.407–3 (48 CFR 9.407–3); provided, however, that any reference to temporary nonuse in said regulation shall be construed as meaning revocation of approval.

8–5.11.2. Temporary Nonuse, Suspension, and Debarment [old D8–6]

In the event the Government proposes to place a Participant in temporary nonuse, suspension, or debarment, the Participant has the right to appeal such proposal in accordance with the provisions of FAR Subpart 9.407–3 (48 CFR 9.407–3).

8–5.11.3. Corrective Actions [old D8–6]

In the event a Participant disputes corrective actions required as a result of an on-site review in accordance with HTOS Paragraph 6–1.1, the Participant has the right to appeal such corrective actions in accordance with the provisions of FAR Subpart 9.407–3 (48 CFR 9.407–3); provided, however, that any reference to temporary nonuse in said regulation shall be construed as meaning corrective actions.

8–5.11.4. Performance Reports [old D8–6]

In the event a Participant disputes performance information provided in accordance with HTOS Paragraph 9–5.1.1, the Participant has a right of appeal for a period of thirty (30) calendar days from the date of report issuance during which the Participant may submit in person, in writing, or through a representative, rebuttal information and arguments opposing the performance information; provided, that the date of report issuance is deemed to be the GSA date stamp on the report.

8–5.11.5. Claims [old D8–6]

In the event the Participant disagrees with an initial decision of the RTO and cannot make a satisfactory resolution regarding equitable adjustment for incomplete or non-performance of services and/or Participant liability for loss and/or damage, the Participant is responsible for submitting such disagreement to the Program Manager for a final decision. The Participant's submission shall contain at a minimum: (a) Name and address of the agency and RTO issuing the initial decision; (b) copy of the initial decision; (c) copy of the GBL; (d) copy of all documents related to the dispute; and (e) copy of all documents supporting the Participant's position.

8–5.12. Equipment [old D8–6]

Equipment shall be in good operating condition and the interior of vans, trailers, and containers shall be clean and contain a sufficient quantity of clean pads, covers, and other protective equipment to ensure safe transit of the household goods.

8–5.13. Facilities [old D8–6]

Participants must maintain equipment, facilities, operations, and personnel adequate and capable of performing the services required by this HTOS and ordered by the Federal ordering office.

8–5.14. Maintenance of Records

8–5.14.1. Records To Be Maintained [old D8–6]

The Participant shall maintain for each shipment handled pursuant to this HTOS copies of the Public Voucher for Transportation Charges, SF1113, and all supporting documents. The Participant shall also maintain all relevant notes, worksheets, and other documents necessary for reconstructing or understanding the shipment and its handling.

8–5.14.2. Microfilming Records [old D8–6]

The Participant may use microfilm (e.g., film chips, jackets, aperture cards, microprints, roll film, and microfiche) or electronic means for record keeping, subject to such limitations as are determined by the Program Manager.

8–5.14.3. Filing and Retrieval [old D8–6]

The Participant shall: (a) maintain an effective indexing system to permit timely and convenient access by the Government to the records and (b) have adequate viewing equipment, if microfilmed or stored electronically, and provide printouts of the approximate size of the original material.

8–5.14.4. Quality Control

8–5.14.4.1. Legibility [old D8–6]

The microfilm when displayed on a microfilm reader (viewer) or reproduced on paper must exhibit a high degree of legibility.

8–5.14.4.2. Periodic Review [old D8–6]

The quality of the Participant's record microfilming or electronic storage processes are subject to periodic review by the Program Manager or authorized representative.

8–5.14.5. Employees

8–5.14.5.1.1. General [old D8–6 & I8.5]

Participants will use only trained personnel qualified in their assigned duties in packing and handling of personal property. When any of the Participant's personnel appears to be

under the influence of alcohol or drugs or uses abusive language, or engaging in abusive conduct, the Participant will immediately replace same on the job with qualified personnel, when requested by the shipping Federal agency employee or the shipping Federal agency. The Participant's failure to comply with the request may result in the Participant being placed in a period of non-use by the RTO or by GSA. The Participant will not use parolees, convicts or prison labor in the packing or movement of personal effects belonging to employees of the shipping Federal agency. Trained personnel do not include pickup or truck stop labor. Those employees who perform services at the property owner's residence shall be neat in appearance and in proper attire which identifies them as employees of the Participant or its agent. They shall be neat and in proper uniform identifying them as employees of the Participant and have in their possession valid identification.

8–5.14.5.1.2. Required Identification

8–5.14.5.1.2.1. Personal Identification [old I8.5]

An ID which has a current photo, name, and their signature, such ID consisting of either a valid driver's license or a non-drivers photo ID issued by the appropriate jurisdiction's Department of Motor Vehicles (or equivalent).

8–5.14.5.1.2.2. Participant Issued Identification International Only [old I8.5]

A photo ID showing the Participant name and/or logo, employee name, address, social security number, employment date, and employee signature or a similar ID format from an outside firm specializing in such ID.

8–5.14.5.1.2.3. Participant Identification for Overseas Posts—International Only [old I8.5]

For overseas posts, those individuals who perform services at the property owner's residence, must have in their possession, a Participant issued photo identification card which identifies the individual as an employee of the Participant.

8–5.14.5.1.3. Unacceptable Forms of Identification [old I8.5]

Unacceptable forms of ID include expired driver's license, defaced or illegible photo ID's, photo copies, or other forms of ID.

8–5.14.5.2. Completion of Performance [old D8–6]

Upon temporary nonuse, suspension, or debarment of a Participant, the Participant is required to complete performance of service for any shipments in process, or have the services completed by another Participant, whereupon the nonuse, suspended, or debarred Participant shall reimburse GSA or the appropriate civilian executive agency for all additional expenses incurred in completing the shipments. GSA and the civilian executive agencies maintain the right to immediate possession of a shipment in the custody of a Participant or its agent. Nothing in the HTOS shall be construed as creating or permitting the creation of a lien or other possessory right by the Participant against GSA or the appropriate civilian agency with respect to property which comes into custody or possession of the Participant or its agent.

8–5.14.5.3. Shipment Tracing

8–5.14.5.3.1. Tracing [old I8.5]

In the event the shipping Federal agency requires the use of DD Forms 1840 and 1840R, the Participant will trace all missing items annotated on DD Form 1840 and/or DD From 1840R immediately and respond to the RTO in writing within 30 working days of notification of loss.

8–5.14.5.3.2. Record of Tracing Actions [old D8–6]

The Participant shall retain a written record of all requests for shipment tracing when provided in accordance with HTOS Paragraph 5–10 of this HTOS. The record shall include the date of the requests, time received, name of the requestor, and the date and time status provided.

8–5.14.5.4. Location of Storage-In-Transit

8–5.14.5.4.1. Domestic Only

The Participant will use the Participant's agent facility located within a 50 mile radius of the origin or destination city or installation shown in the "Consignee Block" of the GBL; however, if Participant's facility is located outside the 50 mile radius the Participant must use their agent's nearest facility, and receive authorization from the RTO.

8–5.14.5.4.2. International Only [old I8.5]

The Participant will use the Participant's agent facility located nearest the origin or destination city or installation shown in the "Consignee Block" of the GBL, as appropriate, regardless of the 50 mile radius.

8–5.14.5.5. Quality Control Program [old I8.5]

The Participant will establish and maintain within its company an effective corporate quality control system which will provide total visibility of all facets of the CHAMP and ensures that the Federal civilian, non-DoD, agencies are furnished service equal to or greater than the standards of service established by this HTOS. This system will include, but not be limited to, specific subsystems for the functions of traffic management (routing, tracing, and billing), packaging, employee training and supervision and agent supervision. Upon request to the designated official of the Participant during normal business hours, the Participant will provide the PMO and any requesting Federal agency written detailed descriptions and Standard Operating Procedures for its quality control system. Also, published Corporate Participant Quality Control Programs will be presented and explained to authorized inspectors when the Participant's facilities are inspected.

8–5.14.5.6. Claims for Additional Charges [old I8.5]

Claims for additional transportation or additional accessorial charges over and above those originally assessed by the Participant and paid for by the Government will be presented to the shipping Federal agency, upon request. The claims will contain a full explanation as to the reasons why they are being presented and state specifically the amount claimed thereon.

8–5.14.5.7. Through Responsibility

8–5.14.5.7.1. Movement of Shipments [old D8–6]

All shipments tendered to the Participant will be moved under its responsibility from origin to destination. Unless a Participant has requested approval of indirect routing or transshipment to a particular destination and a waiver is granted by the RTO, shipments shall not transship when satisfactory direct service is available.

8–5.14.5.7.2. Participant Error in Shipment [old I8.5]

As part of the Participant's through responsibility, the Participant understands that if, through its fault or that of its agent, the Participant ships all or a portion of the wrong property or all or a portion of a shipment is sent to the

wrong destination, the Participant will be responsible for the return of the erroneous shipment and movement by an expedited method, including air transportation, of the correct property to the employee's destination at its expense. The Participant will coordinate the method of movement with the shipping Federal agency origin and destination RTO's prior to shipment.

8–5.14.5.7.3. Federal Agency/Employee Error in Shipment [old I8.5]

The Participant will not be liable for movement cost for shipments released in error by the shipping Federal agency or by the property owner or owner's agent.

8–5.14.5.8. Ocean Terminal Port Agents—International Only [old I8.5]

The facilities of CONUS and overseas ocean port agents must meet national/host country standards and codes with respect to fire safety, prevention and protection requirements; storage of combustible materials; and are used in accordance with generally accepted warehousing practices.

8–5.14.5.9. Assignment of Bills [old I8.5]

Except for assignment of payment of the Participant's original bills to a bank for collection, the Participant will not subrogate its rights and/or interest in the bills for service rates and charges on which such charges are based or any subsequent claims thereon to third parties. The Participant will always retain the right and authority either to claim or not to claim or to cancel claims or services to the shipping Federal Agency which it furnished and/or billed for. The Participant will not exercise any right under an currently existing agreement nor will it enter into agreements with parties not subject to its control which in any way infringe, controvert, or otherwise subordinate or prevent it from deciding unilaterally whether it will or will not submit a claim or file suit against the Government or pay a claim by the Government after the original bill for services performed under this HTOS.

8–5.14.5.10. Release to Shipping Federal Agency—International Only [old I8.5]

In the case of port agents, all shipping Federal agency household effects (HHE) shipments must be identified on the ocean bills of lading/manifests as personal property shipments of the shipping, sponsoring Federal agency and subject to release to the shipping Federal agency upon demand.

8–5.14.5.11. Agents [old I8.5]

8–5.14.5.11.1. General.—International Only [old I8.5]

Agents specifically used in this program are the choice of the Participant's and the requirements set out in this HTOS Paragraph apply to the relationship between the Participant and its chosen agent.

8–5.14.5.11.2. Located in Service Area.—International Only [old I8.5]

The Participant understands that it must have a resident agent in each state, offshore location, country, and trust territory or possession of the United States, for which it submits rates.

8–5.14.5.11.3. Use of Undesignated Agent.—International Only [old I8.5]

Except in those instances where the shipping Federal agency has not designated a servicing agent, the Participant may not use as an agent any firm that has not been designated by a shipping Federal agency as an origin or destination agent for the localities for which it submits rates.

8–5.14.5.11.4. Use of General Agents.—International Only [old I8.5]

The use of general agents will be allowed.

8–5.14.5.11.5. Operation.—International Only [old 8.5]

The agent's office will be manned at all times during normal working hours with personnel authorized to book shipments or otherwise perform services for the Participant. One employee with such authority is required for one to three Participants represented. One additional employee with such authority is required when more than three Participants are represented. A total of two administrative personnel are required to represent four or more Participants.

8–5.14.5.11.6. Agency Agreements [old I8.5]

8–5.14.5.11.6.1. General.—International Only [old I8.5]

The Participant will contractually bind its agents with a formal written document (and, as necessary, official translation into English) concerning terms and requirements of this HTOS and will provide specific instructions for implementing them prior to the effective date of any accepted rates.

8–5.14.5.11.6.2. Required Agreement Language [old I8.5]

Participants agree to include the following stipulation in their contracts, agreement, and/or order with underlying Participants/agents. "By acceptance of this contract/agreement/order/reimbursement schedule, I recognize that property being transported hereunder is United States Government sponsored personal property and, as such, will not be detained by my firm under any circumstances. Further, I guarantee representatives of the U.S. Government free access to any facilities, including those of my agents, during normal working hours for their lawful purpose of inspecting and removing Participant containers in which United States Government sponsored personal property is shipped". Agents refusing to consummate agreements/contract which contain this clause will not be used by Participants.

8–5.14.5.11.7. Use of Agents

8–5.14.5.11.7.1. Providing Information to the Government.—International Only [old I8.5]

Upon request from any RTO shipping pursuant to the terms of this HTOS, the Participant will furnish a list of its agents.

8–5.14.5.11.7.2. Changes in Agents

8–5.14.5.11.7.2.1. General.—International Only [old I8.5]

If the Participant finds it necessary to change agents, the Participant understands that a shipping Federal agency representative may inspect the facility and make appropriate recommendation to the PMO.

8–5.14.5.11.7.2.2. Termination of Agent. by the Participant.—International Only [old I8.5]

In the event an agency agreement is terminated by the Participant, the Participant must make immediate interim arrangements to provide necessary destination services on a temporary basis with another agent located in the service area.

8–5.14.5.11.7.2.3. By The Government.—International Only [old I8.5]

In the event an agent is terminated by the PMO or an agent is placed in temporary nonuse by a shipping Federal agency, the Participant must make immediate interim arrangements to provide necessary destination services on a temporary basis with another agent located in the service area.

8–5.14.5.11.7.2.4. By The Agent.—International Only [old I8.5]

In the event that an agent voluntarily withdraws from the program or terminates its agency agreement with a

Participant, the Participant must make immediate interim arrangements to provide necessary destination services on a temporary basis with another agent located in the service area.

8–5.15. Use of Alternate Carriers.—Domestic Only

8–5.15.1. Definitions

8–5.15.1.1. Principal Carrier.—Domestic Only [old D8–6]

Principal carrier as used in this paragraph means the carrier, motor common carrier or freight forwarder, named on the Government bill of lading, including its employees and contract (other than trip lease) drivers, if applicable, and those holding primary agency agreements in accordance with 49 CFR 1056.14(a)(1) in the course of which and in the normal course of their business, hold themselves out as representing the principal carrier.

8–5.15.1.2. Alternate Carrier.—Domestic Only [old D8–6]

Alternate carrier as used in this paragraph means a person acting individually or as an established business furnishing origin, line-haul, or destination services for a specific shipment other than the principal carrier. It includes carriers operating in conjunction with the principal carrier on the basis of interline or trip lease arrangements.

8–5.15.2. Motor Carrier.—Domestic Only

8–5.15.2.1. Responsibility.—Domestic Only [old D8–6]

The principal carrier is responsible for and shall physically perform origin, line-haul, and destination services from point of origin to final destination and shall satisfy any claim. Notwithstanding the provision of Paragraph 8–5.15.2.3, below, and in any event the principle carrier is responsible for performance of all services and satisfaction of any claims.

8–5.15.2.2. Use of Alternate Carrier.—Domestic Only [old D8–6]

Unless specifically approved by the GBL Issuing Officer, the principal carrier may not use, transfer, surrender, interline, or otherwise relinquish possession of the property to an alternate carrier. If such action is approved by the GBL Issuing Officer, the alternate carrier must be an approved Participant in the GSA Centralized Household Goods Traffic Management Program.

8–5.15.2.3. Responsibility of Alternate Carrier.—Domestic Only [old D8–6]

The alternate carrier must perform the assigned services to the same extent as the principal carrier and is subject to all provisions of this TOS relating to that performance as though the alternate carrier were the principal carrier.

8–5.15.2.4. Notice to Responsible Transportation Officer (RTO).—Domestic Only [old D8–6]

The principal carrier must notify the RTO in writing prior to performance of services the name of all alternate carriers being used for the performance of origin, line-haul, and destination services.

8–5.15.3. Freight Forwarder.—Domestic Only

8–5.15.3.1. Responsibility.—Domestic Only [old D8–6]

The principal carrier is responsible for the performance of origin, line-haul, and destination services from point of origin to final destination and shall satisfy any claim.

8–5.15.3.2. Use of Alternate Carrier.—Domestic Only [old D8–6]

The principal carrier may not use a motor carrier for the performance of line-haul services that is not an approved Participant in the GSA Centralized Household Goods Traffic Management Program.

8–5.15.3.3. Notice to GBL Issuing Officer.—Domestic Only [old D8–6]

The principal carrier must notify the GBL Issuing Officer in writing prior to performance of services the name of all alternate carriers being used for the performance of origin, line-haul, and destination services.

8–6. Disputes—International Only [old I8.6]

Disputes arising out of any action, undercharge claim, or overcharge claim by the Government against the Participant, not otherwise settled to the satisfaction of either party, will be made the subject of a discussion between the above stated parties within sixty (60) days after either party makes such a request. The purpose of such discussion is to permit the parties to reach an amicable settlement of the dispute without either party having to resort to litigation, and if possible, to resolve the matter for the future. The failure of the parties to reach an agreement or eliminate the dispute under the above procedure will in no way preclude either party from subsequently exercising the legal and administrative remedies otherwise available to it, providing that no suit filed by the Participant will be prosecuted to trial before exhaustion of the administrative remedies described above.

Section 9—Reporting Requirements

9–1. Reports to the Relocating Employee

Reports required to be furnished to the relocating employee are described as part of and in conjunction with those detailed in the paragraph entitled Reports to the RTO.

9–1.1. Pre-move Survey Report [old I9.2]

A copy of the survey that is signed and dated by the estimator, indicating the total estimated net weight of the shipment, will be given to the property owner or his/her agent upon completion of the pre-move survey.

9–2. Reports to the RTO

9–2.1. Weight Variance

9–2.1.1. Notification

In the event the actual shipment weight is greater than 115% of the pre-move survey weight, the Participant must notify the RTO or its third party representative of the original weight prior to billing the Federal Agency and be prepared to justify the difference.

9–2.1.2. Failure to Notify RTO of Weight Variance

In the event the Participant fails to notify the RTO or third party representative, the Participant stipulates that the agreed weight of the shipment will be 115% of the pre-move survey weight.

9–2.1.3. Failure to Justify Weight Variance

In the event the Participant fails to adequately justify the difference between the actual and pre-move survey weights, the Participant stipulates that the agreed weight of the shipment will be 115% of the pre-move survey weight. The agreed weight shall take precedence over the actual weight for the assessment of transportation, accessorial, and storage-in-transit charges when based on weight. The RTO has the authority to waive this provision.

9–2.1.4. Actual Weight in Excess of Employee's Authorized Allowance.—International Only

9–2.1.4.1. General [old I9.3]

Prior to moving any shipment from the origin warehouse, the RTO must be advised, if he/she so requires, of the actual net weight of the shipment. If the shipment weighs in excess of the

employee's authorized allowance, the RTO will notify the Participant when it may move the shipment. This time will not be counted against the Participant in calculating its RDD compliance, and payment will be authorized for any SIT at origin.

9–2.1.4.2. Failure to Notify the Responsible Transportation Officer [old I9.3]

In the event that the RTO requires notification of overweight shipments, and the Participant fails to notify the RTO in accordance with his/her instructions, and moves the shipment from origin to destination, the Participant may collect from the Government for transportation and accessorial service charges, including terminal services, only an amount equal to the charges accruing to the authorized shipment weight. In this instance, the Participant may not collect anything from the relocating employee for the excess weight.

9–2.2. Unusual Incidents Report

9–2.2.1. Content of Report [old D9–1]

In the event of incidents of major significance which produce substantial loss, damage, or delay, such as strikes, embargoes, fires, pilferage, vandalism, and similar incidents, the Participant must submit to the RTO by electronic transmission (TELEX, facsimile, or other electronic format acceptable to the shipping Federal agency) the following information on each shipment involved:

(1) Type of incident;
(2) Location of incident;
(3) Last name, first name, and middle initial of employee;
(4) GBL number and date issued;
(5) RTO (both origin and destination);
(6) Origin;
(7) Destination;
(8) Date shipment received by Participant;
(9) Required delivery date;
(10) Date and time of incident or discovery thereof;
(11) Estimated amount of loss and extent of damage;
(12) Current status of shipment, including new estimated time of arrival (ETA);
(13) Location of shipment(s), if applicable, including port and pier location and date vessel arrived or warehouse location, plus the serial number and name of the owner of the sea container(s); and
(14) Name of ship, if appropriate.

9–2.2.2. After Action Report [old D9–1]

The Participant will furnish the RTO an after action report which provides a final assessment of the loss or damage incurred, delays encountered, and final disposition of the household goods.

9–2.3. Delays Report [old D9–4]

When, for any reason, a Participant finds it impossible to meet the scheduled pickup date or the required delivery date, the RTO, and if practicable, the owner, will be notified. Neither the Government nor the relocating employee will be responsible for additional charges assessed on any shipment a Participant or its agent holds for any reason unless specific written approval has been obtained from the RTO.

9–2.4. Storage-In-Transit Location Report [old D9–2]

For shipments delivered to Storage-in-transit (SIT) the Participant shall notify the RTO in writing, by facsimile, or similar electronic means, of the name, address, and telephone number of the warehouse in which the shipment has been placed, and shall make and keep a record of such notification. If a change in warehouse location is effected during the SIT period, the RTO and the property owner must be notified of the change in location and the new telephone number within the timeframe specified in DTOS Paragraph 5–3 & ITOS Paragraph 5.11.

9–2.5. Sit Pickup/Delivery Report.—International Only [old I9.10]

Upon request of the RTO, the Participant will provide information on the afternoon preceding scheduled pickup/delivery as to whether the SIT pickup or delivery will be performed in the morning (0800 to 1200) or in the afternoon (1200 to 1700) of the following day.

9–2.6. Use of DD Forms 1840 and 1840R

9–2.6.1. General [old I9.5]

If use of DD Forms 1840, Joint Statement of Loss or Damage at Delivery, and 1840R, Notice of Loss or Damage, are required by the shipping Federal agency, the procedures and Participant responsibilities covering the use of DD Form 1840 and DD Form 1840R are outlined below.

9–2.6.2. Use of DD Form 1840 and 1840R in Lieu of DD Form 619 [old I9.5]

DD Form 1840 and 1840R will be used in lieu of the loss and damage portions of DD Form 619.

9–2.6.3. Completion [old I9.5]

9–2.6.3.1. Section A [old I9.5]

Complete Section A of the DD Form 1840 and make all five (5) copies available upon delivery.

9–2.6.3.2. Section B [old I9.5]

In conjunction with employee, annotate all loss and/or damage in Section B on all five (5) copies of the DD Form 1840.

9–2.6.4. Distribution [old I9.5]

9–2.6.4.1. To the Employee [old I9.5]

Provide the employee with three (3) copies of the completed DD Form 1840 signed by both the Participant's representative and employee.

9–2.6.4.2. To the Responsible Transportation Officer [old I9.5]

Provide the destination RTO a copy of DD Form 1840 within thirty (30) workdays of delivery.

9–2.7. Agency Shipment Reports [old I9.9]

9–2.7.1. Shipment Report.—International Only [old I9.9]

Within not more than five (5) calendar days following date of pickup of a shipment in either CONUS or overseas, the origin agent will provide the following information to the RTO: (1) Employee's Name; (2) Shipment GBL Number; (3) Pieces, Net Weight, Gross Weight and Cube; (4) Estimated date shipment will be picked up by line-haul equipment for movement to the ocean port; (5) Estimated date of sailing and identity of port and vessel; (6) Routing of vessel and discharge port; and (7) Estimated date of arrival at destination.

9–2.7.2. Notice of Shipment Arrival [old I9.9]

Participant will notify the RTO within one workday of shipment's arrival at agent's facility, and advise of the shipment's first available delivery date.

9–2.7.2.1. On a Normal Workday [old I9.9]

When a shipment arrives at destination on a normal workday, the Participant will notify the RTO before delivery/attempted delivery of household effects to the residence in accordance with the instructions specified on the shipping Federal agency GBL.

9–2.7.2.2. On Other Than a Normal Workday [old I9.9]

In the event the shipment arrives at the destination on a weekend or holiday, the Participant will contact the RTO to ascertain if delivery can be made.

9–2.7.2.3. Arrival Prior to RDD [old I9.9]

For shipments that arrive prior to the RDD, Participant will deliver to the

employee or employee's agent prior to the RDD.

9–2.7.2.4. Arrival After the RDD [old I9.9]

For shipments that arrive after the RDD, the Participant will deliver in accordance with the instructions or within two workdays after notifying the destination GSO or the shipping Federal agency Transportation Division, as appropriate, of the shipment's arrival.

9–2.7.3. Late Delivery [old I9.9]

When the Participant knows for any reason it will be impossible for it to have the shipment at destination on or before the RDD, the Participant will notify the RTO at the earliest practicable time, advising it of the last known location of the shipment and furnishing an estimate of the delay expected beyond the RDD. An electronic communication or facsimile will be utilized in notifying the RTO and the Participant, ensuring that the notification reaches the appropriate RTO before expiration of the RDD. At a minimum, the following information will be provided: (1) Last name, first name, middle initial, and SSN of the employee; (2) Origin and destination of the shipment; (3) GBL number and RDD; and (4) Last known location of the shipment and new ETA at destination.

9–2.7.4. Report of Shipments On Hand.—International Only [old I9.9]

If required by the RTO, the Participant will provide a weekly report of all of its shipments (except shipments in Storage-in-Transit) on hand which were picked up from an employee's residence as well as from its agent's facilities before the previous Wednesday. The report will reflect the date, the employees' names, the shipping Federal agency GBL numbers, pickup date, Participant code and RDD. Negative reports are required.

9–2.7.5. Participant Error in Shipment [old I9.9]

The Participant will report to the RTO any instances in which the Participant ships all or a portion of the wrong property or in which all or a portion of a shipment is sent to the wrong destination.

9–2.8. Commercial Port Level Report.—International Only [old I9.7]

Unless otherwise required by the RTO, the Participant shall submit to the shipping Federal agency and the US Dispatch Agents during the period May through September of each year a commercial port agent report showing a weekly summary of the total number of personal property shipments on hand at commercial ports for the preceding week. Reports must be submitted by FAX. See ITOS Section 15 for specific report format.

9–2.9. Ocean Terminal Port Agents.—International Only

9–2.9.1. Submission of Port Agent Rosters.—International Only [old I9.15]

If required by a Federal agency shipping pursuant to this HTOS, the Participant will submit copies of the ocean terminal port agent rosters in the following manner: (1) Three (3) copies of the rosters of CONUS ocean terminal port agents to the shipping Federal agency; and (2) Five (5) copies of the rosters of overseas ocean terminal port agents to the shipping Federal agency.

9–2.9.2. Updating the Port Agent Roster.—International Only [old I9.15]

If Participants are required to submit ocean terminal port agent rosters in accordance with the above, the Participants will update the ocean terminal port agent rosters annually. Changes in the names, locations, and telephone numbers will be submitted as they occur to the shipping Federal agency.

9–3. Reports to the PMO

9–3.1. Claim Settlement and Shipment Reports

9–3.1.1. Claim Settlement Reports [old D9–3]

In accordance with the reporting periods specified in DTOS Paragraph 5–9D and ITOS Paragraph 5.19.6, Participants shall furnish to the PMO a quarterly report of claims settled during the calendar quarter on shipments handled pursuant to this HTOS. For the purposes of this reporting requirement, the reportable claim settlement is the first offer (full payment, partial payment, or full denial) made by the Participant.

9–3.1.1.1. Claim Report Content and Format Requirements

Such report shall contain information identified in HTOS Paragraph 9–3.2.2.6 for electronic submission requirements. For purposes of this requirement, the content should identify all first proviso household goods claims, claims for POV's and UAB claims handled pursuant to this HTOS. This provision applies to both domestic and international shipments.

9–3.1.2. Shipment Reports [old D9–5]

The Participant shall furnish to the PMO by electronic filing, a quarterly report of shipments billed to the applicable Federal Agency during the quarter on shipments handled pursuant to this HTOS. Only those shipments billed for which the GSA Industrial Funding Fee (IFF) is applicable will be included in the shipment reports. For purposes of this report, the date of submission of the Public Voucher for Transportation Charges, SF1113, (billing date) is the determining date.

9–3.1.2.1. Shipment Report Content and Format Requirements

Such report shall contain information identified in HTOS Paragraph 9–3.2.2.2 for electronic submission requirements. For purposes of this requirement, the content should identify all first proviso household goods shipments, POV's and UAB handled pursuant to this HTOS. This provision applies to both domestic and international shipments.

9–3.1.3. Report Deficiencies—Shipment, Claim Reporting

9–3.1.3.1. Shipment and Claim Reports

The PMO will notify the Participant of any shipment or claim report deficiency. If a Participant's report is submitted by a Service Provider, the Provider will be notified of the deficiency, not the Participant. Failure to correct deficiencies in either the shipment and/or claim report will result in an incomplete report submission status, and will therefore, affect a Participant's Customer Satisfaction Index score.

9–3.1.3.2. Negative Reports [old D9–3]

Participants are required to submit a negative report even if a shipment was not billed or if a claim was not settled during the quarter. The Participant will be considered non responsive if it doesn't file either report and will be subject to HTOS 9–3.1.3.3.

9–3.1.3.3. Failure To Submit Reports [old D9–3]

Failure to submit either the claims settlement or shipment reports in two consecutive quarters and/or three of four quarters will result in the withdrawal of a Participant's rates and/or subsequent revocation of its approval. Failure to submit one of four quarters of either the shipment and/or claim reports will result in an incomplete report submission status, and will affect a Participant's Customer Satisfaction Index score.

9–3.1.4. Industrial Funding Fee

The total number of household shipments reported in HTOS Paragraph 9–3.1.2. must be equally dividable by the Industrial Funding Fee (IFF) amount, as identified in the Request for Offers. In the event the number of

shipments reported cannot be divided equally by the IFF amount, the Participant will be responsible for verifying the deficiency to the PMO. Any deficiencies found will be handled in accordance with HTOS Paragraph 9–3.1.4.1. and 9–3.1.4.2.

9–3.1.4.1. Industrial Funding Fee Deficiencies

In the event deficiencies are found in the IFF amounts submitted to GSA, the PMO will notify the Participant in writing of the existing deficiency. The Participant will be given an opportunity to correct the noted deficiency.

9–3.1.4.2. Correction of Deficiencies in IFF

Failure to acknowledge or correct deficiencies after notification by the PMO will result in the PMO placing the Participant in a temporary non-use status, in accordance with procedures in Federal Management Regulation (FMR) Part 102–117. The PMO is authorized to refer a Participant for suspension or debarment.

9–3.1.4.3. Failure To Submit IFF

Failure to submit the Industrial Funding Fee due GSA for household goods shipments handled, will result in immediate placement of the Participant in temporary non-use status pending revocation of the Participant's approval, in accordance with HTOS paragraph 7–1.11.2, Failure to Submit Remittance.

9–3.1.5. Filing Requirements

9–3.1.5.1. Hard Copy Reports [old D9–3]

Hard copy (paper) reports will not be accepted. In those instances where hard copy reports are submitted to the PMO, it will be considered the same as a failure to submit reports and handled in accordance with HTOS Paragraph 9–3.1.3.3.

9–3.1.6. Report Format Requirements

9–3.1.6.1. General

The claims settlement and shipment reports specified above shall meet the requirements set out in this paragraph.

9–3.1.6.2. Consolidated Reports

In no instance shall any combination of shipment reports (domestic or international) and claim reports (domestic or international) be consolidated. Each report must be separate, with a separate header and filename.

9–3.1.6.3. Electronic Media Reports

9–3.1.6.3.1. Schedule for Submission

Electronic media reports must be submitted in accordance with the following requirements. Electronic media reports must be transmitted between the dates indicated below of each calendar year:

Quarter	Months	Submission
1st	Jan-March	April 1 thru May 31
2nd	April-June	July 1 thru August 31
3rd	July-Sept	Oct 1 thru Nov 30
4th	Oct-Dec ...	Jan 1 thru Feb 28 (29)

9–3.2. Claim Settlement and Shipment Report Format Requirements [old D9–7]

Format requirements, as set out below, must be adhered to. Submissions received from Participants or services not conforming to the record requirements will be unacceptable and not incorporated in the database. Submissions received from Participants or filing services not conforming to the report formatting specifications will be rejected. The below listed formatting requirements for the submission of shipment and claim reports will be in effect for all reports filed for 3rd Quarter Calendar Year 1999.

9–3.2.1.Line 1: Report Header

This line is the Header Record providing information about the Participant report. The Header Record is position sensitive. Positions marked with an asterisk (*) are numeric and must, if necessary, be zero filled from the left (i.e., 00250).

Field	Required positions	Record position(s)	Contents
Header ID	1	1	Must be S for Shipment files, C for Claim files.
Field Delimiter	1	2	Comma.
SCAC	4	3–6	Four (4) digit Standard Carrier Alpha Code. Identify the SCAC for the carrier the GBL was issued to.
Field Delimiter	1	7	Comma.
Type of Transportation.	2	8–9	Enter GD for General Domestic, GI for General International, DD for Direct Domestic Move Management, DI for Direct International, BD for Broker Domestic Move Management, or BI for Broker International. **Please note that if you provide multiple services within CHAMP, you must create separate reports (files) for each type of service provided.
Field Delimiter	1	10	Comma.
*Number of Records	4	11–14	Number of records transmitted. This identifies the number of lines submitted in the shipment report. Example: 0321=321 records. **If this is a Negative report, use all zeros.
Field Delimiter	1	15	Comma.
Identifying Quarter	5	16–20	YYYYQ—Complete year with the calendar quarter number, where Q = calendar quarter as referenced in file naming above. Example: 19993 = third quarter of 1999

Examples:
(1) 50 General Domestic Shipments for January-March, 1999: S,GSAA,GD,0050,19991
(2) 101 Broker International Shipments for July-September, 2000: S,GSAA,BI,0101,20003
(3) 20 General International Claims for April-June, 1999: C,GSAA,GI,0020,19992
(4) 87 Broker Domestic Claims for October-December, 2000: C,GSAA,BD,0087,20004
(5) Negative General Domestic Shipment Report for April-June: S, GSAA,GD,0000,19992
(6) Negative General Domestic Claim Report for April-June: C,GSAA,GD,0000,19992

9–3.2.2.Line 2: Detail Records

9–3.2.2.1. General

Information on claims and shipments. Line 2 and each line thereafter will identify individual shipment records. For illustration purposes, claim and shipment formats are shown separately.

9–3.2.2.2. Shipment Report Spreadsheet Format

Entry format is text entry (i.e. left aligned). Fields marked with an asterisk (*) are numeric and must, if necessary, be zero filled from the left (i.e., 00250 for 250) depending on the field size. Save the file as a comma-separated file (.CSV) then rename as necessary (.SHP or .ERS).

Field	Required positions	Record position(s)	Contents
Record ID	1	1	Must be S
Field Delimiter	1	2	Comma
SCAC	4	3–6	Four (4) digit Standard Carrier Alpha Code Identify the SCAC for the carrier the GBL was issued to.
Field Delimiter	1	7	Comma
Type of Transportation.	2	8–9	Enter GD for General Domestic, GI for General International, DD for Direct Domestic Move Management, DI for Direct International, BD for Broker Domestic Move Management, or BI for Broker International.
Field Delimiter	1	10	Comma
Type of Move	3	11–13	If the GBL was used for household goods, put in HHG; for Automobile, put in POV; for Unaccompanied Air Baggage, put in UAB. **If multiple elements were moved using one GBL, each element must have an individual shipment record.
Field Delimiter	1	14	Comma
Federal Agency Identification Code.	9	15–23	Agency's 9 digit User ID code used to access ITMS. This User ID can be obtained directly from the using agency or from the ITMS system itself. If unable to obtain the proper User ID, please contact the PMO. Records with this field blank. X or zero-filled will not be accepted.
Field Delimiter	1	24	Comma
Carrier Reference Number.	15	25–39	Carrier reference number used when the shipment was booked by the carrier. Start the reference number with position 25. If reference number does not consist of 15 numbers, place X's after number to fill out the 15 positions. Example: Reference number 135895 would appear as 135895XXXXXXXXX. Records with this field blank, X or zero filled will not be accepted.
Field Delimiter	1	40	Comma
Billing Date	8	41–48	Date of Agency Billing (YYYYMMDD)
Field Delimiter	1	49	Comma
BL Number	8	50–57	Bill of Lading Number. Use GBL number OR commercial bill of lading (CBL) number that was used to handle the shipment. If CBL number is less then 8 characters, place X's after the number to fill in field. Records with this field blank or zero filled will not be accepted.
Field Delimiter	1	58	Comma
Type of GBL	1	59	Input V if Virtual GBL was used. Input G if standard GBL was used.
Field Delimiter	1	60	Comma
Pickup Date	8	61–68	YYYYMMDD (19980215 = February 15, 1998)
Field Delimiter	1	69	Comma
Delivery Date	8	70–77	YYYYMMDD (see Pickup Date)
Field Delimiter	1	78	Comma
*Transit Time	3	79–81	Actual Transit Times in days Example: 007 = 7 days
Field Delimiter	1	82	Comma
Origin State or Country Code.	4	83–86	Four digit state or country identifier. State is the two digit state identifier, all CAPS, plus two (2) zeros (0) Example: FL00. Country code is the four-digit country code as listed in the most current Request For Offers. Example: Germany = 3940 Records with this field blank, X or zero filled will not be accepted.
Field Delimiter	1	87	Comma
Origin Zip Code	5	88–92	5-digit zip (X Fill for Canada or International Shipments)
Field Delimiter	1	93	Comma
Destination State or Country Code.	4	94–97	See Origin State above. Records with this field blank, X or zero filled will not be accepted.
Field Delimiter	1	98	Comma
Destination Zip Code	5	99–103	5-digit zip (X Fill for Canada or International Shipments)
Field Delimiter	1	104	Comma
*Actual Weight Shipped.	5	105–109	In pounds for HHG or UAB. Example: 09800 = 9800 pounds. If the record is for POV, place five (5) zeros, 00000 **If field is zero filled for POV, positions 11–13 must state POV
Field Delimiter	1	110	Comma
*Mileage	4	111–114	Whole miles only. Example: 0750 = 750 miles. This field should be zero filled for International moves.
Field Delimiter	1	115	Comma
*Transportation Charge.	5	116–120	Exclusive of SIT charges, in whole dollars only. Example: 07600 = $7,600.00
Field Delimiter	1	121	Comma
Employee's Last Name.	15	122–136	Last name of the employee listed on the GBL in all CAPS. If the employee's name does not consist of 15 letters, place X's after the name to fill out the 15 positions. Example: The name of Jones would appear as JONESXXXXXXXXXX. Records with this field blank, X or zero filled will not be accepted.
Field Delimiter	1	137	Comma

Field	Required positions	Record position(s)	Contents
Participants Tax ID Number.	9	138–146	Participant TIN

Examples:

(1) Domestic:

A	B	C	D	E	F	G	H	I	J	K	L
S	GSAA	GD	HHG	RXPG8TY43	Q794912349XXXXX	19990612	S12345XX	V	19990105	19990312	007

M	N	O	P	Q	R	S	T	U
MO00	64131	OK00	71222	10030	0400	03800	SMITH-BATTSONXX	103777444

(2) International:

A	B	C	D	E	F	G	H	I	J	K	L
S	GSAA	GI	POV	RXPG8TY43	Q794-P912666XXX	19991012	PP123456	G	19990601	19990724	053

M	N	O	P	Q	R	S	T	U
MO00	64131	490J	XXXXX	00000	0000	03800	SMITH-BATTSONXX	103777444

9–3.2.2.3. State Codes (CONUS) for Use in Shipment

State	Code
Alabama	AL00
Alaska	See Table Below.
Arizona	AZ00
Arkansas	AR00
California	CA00
Colorado	CO00
Connecticut	CT00
Delaware	DE00
District of Columbia	DC00
Florida	FL00
Georgia	GA00
Idaho	ID00
Illinois	IL00
Indiana	IN00
Iowa	IA00
Kansas	KS00
Kentucky	KY00
Louisiana	LA00
Maine	ME00
Maryland	MD00
Massachusetts	MA00
Michigan	MI00
Minnesota	MN00
Mississippi	MS00
Missouri	MO00
Montana	MT00
Nebraska	NE00
Nevada	NV00
New Hampshire	NH00
New Jersey	NJ00
New Mexico	NM00
New York	NY00
North Carolina	NC00
North Dakota	ND00
Ohio	OH00
Oklahoma	OK00
Oregon	OR00
Pennsylvania	PA00
Rhode Island	RI00
South Carolina	SC00
South Dakota	SD00
Tennessee	TN00
Texas	TX00
Utah	UT00
Vermont	VT00
Virginia	VA00
Washington	WA00
West Virginia	WV00
Wisconsin	WI00
Wyoming	WY00

Alaskan Points	Code
Anchorage	AN00
Cordova	CV00
Fairbanks	FB00
Juneau	JN00
Ketchican	KN00
Kodiak	KD00
Petersburb	PB00
Sitka	SA00
Wrangell	WG00

Note: See the International table for the code for the Hawaiian Islands, Puerto Rico, Guam and Virgin Islands.

9–3.2.2.4. Canadian Provincial Codes for use in Shipment Origin/Destination

Province	Code
Alberta	AB00
British Columbia	BC00
Labrador	LB00
Manitoba	MB00
New Brunswick	NB00
Newfoundland	NF00
Northwest Territories	NT00
Nova Scotia	NS00
Ontario	ON00
Prince Edward Island	PE00
Quebec	PQ00
Saskatchewan	SK00
Yukon	YT00

9–3.2.2.5. Country Codes for use in Shipment Origin/Destination

ALBANIA	120A
ALGERIA	1250
AMERICAN SAMOA	060A
ANGOLA	1410
ANTIGUA	1490
ARGENTINA	150A
AUSTRAILIA	160A
AUSTRIA	1650
AZORES	735A
BAHAMAS	1800
BAHRAIN	1810
BANGLADESH	1820
BARBADOS	1840
BELGIUM	1900
BELIZE	2270
BERMUDA	1950
BOLIVIA	2050
BOTSWANA	2100
BRAZIL	220A
BRUNEI	2320
BULGARIA	2450
BURKINA FASO	9270
BURMA	2500
BURUNDI	2520
CAMBODIA	2550
CAMEROON	2570

CANARY ISLANDS	830C
CAYMEN ISLANDS	2680
CENTRAL AFRICAN REPUBLIC	2690
CHAD	2730
CHILE	2750
CHINA	2800
COLOMBIA	2850
COSTA RICA	2950
CROATIA	4400
CUBA	3000
CYPRUS	3050
CZECHOSLOVAKIA	3100
DENMARK	3150
DJIBOUTI	3170
DOMINICAN REPUBLIC	3200
ECUADOR	3250
EGYPT	9220
EL SALVADOR	3300
ENGLAND	925E
ETHIOPIA	3350
FIJI	3380
FINLAND	3400
FRANCE	3500
GABON	3880
GERMANY	3940
GHANA	3960
GREECE	4000
GUADELOUPE	4070
GUAM	170G
GUATEMALA	4150
GUINEA	4170
GUYANA	4180
HAITI	4200
HAWAIIAN ISLANDS OF HAWAII, KAUAI, MAUI, OAHU.	210H
HONDURAS	4300
HONG KONG	4350
HUNGARY	4450
ICELAND	4500
INDIA	4550
INDONESIA	4580
IRELAND	4700
ISRAEL	4750
ITALY	4800
IVORY COAST	4850
JAMAICA	4870
JAPAN	490J
JORDAN	5000
KAZAKHSTAN	5250
KENYA	5050
KOREA (SOUTH)	5150
KUWAIT	5200
LAOS	5300
LEBANON	5400
LITHUANIA	5420
LUXEMBOURG	5700
MADAGASCAR	5750
MALAWI	5770
MALAYSIA	5800
MALI	5850
MALTA	5900
MARINAS ISLAND	591M
MAURITANIA	5920
MAURITIUS	5930
MEXICO	5950
MICRONESIA	0630
MONACO	6070
MOROCCO	6100
MOZAMBIQUE	6150
NAMIBIA	8210
NEPAL	6250
NETHERLANDS	6300
NETHERLANDS ANTILLES	6400
NEW ZEALAND	6600
NICARAGUA	6650
NIGERIA	6700
NORTHERN IRELAND	925I
NORTHERN MARIANA ISLANDS	0690
NORWAY	6850
OKINAWA	490K
OMAN	6160
PAKISTAN	7000
PANAMA	7100
PAPUA NEW GUINEA	7120
PARAGUAY	7150
PERU	7200
PHILIPPINES	7250
POLAND	7300
PORTUGAL	7350
PUERTO RICO	180P
QATAR	7470
ROMANIA	7550
RUSSIA	8250
SAIPAN	069S
SAUDI ARABIA	7850
SCOTLAND	925S
SENEGAL	7870
SIERRA LEONE	7900
SINGAPORE	7950
SLOVENIA	7890
SOLOMON ISLANDS	789S
SOUTH AFRICA	8010
SPAIN	8300
SRI LANKA	2720
SUDAN	8350
SURINAME	8400
SWEDEN	8500
SWITZERLAND	8550
SYRIA	8580
TAHITI	350T
TAIWAN	2810
TANZANIA	8650
THAILAND	8750
TRINIDAD	205T
TUNISIA	8900
TURKEY	9050
UGANDA	9100
UKRAINE	9280
UNITED ARAB EMIRATE	8880
URUGUAY	9300
VENEZUELA	9400
VIETNAM	9450
VIRGIN ISLANDS OF ST. THOMAS & ST. CROIX.	190V
VIRGIN ISLANDS OF ST. JOHN	200V
WESTERN SAMOA	9630
YEMEN	9650
YUGOSLAVIA	9700
ZAIRE	2910
ZAMBIA	9900
ZIMBABWE	8180

9–3.2.2.6. Claim Settlement Spreadsheet Format

Entry format is text entry (i.e. left aligned). Fields marked with an asterisk (*) are numeric and must, if necessary, be zero filled from the left (i.e., 00250 for 250) depending on the field size. Line 2 and each line thereafter will identify individual claim records.

Field	Required positions	Record position(s)	Contents
Record ID	1	1	Must be C.
Field Delimiter	1	2	Comma.
SCAC	4	3–6	Four (4) digit Standard Carrier Alpha Code. Identify the SCAC for the carrier the GBL was issued to.
Field Delimiter	1	7	Comma.
Type of Transportation	2	8–9	Enter GD for General Domestic, GI for General International, DD for Direct Domestic Move Management, DI for Direct International, BD for Broker Domestic Move Management, or BI for Broker International.
Field Delimiter	1	10	Comma.
Type of Move	3	11–13	If multiple elements were moved using one GBL, each element must have an individual shipment record; if the GBL was used for household goods, put in HHG; for Automobile, enter POV; and for Unaccompanied Air Baggage, enter UAB. ** If multiple elements were moved using one GBL, each element must have an individual shipment record.
Field Delimiter	1	14	Comma.
Federal Agency Identification Code.	9	15–23	Agency's 9 digit User ID code used to access ITMS. This User ID can be obtained directly from the using agency or from the ITMS system itself. If unable to obtain the proper User ID, please contact the PMO. Records with this field blank, X or zero-filled will not be accepted.
Field Delimiter	1	24	Comma.

Field	Required positions	Record position(s)	Contents
Carrier Reference Number	15	25–39	Carrier reference number used when the shipment was booked by the carrier. Start the reference number with position 25. If reference number does not consist of 15 numbers, place X's after number to fill out the 15 positions. Example: Reference number 135895 would appear as 135895XXXXXXXXX. Records with this field blank, X or zero filled will not be accepted.
Field Delimiter	1	40	Comma.
BL Number	8	41–48	Bill of Lading Number. Use GBL number *OR* commercial bill of lading (CBL) number that was used to handle the shipment. If CBL number is less then 8 characters, place X's after the number to fill in field. Records with this field blank or zero filled will not be accepted.
Field Delimiter	1	49	Comma.
Type of GBL	1	50	Input V if Virtual GBL was used. Input G if standard GBL was used.
Field Delimiter	1	51	Comma.
Date Claim Received	8	52–59	YYYYMMDD (19990315 = March 15, 1999).
Field Delimiter	1	60	Comma.
Date Claim Settled	8	61–68	YYYYMMDD (see claim received date).
Field Delimiter	1	69	Comma.
Days to settle	3	70–72	Number of days, excluding day of receipt, but including the settlement date. Example: 010 = 10 Days
Field Delimiter	1	73	Comma.
Amount Claimed	6	74–79	Whole dollars only Example: 000500 = $500.00.
Field Delimiter	1	80	Comma.
Amount Settled	6	81–86	Whole dollars only. Example: 000250 = $250.00.
Field Delimiter	1	87	Comma.
Settlement Delay Codes	30	88–117	If days to settle exceeds 60, use the codes specified below in the Delay Code Specification. If codes are used, place them starting in position 81. Once all codes are loaded, place X's to fill out the 30 positions. Example: C99C11C12XXXXXXXXXXXXXXXXXXXXX If no codes are used X fill the 30 positions.
Field Delimiter	1	118	Comma.
Employee's Last Name	15	119–133	Last name of the employee listed on the GBL in all CAPS. If the employee's name does not consist of 15 letters, place X's after the name to fill out the 15 positions. Example: The name of Jones would appear as JONESXXXXXXXXX. Records with this field blank, X or zero filled will not be accepted.
Field Delimiter	1	134	Comma.
Participants Tax ID Number.	9	135–143	Participant TIN.

Example:

Columns

A	B	C	D	E	F	G	H	I	J	K	L
C	GSAA	GI	POV	RXPG8TY43	Q794–P912666XXX	PP123456	G	19990601	19990622	021	002300

Columns

M	N	O	P
001600	Z99C12P13XXXXXXXXXXXXXXXXXXXXX	O'TOOLEXXXXXXXX	123456722

9–3.2.2.7. Claim Settlement Delay Code Specifications [old D9–7]

Codes beginning with a "C" apply specifically to reasons for a late settlement because of a Participant's act or omission; codes beginning with a "P" apply specifically to reasons for a late settlement because of a property owner's act or omission. Codes "C99," "P99," and "Z99" are used to indicate a group of reasons for a late settlement; see below for additional information. Except as otherwise specified, the Delay Codes must begin in position 81.

9–3.2.2.7.1. Delay Code C99

Indicates that because of a combination of Participant failures, as indicated by the following Participant codes, settlement was delayed past 60 days. If this code is used, it must begin in position 81 with the specific codes following it, e.g., C99C12C13. Do not use for an 'other' or 'unknown' indication. Do not use by itself or with only one other code (Example: C99 or C99C12).

9–3.2.2.7.2. Delay Code C11

Participant Failure: Indicates that the Participant through administrative error failed to make a settlement offer within 60 days.

9–3.2.2.7.3. Delay Code C12

Adjuster Failure: Indicates that the adjuster hired by the Participant failed to complete review and settlement action within 60 days or to provide the Participant with its report so that the Participant could complete settlement within 60 days. If the adjuster's failure

was based on inability to meet with the property owner, use Delay Code P12.

9–3.2.2.7.4. Delay Code C13

Repair Estimates: Indicates that the Participant failed to obtain estimates of repair in sufficient time to make a settlement offer within 60 days (see DTOS Paragraph 10–2 for the requirement that the Participant obtain repair estimates). If the failure to obtain timely repair estimates was based on the inability of the repair firm to meet with the property owner, use Delay Code P13.

9–3.2.2.7.5. Delay Code C14

RESERVED.

9–3.2.2.7.6. Delay Code C15

RESERVED.

9–3.2.2.8. Property Owner Codes [Old D9–7]

9–3.2.2.8.1. Delay Code P99

Indicates that because of a combination of property owner failures, as indicated by the following property owner codes, settlement was delayed past 60 days. If this code is used, it must begin in position 81 with the specific codes following it, e.g., P99P12P14. Do not use for an 'other' or 'unknown' indication. Do not use by itself or with only one other code (Example: P99 or P99P12).

9–3.2.2.8.2. Delay Code P11

Insufficient information: Indicates that the information on or submitted with the claim was insufficient for the Participant to make a settlement and that despite the Participant's timely request for such information, the information was not returned to the Participant in sufficient time for allow for settlement within 60 days. Such information includes additional descriptions of the property or copies of purchase receipts; it does not include estimates of repair (see Delay Codes C13 and P13), high value article appraisals (see Delay Code P14).

9–3.2.2.8.3. Delay Code P12

Adjuster Failure: Indicates that the property owner was unable to meet with the Participant's adjuster in sufficient time for the adjuster to complete review and settlement action within 60 days or to provide the Participant with its report so that the Participant could complete settlement within 60 days.

9–3.2.2.8.4. Delay Code P13

Repair Estimates: Indicates that the property owner was unable to meet with the Participant's repair firm in sufficient time for the firm to complete review and settlement action within 60 days or to provide the Participant with its report so that the Participant could complete settlement within 60 days. This code may also be used to indicate that the employee declined use of the Participant's repair firm, but failed to provide the Participant with repair estimates in sufficient time for the Participant to complete settlement within 60 days.

9–3.2.2.8.5. Delay Code P14

Appraisals: Indicates that despite a timely request from the Participant, the property owner failed to provide the Participant high value article appraisals when such appraisals are warranted by the nature of the property (such as antiques or art objects) in sufficient time for the Participant to complete settlement within 60 days.

9–3.2.2.8.6. Delay Code P15

RESERVED.

9–3.2.2.9. Combination Code. [old D9–7]

9–3.2.2.9.1. Delay Code Z99

Indicates that because of a combination of Participant and property owner failures, settlement was delayed past 60 days. If this code is used, it must begin in position 81 with the specific codes following it, e.g., Z99C12P14. Do not use for an 'other' or 'unknown' indication. Do not use by itself or with codes for only one other type (Example: Z99 or Z99C12).

9–3.3. Claim Settlement and Shipment Report Submission Requirements

9–3.3.1. Electronic Submission. [old D9–8]

Reports must be submitted electronically by Internet FTP. Hard copy (paper) reports will not be accepted. Submissions received from Participants or filing services not conforming to the report submission specifications will be rejected.

9–3.3.2. File Naming Convention

Implementation of the Interagency Transportation Management System (ITMS) has created the need for the development of a File Naming Convention. This File Naming Convention applies to quarterly shipment and claim reports submitted to the PMO. The File Naming Convention identified below must be adhered to. Failure to do so will result in an incomplete status of shipment and/or claim report submission. File names must be eight (8) characters, and the file extension will reflect the record type (Shipment/Claim).

Field	Required positions	Record position(s)	Contents
Carrier Code.	4	1–4	Four (4) digit Standard Carrier Alpha Code
Year	1	5	Last digit of calendar year (1999 would be 9).
Quarter	1	6	Calendar quarter, e.g., 1=Jan–Mar, 2=Apr–Jun, 3=Jul–Sep, 4=Oct–Dec.
File Type	1	7	Designates the type of transportation the file contains. General Domestic = *A*, General International = *B*, Direct Move Management Domestic = *C*, Direct Move Management International = *D*, Broker Move Management Domestic = *E*, Broker Move Management International = *F*.
Report Type	1	8	Report Submission Number (i.e. first submission of original quarterly report =1; corrected error report submission=2).
File Extension	3	9–11	Shipments: Original submission must be .SHP; the correction report submitted requires an .ERS extension. Claims: Original submission must be .CLM; the correction report submitted requires an .ERC extension.

Example: Original Shipment Report Submission

GSAA93A1.shp	
GSAA	Carrier Code.
9	Last Digit of Calendar Year.
3	Calendar Quarter.
A	File Type.
1	Report Type.
.SHP	File Extension.

Example: Corrected Shipment Report Submission

GSAA93A2.shp	
GSAA	Carrier Code.
9	Last Digit of Calendar Year.
3	Calendar Quarter.
A	File Type.
2	Report Type.
.ERS	File Extension.

Example: Original Claim Report Submission

GSAA93A1.shp	
GSAA	Carrier Code.
9	Last Digit of Calendar Year.
3	Calendar Quarter.
A	File Type.
1	Report Type.
.CLM	File Extension.

Example: Corrected Claim Report Submission

GSAA93A2.clm	
GSAA	Carrier Code.
9	Last Digit of Calendar Year.
3	Calendar Quarter.
A	File Type.
2	Report Type.
.ERC	File Extension.

If you have several files to transmit at one time, each file name must be unique (i.e., GSAA93B1.SHP, GSAA93A1.CLM, GSAA93A2.ERS, etc.).

9–4. Electronic Report Submission Instructions

9–4.1. General

Claim and shipment reports must be submitted via the Internet using the File Transfer Protocol (I–FTP) and must meet the transmission requirements defined below. Hard copy (paper) reports are not acceptable. If your firm has never submitted reports electronically to the General Service Administration (GSA) and intends to directly transmit the required reports via I–FTP instead of using a filing service, your firm will need to contact the Program Management Office (PMO) in writing on company letterhead to receive a user ID and password. A FACSIMILE request is acceptable.

9–4.2. Format

Format requirements as set out in HTOS Paragraph 9–3.2 of this Section must be adhered to and must be via the Internet using the File Transfer Protocol (I-FTP). Submissions received from Participants or services not conforming to the record requirements will be unacceptable and not incorporated in the database.

9–4.3. File Preparation

In order to transfer the file(s) via the I-FTP the file must be transmitted as unformatted ASCII (TEXT ONLY) flat file, (i.e., no tab characters, etc.). The file *must not* have a top, bottom, or left margin, pagefeeds, or embedded blank records (Note: The type of software you will be using will determine what must be done to prepare the file for transmission). GSA suggests using "File Save As Text Document" to prevent saving any formatting along with the text. Be sure to change the .TXT file extension to the required one after saving the text file.

9–4.4. Accessing the I–FTP

GSA is unable to provide specific instructions on how to access the I–FTP, how to upload a file onto the I–FTP, how to download a file from the I–FTP, or how to move around in the I–FTP due to the fact that accessing and operating within the I–FTP are dependent upon the type of Internet software used. Consequently, a firm will need to contact its I–FTP provider for assistance. The information listed below provides the (1) address to GSA's I–FTP directory and (2) two different methods (there are others) of accessing a firm's individual directory in which the firm's shipment and/or claim reports will need to be uploaded.

9–4.4.1. User ID and Password

(See HTOS Paragraph 9–4.1.)

9–4.4.2. I–FTP Address

Kcftp.gsa.gov

9–4.4.3. Directory Access

Methods of accessing individual directories (i.e., item in **bold** are words/phrases THAT YOU MUST TYPE IN EXACTLY)

FTP>CD CARRIERS/USER ID

or

FTP>D:\PUB\CARRIERS\USER ID

9–4.4.4. Verification of File Transfer

Once you have transmitted a file onto the I–FTP within your firm's assigned directory, you can follow the steps identified below to verify that your firm's file was successfully transmitted onto the I–FTP.

1. Exit I–FTP;

2. Re-connect to I–FTP;

3. Enter your firm's assigned User ID and Password when requested;

4. Change to your firm's directory—

FTP>CD CARRIERS/USER ID

or

FTP>PUB:\PUB\CARRIERS\USER ID;

and

5. Type **DIR.**

At this point you should be able to see your firm's file identified in your assigned directory. If the file doesn't appear, you will need to "Upload" the file to the I–FTP again. The steps identified above will assist you only in verifying that your firm's claim and/or shipment report(s) file was transferred successfully onto the I–FTP. Following these steps WILL NOT verify that the contents of your firm's reports have been formatted correctly— only that GSA has received a file.

9–4.5. Reorganizations and Bankruptcies Reports

9–4.5.1. Reorganization Report [Old D9–9]

The Participant shall furnish a copy of the court approved reorganization plan to the PMO within the timeframe specified in Section 5 of the DTOS or ITOS.

9–4.5.2. Bankruptcy Report [Old D9–9]

The Participant shall furnish a copy of the bankruptcy judgment to the PMO within the timeframe specified in Section 5 of this HTOS. The Participant shall also provide a listing of all shipments handled pursuant to this HTOS in its possession, in transit, or in SIT, and shall notify agencies of the bankruptcy. The shipment listing shall identify the name of the Federal agency and the property owner, the location of the shipment, and the telephone number of the SIT facility, if the shipment is in SIT. In the event the shipment is in transit, the Participant shall also advise the Federal agency of the Participant's plans for disposition of the shipment. The Participant shall also notify those Federal agencies that have booked shipments but which have not yet been picked up.

9–5. Reports by the PMO

9–5.1. Performance Reports

9–5.1.1. Performance Reports (Quarterly) [Old D9–6]

The PMO shall furnish Participants a performance report. The report will be

furnished to the Participant on a calendar quarter basis, and shall either contain information derived from GSA Forms 3080 received during the previous quarter pertaining to shipments handled by the Participant or consist of copies of the GSA Forms 3080 received during the previous quarter.

9–5.1.2. Performance Reports (Annual) [Old D9–6]

The PMO shall publish an annual report based upon information from GSA Forms 3080 received during the previous calendar year and such other information as the PMO deems appropriate.

Section 10—Participant Liability

10–1. Participant Liability

10–1.1. Levels Of Service And Released Value

10–1.1.1. Levels Of Service [Old D10–1 & I10.2]

Participants providing domestic and/or international transportation services pursuant to the provisions of this HTOS shall offer full value service for each shipment, defined as transportation services (including accessorial and terminal services) furnished by a Participant for which the Participant assumes liability for loss and/or damage not to exceed the full replacement value of the items transported.

10–1.2. Released Value

10–1.2.1. Full Value Service

10–1.2.1.1. Domestic Shipments [Old D10–1]

The released value of shipments handled under Full Value Service will be a value no less than _ times the net weight of each domestic shipment in pounds. However, the released value may be increased by the Government on behalf of the relocating employee for a specific shipment, which must be so annotated on the bill of lading. For the applicable released value dollar amount, refer to the RFO.

10–1.2.1.2. International Shipments [Old I10.2]

The released value of shipments handled under Full Value Service will be a value no less than __ times the net weight of each international and/or offshore shipment. However, the released value may be increased by the Government on behalf of the relocating employee for a specific shipment, which must be so annotated on the bill of lading. For the applicable released value dollar amount, refer to the RFO.

10–1.2.2. Increase in Basic Released Value [old D10–1]

Should the owner elect to specify a released value different from that specified on the GBL after the GBL has been issued, but prior to the date of pickup, the Participant should have the owner contact the RTO and request an amendment to the original GBL indicating the desired valuation.

10–1.3. Extent of Liability.

10–1.3.1. Exception to Liability [old D10–1 and I10.3]

Provided that the burden of proof shall be on the Participant to show that the loss or damage was so caused by the one or more of the following excepted conditions which relieve it of liability, the Participant is not responsible for loss or damage caused by (a) acts of God, public authority or negligence of the owner, and/or owner's agent; (b) hostile or warlike action in the time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, including (1) by any government or sovereign power (de jure or de facto), or by an authority maintaining forces, and (2) by an agent of any such government, power, authority or forces; (c) any weapon of war employing atomic fission or radioactive force whether in time of peace or war, including contamination attributable to effects of radioactive or fissionable materials; (d) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating, or defending against such occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade; (e) strikes, lockouts, labor disturbances, riots, civil commotion, acts of person or persons taking part in such occurrence or disorder; (f) Inherent vice of the article or infestations by mollusks, arachnids, crustaceans, parasites or other types of pests, fumigation or decontamination when not the fault of the Participant. The burden of proof shall be on the Participant to show that the immediate cause of the loss or damage was one or more of the exceptions listed above which relieved it of liability.

10–1.3.2. Liability for General Average/Salvages—International Only [old I10.3]

On ocean shipments, in addition to the Participant's liability as otherwise provided in this HTOS, the Participant assumes full liability for and will pay all contributions in general average or salvage assessed against personal property and will provide bonds or make arrangements for the prompt release of the shipments from any maritime lien arising therefrom.

10–1.3.3. Liability for Non-Vehicular Personal Property

10–1.3.3.1. General

Except when loss and/or damage arises out of causes beyond the control and without the fault or negligence of the Participant, the Participant shall be liable to the United States Government or the owner for the loss of and/or damage to any article in an amount not to exceed the released value of the article. The Participant shall be so liable for any article over which the Participant has control or custody. Custody on the part of the Participant shall be considered to begin at the time performance of service commences and shall continue until services are completed; including, but not limited to, while being packed, picked up, loaded, transported, delivered, unloaded, or unpacked; stored in transit; or serviced (appliances, etc.) by a third person hired by the Participant to perform the servicing.

10–1.3.3.1.1. Non-Vehicular Property Delivered to a Foreign Post—International Shipments [old I10.3]

Subject to the general provisions stated above and in the event non-vehicular personal property is lost or damaged, the measure of damages for a shipment to be delivered to a foreign post shall be repair or replacement not to exceed the replacement value of the item at the foreign post; provided, however, the foreign post value is within 10 percent (±10%) of the CONUS replacement value at of the point of origin at the time of arrival at the port of debarkation. In the event the foreign post value is not within 10 percent (±10%), the measure of damages will be the CONUS replacement value of the item at the point of origin at the time of arrival at the port of debarkation plus the cost of transportation and delivery of the property, including customs clearance, to the employee at the post. Replacement value must be based on replacement of the property with property of comparable kind and quality.

10–1.3.3.1.2. Non-Vehicular Property Delivered Within the Continental United States [old I10.3]

Subject to the general provisions stated above and in the event personal non-vehicular property is lost or damaged, the measure of damages for a

shipment to be delivered within the Continental United States shall be repair or replacement not to exceed the replacement value of the property at the point of destination in the United States, including the cost of transportation and delivery of the property, and including customs clearance when applicable, to the employee at the destination residence. Replacement value must be based on replacement of the property with property of comparable kind and quality

10–1.3.4. Liability for Vehicular Property.

10–1.3.4.1. International Shipment [old I10.3]

In the event of loss/damage to vehicular property during the course of an international shipment, the measure of damages will be repair or replacement not to exceed the current value of the vehicle based on the National Automobile Dealers Association (NADA) value for the vehicle in the month of landing converted to local currency plus the cost of rental of a comparable vehicle for the period of time during which the vehicle is unavailable for employee use due to inoperability or repair; provided, however, that the liability of the cost of rental shall not exceed the current value of the vehicle. The quality of repair or replacement must equal or exceed the standards applied in the Continental United States.

10–1.3.4.2. Domestic Shipment. [old I10.3]

In the event of loss/damage to vehicular property during the course of a domestic shipment, the measure of damages will be repair or replacement not to exceed the current value of the vehicle based of the National Automobile Dealers Association (NADA) value for the vehicle plus the cost of rental of a comparable vehicle for the period of time during which the vehicle is unavailable for employee use due to inoperability or repair; provided, however, that the liability of the cost of rental shall not exceed the current value of the vehicle. The quality of repair or replacement must equal or exceed the standards applied in the Continental United States.

10–1.3.5. Liability for Real Property Damage [old I10.2]

The Participant will be liable for any damage sustained to the premises and/or property of the employee/owner caused by the Participants' agents/employees.

10–1.3.6. Liability for High Risk Items [old I10.3]

Participant's legal liability for loss or damage to high risk items will be the same as for any other property lost or damaged. Unless covered by a high risk program established in accordance with HTOS Paragraph 10.1.6. below, a Participant's liability for high risk items shall in no way be limited to a value less than that established under the terms of the level of service stated on the Government bill of Lading.

10–1.3.7. Liability for Concealed Loss/Damage

10–1.3.7.1. General [old D10–1]

The Participant shall be liable for concealed loss and/or damage discovered by the owner within 75 days after delivery if the owner notifies the Participant, in writing, of the loss and/or damage within 75 days from the date of delivery. The notification requirement cited in HTOS Paragraph 5.11 does not mean that a claim cannot be filed after seventy-five (75) days by the property owner and may not be used as the sole basis for denying a claim.

10–1.3.7.2. Burden of Proof When Notice Is Given [old I10.2]

If a claim for concealed damage is filed within the period specified in HTOS Paragraph 5.11, the burden of proving that it did not cause the loss/damage is on the Participant. If a claim for concealed loss/damage is filed after the period specified in HTOS Paragraph 5.11 and the Participant received notice of all or some of the loss/damage within the period specified in HTOS Paragraph 5.11, the burden of proof is on the Participant for that loss/damage for which it received notice and on the property owner for that loss/damage for which he/she did not give notice.

10–1.3.7.3. Burden of Proof When Notice Is Not Given [old I10.2]

If a claim for concealed loss/damage is filed after the period specified in HTOS Paragraph 5.11 and the Participant did not receive notice of any of the loss/damage within the period specified in HTOS Paragraph 5.11, the burden of proving that the Participant caused the loss/damage is on the property owner.

10–1.3.7.4. Government Custody [old I10.3]

Except as provided above with respect to concealed loss and damage, the Participant shall not be liable for loss or damage when the Participant can reasonably establish that such loss or damage occurred while the shipment was in the effective custody and control of the Government.

10–1.3.8. Liability for Delay [old I10.2]

Participant shall be liable for the inconvenience and extra expense caused to the owner and to the Government, if the owner is required to retain temporary quarters due to the Participant's failure to pickup or deliver the household goods shipment in accordance with the instructions provided by the RTO, the owner of the property, or his designated representative. Equipment failure, actions by underlying Participants and/or agents and illness of or error by persons in its employ or in the employ of its agents, among others, are considered within the control of the Participant and may not be used as a basis for denying a claim for damages due to delay.

10–1.3.9. Liability for Terminated Shipments [old I10.2]

In the event the progress of a shipment is terminated by the Government and is assigned to another Participant for completion of service, both the terminated and the assigned Participants shall be jointly liable for any loss and/or damage to the shipment and for any delay by the responsible Participant. The Government reserves the right to file any claim for property loss/damage or for shipment delay with either the terminated Participant or the assigned Participant, and the Participant against which the claim was filed shall be responsible for settling the claim in full without waiting for any acknowledgment of liability or reimbursement from the other Participant.

10–1.3.10. Liability for Prohibited Items [old I10.3]

When a Participant undertakes the shipment of items prohibited by law or regulatory body which are injurious or contaminating to the shipment, the Participant shall be liable for loss or damage resulting from its failure to decline such items.

10–1.3.11. Liability for Missing Articles

10–1.3.11.1. General [old D10–1 & I10.2]

If the missing articles are not found within thirty (30) calendar days from the date of shipment delivery, they shall be presumed lost by the Participant and payment to the property owner will be made without dispute upon the filing of a claim.

10–1.3.11.2. Exception [old I10.2]

In the event article/items are located subsequent to claims action by the

employee and/or the Government, the Participant shall hold the articles/items at the point of location, notify the RTO, and await disposition instructions. When articles/items are returned to the employee, any claims which have been paid in favor of the employee, shall be readjusted in the Participant's favor.

10–1.4. Employee Failure To Verify Inventory [old I10.2]

The Participant may not deny liability for property loss and/or damage solely on the basis that the Government, the employee, or the employee's authorized representative failed to verify the origin or destination inventories as prepared in accordance with HTOS Paragraph 4–6.

10–1.5. Participant Failure To Settle [old I10.2]

Failure to make settlement within the initial thirty (30) day period, or the maximum sixty (60) day period if proper notice is given as provided in HTOS Paragraph 5–12.3, shall be construed as a refusal by the Participant to settle the claim and as an admission of its liability to the full extent of the law and this HTOS.

10–1.6. Establishment of High Risk Program [old I10.3]

A high risk program limiting a Participant's liability for loss of or damage to high risk items may only be established with the approval of the RTO and be evidenced by a written agreement setting out the terms and conditions established by the shipping Federal agency. The mere issuance of a GBL to a Participant with a pre-existing high risk program is not sufficient to incorporate the terms of such high risk program into the contract of carriage.

10–2. Preparation and Filing of Claim

10–2.1. General [old D10–2]

The Participant must furnish to the property owner all reasonable and necessary assistance in the preparation and filing of claims. Included in such assistance are inspections of the damaged property, if requested, completion of claim forms, and obtaining estimated repair costs at no cost to property owner.

10–2.2. Claims for Loss of and/or Damage to Personal Property. [old D10–2]

Claims for loss of and/or damage to personal property shipped pursuant to this HTOS must be filed with the Participant by the shipping Federal agency; provided, however, that with the approval of the shipping federal agency, the owner of the property or his designated representative may file the claim on behalf of himself and the Government.

10–2.3. Claims for Damage to Real Property [old D10–2]

Claims for damage to real property belonging to the property owner at the time of shipment or subsequent thereto must be filed with the Participant by the shipping Federal agency; provided, however, that with the approval of the shipping federal agency, the owner of the property or his designated representative may file the claim on behalf of himself and the Government.

10–2.4. Claims for Injury [old D10–2]

Claims for injury shall be filed with the Participant by the injured party.

10–2.5. Claims for Delay [old D10–2]

Claims for delay may be filed by the property owner, or his designated representative, or by the Federal agency paying the cost of the services provided pursuant to this HTOS.

10–3. Minimum Filing Requirements [old D10–3]

A communication in writing from a claimant filed with the Government or the Participant and (1) containing facts sufficient to identify the shipment (or shipments) of property involved, (2) asserting liability for alleged loss, damage, injury, or delay, and (3) making claim for the payment of a specified or determinable amount of money, will be considered as sufficient compliance with the provisions for filing claims embraced in the bill of lading or other contract of carriage.

10–4. Documents Not Constituting Claims [old D10–4]

Bad order reports, appraisal reports of damage, notations of shortage or damage, or both, on freight bills, delivery receipts, or other documents, or inspection reports issued by the Participant or their inspection agencies, whether the extent of the loss or damage is indicated in dollars and cents or otherwise will, standing alone, not be considered as sufficient to comply with the minimum claim filing requirements specified above.

10–5. Supporting Documents

10–5.1. General [old D10–5]

When necessary as part of an investigation, each claim must be supported for each article by a statement of the nature and extent of such damage, the basis for the amount claimed, i.e., date article purchased, original cost, amount of depreciation, actual cash value at time of loss or damage, or the full replacement value, in those cases where shipments are released to full replacement value.

10–5.2. Inconvenience Claims [old D10–5]

Inconvenience claims shall be supported with an itemized listing of costs incurred and payments made by the Government to the employee.

10–5.3. Identical Inventory Exception Coding [old D10–5]

In the event items are listed on the inventory with identical, or substantially identical, exception coding, the exception coding shall be construed as void and such items shall be construed as inventoried without exception.

10–6. Verification of Loss

10–6.1. Only Claim [old D10–6]

When an asserted claim for loss of an entire package or an entire shipment cannot be otherwise authenticated upon investigation, the Participant will obtain from the claimant of the shipment involved a certified statement, in writing, that the property for which the claim is filed, has not been received from any other source.

10–6.1.1. Inventory Correctness [old D10–6]

When there is an asserted claim for loss of an article, either contained in a carton or as a stand alone item, and it is not specified on the inventory, the item shall be construed as present and the Participant shall not contest a claim for the missing items, unless the Participant can establish that the inventory was a complete listing of all items in the shipment and that the article was not received by the Participant.

10–7. Satisfaction of Claim

10–7.1. Property Loss/Damage [old D10–7]

The Participant shall satisfy a claim by repairing or replacing the property lost or damaged to the extent of Participant liability with materials of like kind, quality, and condition at time of acceptance by the Participant. Repair and/or replacement will also be construed to include payment in cash. In the event that estimates of repair costs are obtained by the employee, either on his/her own or at the request of the Participant, the estimator's cost to furnish such estimates shall be reimbursable to the employee; provided, however, that if the terms of the estimate provide that the cost of the estimate will be deducted from the cost of repairs when repairs are completed,

the Participant's liability will not exceed the cost of repairs.

10–7.2. Inconvenience Claims

10–7.2.1. Filed by Employee [old D10–7]

When the claim is filed by the employee, the Participant shall be liable for the reasonable costs incurred by the employee in excess of those reimbursed the employee by the Government.

10–7.2.2. Filed by The Government [old D10–7]

When the claim is filed by the Government, the Participant shall be liable for the reimbursement made by the Government to the employee for the temporary quarters retained by the employee.

10–8. Government Liability—International Only [old I10.1]

The United States Government (DOS or other US Government agencies assuming effective custody) will be liable to the Participant for damage to or loss or destruction of lift vans due to negligence of the Government, reasonable wear and tear excepted.

Section 11—Miscellaneous Agreement Provisions

11–1. Warranty of Services [old D11–1]

11–1.1. Acceptance and Correction [old D11–1]

11–1.1.1. Definitions [old D11–1]

11–1.1.1.1. Acceptance [old D11–1]

Acceptance, as used in this HTOS Paragraph, means the act of an authorized representative of the Government by which the Government assumes for itself or approves specific services, as partial or complete performance of the HTOS.

11–1.1.1.2. Correction [old D11–1]

Correction, as used in this clause, means the elimination of a defect.

11–1.1.2. Warranty [old D11–1]

Notwithstanding inspection and acceptance by the Government or any provision concerning the conclusiveness thereof, the participant warrants that all services performed under this HTOS will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this HTOS. The RTO shall give written notice of any defect or nonconformance to the participant within forty-five (45) days from the date of acceptance by the Government. This notice shall state either (1) that the participant shall correct or reperform any defective or nonconforming services, or (2) that the Government does not require correction or reperformance.

11–1.1.3. Correction and Reperformance [old D11–1]

If the participant is required to correct or reperform, it shall be at no cost to the Government, and any services corrected or reperformed by the participant shall be subject to this clause or if the participant refuses to correct or reperform, the RTO may correct or replace with similar services and charge to the participant the cost occasioned to the Government thereby, or make an equitable adjustment in the price for services rendered.

11–1.1.4. No Correction and Reperformance [old D11–1]

If the Government does not require correction or reperformance, the RTO shall make an equitable adjustment in the price for services rendered.

11–1.2. Improper Customs Clearance Reduction.—International Only [old 11.1.2]

In the event that a carrier improperly clears a shipment through customs (for example, a shipment is cleared as a DoD shipment, rather than a DOS shipment) and warehouse handling, storage, or delivery costs accrue exceeding those applicable to the shipment had the shipment been properly cleared, the excess warehouse handling, storage, or delivery costs will not be reimbursable by the Federal agency paying the transportation charges.

11–1.3. Late Delivery Reduction.—DOMESTIC ONLY [old D11–1]

A late delivery reduction of $100.00 per day will be payable to the Federal agency paying the transportation charges, for each calendar day or fraction thereof, when the actual transit time for direct delivery shipments exceeds the transit time as defined in Section 12 of this HTOS, subject to the following items: (1) When the Government and the participant mutually agree to a transit time longer than the transit time as shown in this HTOS, the penalty will begin on the day after the agreed date; (2) When the Government and the participant mutually agree to a transit time chart other than the chart in this HTOS, the penalty will begin on the day after the agreed date; (3) When a shipment consigned to Storage-in-Transit (SIT) at destination is en route and the destination is changed to a direct delivery, the transit time is negotiable and no penalty occurs for late delivery; (4) This item will apply only for shipments which: (a) Weigh or are rated at 3,500 pounds or more that are picked up during the period from October 1 through May 14 of each subsequent year; OR. (b) weigh or are rated at 5,000 pounds or more that are picked up during the period from May 15 through September 30 of each year; (5) This item applies only when both origin and destination of the shipment are within the continental United States; (6) This item will not apply if delay is caused by reasons beyond the participant's control, described as "Impractical Operation" in the participant's governing Government Rate Tender; (7) This item will not apply to a shipment, or portion thereof, which is lost or destroyed in transit and cannot be delivered due to such loss or destruction; (8) This item will not apply to an overflow portion of the shipment when the overflow weight represents less than twenty (20) percent of the total shipment weight and contains nonessential items (possessions not needed to maintain day-to-day housekeeping during the period of time between delivery of the main portion of the shipment and delivery of the overflow); (9) This item will apply when reconsignment or diversion is made on a shipment, based on the applicable mileage and weight of the shipment from point of diversion to the new destination; (10) The total reimbursement shall not exceed an amount equal to the linehaul transportation charges for the shipment; (11) This payment satisfies the Government's right to equitable adjustment for failure to perform, but does not waive, mitigate, or satisfy any other right or remedy available to the Government on account of late delivery by the participant.

11–1.4. Late Delivery Reduction.—INTERNATIONAL ONLY [old I11.1.3]

A late delivery reduction of $100.00 per day will be payable to the Federal agency paying the transportation charges, for each calendar day or fraction thereof, when the actual transit time for direct delivery shipments exceeds the transit time as defined in Section 12 of this HTOS, subject to the following items: (1) When the Government and the participant mutually agree to a transit time longer than the transit time as shown in this HTOS, the penalty will begin on the day after the agreed date; (2) When the Government and the participant mutually agree to a transit time chart other than the chart in this HTOS, the penalty will begin on the day after the agreed date; (3) When a shipment consigned to Storage-in-Transit (SIT) at

destination is en route and the destination is changed to a direct delivery, the transit time is negotiable and no penalty occurs for late delivery; (4) This item will apply only for shipments which: (a) weigh or are rated at 3,500 pounds or more that are picked up during the period from October 1 through May 14 of each subsequent year; OR. (b) weigh or are rated at 5,000 pounds or more that are picked up during the period from May 15 through September 30 of each year; (5) This item will not apply if delay is caused by reasons beyond the participant's control, described as "Impractical Operation" in the participant's governing Government Rate Tender; (6) This item will not apply to a shipment, or portion thereof, which is lost or destroyed in transit and cannot be delivered due to such loss or destruction; (7) This item will not apply to an overflow portion of the shipment when the overflow weight represents less than twenty (20) percent of the total shipment weight and contains nonessential items (possessions not needed to maintain day-to-day housekeeping during the period of time between delivery of the main portion of the shipment and delivery of the overflow); (8) This item will apply when reconsignment or diversion is made on a shipment, based on the applicable mileage and weight of the shipment from point of diversion to the new destination; (9) The total reimbursement shall not exceed an amount equal to total charges for the shipment, excluding SIT; (10) This payment satisfies the Government's right to equitable adjustment for failure to perform, but does not waive, mitigate, or satisfy any other right or remedy available to the Government on account of late delivery by the participant.

11–2. Diversion Or Reconsignment. [old D11–3]

Diversion or reconsignment of a shipment to a destination area other than that specified on the GBL can only be authorized by written order or oral notice followed by written order of the GBL Issuing Officer. The destination area is the territory recognized as the commercial zone for the destination city or municipality shown on the GBL. Instructions furnished by the owner or his representative to the carrier or its agent to perform local drayage to any point within the commercial zone shall not constitute an order for diversion or reconsignment.

11–3. Advertising Of Participant Approval. [old D11–4 & I11.3]

Except in those instances where the participant uses information or data publicly available, the participant will not refer to GSA approval to participate in the program or participation in the program in commercial advertising in such a manner as to state or imply that the services provided are endorsed or preferred by the Federal Government or are considered by the Government to be superior to other services.

Section 12—Transit Times

12–1. Transit Times

This HTOS paragraph 12–1 provides transit times for shipments moving between CONUS locations, between CONUS and Canada locations, and between locations in CONUS and Canada on the one hand and on the other hand international locations, including POV surface shipments (except locations shown in HTOS paragraph 12–2. For Transit Times on international unaccompanied air baggage, refer to HTOS Section 5.

(For Special Agency Transit Times, refer to the Request for Offers (RFO))

BETWEEN DOMESTIC AND INTERNATIONAL TRANSIT TIMES INTERSTATE TRANSIT TIMES, INCLUDING BETWEEN CONUS AND CANADA.

Weight between miles	0 to 999 lbs.	1,000 to 1,999 lbs.	2,000 to 3,999 lbs.	4,000 to 7,999 lbs.	8,000 lbs. and over
1–250	8	7	6	5	4
251–500	9	9	7	6	5
501–750	11	10	9	8	7
751–1000	13	11	9	9	8
1001–1250	14	12	10	9	9
1251–1500	15	13	11	10	9
1501–1750	16	14	12	11	10
1751–2000	17	15	13	12	11
2001–2250	18	16	14	13	12
2251–2500	18	17	15	14	13
2501–2750	19	18	16	15	14
2751–3000	20	18	17	16	15
3001–3250	21	19	18	17	16
3251–3500	22	20	18	18	17

INTRASTATE TRANSIT TIMES, INCLUDING INTRA-CANADA

Weight between miles	0 to 999 lbs.	1,000 to 1,999 lbs.	2,000 to 3,999 lbs.	4,000 to 7,999 lbs.	8,000 lbs. and over
1–250	7	6	5	5	4
251–500	9	8	6	5	5
501–750	11	10	8	7	6
751–1000	12	11	9	8	7
1001–1250	13	11	10	9	8
1251–1500	14	12	11	10	9
1501–1750	15	13	11	11	10
1751–2000	16	14	12	11	11
2001–2250	17	15	13	12	11
2251–2500	17	16	14	13	12
2501–2750	18	17	15	14	13
2751–3000	19	17	16	15	14

INTRASTATE TRANSIT TIMES, INCLUDING INTRA-CANADA—Continued

Weight between miles	0 to 999 lbs.	1,000 to 1,999 lbs.	2,000 to 3,999 lbs.	4,000 to 7,999 lbs.	8,000 lbs. and over
3001–3250	20	18	17	16	15
3251–3500	21	19	17	17	16

State	Days	State	Days	State	Days
Between ALBANIA and					
Alabama	68	Delaware	66	New Jersey	68
Alaska	69	District of Columbia	66	New Mexico	70
Arizona	72	Florida	67	New York	68
Arkansas	68	Georgia	67	North Carolina	68
California	73	Idaho	72	North Dakota	74
Canada		Illinois	69	Ohio	67
—Alberta	80	Indiana	68	Oklahoma	71
—British Columbia	78	Iowa	72	Oregon	74
—Labrador	85	Kansas	70	Pennsylvania	69
—Manitoba	77	Kentucky	66	Rhode Island	68
—New Brunswick	73	Louisiana	69	South Carolina	64
—Newfoundland	80	Maine	70	South Dakota	74
—Northwest Terr	79	Maryland	66	Tennessee	68
—Nova Scotia	75	Massachusetts	67	Texas	71
—Ontario	74	Michigan	71	Utah	75
—Pr. Edward Isl	76	Minnesota	72	Vermont	69
—Quebec	73	Mississippi	68	Virginia	67
—Saskatchewan	78	Missouri	71	Washington	73
—Yukon	74	Montana	75	West Virginia	66
Colorado	71	Nebraska	72	Wisconsin	69
Connecticut	68	Nevada	74	Wyoming	75
		New Hampshire	69		
Between ALGERIA and					
Alabama	61	Delaware	60	New Jersey	61
Alaska	65	District of Columbia	60	New Mexico	67
Arizona	69	Florida	62	New York	61
Arkansas	65	Georgia	61	North Carolina	63
California	72	Idaho	69	North Dakota	67
.					
Canada		Illinois	67	Ohio	67
—Alberta	76	Indiana	69	Oklahoma	66
—British Columbia	73	—Iowa	70	Oregon	69
—Labrador	86	Kansas	70	Pennsylvania	61
—Manitoba	70	Kentucky	68	Rhode Island	61
—New Brunswick	74	Louisiana	63	South Carolina	63
—Newfoundland	81	Maine	71	South Dakota	67
—Northwest Terr	75	Maryland	62	Tennessee	65
—Nova Scotia	76	Massachusetts	68	Texas	62
—Ontario	70	Michigan	67	Utah	69
—Pr. Edward Isl	77	Minnesota	68	Vermont	66
—Quebec	66	Mississippi	63	Virginia	59
—Saskatchewan	74	Missouri	68	Washington	68
—Yukon	70	Montana	71	West Virginia	65
Colorado	68	Nebraska	66	Wisconsin	69
Connecticut	61	Nevada	68	Wyoming	67
		New Hampshire	66		
Between AMERICAN SAMOA					
Alabama	49	Delaware	50	New Jersey	50
Alaska	49	District of Columbia	50	New Mexico	36
Arizona	36	Florida	58	New York	50
Arkansas	49	Georgia	51	North Carolina	51
California	34	Idaho	40	North Dakota	40
Canada		Illinois	52	Ohio	52
—Alberta	45	Indiana	52	Oklahoma	41
—British Columbia	41	Iowa	41	Oregon	36
—Labrador	68	Kansas	41	Pennsylvania	50
—Manitoba	43	Kentucky	52	Rhode Island	50
—New Brunswick	56	Louisiana	49	South Carolina	51
—Newfoundland	63	Maine	53	South Dakota	40
—Northwest Terr	59	Maryland	50	Tennessee	49

State	Days	State	Days	State	Days
—Nova Scotia	58	Massachusetts	50	Texas	41
—Ontario	49	Michigan	46	Utah	36
—Pr. Edward Isl	59	Minnesota	46	Vermont	53
—Quebec	55	Mississippi	49	Virginia	50
—Saskatchewan	43	Missouri	41	Washington	36
—Yukon	54	Montana	40	West Virginia	50
Colorado	37	Nebraska	41	Wisconsin	46
Connecticut	50	Nevada	36	Wyoming	40
		New Hampshire	53		

Between ANGOLA and

Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between ANTIGUA and

Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		

Between ARGENTINA and

Alabama	56	Delaware	63	New Jersey	64
Alaska	61	District of Columbia	62	New Mexico	57
Arizona	53	Florida	56	New York	64
Arkansas	60	Georgia	55	North Carolina	59
California	59	Idaho	62	North Dakota	65
Canada		Illinois	64	Ohio	63
—Alberta	70	Indiana	63	Oklahoma	61
—British Columbia	69	Iowa	65	Oregon	64
—Labrador	80	Kansas	64	Pennsylvania	64
—Manitoba	68	Kentucky	61	Rhode Island	64
—New Brunswick	68	Louisiana	57	South Carolina	60
—Newfoundland	75	Maine	65	South Dakota	65
—Northwest Terr	71	Maryland	63	Tennessee	60
—Nova Scotia	70	Massachusetts	63	Texas	60

State	Days	State	Days	State	Days
—Ontario	67	Michigan	64	Utah	63
—Pr. Edward Isl	71	Minnesota	64	Vermont	62
—Quebec	69	Mississippi	58	Virginia	63
—Saskatchewan	68	Missouri	61	Washington	64
—Yukon	66	Montana	65	West Virginia	65
Colorado	62	Nebraska	63	Wisconsin	65
Connecticut	64	Nevada	56	Wyoming	64
		New Hampshire	62		

Between AUSTRALIA-EAST and

Alabama	76	Delaware	75	New Jersey	77
Alaska	49	District of Columbia	74	New Mexico	69
Arizona	69	Florida	76	New York	77
Arkansas	77	Georgia	76	North Carolina	76
California	71	Idaho	73	North Dakota	76
Canada		Illinois	72	Ohio	75
—Alberta	83	Indiana	72	Oklahoma	73
—British Columbia	65	Iowa	72	Oregon	66
—Labrador	93	Kansas	77	Pennsylvania	76
—Manitoba	79	Kentucky	78	Rhode Island	77
—New Brunswick	81	Louisiana	72	South Carolina	76
—Newfoundland	88	Maine	78	South Dakota	76
—Northwest Terr	59	Maryland	76	Tennessee	77
—Nova Scotia	83	Massachusetts	76	Texas	73
—Ontario	80	Michigan	77	Utah	73
—Pr. Edward Isl	84	Minnesota	77	Vermont	78
—Quebec	82	Mississippi	73	Virginia	76
—Saskatchewan	81	Missouri	76	Washington	60
—Yukon	54	Montana	78	West Virginia	77
Colorado	69	Nebraska	73	Wisconsin	75
Connecticut	77	Nevada	69	Wyoming	76
		New Hampshire	78		

Between AUSTRALIA-WEST and

Alabama	79	Delaware	80	New Jersey	78
Alaska	51	District of Columbia	75	New Mexico	74
Arizona	74	Florida	77	New York	78
Arkansas	78	Georgia	77	North Carolina	77
California	72	Idaho	76	North Dakota	80
Canada		Illinois	76	Ohio	78
—Alberta	84	Indiana	76	Oklahoma	77
—British Columbia	72	Iowa	76	Oregon	68
—Labrador	95	Kansas	78	Pennsylvania	77
—Manitoba	83	Kentucky	79	Rhode Island	78
—New Brunswick	83	Louisiana	76	South Carolina	77
—Newfoundland	90	Maine	80	South Dakota	80
—Northwest Terr	61	Maryland	77	Tennessee	78
—Nova Scotia	85	Massachusetts	78	Texas	74
—Ontario	81	Michigan	78	Utah	76
—Pr. Edward Isl	86	Minnesota	78	Vermont	80
—Quebec	83	Mississippi	77	Virginia	77
—Saskatchewan	82	Missouri	77	Washington	67
—Yukon	56	Montana	79	West Virginia	78
Colorado	75	Nebraska	76	Wisconsin	79
Connecticut	78	Nevada	74	Wyoming	76
		New Hampshire	80		

Between AUSTRIA and

Alabama	65	Delaware	59	New Jersey	61
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	61
Arkansas	62	Georgia	60	North Carolina	60
California	66	Idaho	68	North Dakota	72
Canada		Illinois	62	Ohio	60
—Alberta	77	Indiana	61	Oklahoma	66
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	77	Kansas	67	Pennsylvania	60
—Manitoba	75	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	64	South Carolina	60
—Newfoundland	72	Maine	62	South Dakota	72
—Northwest Terr	74	Maryland	59	Tennessee	62

State	Days	State	Days	State	Days
—Nova Scotia	67	Massachusetts	59	Texas	66
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	68	Minnesota	65	Vermont	62
—Quebec	66	Mississippi	65	Virginia	60
—Saskatchewan	75	Missouri	67	Washington	66
—Yukon	69	Montana	72	West Virginia	59
Colorado	67	Nebraska	69	Wisconsin	63
Connecticut	61	Nevada	66	Wyoming	72
		New Hampshire	62		

Between AZORES and

Alabama	64	Delaware	60	New Jersey	62
Alaska	62	District of Columbia	60	New Mexico	62
Arizona	63	Florida	62	New York	62
Arkansas	59	Georgia	57	North Carolina	57
California	64	Idaho	67	North Dakota	67
Canada		Illinois	63	Ohio	61
—Alberta	72	Indiana	62	Oklahoma	61
—British Columbia	72	Iowa	65	Oregon	68
—Labrador	78	Kansas	62	Pennsylvania	61
—Manitoba	70	Kentucky	62	Rhode Island	62
—New Brunswick	66	Louisiana	63	South Carolina	57
—Newfoundland	73	Maine	63	South Dakota	67
—Northwest Terr	72	Maryland	60	Tennessee	59
—Nova Scotia	68	Massachusetts	60	Texas	61
—Ontario	69	Michigan	66	Utah	64
—Pr. Edward Isl	69	Minnesota	67	Vermont	63
—Quebec	67	Mississippi	64	Virginia	61
—Saskatchewan	70	Missouri	66	Washington	67
—Yukon	67	Montana	67	West Virginia	60
Colorado	62	Nebraska	64	Wisconsin	64
Connecticut	62	Nevada	65	Wyoming	67
		New Hampshire	63		

Between BAHAMAS and

Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		

Between BAHRAIN and

Alabama	61	Delaware	60	New Jersey	62
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	62
Arkansas	64	Georgia	60	North Carolina	61
California	69	Idaho	69	North Dakota	67
Canada		Illinois	65	Ohio	64
—Alberta	77	Indiana	65	Oklahoma	65
—British Columbia	73	Iowa	66	Oregon	69
—Labrador	80	Kansas	66	Pennsylvania	63
—Manitoba	70	Kentucky	63	Rhode Island	62
—New Brunswick	68	Louisiana	62	South Carolina	61
—Newfoundland	75	Maine	65	South Dakota	67

State	Days	State	Days	State	Days
—Northwest Terr	74	Maryland	59	Tennessee	64
—Nova Scotia	70	Massachusetts	62	Texas	64
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	71	Minnesota	66	Vermont	66
—Quebec	67	Mississippi	61	Virginia	60
—Saskatchewan	75	Missouri	65	Washington	68
—Yukon	69	Montana	72	West Virginia	64
Colorado	66	Nebraska	66	Wisconsin	66
Connecticut	62	Nevada	67	Wyoming	68
		New Hampshire	66		
Between BANGLADESH and					
Alabama	77	Delaware	77	New Jersey	81
Alaska	53	District of Columbia	77	New Mexico	72
Arizona	73	Florida	80	New York	81
Arkansas	77	Georgia	79	North Carolina	81
California	69	Idaho	76	North Dakota	79
Canada		Illinois	79	Ohio	78
—Alberta	83	Indiana	79	Oklahoma	78
—British Columbia	76	Iowa	80	Oregon	71
—Labrador	97	Kansas	79	Pennsylvania	80
—Manitoba	82	Kentucky	80	Rhode Island	81
—New Brunswick	85	Louisiana	77	South Carolina	77
—Newfoundland	92	Maine	82	South Dakota	80
—Northwest Terr	63	Maryland	79	Tennessee	77
—Nova Scotia	87	Massachusetts	80	Texas	77
—Ontario	82	Michigan	79	Utah	73
—Pr. Edward Isl	88	Minnesota	79	Vermont	82
—Quebec	86	Mississippi	79	Virginia	79
—Saskatchewan	81	Missouri	80	Washington	71
—Yukon	58	Montana	78	West Virginia	81
Colorado	76	Nebraska	79	Wisconsin	78
Connecticut	81	Nevada	71	Wyoming	76
		New Hampshire	82		
Between BARBADOS and					
Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		
Between BELGIUM and					
Alabama	62	Delaware	56	New Jersey	
Alaska		District of Columbia	56	New Mexico	64
Arizona	65	Florida	58	New York	58
Arkansas		Georgia	57	North Carolina	57
California	63	Idaho	65	North Dakota	69
Canada		Illinois	59	Ohio	57
—Alberta		Indiana	58	Oklahoma	63
—British Columbia		Iowa	67	Oregon	66
—Labrador		Kansas	64	Pennsylvania	57
—Manitoba		Kentucky	58	Rhode Island	
—New Brunswick		Louisiana	61	South Carolina	57

State	Days	State	Days	State	Days
—Newfoundland		Maine	59	South Dakota	69
—Northwest Terr		Maryland	56	Tennessee	58
—Nova Scotia		Massachusetts	56	Texas	63
—Ontario		Michigan	62	Utah	66
—Pr. Edward Isl		Minnesota	62	Vermont	59
—Quebec		Mississippi	62	Virginia	57
—Saskatchewan		Missouri	64	Washington	63
—Yukon		Montana	69	West Virginia	56
Colorado	64	Nebraska	66	Wisconsin	60
Connecticut		Nevada	63	Wyoming	69
		New Hampshire			

Between BELIZE and

Alabama	48	Delaware	58	New Jersey	59
Alaska	57	District of Columbia	58	New Mexico	55
Arizona	55	Florida	55	New York	59
Arkansas	53	Georgia	55	North Carolina	57
California	56	Idaho	61	North Dakota	61
Canada		Illinois	58	Ohio	57
—Alberta	66	Indiana	57	Oklahoma	56
—British Columbia	63	Iowa	56	Oregon	63
—Labrador	74	Kansas	57	Pennsylvania	59
—Manitoba	64	Kentucky	58	Rhode Island	59
—New Brunswick	62	Louisiana	50	South Carolina	55
—Newfoundland	69	Maine	59	South Dakota	61
—Northwest Terr	67	Maryland	58	Tennessee	53
—Nova Scotia	64	Massachusetts	58	Texas	53
—Ontario	65	Michigan	62	Utah	58
—Pr. Edward Isl	65	Minnesota	62	Vermont	60
—Quebec	64	Mississippi	53	Virginia	57
—Saskatchewan	64	Missouri	54	Washington	58
—Yukon	62	Montana	61	West Virginia	57
Colorado	56	Nebraska	59	Wisconsin	60
Connecticut	59	Nevada	56	Wyoming	60
		New Hampshire	60		

Between BERMUDA and

Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		

Between BOLIVIA and

Alabama	55	Delaware	61	New Jersey	61
Alaska	58	District of Columbia	60	New Mexico	54
Arizona	53	Florida	51	New York	61
Arkansas	54	Georgia	53	North Carolina	54
California	57	Idaho	60	North Dakota	64
Canada		Illinois	62	Ohio	61
—Alberta	69	Indiana	61	Oklahoma	59
—British Columbia	67	Iowa	60	Oregon	63
—Labrador	77	Kansas	60	Pennsylvania	62
—Manitoba	67	Kentucky	58	Rhode Island	61

State	Days	State	Days	State	Days
—New Brunswick	65	Louisiana	54	South Carolina	53
—Newfoundland	72	Maine	62	South Dakota	63
—Northwest Terr	68	Maryland	60	Tennessee	54
—Nova Scotia	67	Massachusetts	60	Texas	57
—Ontario	65	Michigan	62	Utah	61
—Pr. Edward Isl	68	Minnesota	62	Vermont	62
—Quebec	66	Mississippi	55	Virginia	60
—Saskatchewan	67	Missouri	59	Washington	62
—Yukon	63	Montana	64	West Virginia	62
Colorado	58	Nebraska	62	Wisconsin	61
Connecticut	61	Nevada	55	Wyoming	62
		New Hampshire	62		

Between BOTSWANA and

Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between BRAZIL and

Alabama	55	Delaware	61	New Jersey	61
Alaska	58	District of Columbia	60	New Mexico	54
Arizona	53	Florida	51	New York	61
Arkansas	54	Georgia	53	North Carolina	54
California	57	Idaho	60	North Dakota	64
Canada		Illinois	62	Ohio	61
—Alberta	69	Indiana	61	Oklahoma	59
—British Columbia	67	Iowa	60	Oregon	63
—Labrador	77	Kansas	60	Pennsylvania	62
—Manitoba	67	Kentucky	58	Rhode Island	61
—New Brunswick	65	Louisiana	54	South Carolina	53
—Newfoundland	72	Maine	62	South Dakota	63
—Northwest Terr	68	Maryland	60	Tennessee	54
—Nova Scotia	67	Massachusetts	60	Texas	57
—Ontario	65	Michigan	62	Utah	61
—Pr. Edward Isl	68	Minnesota	62	Vermont	62
—Quebec	66	Mississippi	55	Virginia	60
—Saskatchewan	67	Missouri	59	Washington	62
—Yukon	63	Montana	64	West Virginia	62
Colorado	58	Nebraska	62	Wisconsin	61
Connecticut	61	Nevada	55	Wyoming	62
		New Hampshire	62	.	

Between BRUNEI and

Alabama	78	Delaware	77	New Jersey	79
Alaska	52	District of Columbia	77	New Mexico	79
Arizona	72	Florida	79	New York	79
Arkansas	84	Georgia	80	North Carolina	82
California	72	Idaho	67	North Dakota	79
Canada		Illinois	80	Ohio	78
—Alberta	78	Indiana	79	Oklahoma	78
—British Columbia	70	Iowa	84	Oregon	66
—Labrador	95	Kansas	79	Pennsylvania	78

State	Days	State	Days	State	Days
—Manitoba	82	Kentucky	79	Rhode Island	79
—New Brunswick	83	Louisiana	77	South Carolina	80
—Newfoundland	90	Maine	80	South Dakota	79
—Northwest Terr	62	Maryland	77	Tennessee	84
—Nova Scotia	85	Massachusetts	77	Texas	77
—Ontario	86	Michigan	83	Utah	73
—Pr. Edward Isl	86	Minnesota	84	Vermont	80
—Quebec	84	Mississippi	78	Virginia	78
—Saskatchewan	76	Missouri	80	Washington	65
—Yukon	57	Montana	73	West Virginia	77
Colorado	76	Nebraska	81	Wisconsin	81
Connecticut	79	Nevada	72	Wyoming	77
		New Hampshire	80	.	
Between BULGARIA and					
Alabama	68	Delaware	66	New Jersey	68
Alaska	69	District of Columbia	66	New Mexico	70
Arizona	72	Florida	67	New York	68
Arkansas	68	Georgia	67	North Carolina	68
California	73	Idaho	72	North Dakota	74
Canada		Illinois	69	Ohio	67
—Alberta	80	Indiana	68	Oklahoma	71
—British Columbia	78	Iowa	72	Oregon	74
—Labrador	85	Kansas	70	Pennsylvania	69
—Manitoba	77	Kentucky	66	Rhode Island	68
—New Brunswick	73	Louisiana	69	South Carolina	64
—Newfoundland	80	Maine	70	South Dakota	74
—Northwest Terr	79	Maryland	66	Tennessee	68
—Nova Scotia	75	Massachusetts	67	Texas	71
—Ontario	74	Michigan	71	Utah	75
—Pr. Edward Isl	76	Minnesota	72	Vermont	69
—Quebec	73	Mississippi	68	Virginia	67
—Saskatchewan	78	Missouri	71	Washington	73
—Yukon	74	Montana	75	West Virginia	66
Colorado	71	Nebraska	72	Wisconsin	69
Connecticut	68	Nevada	74	Wyoming	75
		New Hampshire	69	.	
Between BURKINA FASO and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
Between BURMA and					
Alabama	77	Delaware	77	New Jersey	81
Alaska	53	District of Columbia	77	New Mexico	72
Arizona	73	Florida	80	New York	81
Arkansas	77	Georgia	79	North Carolina	81
California	69	Idaho	76	North Dakota	79
Canada		Illinois	79	Ohio	78
—Alberta	83	Indiana	79	Oklahoma	78
—British Columbia	76	Iowa	80	Oregon	71

State	Days	State	Days	State	Days
—Labrador	97	Kansas	79	Pennsylvania	80
—Manitoba	82	Kentucky	80	Rhode Island	81
—New Brunswick	85	Louisiana	77	South Carolina	77
—Newfoundland	92	Maine	82	South Dakota	80
—Northwest Terr	63	Maryland	79	Tennessee	77
—Nova Scotia	87	Massachusetts	80	Texas	77
—Ontario	82	Michigan	79	Utah	73
—Pr. Edward Isl	88	Minnesota	79	Vermont	82
—Quebec	86	Mississippi	79	Virginia	79
—Saskatchewan	81	Missouri	80	Washington	71
—Yukon	58	Montana	78	West Virginia	81
Colorado	76	Nebraska	79	Wisconsin	78
Connecticut	81	Nevada	71	Wyoming	76
		New Hampshire	82		

Between BURUNDI and

Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between CAMBODIA and

Alabama	73	Delaware	74	New Jersey	75
Alaska	48	District of Columbia	73	New Mexico	73
Arizona	69	Florida	75	New York	75
Arkansas	75	Georgia	75	North Carolina	76
California	68	Idaho	68	North Dakota	75
Canada		Illinois	75	Ohio	75
—Alberta	77	Indiana	75	Oklahoma	74
—British Columbia	71	Iowa	76	Oregon	70
—Labrador	91	Kansas	75	Pennsylvania	74
—Manitoba	78	Kentucky	74	Rhode Island	75
—New Brunswick	79	Louisiana	71	South Carolina	75
—Newfoundland	86	Maine	76	South Dakota	75
—Northwest Terr	58	Maryland	72	Tennessee	75
—Nova Scotia	81	Massachusetts	73	Texas	72
—Ontario	80	Michigan	77	Utah	71
—Pr. Edward Isl	82	Minnesota	78	Vermont	75
—Quebec	80	Mississippi	75	Virginia	74
—Saskatchewan	75	Missouri	76	Washington	66
—Yukon	53	Montana	72	West Virginia	72
Colorado	70	Nebraska	75	Wisconsin	76
Connecticut	75	Nevada	69	Wyoming	71
		New Hampshire	75		

Between CAMEROON and

Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72

State	Days	State	Days	State	Days
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between CANARY ISLANDS and

Alabama	60	Delaware	59	New Jersey	61
Alaska	62	District of Columbia	59	New Mexico	64
Arizona	65	Florida	61	New York	61
Arkansas	61	Georgia	60	North Carolina	59
California	66	Idaho	63	North Dakota	69
Canada		Illinois	62	Ohio	60
—Alberta	74	Indiana	61	Oklahoma	63
—British Columbia	72	Iowa	67	Oregon	71
—Labrador	77	Kansas	64	Pennsylvania	60
—Manitoba	72	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	59	South Carolina	59
—Newfoundland	72	Maine	62	South Dakota	69
—Northwest Terr	72	Maryland	59	Tennessee	61
—Nova Scotia	67	Massachusetts	59	Texas	63
—Ontario	68	Michigan	65	Utah	66
—Pr. Edward Isl	68	Minnesota	69	Vermont	62
—Quebec	66	Mississippi	60	Virginia	60
—Saskatchewan	72	Missouri	62	Washington	67
—Yukon	67	Montana	69	West Virginia	59
Colorado	64	Nebraska	66	Wisconsin	63
Connecticut	61	Nevada	67	Wyoming	69
		New Hampshire	62		

Between CAYMAN ISLANDS and

Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		

Between CENTRAL AFRICA REPUBLIC and

Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73

State	Days	State	Days	State	Days
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between CHAD and

Alabama	61	Delaware	60	New Jersey	61
Alaska	65	District of Columbia	60	New Mexico	67
Arizona	69	Florida	62	New York	61
Arkansas	65	Georgia	61	North Carolina	63
California	72	Idaho	69	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	76	Indiana	69	Oklahoma	66
—British Columbia	73	Iowa	70	Oregon	69
—Labrador	86	Kansas	70	Pennsylvania	61
—Manitoba	70	Kentucky	68	Rhode Island	61
—New Brunswick	74	Louisiana	63	South Carolina	63
—Newfoundland	81	Maine	71	South Dakota	67
—Northwest Terr	75	Maryland	62	Tennessee	65
—Nova Scotia	76	Massachusetts	68	Texas	62
—Ontario	70	Michigan	67	Utah	69
—Pr. Edward Isl	77	Minnesota	68	Vermont	66
—Quebec	66	Mississippi	63	Virginia	59
—Saskatchewan	74	Missouri	68	Washington	68
—Yukon	70	Montana	71	West Virginia	65
Colorado	68	Nebraska	66	Wisconsin	69
Connecticut	61	Nevada	68	Wyoming	67
		New Hampshire	66		

Between CHILE and

Alabama	56	Delaware	63	New Jersey	64
Alaska	61	District of Columbia	62	New Mexico	57
Arizona	53	Florida	56	New York	64
Arkansas	60	Georgia	55	North Carolina	59
California	59	Idaho	62	North Dakota	65
Canada		Illinois	64	Ohio	63
—Alberta	70	Indiana	63	Oklahoma	61
—British Columbia	69	Iowa	65	Oregon	64
—Labrador	80	Kansas	64	Pennsylvania	64
—Manitoba	68	Kentucky	61	Rhode Island	64
—New Brunswick	68	Louisiana	57	South Carolina	60
—Newfoundland	75	Maine	65	South Dakota	65
—Northwest Terr	71	Maryland	63	Tennessee	60
—Nova Scotia	70	Massachusetts	63	Texas	60
—Ontario	67	Michigan	64	Utah	63
—Pr. Edward Isl	71	Minnesota	64	Vermont	62
—Quebec	69	Mississippi	58	Virginia	63
—Saskatchewan	68	Missouri	61	Washington	64
—Yukon	66	Montana	65	West Virginia	65
Colorado	62	Nebraska	63	Wisconsin	65
Connecticut	64	Nevada	56	Wyoming	64
		New Hampshire	62		

Between CHINA and

Alabama	77	Delaware	77	New Jersey	81
Alaska	53	District of Columbia	77	New Mexico	72
Arizona	73	Florida	80	New York	81
Arkansas	77	Georgia	79	North Carolina	81
California	69	Idaho	76	North Dakota	79

State	Days	State	Days	State	Days
Canada		Illinois	79	Ohio	78
—Alberta	83	Indiana	79	Oklahoma	78
—British Columbia	76	Iowa	80	Oregon	71
—Labrador	97	Kansas	79	Pennsylvania	80
—Manitoba	82	Kentucky	80	Rhode Island	81
—New Brunswick	85	Louisiana	77	South Carolina	77
—Newfoundland	92	Maine	82	South Dakota	80
—Northwest Terr	63	Maryland	79	Tennessee	77
—Nova Scotia	87	Massachusetts	80	Texas	77
—Ontario	82	Michigan	79	Utah	73
—Pr. Edward Isl	88	Minnesota	79	Vermont	82
—Quebec	86	Mississippi	79	Virginia	79
—Saskatchewan	81	Missouri	80	Washington	71
—Yukon	58	Montana	78	West Virginia	81
Colorado	76	Nebraska	79	Wisconsin	78
Connecticut	81	Nevada	71	Wyoming	76
		New Hampshire	82		

Between COLOMBIA and

Alabama	52	Delaware	61	New Jersey	64
Alaska	61	District of Columbia	61	New Mexico	59
Arizona	59	Florida	57	New York	64
Arkansas	58	Georgia	57	North Carolina	60
California	64	Idaho	64	North Dakota	64
Canada		Illinois	63	Ohio	62
—Alberta	69	Indiana	62	Oklahoma	60
—British Columbia	69	Iowa	60	Oregon	63
—Labrador	79	Kansas	61	Pennsylvania	63
—Manitoba	67	Kentucky	61	Rhode Island	64
—New Brunswick	67	Louisiana	56	South Carolina	58
—Newfoundland	74	Maine	64	South Dakota	64
—Northwest Terr	71	Maryland	61	Tennessee	58
—Nova Scotia	69	Massachusetts	61	Texas	60
—Ontario	67	Michigan	64	Utah	62
—Pr. Edward Isl	70	Minnesota	64	Vermont	64
—Quebec	69	Mississippi	58	Virginia	61
—Saskatchewan	67	Missouri	60	Washington	64
—Yukon	66	Montana	64	West Virginia	61
Colorado	62	Nebraska	62	Wisconsin	63
Connecticut	64	Nevada	61	Wyoming	64
		New Hampshire	64		

Between COSTA RICA and

Alabama	47	Delaware	56	New Jersey	57
Alaska	55	District of Columbia	56	New Mexico	54
Arizona	53	Florida	53	New York	57
Arkansas	52	Georgia	53	North Carolina	56
California	54	Idaho	57	North Dakota	59
Canada		Illinois	57	Ohio	56
—Alberta	64	Indiana	56	Oklahoma	55
—British Columbia	67	Iowa	54	Oregon	61
—Labrador	73	Kansas	56	Pennsylvania	55
—Manitoba	62	Kentucky	56	Rhode Island	57
—New Brunswick	61	Louisiana	48	South Carolina	53
—Newfoundland	68	Maine	58	South Dakota	59
—Northwest Terr	65	Maryland	56	Tennessee	52
—Nova Scotia	63	Massachusetts	56	Texas	52
—Ontario	64	Michigan	61	Utah	57
—Pr. Edward Isl	64	Minnesota	61	Vermont	60
—Quebec	62	Mississippi	49	Virginia	56
—Saskatchewan	62	Missouri	54	Washington	62
—Yukon	60	Montana	59	West Virginia	56
Colorado	54	Nebraska	57	Wisconsin	58
Connecticut	57	Nevada	55	Wyoming	59
		New Hampshire	60		

Between CROATIA and

Alabama	60	Delaware	56	New Jersey	58
Alaska	60	District of Columbia	56	New Mexico	63
Arizona	64	Florida	55	New York	58
Arkansas	55	Georgia	53	North Carolina	56

State	Days	State	Days	State	Days
California	62	Idaho	68	North Dakota	68
Canada		Illinois	59	Ohio	57
—Alberta	73	Indiana	58	Oklahoma	62
—British Columbia	69	Iowa	66	Oregon	69
—Labrador	74	Kansas	63	Pennsylvania	57
—Manitoba	71	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	59	South Carolina	53
—Newfoundland	69	Maine	59	South Dakota	68
—Northwest Terr	70	Maryland	56	Tennessee	55
—Nova Scotia	64	Massachusetts	56	Texas	62
—Ontario	65	Michigan	62	Utah	65
—Pr. Edward Isl	65	Minnesota	68	Vermont	59
—Quebec	63	Mississippi	60	Virginia	57
—Saskatchewan	71	Missouri	62	Washington	64
—Yukon	65	Montana	68	West Virginia	56
Colorado	63	Nebraska	65	Wisconsin	60
Connecticut	58	Nevada	66	Wyoming	68
		New Hampshire	59		

Between CUBA and

Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		

Between CYPRUS and

Alabama	73	Delaware	76	New Jersey	78
Alaska	79	District of Columbia	76	New Mexico	81
Arizona	81	Florida	75	New York	78
Arkansas	75	Georgia	73	North Carolina	76
California	82	Idaho	86	North Dakota	84
Canada		Illinois	79	Ohio	77
—Alberta	91	Indiana	78	Oklahoma	79
—British Columbia	91	Iowa	80	Oregon	86
—Labrador	94	Kansas	79	Pennsylvania	77
—Manitoba	87	Kentucky	78	Rhode Island	78
—New Brunswick	82	Louisiana	76	South Carolina	73
—Newfoundland	89	Maine	79	South Dakota	84
—Northwest Terr	89	Maryland	76	Tennessee	75
—Nova Scotia	84	Massachusetts	76	Texas	79
—Ontario	85	Michigan	82	Utah	85
—Pr. Edward Isl	85	Minnesota	82	Vermont	79
—Quebec	83	Mississippi	75	Virginia	77
—Saskatchewan	89	Missouri	82	Washington	86
—Yukon	84	Montana	86	West Virginia	76
Colorado	81	Nebraska	83	Wisconsin	80
Connecticut	78	Nevada	86	Wyoming	85
		New Hampshire	79		

Between CZECHOSLOVAKIA and

Alabama	65	Delaware	59	New Jersey	61
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	61

State	Days	State	Days	State	Days
Arkansas	62	Georgia	60	North Carolina	60
California	66	Idaho	68	North Dakota	72
Canada		Illinois	62	Ohio	60
—Alberta	77	Indiana	61	Oklahoma	66
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	77	Kansas	67	Pennsylvania	60
—Manitoba	75	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	64	South Carolina	60
—Newfoundland	72	Maine	62	South Dakota	72
—Northwest Terr	74	Maryland	59	Tennessee	62
—Nova Scotia	67	Massachusetts	59	Texas	66
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	68	Minnesota	65	Vermont	62
—Quebec	66	Mississippi	65	Virginia	60
—Saskatchewan	75	Missouri	67	Washington	66
—Yukon	69	Montana	72	West Virginia	59
Colorado	67	Nebraska	69	Wisconsin	63
Connecticut	61	Nevada	66	Wyoming	72
		New Hampshire	62		

Between DENMARK and

Alabama	61	Delaware	55	New Jersey	58
Alaska	60	District of Columbia	55	New Mexico	64
Arizona	64	Florida	57	New York	58
Arkansas	61	Georgia	58	North Carolina	58
California	65	Idaho	64	North Dakota	65
Canada		Illinois	59	Ohio	59
—Alberta	71	Indiana	59	Oklahoma	63
—British Columbia	70	Iowa	64	Oregon	65
—Labrador	75	Kansas	62	Pennsylvania	57
—Manitoba	68	Kentucky	60	Rhode Island	58
—New Brunswick	63	Louisiana	61	South Carolina	58
—Newfoundland	70	Maine	60	South Dakota	65
—Northwest Terr	70	Maryland	55	Tennessee	61
—Nova Scotia	65	Massachusetts	55	Texas	63
—Ontario	63	Michigan	60	Utah	66
—Pr. Edward Isl	66	Minnesota	61	Vermont	59
—Quebec	63	Mississippi	61	Virginia	56
—Saskatchewan	69	Missouri	63	Washington	65
—Yukon	65	Montana	66	West Virginia	58
Colorado	63	Nebraska	63	Wisconsin	61
Connecticut	58	Nevada	64	Wyoming	67
		New Hampshire	59		

Between DJIBOUTI and

Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		

Between DOMINICAN REPUBLIC and

Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47

State	Days	State	Days	State	Days
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		

Between EGYPT and

Alabama	61	Delaware	60	New Jersey	61
Alaska	65	District of Columbia	60	New Mexico	67
Arizona	69	Florida	62	New York	61
Arkansas	65	Georgia	61	North Carolina	63
California	72	Idaho	69	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	76	Indiana	69	Oklahoma	66
—British Columbia	73	Iowa	70	Oregon	69
Labrador	86	Kansas	70	Pennsylvania	61
Manitoba	70	Kentucky	68	Rhode Island	61
New Brunswick	74	Louisiana	63	South Carolina	63
Newfoundland	81	Maine	71	South Dakota	67
Northwest Terr	75	Maryland	62	Tennessee	65
Nova Scotia	76	Massachusetts	68	Texas	62
Ontario	70	Michigan	67	Utah	69
Pr. Edward Isl.	77	Minnesota	68	Vermont	66
Quebec	66	Mississippi	63	Virginia	59
Saskatchewan	74	Missouri	68	Washington	68
Yukon	70	Montana	71	West Virginia	65
Colorado	68	Nebraska	66	Wisconsin	69
Connecticut	61	Nevada	68	Wyoming	67
		New Hampshire	66		

Between EL SALVADOR and

Alabama	48	Delaware	58	New Jersey	59
Alaska	57	District of Columbia	58	New Mexico	55
Arizona	55	Florida	55	New York	59
Arkansas	53	Georgia	55	North Carolina	57
California	56	Idaho	61	North Dakota	61
Canada		Illinois	58	Ohio	57
—Alberta	66	Indiana	57	Oklahoma	56
—British Columbia	63	Iowa	56	Oregon	63
—Labrador	74	Kansas	57	Pennsylvania	59
—Manitoba	64	Kentucky	58	Rhode Island	59
—New Brunswick	62	Louisiana	50	South Carolina	55
—Newfoundland	69	Maine	59	South Dakota	61
—Northwest Terr	67	Maryland	58	Tennessee	53
—Nova Scotia	64	Massachusetts	58	Texas	53
—Ontario	65	Michigan	62	Utah	58
—Pr. Edward Isl	65	Minnesota	62	Vermont	60
—Quebec	64	Mississippi	53	Virginia	57
—Saskatchewan	64	Missouri	54	Washington	58
—Yukon	62	Montana	61	West Virginia	57
Colorado	56	Nebraska	59	Wisconsin	60
Connecticut	59	Nevada	56	Wyoming	60
		New Hampshire	60		

Between ENGLAND and

Alabama	61	Delaware	57	New Jersey	59

State	Days	State	Days	State	Days
Alaska	61	District of Columbia	57	New Mexico	63
Arizona	64	Florida	57	New York	59
Arkansas	63	Georgia	55	North Carolina	59
California	70	Idaho	68	North Dakota	68
Canada		Illinois	60	Ohio	58
—Alberta	83	Indiana	59	Oklahoma	62
—British Columbia	75	Iowa	67	Oregon	71
—Labrador	75	Kansas	63	Pennsylvania	58
—Manitoba	71	Kentucky	59	Rhode Island	59
—New Brunswick	63	Louisiana	60	South Carolina	54
—Newfoundland	70	Maine	60	South Dakota	68
—Northwest Terr	71	Maryland	57	Tennessee	61
—Nova Scotia	65	Massachusetts	57	Texas	62
—Ontario	66	Michigan	63	Utah	65
—Pr. Edward Isl.	66	Minnesota	63	Vermont	60
—Quebec	64	Mississippi	61	Virginia	58
—Saskatchewan	81	Missouri	63	Washington	70
—Yukon	66	Montana	78	West Virginia	57
Colorado	63	Nebraska	65	Wisconsin	61
Connecticut	59	Nevada	71	Wyoming	68
		New Hampshire	60		

Between EQUADOR and

Alabama	51	Delaware	61	New Jersey	61
Alaska	59	District of Columbia	61	New Mexico	57
Arizona	56	Florida	52	New York	61
Arkansas	57	Georgia	55	North Carolina	57
California	58	Idaho	63	North Dakota	63
Canada		Illinois	62	Ohio	51
—Alberta	68	Indiana	61	Oklahoma	57
—British Columbia	70	Iowa	58	Oregon	66
—Labrador	77	Kansas	61	Pennsylvania	61
—Manitoba	66	Kentucky	57	Rhode Island	61
—New Brunswick	65	Louisiana	54	South Carolina	55
—Newfoundland	72	Maine	62	South Dakota	63
—Northwest Terr	69	Maryland	61	Tennessee	56
—Nova Scotia	67	Massachusetts	61	Texas	57
—Ontario	66	Michigan	63	Utah	60
—Pr. Edward Isl	68	Minnesota	63	Vermont	62
—Quebec	66	Mississippi	56	Virginia	60
—Saskatchewan	66	Missouri	57	Washington	65
—Yukon	64	Montana	63	West Virginia	61
Colorado	57	Nebraska	61	Wisconsin	63
Connecticut	61	Nevada	59	Wyoming	63
		New Hampshire	62		

Between ETHIOPIA and

Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		

Between FIJI and

Alabama	73	Delaware	74	New Jersey	78

State	Days	State	Days	State	Days
Alaska	49	District of Columbia	73	New Mexico	73
Arizona	69	Florida	78	New York	78
Arkansas	77	Georgia	75	North Carolina	77
California	57	Idaho	70	North Dakota	76
Canada		Illinois	76	Ohio	75
—Alberta	75	Indiana	75	Oklahoma	75
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	93	Kansas	75	Pennsylvania	77
—Manitoba	79	Kentucky	75	Rhode Island	78
—New Brunswick	81	Louisiana	73	South Carolina	76
—Newfoundland	88	Maine	78	South Dakota	76
—Northwest Terr	59	Maryland	73	Tennessee	77
—Nova Scotia	83	Massachusetts	74	Texas	76
—Ontario	79	Michigan	76	Utah	72
—Pr. Edward Isl	84	Minnesota	77	Vermont	78
—Quebec	83	Mississippi	75	Virginia	75
—Saskatchewan	73	Missouri	76	Washington	66
—Yukon	54	Montana	70	West Virginia	77
Colorado	71	Nebraska	77	Wisconsin	77
Connecticut	78	Nevada	70	Wyoming	75
		New Hampshire	78		

Between FINLAND and

Alabama	61	Delaware	55	New Jersey	58
Alaska	60	District of Columbia	55	New Mexico	64
Arizona	64	Florida	57	New York	58
Arkansas	61	Georgia	58	North Carolina	58
California	65	Idaho	64	North Dakota	65
Canada		Illinois	59	Ohio	59
—Alberta	71	Indiana	59	Oklahoma	63
—British Columbia	70	Iowa	64	Oregon	65
—Labrador	75	Kansas	62	Pennsylvania	57
—Manitoba	68	Kentucky	60	Rhode Island	58
—New Brunswick	63	Louisiana	61	South Carolina	58
—Newfoundland	70	Maine	60	South Dakota	65
—Northwest Terr	70	Maryland	55	Tennessee	61
—Nova Scotia	65	Massachusetts	55	Texas	63
—Ontario	63	Michigan	60	Utah	66
—Pr. Edward Isl	66	Minnesota	61	Vermont	59
—Quebec	63	Mississippi	61	Virginia	56
—Saskatchewan	69	Missouri	63	Washington	65
—Yukon	65	Montana	66	West Virginia	58
Colorado	63	Nebraska	63	Wisconsin	61
Connecticut	58	Nevada	64	Wyoming	67
		New Hampshire	59		

Between FRANCE and

Alabama	62	Delaware	56	New Jersey	58
Alaska	61	District of Columbia	56	New Mexico	64
Arizona	65	Florida	58	New York	58
Arkansas	58	Georgia	57	North Carolina	57
California	63	Idaho	65	North Dakota	69
Canada		Illinois	59	Ohio	57
—Alberta	74	Indiana	58	Oklahoma	63
—British Columbia	68	Iowa	67	Oregon	66
—Labrador	74	Kansas	64	Pennsylvania	57
—Manitoba	72	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	61	South Carolina	57
—Newfoundland	69	Maine	59	South Dakota	69
—Northwest Terr.	71	Maryland	56	Tennessee	58
—Nova Scotia	64	Massachusetts	56	Texas	63
—Ontario	65	Michigan	62	Utah	66
—Pr. Edward Isl.	65	Minnesota	62	Vermont	59
—Quebec	63	Mississippi	62	Virginia	57
—Saskatchewan	72	Missouri	64	Washington	63
—Yukon	66	Montana	69	West Virginia	56
Colorado	64	Nebraska	66	Wisconsin	60
Connecticut	58	Nevada	63	Wyoming	69
		New Hampshire	59		

Between GABON and

Alabama	64	Delaware	61	New Jersey	69

State	Days	State	Days	State	Days
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between GERMANY and

Alabama	65	Delaware	59	New Jersey	61
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	61
Arkansas	62	Georgia	60	North Carolina	60
California	66	Idaho	68	North Dakota	72
Canada		Illinois	62	Ohio	60
—Alberta	77	Indiana	61	Oklahoma	66
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	77	Kansas	67	Pennsylvania	60
—Manitoba	75	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	64	South Carolina	60
—Newfoundland	72	Maine	62	South Dakota	72
—Northwest Terr	74	Maryland	59	Tennessee	62
—Nova Scotia	67	Massachusetts	59	Texas	66
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	68	Minnesota	65	Vermont	62
—Quebec	66	Mississippi	65	Virginia	60
—Saskatchewan	75	Missouri	67	Washington	66
—Yukon	69	Montana	72	West Virginia	59
Colorado	67	Nebraska	69	Wisconsin	63
Connecticut	61	Nevada	66	Wyoming	72
		New Hampshire	62		

Between GHANA and

Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between GREECE and

Alabama	68	Delaware	66	New Jersey	68

State	Days	State	Days	State	Days
Alaska	69	District of Columbia	66	New Mexico	70
Arizona	72	Florida	67	New York	68
Arkansas	68	Georgia	67	North Carolina	68
California	73	Idaho	72	North Dakota	74
Canada		Illinois	69	Ohio	67
—Alberta	80	Indiana	68	Oklahoma	71
—British Columbia	78	Iowa	72	Oregon	74
—Labrador	85	Kansas	70	Pennsylvania	69
—Manitoba	77	Kentucky	66	Rhode Island	68
—New Brunswick	73	Louisiana	69	South Carolina	64
—Newfoundland	80	Maine	70	South Dakota	74
—Northwest Terr	79	Maryland	66	Tennessee	68
—Nova Scotia	75	Massachusetts	67	Texas	71
—Ontario	74	Michigan	71	Utah	75
—Pr. Edward Isl	76	Minnesota	72	Vermont	69
—Quebec	73	Mississippi	68	Virginia	67
—Saskatchewan	78	Missouri	71	Washington	73
—Yukon	74	Montana	75	West Virginia	66
Colorado	71	Nebraska	72	Wisconsin	69
Connecticut	68	Nevada	74	Wyoming	75
		New Hampshire	69		

Between GUADELOUPE and

Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—North West Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		

Between GUAM and

Alabama	57	Delaware	56	New Jersey	56
Alaska	52	District of Columbia	56	New Mexico	52
Arizona	52	Florida	58	New York	56
Arkansas	57	Georgia	58	North Carolina	58
California	50	Idaho	56	North Dakota	56
Canada		Illinois	58	Ohio	58
—Alberta	61	Indiana	58	Oklahoma	57
—British Columbia	56	Iowa	59	Oregon	51
—Labrador	74	Kansas	59	Pennsylvania	56
—Manitoba	59	Kentucky	58	Rhode Island	56
—New Brunswick	62	Louisiana	57	South Carolina	58
—Newfoundland	69	Maine	59	South Dakota	56
—Northwest Terr	62	Maryland	56	Tennessee	57
—Nova Scotia	64	Massachusetts	56	Texas	57
—Ontario	64	Michigan	61	Utah	52
—Pr. Edward Isl	65	Minnesota	61	Vermont	59
—Quebec	61	Mississippi	57	Virginia	56
—Saskatchewan	59	Missouri	59	Washington	51
—Yukon	57	Montana	56	West Virginia	56
Colorado	53	Nebraska	59	Wisconsin	61
Connecticut	56	Nevada	52	Wyoming	56
		New Hampshire	59		

Between GUATEMALA and

Alabama	48	Delaware	58	New Jersey	59

State	Days	State	Days	State	Days
Alaska	57	District of Columbia	58	New Mexico	55
Arizona	55	Florida	55	New York	59
Arkansas	53	Georgia	55	North Carolina	57
California	56	Idaho	61	North Dakota	61
Canada		Illinois	58	Ohio	57
—Alberta	66	Indiana	57	Oklahoma	56
—British Columbia	63	Iowa	56	Oregon	63
—Labrador	74	Kansas	57	Pennsylvania	59
—Manitoba	64	Kentucky	58	Rhode Island	59
—New Brunswick	62	Louisiana	50	South Carolina	55
—Newfoundland	69	Maine	59	South Dakota	61
—Northwest Terr	67	Maryland	58	Tennessee	53
—Nova Scotia	64	Massachusetts	58	Texas	53
—Ontario	65	Michigan	62	Utah	58
—Pr. Edward Isl	65	Minnesota	62	Vermont	60
—Quebec	64	Mississippi	53	Virginia	57
—Saskatchewan	64	Missouri	54	Washington	58
—Yukon	62	Montana	61	West Virginia	57
Colorado	56	Nebraska	59	Wisconsin	60
Connecticut	59	Nevada	56	Wyoming	60
		New Hampshire	60		

Between GUINEA and

Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—North West Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between GUYANA and

Alabama	52	Delaware	61	New Jersey	64
Alaska	61	District of Columbia	61	New Mexico	59
Arizona	59	Florida	57	New York	64
Arkansas	58	Georgia	57	North Carolina	60
California	64	Idaho	64	North Dakota	64
Canada		Illinois	63	Ohio	62
—Alberta	69	Indiana	62	Oklahoma	60
—British Columbia	69	Iowa	60	Oregon	63
—Labrador	79	Kansas	61	Pennsylvania	63
—Manitoba	67	Kentucky	61	Rhode Island	64
—New Brunswick	67	Louisiana	56	South Carolina	58
—Newfoundland	74	Maine	64	South Dakota	64
—Northwest Terr	71	Maryland	61	Tennessee	58
—Nova Scotia	69	Massachusetts	61	Texas	60
—Ontario	67	Michigan	64	Utah	62
—Pr. Edward Isl	70	Minnesota	64	Vermont	64
—Quebec	69	Mississippi	58	Virginia	61
—Saskatchewan	67	Missouri	60	Washington	64
—Yukon	66	Montana	64	West Virginia	61
Colorado	62	Nebraska	62	Wisconsin	63
Connecticut	64	Nevada	61	Wyoming	64
		New Hampshire	64		

Between HAITI and

Alabama	44	Delaware	45	New Jersey	48

State	Days	State	Days	State	Days
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		

Between HAWAII and

Alabama	49	Delaware	50	New Jersey	50
Alaska	49	District of Columbia	50	New Mexico	36
Arizona	36	Florida	58	New York	50
Arkansas	49	Georgia	51	North Carolina	51
California	34	Idaho	40	North Dakota	40
Canada		Illinois	52	Ohio	52
—Alberta	45	Indiana	52	Oklahoma	41
—British Columbia	41	Iowa	41	Oregon	36
—Labrador	68	Kansas	41	Pennsylvania	50
—Manitoba	43	Kentucky	52	Rhode Island	50
—New Brunswick	56	Louisiana	49	South Carolina	51
—Newfoundland	63	Maine	53	South Dakota	40
—Northwest Terr	59	Maryland	50	Tennessee	49
—Nova Scotia	58	Massachusetts	50	Texas	41
—Ontario	49	Michigan	46	Utah	36
—Pr. Edward Isl	59	Minnesota	46	Vermont	53
—Quebec	55	Mississippi	49	Virginia	50
—Saskatchewan	43	Missouri	41	Washington	36
—Yukon	54	Montana	40	West Virginia	50
Colorado	37	Nebraska	41	Wisconsin	46
Connecticut	50	Nevada	36	Wyoming	40
		New Hampshire	53		

Between HONDURAS and

Alabama	48	Delaware	58	New Jersey	59
Alaska	57	District of Columbia	58	New Mexico	55
Arizona	55	Florida	55	New York	59
Arkansas	53	Georgia	55	North Carolina	57
California	56	Idaho	61	North Dakota	61
Canada		Illinois	58	Ohio	57
—Alberta	66	Indiana	57	Oklahoma	56
—British Columbia	63	Iowa	56	Oregon	63
—Labrador	74	Kansas	57	Pennsylvania	59
—Manitoba	64	Kentucky	58	Rhode Island	59
—New Brunswick	62	Louisiana	50	South Carolina	55
—Newfoundland	69	Maine	59	South Dakota	61
—Northwest Terr	67	Maryland	58	Tennessee	53
—Nova Scotia	64	Massachusetts	58	Texas	53
—Ontario	65	Michigan	62	Utah	58
—Pr. Edward Isl	65	Minnesota	62	Vermont	60
—Quebec	64	Mississippi	53	Virginia	57
—Saskatchewan	64	Missouri	54	Washington	58
—Yukon	62	Montana	61	West Virginia	57
Colorado	56	Nebraska	59	Wisconsin	60
Connecticut	59	Nevada	56	Wyoming	60
		New Hampshire	60		

Between HONG KONG and

Alabama	65	Delaware	66	New Jersey	68

State	Days	State	Days	State	Days
Alaska	41	District of Columbia	64	New Mexico	61
Arizona	60	Florida	69	New York	68
Arkansas	68	Georgia	66	North Carolina	66
California	59	Idaho	64	North Dakota	63
Canada		Illinois	67	Ohio	66
—Alberta	69	Indiana	67	Oklahoma	65
—British Columbia	64	Iowa	64	Oregon	62
—Labrador	84	Kansas	67	Pennsylvania	69
—Manitoba	66	Kentucky	68	Rhode Island	68
—New Brunswick	72	Louisiana	65	South Carolina	69
—Newfoundland	79	Maine	69	South Dakota	65
—Northwest Terr	51	Maryland	64	Tennessee	68
—Nova Scotia	74	Massachusetts	68	Texas	67
—Ontario	72	Michigan	69	Utah	63
—Pr. Edward Isl	75	Minnesota	68	Vermont	70
—Quebec	73	Mississippi	67	Virginia	64
—Saskatchewan	67	Missouri	65	Washington	59
—Yukon	46	Montana	64	West Virginia	67
Colorado	63	Nebraska	67	Wisconsin	68
Connecticut	68	Nevada	59	Wyoming	66
		New Hampshire	70		

Between HUNGARY and

Alabama	60	Delaware	56	New Jersey	58
Alaska	60	District of Columbia	56	New Mexico	63
Arizona	64	Florida	55	New York	58
Arkansas	55	Georgia	53	North Carolina	56
California	62	Idaho	68	North Dakota	68
Canada		Illinois	59	Ohio	57
—Alberta	73	Indiana	58	Oklahoma	62
—British Columbia	69	Iowa	66	Oregon	69
—Labrador	74	Kansas	63	Pennsylvania	57
—Manitoba	71	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	59	South Carolina	53
—Newfoundland	69	Maine	59	South Dakota	68
—Northwest Terr	70	Maryland	56	Tennessee	55
—Nova Scotia	64	Massachusetts	56	Texas	62
—Ontario	65	Michigan	62	Utah	65
—Pr. Edward Isl	65	Minnesota	68	Vermont	59
—Quebec	63	Mississippi	60	Virginia	57
—Saskatchewan	71	Missouri	62	Washington	64
—Yukon	65	Montana	68	West Virginia	56
Colorado	63	Nebraska	65	Wisconsin	60
Connecticut	58	Nevada	66	Wyoming	68
		New Hampshire	59		

Between ICELAND and

Alabama	55	Delaware	52	New Jersey	53
Alaska	61	District of Columbia	52	New Mexico	60
Arizona	61	Florida	55	New York	54
Arkansas	58	Georgia	54	North Carolina	53
California	62	Idaho	62	North Dakota	60
Canada		Illinois	56	Ohio	54
—Alberta	83	Indiana	55	Oklahoma	59
—British Columbia	75	Iowa	58	Oregon	63
—Labrador	75	Kansas	59	Pennsylvania	53
—Manitoba	71	Kentucky	54	Rhode Island	53
—New Brunswick	63	Louisiana	56	South Carolina	53
—Newfoundland	70	Maine	55	South Dakota	60
—Northwest Terr	71	Maryland	52	Tennessee	55
—Nova Scotia	65	Massachusetts	53	Texas	59
—Ontario	66	Michigan	55	Utah	61
—Pr. Edward Isl	66	Minnesota	59	Vermont	55
—Quebec	64	Mississippi	56	Virginia	52
—Saskatchewan	81	Missouri	57	Washington	62
—Yukon	66	Montana	62	West Virginia	52
Colorado	61	Nebraska	59	Wisconsin	55
Connecticut	54	Nevada	62	Wyoming	61
		New Hampshire	54		

Between INDIA and

Alabama	75	Delaware	75	New Jersey	77

State	Days	State	Days	State	Days
Alaska	51	District of Columbia	74	New Mexico	74
Arizona	72	Florida	77	New York	77
Arkansas	76	Georgia	77	North Carolina	76
California	70	Idaho	74	North Dakota	77
Canada		Illinois	77	Ohio	78
—Alberta	80	Indiana	77	Oklahoma	76
—British Columbia	76	Iowa	80	Oregon	74
—Labrador	95	Kansas	77	Pennsylvania	77
—Manitoba	80	Kentucky	78	Rhode Island	77
—New Brunswick	83	Louisiana	74	South Carolina	77
—Newfoundland	90	Maine	80	South Dakota	77
—Northwest Terr	61	Maryland	76	Tennessee	76
—Nova Scotia	85	Massachusetts	77	Texas	75
—Ontario	83	Michigan	80	Utah	74
—Pr. Edward Isl	86	Minnesota	81	Vermont	79
—Quebec	82	Mississippi	78	Virginia	76
—Saskatchewan	78	Missouri	78	Washington	71
—Yukon	56	Montana	75	West Virginia	76
Colorado	74	Nebraska	78	Wisconsin	78
Connecticut	77	Nevada	72	Wyoming	76
		New Hampshire	79		

Between INDONESIA and

Alabama	73	Delaware	74	New Jersey	78
Alaska	49	District of Columbia	73	New Mexico	73
Arizona	69	Florida	78	New York	78
Arkansas	77	Georgia	75	North Carolina	77
California	57	Idaho	70	North Dakota	76
Canada		Illinois	76	Ohio	75
—Alberta	75	Indiana	75	Oklahoma	75
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	93	Kansas	75	Pennsylvania	77
—Manitoba	79	Kentucky	75	Rhode Island	78
—New Brunswick	81	Louisiana	73	South Carolina	76
—Newfoundland	88	Maine	78	South Dakota	76
—Northwest Terr	59	Maryland	73	Tennessee	77
—Nova Scotia	83	Massachusetts	74	Texas	76
—Ontario	79	Michigan	76	Utah	72
—Pr. Edward Isl	84	Minnesota	77	Vermont	78
—Quebec	83	Mississippi	75	Virginia	75
—Saskatchewan	73	Missouri	76	Washington	66
—Yukon	54	Montana	70	West Virginia	77
Colorado	71	Nebraska	77	Wisconsin	77
Connecticut	78	Nevada	70	Wyoming	75
		New Hampshire	78		

Between IRELAND and

Alabama	61	Delaware	57	New Jersey	59
Alaska	61	District of Columbia	57	New Mexico	63
Arizona	64	Florida	57	New York	59
Arkansas	61	Georgia	55	North Carolina	59
California	70	Idaho	68	North Dakota	68
Canada		Illinois	60	Ohio	58
—Alberta	83	Indiana	59	Oklahoma	62
—British Columbia	75	Iowa	67	Oregon	71
—Labrador	75	Kansas	63	Pennsylvania	58
—Manitoba	71	Kentucky	59	Rhode Island	59
—New Brunswick	63	Louisiana	60	South Carolina	54
—Newfoundland	70	Maine	60	South Dakota	68
—Northwest Terr	71	Maryland	57	Tennessee	61
—Nova Scotia	65	Massachusetts	57	Texas	62
—Ontario	66	Michigan	63	Utah	65
—Pr. Edward Isl	66	Minnesota	63	Vermont	60
—Quebec	64	Mississippi	61	Virginia	58
—Saskatchewan	81	Missouri	63	Washington	70
—Yukon	66	Montana	78	West Virginia	57
Colorado	63	Nebraska	65	Wisconsin	61
Connecticut	59	Nevada	71	Wyoming	68
		New Hampshire	60		

Between ISRAEL and

Alabama	62	Delaware	61	New Jersey	64

State	Days	State	Days	State	Days
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		

Between ITALY and

Alabama	60	Delaware	56	New Jersey	58
Alaska	60	District of Columbia	56	New Mexico	63
Arizona	64	Florida	55	New York	58
Arkansas	55	Georgia	53	North Carolina	56
California	62	Idaho	68	North Dakota	68
Canada		Illinois	59	Ohio	57
—Alberta	73	Indiana	58	Oklahoma	62
—British Columbia	69	Iowa	66	Oregon	69
—Labrador	74	Kansas	63	Pennsylvania	57
—Manitoba	71	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	59	South Carolina	53
—Newfoundland	69	Maine	59	South Dakota	68
—Northwest Terr	70	Maryland	56	Tennessee	55
—Nova Scotia	64	Massachusetts	56	Texas	62
—Ontario	65	Michigan	62	Utah	65
—Pr. Edward Isl	65	Minnesota	68	Vermont	59
—Quebec	63	Mississippi	60	Virginia	57
—Saskatchewan	71	Missouri	62	Washington	64
—Yukon	65	Montana	68	West Virginia	56
Colorado	63	Nebraska	65	Wisconsin	60
Connecticut	58	Nevada	66	Wyoming	68
		New Hampshire	59		

Between IVORY COAST and

Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between JAMAICA and

Alabama	44	Delaware	45	New Jersey	48

State	Days	State	Days	State	Days
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		

Between JAPAN and

Alabama	64	Delaware	63	New Jersey	63
Alaska	48	District of Columbia	63	New Mexico	65
Arizona	61	Florida	65	New York	65
Arkansas	66	Georgia	66	North Carolina	68
California	59	Idaho	57	North Dakota	62
Canada		Illinois	66	Ohio	64
—Alberta	78	Indiana	65	Oklahoma	64
—British Columbia	70	Iowa	68	Oregon	56
—Labrador	95	Kansas	65	Pennsylvania	64
—Manitoba	82	Kentucky	67	Rhode Island	63
—New Brunswick	83	Louisiana	63	South Carolina	66
—Newfoundland	90	Maine	66	South Dakota	68
—Northwest Terr	62	Maryland	63	Tennessee	70
—Nova Scotia	85	Massachusetts	63	Texas	63
—Ontario	86	Michigan	69	Utah	62
—Pr. Edward Isl	86	Minnesota	68	Vermont	66
—Quebec	84	Mississippi	64	Virginia	64
—Saskatchewan	76	Missouri	66	Washington	55
—Yukon	57	Montana	63	West Virginia	63
Colorado	65	Nebraska	67	Wisconsin	67
Connecticut	63	Nevada	61	Wyoming	66
		New Hampshire	66		

Between JORDAN and

Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		

Between KAZAKSTAN and

Alabama	73	Delaware	76	New Jersey	78

State	Days	State	Days	State	Days
Alaska	79	District of Columbia	76	New Mexico	81
Arizona	81	Florida	75	New York	78
Arkansas	75	Georgia	73	North Carolina	76
California	82	Idaho	86	North Dakota	84
Canada		Illinois	79	Ohio	77
—Alberta	91	Indiana	78	Oklahoma	79
—British Columbia	91	Iowa	80	Oregon	86
—Labrador	94	Kansas	79	Pennsylvania	77
—Manitoba	87	Kentucky	78	Rhode Island	78
—New Brunswick	82	Louisiana	76	South Carolina	73
—Newfoundland	89	Maine	79	South Dakota	84
—Northwest Terr	89	Maryland	76	Tennessee	75
—Nova Scotia	84	Massachusetts	76	Texas	79
—Ontario	85	Michigan	82	Utah	85
—Pr. Edward Isl	85	Minnesota	82	Vermont	79
—Quebec	83	Mississippi	75	Virginia	77
—Saskatchewan	89	Missouri	82	Washington	86
—Yukon	84	Montana	86	West Virginia	76
Colorado	81	Nebraska	83	Wisconsin	80
Connecticut	78	Nevada	86	Wyoming	85
		New Hampshire	79		

Between KENYA and

Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69

Between KOREA and

Alabama	68	Delaware	67	New Jersey	64
Alaska	50	District of Columbia	67	New Mexico	69
Arizona	62	Florida	70	New York	69
Arkansas	70	Georgia	70	North Carolina	72
California	62	Idaho	62	North Dakota	69
Canada		Illinois	70	Ohio	68
—Alberta	79	Indiana	69	Oklahoma	68
—British Columbia	71	Iowa	72	Oregon	61
—Labrador	95	Kansas	69	Pennsylvania	68
—Manitoba	83	Kentucky	69	Rhode Island	68
—New Brunswick	84	Louisiana	67	South Carolina	70
—Newfoundland	91	Maine	70	South Dakota	69
—Northwest Terr	63	Maryland	67	Tennessee	74
—Nova Scotia	86	Massachusetts	67	Texas	67
—Ontario	87	Michigan	73	Utah	63
—Pr. Edward Isl	87	Minnesota	74	Vermont	70
—Quebec	85	Mississippi	68	Virginia	68
—Saskatchewan	77	Missouri	70	Washington	60
—Yukon	58	Montana	68	West Virginia	67
Colorado	66	Nebraska	71	Wisconsin	71
Connecticut	68	Nevada	62	Wyoming	67
		New Hampshire	68		

Between KUWAIT and

Alabama	61	Delaware	60	New Jersey	62

State	Days	State	Days	State	Days
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	62
Arkansas	64	Georgia	60	North Carolina	61
California	69	Idaho	69	North Dakota	67
Canada		Illinois	65	Ohio	64
—Alberta	77	Indiana	65	Oklahoma	65
—British Columbia	73	Iowa	66	Oregon	69
—Labrador	80	Kansas	66	Pennsylvania	63
—Manitoba	70	Kentucky	63	Rhode Island	62
—New Brunswick	68	Louisiana	62	South Carolina	61
—Newfoundland	75	Maine	65	South Dakota	67
—Northwest Terr	74	Maryland	59	Tennessee	64
—Nova Scotia	70	Massachusetts	62	Texas	64
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	71	Minnesota	66	Vermont	66
—Quebec	67	Mississippi	61	Virginia	60
—Saskatchewan	75	Missouri	65	Washington	68
—Yukon	69	Montana	72	West Virginia	64
Colorado	66	Nebraska	66	Wisconsin	66
Connecticut	62	Nevada	67	Wyoming	68
		New Hampshire	66		

Between LAOS and

Alabama	73	Delaware	74	New Jersey	75
Alaska	48	District of Columbia	73	New Mexico	73
Arizona	69	Florida	75	New York	75
Arkansas	75	Georgia	75	North Carolina	76
California	68	Idaho	68	North Dakota	75
Canada		Illinois	75	Ohio	75
—Alberta	77	Indiana	75	Oklahoma	74
—British Columbia	71	Iowa	76	Oregon	70
—Labrador	91	Kansas	75	Pennsylvania	74
—Manitoba	78	Kentucky	74	Rhode Island	75
—New Brunswick	79	Louisiana	71	South Carolina	75
—Newfoundland	86	Maine	76	South Dakota	75
—Northwest Terr	58	Maryland	72	Tennessee	75
—Nova Scotia	81	Massachusetts	73	Texas	72
—Ontario	80	Michigan	77	Utah	71
—Pr. Edward Isl	82	Minnesota	78	Vermont	75
—Quebec	80	Mississippi	75	Virginia	74
—Saskatchewan	75	Missouri	76	Washington	66
—Yukon	53	Montana	72	West Virginia	72
Colorado	70	Nebraska	75	Wisconsin	76
Connecticut	75	Nevada	69	Wyoming	71
		New Hampshire	75		

Between LEBANON and

Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		

Between LITHUANIA and

Alabama	73	Delaware	76	New Jersey	78

State	Days	State	Days	State	Days
Alaska	79	District of Columbia	76	New Mexico	81
Arizona	81	Florida	75	New York	78
Arkansas	75	Georgia	73	North Carolina	76
California	82	Idaho	86	North Dakota	84
Canada		Illinois	79	Ohio	77
—Alberta	91	Indiana	78	Oklahoma	79
—British Columbia	91	Iowa	80	Oregon	86
—Labrador	94	Kansas	79	Pennsylvania	77
—Manitoba	87	Kentucky	78	Rhode Island	78
—New Brunswick	82	Louisiana	76	South Carolina	73
—Newfoundland	89	Maine	79	South Dakota	84
—Northwest Terr	89	Maryland	76	Tennessee	75
—Nova Scotia	84	Massachusetts	76	Texas	79
—Ontario	85	Michigan	82	Utah	85
—Pr. Edward Isl	85	Minnesota	82	Vermont	79
—Quebec	83	Mississippi	75	Virginia	77
—Saskatchewan	89	Missouri	82	Washington	86
—Yukon	84	Montana	86	West Virginia	76
Colorado	81	Nebraska	83	Wisconsin	80
Connecticut	78	Nevada	86	Wyoming	85
		New Hampshire	79		

Between LUXEMBOURG and

Alabama	62	Delaware	56	New Jersey	58
Alaska	61	District of Columbia	56	New Mexico	64
Arizona	65	Florida	58	New York	58
Arkansas	58	Georgia	57	North Carolina	57
California	63	Idaho	65	North Dakota	69
Canada		Illinois	59	Ohio	57
—Alberta	74	Indiana	58	Oklahoma	63
—British Columbia	68	Iowa	67	Oregon	66
—Labrador	74	Kansas	64	Pennsylvania	57
—Manitoba	72	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	61	South Carolina	57
—Newfoundland	69	Maine	59	South Dakota	69
—Northwest Terr	71	Maryland	56	Tennessee	58
—Nova Scotia	64	Massachusetts	56	Texas	63
—Ontario	65	Michigan	62	Utah	66
—Pr. Edward Isl	65	Minnesota	62	Vermont	59
—Quebec	63	Mississippi	62	Virginia	57
—Saskatchewan	72	Missouri	64	Washington	63
—Yukon	66	Montana	69	West Virginia	56
Colorado	64	Nebraska	66	Wisconsin	60
Connecticut	58	Nevada	63	Wyoming	69
		New Hampshire	59		

Between MADAGASCAR and

Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		

State	Days	State	Days	State	Days
Between MALAWI and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
Between MALAYSIA and					
Alabama	70	Delaware	71	New Jersey	73
Alaska	45	District of Columbia	71	New Mexico	69
Arizona	66	Florida	72	New York	73
Arkansas	71	Georgia	72	North Carolina	73
California	64	Idaho	66	North Dakota	72
Canada		Illinois	72	Ohio	71
—Alberta	73	Indiana	72	Oklahoma	71
—British Columbia	68	Iowa	74	Oregon	63
—Labrador	89	Kansas	72	Pennsylvania	71
—Manitoba	75	Kentucky	72	Rhode Island	73
—New Brunswick	77	Louisiana	68	South Carolina	72
—Newfoundland	84	Maine	74	South Dakota	72
—Northwest Terr	55	Maryland	70	Tennessee	71
—Nova Scotia	79	Massachusetts	72	Texas	71
—Ontario	77	Michigan	74	Utah	67
—Pr. Edward Isl	80	Minnesota	75	Vermont	72
—Quebec	78	Mississippi	72	Virginia	72
—Saskatchewan	71	Missouri	73	Washington	63
—Yukon	50	Montana	68	West Virginia	70
Colorado	68	Nebraska	73	Wisconsin	73
Connecticut	73	Nevada	66	Wyoming	71
		New Hampshire	72		
Between MALI and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

State	Days	State	Days	State	Days
Between MALTA and					
Alabama	60	Delaware	56	New Jersey	58
Alaska	60	District of Columbia	56	New Mexico	63
Arizona	64	Florida	55	New York	58
Arkansas	55	Georgia	53	North Carolina	56
California	62	Idaho	68	North Dakota	68
Canada		Illinois	59	Ohio	57
—Alberta	73	Indiana	58	Oklahoma	62
—British Columbia	69	Iowa	66	Oregon	69
—Labrador	74	Kansas	63	Pennsylvania	57
—Manitoba	71	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	59	South Carolina	53
—Newfoundland	69	Maine	59	South Dakota	68
—Northwest Terr	70	Maryland	56	Tennessee	55
—Nova Scotia	64	Massachusetts	56	Texas	62
—Ontario	65	Michigan	62	Utah	65
—Pr. Edward Isl	65	Minnesota	68	Vermont	59
—Quebec	63	Mississippi	60	Virginia	57
—Saskatchewan	71	Missouri	62	Washington	64
—Yukon	65	Montana	68	West Virginia	56
Colorado	63	Nebraska	65	Wisconsin	60
Connecticut	58	Nevada	66	Wyoming	68
		New Hampshire	59		
Between MARINAS ISLAND and					
Alabama	57	Delaware	56	New Jersey	56
Alaska	52	District of Columbia	56	New Mexico	52
Arizona	57	Florida	58	New York	56
Arkansas	57	Georgia	58	North Carolina	58
California	50	Idaho	56	North Dakota	56
Canada		Illinois	58	Ohio	58
—Alberta	61	Indiana	58	Oklahoma	57
—British Columbia	56	Iowa	59	Oregon	51
—Labrador	74	Kansas	59	Pennsylvania	56
—Manitoba	59	Kentucky	58	Rhode Island	56
—New Brunswick	62	Louisiana	57	South Carolina	58
—Newfoundland	69	Maine	59	South Dakota	56
—Northwest Terr	62	Maryland	56	Tennessee	57
—Nova Scotia	64	Massachusetts	56	Texas	57
—Ontario	64	Michigan	61	Utah	52
—Pr. Edward Isl	65	Minnesota	61	Vermont	59
—Quebec	61	Mississippi	57	Virginia	56
—Saskatchewan	59	Missouri	59	Washington	51
—Yukon	57	Montana	56	West Virginia	56
Colorado	53	Nebraska	59	Wisconsin	61
Connecticut	56	Nevada	52	Wyoming	56
		New Hampshire	59		
Between MAURITANIA and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

State	Days	State	Days	State	Days
Between MAURITIUS and					
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		
Between MEXICO and					
Alabama	46	Delaware	47	New Jersey	52
Alaska	56	District of Columbia	48	New Mexico	51
Arizona	46	Florida	43	New York	51
Arkansas	46	Georgia	44	North Carolina	47
California	51	Idaho	52	North Dakota	52
Canada		Illinois	49	Ohio	48
—Alberta	65	Indiana	48	Oklahoma	47
—British Columbia	62	Iowa	48	Oregon	50
—Labrador	73	Kansas	47	Pennsylvania	51
—Manitoba	63	Kentucky	48	Rhode Island	52
—New Brunswick	61	Louisiana	44	South Carolina	46
—Newfoundland	68	Maine	51	South Dakota	52
—Northwest Terr	66	Maryland	48	Tennessee	47
—Nova Scotia	63	Massachusetts	51	Texas	46
—Ontario	64	Michigan	50	Utah	51
—Pr. Edward Isl	64	Minnesota	52	Vermont	52
—Quebec	63	Mississippi	45	Virginia	49
—Saskatchewan	63	Missouri	47	Washington	52
—Yukon	61	Montana	50	West Virginia	50
Colorado	47	Nebraska	53	Wisconsin	51
Connecticut	51	Nevada	53	Wyoming	51
		New Hampshire	52		
Between MICRONESIA and					
Alabama	57	Delaware	56	New Jersey	56
Alaska	52	District of Columbia	56	New Mexico	52
Arizona	57	Florida	58	New York	56
Arkansas	57	Georgia	58	North Carolina	58
California	50	Idaho	56	North Dakota	56
Canada		Illinois	58	Ohio	58
—Alberta	61	Indiana	58	Oklahoma	57
—British Columbia	56	Iowa	59	Oregon	51
—Labrador	74	Kansas	59	Pennsylvania	56
—Manitoba	59	Kentucky	58	Rhode Island	56
—New Brunswick	62	Louisiana	57	South Carolina	58
—Newfoundland	69	Maine	59	South Dakota	56
—Northwest Terr	62	Maryland	56	Tennessee	57
—Nova Scotia	64	Massachusetts	56	Texas	57
—Ontario	64	Michigan	61	Utah	52
—Pr. Edward Isl	65	Minnesota	61	Vermont	59
—Quebec	61	Mississippi	57	Virginia	56
—Saskatchewan	59	Missouri	59	Washington	51
—Yukon	57	Montana	56	West Virginia	56
Colorado	53	Nebraska	59	Wisconsin	61
Connecticut	56	Nevada	52	Wyoming	56
		New Hampshire	59		

State	Days	State	Days	State	Days
Between MONACO and					
Alabama	59	Delaware	52	New Jersey	54
Alaska	58	District of Columbia	54	New Mexico	63
Arizona	62	Florida	55	New York	54
Arkansas	60	Georgia	56	North Carolina	54
California	63	Idaho	62	North Dakota	61
Canada		Illinois	58	Ohio	58
—Alberta	69	Indiana	58	Oklahoma	62
—British Columbia	69	Iowa	62	Oregon	64
—Labrador	72	Kansas	61	Pennsylvania	55
—Manitoba	64	Kentucky	58	Rhode Island	54
—New Brunswick	60	Louisiana	59	South Carolina	57
—Newfoundland	67	Maine	57	South Dakota	64
—Northwest Terr	68	Maryland	54	Tennessee	60
—Nova Scotia	62	Massachusetts	54	Texas	62
—Ontario	62	Michigan	59	Utah	63
—Pr. Edward Isl	63	Minnesota	60	Vermont	58
—Quebec	59	Mississippi	59	Virginia	56
—Saskatchewan	67	Missouri	61	Washington	64
—Yukon	63	Montana	64	West Virginia	60
Colorado	61	Nebraska	62	Wisconsin	60
Connecticut	54	Nevada	63	Wyoming	64
		New Hampshire	58		
Between MOROCCO and					
Alabama	60	Delaware	59	New Jersey	61
Alaska	62	District of Columbia	59	New Mexico	64
Arizona	65	Florida	61	New York	61
Arkansas	61	Georgia	60	North Carolina	59
California	66	Idaho	63	North Dakota	69
Canada		Illinois	62	Ohio	60
—Alberta	74	Indiana	61	Oklahoma	63
—British Columbia	72	Iowa	67	Oregon	71
—Labrador	77	Kansas	64	Pennsylvania	60
—Manitoba	72	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	59	South Carolina	59
—Newfoundland	72	Maine	62	South Dakota	69
—Northwest Terr	72	Maryland	59	Tennessee	61
—Nova Scotia	67	Massachusetts	59	Texas	63
—Ontario	68	Michigan	65	Utah	66
—Pr. Edward Isl	68	Minnesota	69	Vermont	62
—Quebec	66	Mississippi	60	Virginia	60
—Saskatchewan	72	Missouri	62	Washington	67
—Yukon	67	Montana	69	West Virginia	59
Colorado	64	Nebraska	66	Wisconsin	63
Connecticut	61	Nevada	67	Wyoming	69
		New Hampshire	62		
Between MOZAMBIQUE and					
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		

State	Days	State	Days	State	Days
Between NAMIBIA and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
Between NEPAL and					
Alabama	77	Delaware	77	New Jersey	81
Alaska	53	District of Columbia	77	New Mexico	72
Arizona	73	Florida	80	New York	81
Arkansas	77	Georgia	79	North Carolina	81
California	69	Idaho	76	North Dakota	79
Canada		Illinois	79	Ohio	78
—Alberta	83	Indiana	79	Oklahoma	78
—British Columbia	76	Iowa	80	Oregon	71
—Labrador	97	Kansas	79	Pennsylvania	80
—Manitoba	82	Kentucky	80	Rhode Island	81
—New Brunswick	85	Louisiana	77	South Carolina	77
—Newfoundland	92	Maine	82	South Dakota	80
—Northwest Terr	63	Maryland	79	Tennessee	77
—Nova Scotia	87	Massachusetts	80	Texas	77
—Ontario	82	Michigan	79	Utah	73
—Pr. Edward Isl	88	Minnesota	79	Vermont	82
—Quebec	86	Mississippi	79	Virginia	79
—Saskatchewan	81	Missouri	80	Washington	71
—Yukon	58	Montana	78	West Virginia	81
Colorado	76	Nebraska	79	Wisconsin	78
Connecticut	81	Nevada	71	Wyoming	76
		New Hampshire	82		
Between NETHERLANDS ANTILLES and					
Alabama	52	Delaware	61	New Jersey	64
Alaska	61	District of Columbia	61	New Mexico	59
Arizona	59	Florida	57	New York	64
Arkansas	58	Georgia	57	North Carolina	60
California	64	Idaho	64	North Dakota	64
Canada		Illinois	63	Ohio	62
—Alberta	69	Indiana	62	Oklahoma	60
—British Columbia	69	Iowa	60	Oregon	63
—Labrador	79	Kansas	61	Pennsylvania	63
—Manitoba	67	Kentucky	61	Rhode Island	64
—New Brunswick	67	Louisiana	56	South Carolina	58
—Newfoundland	74	Maine	64	South Dakota	64
—Northwest Terr	71	Maryland	61	Tennessee	58
—Nova Scotia	69	Massachusetts	61	Texas	60
—Ontario	67	Michigan	64	Utah	62
—Pr. Edward Isl	70	Minnesota	64	Vermont	64
—Quebec	69	Mississippi	58	Virginia	61
—Saskatchewan	67	Missouri	60	Washington	64
—Yukon	66	Montana	64	West Virginia	61
Colorado	62	Nebraska	62	Wisconsin	63
Connecticut	64	Nevada	61	Wyoming	64
		New Hampshire	64		

State	Days	State	Days	State	Days
Between THE NETHERLANDS and					
Alabama	62	Delaware	56	New Jersey	57
Alaska	63	District of Columbia	56	New Mexico	64
Arizona	65	Florida	61	New York	58
Arkansas	64	Georgia	57	North Carolina	57
California	63	Idaho	65	North Dakota	69
Canada		Illinois	59	Ohio	57
—Alberta	75	Indiana	58	Oklahoma	63
—British Columbia	69	Iowa	67	Oregon	64
—Labrador	75	Kansas	64	Pennsylvania	57
—Manitoba	74	Kentucky	65	Rhode Island	57
—New Brunswick	64	Louisiana	61	South Carolina	57
—Newfoundland	70	Maine	59	South Dakota	69
—Northwest Terr	72	Maryland	56	Tennessee	59
—Nova Scotia	66	Massachusetts	56	Texas	63
—Ontario	67	Michigan	62	Utah	66
—Pr. Edward Isl	67	Minnesota	62	Vermont	59
—Quebec	65	Mississippi	62	Virginia	57
—Saskatchewan	73	Missouri	64	Washington	63
—Yukon	68	Montana	69	West Virginia	56
Colorado	64	Nebraska	66	Wisconsin	60
Connecticut	58	Nevada	67	Wyoming	69
		New Hampshire	57		
Between NEW ZEALAND and					
Alabama	76	Delaware	75	New Jersey	77
Alaska	49	District of Columbia	74	New Mexico	69
Arizona	69	Florida	76	New York	77
Arkansas	77	Georgia	76	North Carolina	76
California	71	Idaho	73	North Dakota	76
Canada		Illinois	72	Ohio	75
—Alberta	83	Indiana	72	Oklahoma	73
—British Columbia	65	Iowa	72	Oregon	66
—Labrador	93	Kansas	77	Pennsylvania	76
—Manitoba	79	Kentucky	78	Rhode Island	77
—New Brunswick	81	Louisiana	72	South Carolina	76
—Newfoundland	88	Maine	78	South Dakota	76
—Northwest Terr	59	Maryland	76	Tennessee	77
—Nova Scotia	83	Massachusetts	76	Texas	73
—Ontario	80	Michigan	77	Utah	73
—Pr. Edward Isl	84	Minnesota	77	Vermont	78
—Quebec	82	Mississippi	73	Virginia	76
—Saskatchewan	81	Missouri	76	Washington	60
—Yukon	54	Montana	78	West Virginia	77
Colorado	69	Nebraska	73	Wisconsin	75
Connecticut	77	Nevada	69	Wyoming	76
		New Hampshire	78		
Between NICARAGUA and					
Alabama	47	Delaware	56	New Jersey	57
Alaska	55	District of Columbia	56	New Mexico	54
Arizona	53	Florida	53	New York	57
Arkansas	52	Georgia	53	North Carolina	56
California	54	Idaho	57	North Dakota	59
Canada		Illinois	57	Ohio	56
—Alberta	64	Indiana	56	Oklahoma	55
—British Columbia	67	Iowa	54	Oregon	61
—Labrador	73	Kansas	56	Pennsylvania	55
—Manitoba	62	Kentucky	56	Rhode Island	57
—New Brunswick	61	Louisiana	48	South Carolina	53
—Newfoundland	68	Maine	58	South Dakota	59
—Northwest Terr	65	Maryland	56	Tennessee	52
—Nova Scotia	63	Massachusetts	56	Texas	52
—Ontario	64	Michigan	61	Utah	57
—Pr. Edward Isl	64	Minnesota	61	Vermont	60
—Quebec	62	Mississippi	49	Virginia	56
—Saskatchewan	62	Missouri	54	Washington	62
—Yukon	60	Montana	59	West Virginia	56
Colorado	54	Nebraska	57	Wisconsin	58
Connecticut	57	Nevada	55	Wyoming	59
		New Hampshire	60		

State	Days	State	Days	State	Days
Between NIGERIA and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
Between N. IRELAND and					
Alabama	61	Delaware	57	New Jersey	59
Alaska	61	District of Columbia	57	New Mexico	63
Arizona	64	Florida	57	New York	59
Arkansas	61	Georgia	55	North Carolina	59
California	70	Idaho	68	North Dakota	68
Canada		Illinois	60	Ohio	58
—Alberta	83	Indiana	59	Oklahoma	62
—British Columbia	75	Iowa	67	Oregon	71
—Labrador	75	Kansas	63	Pennsylvania	58
—Manitoba	71	Kentucky	59	Rhode Island	59
—New Brunswick	63	Louisiana	60	South Carolina	54
—Newfoundland	70	Maine	60	South Dakota	68
—Northwest Terr	71	Maryland	57	Tennessee	61
—Nova Scotia	65	Massachusetts	57	Texas	62
—Ontario	66	Michigan	63	Utah	65
—Pr. Edward Isl	66	Minnesota	63	Vermont	60
—Quebec	64	Mississippi	61	Virginia	58
—Saskatchewan	81	Missouri	63	Washington	70
—Yukon	66	Montana	78	West Virginia	57
Colorado	63	Nebraska	65	Wisconsin	61
Connecticut	59	Nevada	71	Wyoming	68
		New Hampshire	60		
Between NORWAY and					
Alabama	61	Delaware	55	New Jersey	58
Alaska	60	District of Columbia	55	New Mexico	64
Arizona	64	Florida	57	New York	58
Arkansas	61	Georgia	58	North Carolina	58
California	65	Idaho	64	North Dakota	65
Canada		Illinois	59	Ohio	59
—Alberta	71	Indiana	59	Oklahoma	63
—British Columbia	70	Iowa	64	Oregon	65
—Labrador	75	Kansas	62	Pennsylvania	57
—Manitoba	68	Kentucky	60	Rhode Island	58
—New Brunswick	63	Louisiana	61	South Carolina	58
—Newfoundland	70	Maine	60	South Dakota	65
—Northwest Terr	70	Maryland	55	Tennessee	61
—Nova Scotia	65	Massachusetts	55	Texas	63
—Ontario	63	Michigan	60	Utah	66
—Pr. Edward Isl	66	Minnesota	61	Vermont	59
—Quebec	63	Mississippi	61	Virginia	56
—Saskatchewan	69	Missouri	63	Washington	65
—Yukon	65	Montana	66	West Virginia	58
Colorado	63	Nebraska	63	Wisconsin	61
Connecticut	58	Nevada	64	Wyoming	67
		New Hampshire	59		

State	Days	State	Days	State	Days
Between OKINAWA and					
Alabama	66	Delaware	65	New Jersey	63
Alaska	47	District of Columbia	65	New Mexico	62
Arizona	60	Florida	67	New York	67
Arkansas	68	Georgia	68	North Carolina	70
California	58	Idaho	60	North Dakota	65
Canada		Illinois	68	Ohio	66
—Alberta	77	Indiana	67	Oklahoma	66
—British Columbia	69	Iowa	70	Oregon	59
—Labrador	94	Kansas	67	Pennsylvania	66
—Manitoba	81	Kentucky	69	Rhode Island	67
—New Brunswick	82	Louisiana	65	South Carolina	68
—Newfoundland	89	Maine	68	South Dakota	67
—Northwest Terr	61	Maryland	65	Tennessee	72
—Nova Scotia	84	Massachusetts	65	Texas	65
—Ontario	85	Michigan	71	Utah	61
—Pr. Edward Isl	85	Minnesota	67	Vermont	68
—Quebec	83	Mississippi	66	Virginia	66
—Saskatchewan	75	Missouri	68	Washington	58
—Yukon	56	Montana	66	West Virginia	65
Colorado	64	Nebraska	69	Wisconsin	69
Connecticut	67	Nevada	60	Wyoming	65
		New Hampshire	66		
Between OMAN and					
Alabama	63	Delaware	62	New Jersey	65
Alaska	67	District of Columbia	62	New Mexico	72
Arizona	71	Florida	64	New York	65
Arkansas	66	Georgia	62	North Carolina	66
California	72	Idaho	72	North Dakota	68
Canada		Illinois	67	Ohio	68
—Alberta	78	Indiana	67	Oklahoma	68
—British Columbia	75	Iowa	68	Oregon	72
—Labrador	82	Kansas	68	Pennsylvania	65
—Manitoba	71	Kentucky	66	Rhode Island	65
—New Brunswick	70	Louisiana	64	South Carolina	65
—Newfoundland	77	Maine	67	South Dakota	71
—Northwest Terr	77	Maryland	62	Tennessee	66
—Nova Scotia	72	Massachusetts	65	Texas	66
—Ontario	71	Michigan	68	Utah	70
—Pr. Edward Isl	73	Minnesota	69	Vermont	69
—Quebec	70	Mississippi	64	Virginia	63
—Saskatchewan	76	Missouri	68	Washington	70
—Yukon	72	Montana	73	West Virginia	62
Colorado	71	Nebraska	70	Wisconsin	70
Connecticut	65	Nevada	70	Wyoming	71
		New Hampshire	69		
Between PAKISTAN and					
Alabama	75	Delaware	75	New Jersey	77
Alaska	51	District of Columbia	74	New Mexico	74
Arizona	72	Florida	77	New York	77
Arkansas	76	Georgia	77	North Carolina	76
California	70	Idaho	74	North Dakota	77
Canada		Illinois	77	Ohio	78
—Alberta	80	Indiana	77	Oklahoma	76
—British Columbia	76	Iowa	80	Oregon	74
—Labrador	95	Kansas	77	Pennsylvania	77
—Manitoba	80	Kentucky	78	Rhode Island	77
—New Brunswick	83	Louisiana	74	South Carolina	77
—Newfoundland	90	Maine	80	South Dakota	77
—Northwest Terr	61	Maryland	76	Tennessee	76
—Nova Scotia	85	Massachusetts	77	Texas	75
—Ontario	83	Michigan	80	Utah	74
—Pr. Edward Isl	86	Minnesota	81	Vermont	79
—Quebec	82	Mississippi	78	Virginia	76
—Saskatchewan	78	Missouri	78	Washington	71
—Yukon	56	Montana	75	West Virginia	76
Colorado	74	Nebraska	78	Wisconsin	78
Connecticut	77	Nevada	72	Wyoming	76
		New Hampshire	79		

State	Days	State	Days	State	Days
Between PANAMA and					
Alabama	51	Delaware	58	New Jersey	60
Alaska	58	District of Columbia	58	New Mexico	58
Arizona	59	Florida	54	New York	60
Arkansas	52	Georgia	55	North Carolina	58
California	62	Idaho	63	North Dakota	63
Canada		Illinois	61	Ohio	59
—Alberta	67	Indiana	60	Oklahoma	57
—British Columbia	68	Iowa	54	Oregon	64
—Labrador	76	Kansas	58	Pennsylvania	59
—Manitoba	65	Kentucky	60	Rhode Island	60
—New Brunswick	64	Louisiana	50	South Carolina	55
—Newfoundland	72	Maine	61	South Dakota	63
—Northwest Terr	68	Maryland	58	Tennessee	55
—Nova Scotia	66	Massachusetts	58	Texas	56
—Ontario	67	Michigan	64	Utah	60
—Pr. Edward Isl	68	Minnesota	64	Vermont	61
—Quebec	65	Mississippi	51	Virginia	59
—Saskatchewan	65	Missouri	53	Washington	63
—Yukon	63	Montana	63	West Virginia	58
Colorado	58	Nebraska	60	Wisconsin	62
Connecticut	61	Nevada	61	Wyoming	63
		New Hampshire	62		
Between PAPUA NEW GUINEA and					
Alabama	73	Delaware	74	New Jersey	78
Alaska	49	District of Columbia	73	New Mexico	73
Arizona	69	Florida	78	New York	78
Arkansas	77	Georgia	75	North Carolina	77
California	57	Idaho	70	North Dakota	76
Canada		Illinois	76	Ohio	75
—Alberta	75	Indiana	75	Oklahoma	75
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	93	Kansas	75	Pennsylvania	77
—Manitoba	79	Kentucky	75	Rhode Island	78
—New Brunswick	81	Louisiana	73	South Carolina	76
—Newfoundland	88	Maine	78	South Dakota	76
—Northwest Terr	59	Maryland	73	Tennessee	77
—Nova Scotia	83	Massachusetts	74	Texas	76
—Ontario	79	Michigan	76	Utah	72
—Pr. Edward Isl	84	Minnesota	77	Vermont	78
—Quebec	83	Mississippi	75	Virginia	75
—Saskatchewan	73	Missouri	76	Washington	66
—Yukon	54	Montana	70	West Virginia	77
Colorado	71	Nebraska	77	Wisconsin	77
Connecticut	78	Nevada	70	Wyoming	75
		New Hampshire	78		
Between PARAGUAY and					
Alabama	56	Delaware	63	New Jersey	64
Alaska	61	District of Columbia	62	New Mexico	57
Arizona	53	Florida	56	New York	64
Arkansas	60	Georgia	55	North Carolina	59
California	59	Idaho	62	North Dakota	65
Canada		Illinois	64	Ohio	63
—Alberta	70	Indiana	63	Oklahoma	61
—British Columbia	69	Iowa	65	Oregon	64
—Labrador	80	Kansas	64	Pennsylvania	64
—Manitoba	68	Kentucky	61	Rhode Island	64
—New Brunswick	68	Louisiana	57	South Carolina	60
—Newfoundland	75	Maine	65	South Dakota	65
—Northwest Terr	71	Maryland	63	Tennessee	60
—Nova Scotia	70	Massachusetts	63	Texas	60
—Ontario	67	Michigan	64	Utah	63
—Pr. Edward Isl	71	Minnesota	64	Vermont	62
—Quebec	69	Mississippi	58	Virginia	63
—Saskatchewan	68	Missouri	61	Washington	64
—Yukon	66	Montana	65	West Virginia	65
Colorado	62	Nebraska	63	Wisconsin	65
Connecticut	64	Nevada	56	Wyoming	64
		New Hampshire	62		

State	Days	State	Days	State	Days
Between PERU and					
Alabama	51	Delaware	61	New Jersey	61
Alaska	59	District of Columbia	61	New Mexico	57
Arizona	56	Florida	52	New York	61
Arkansas	57	Georgia	55	North Carolina	57
California	58	Idaho	63	North Dakota	63
Canada		Illinois	62	Ohio	51
—Alberta	68	Indiana	61	Oklahoma	57
—British Columbia	70	Iowa	58	Oregon	66
—Labrador	77	Kansas	61	Pennsylvania	61
—Manitoba	66	Kentucky	57	Rhode Island	61
—New Brunswick	65	Louisiana	54	South Carolina	55
—Newfoundland	72	Maine	62	South Dakota	63
—Northwest Terr	69	Maryland	61	Tennessee	56
—Nova Scotia	67	Massachusetts	61	Texas	57
—Ontario	66	Michigan	63	Utah	60
—Pr. Edward Isl	68	Minnesota	63	Vermont	62
—Quebec	66	Mississippi	56	Virginia	60
—Saskatchewan	66	Missouri	57	Washington	65
—Yukon	64	Montana	63	West Virginia	61
Colorado	57	Nebraska	61	Wisconsin	63
Connecticut	61	Nevada	59	Wyoming	63
		New Hampshire	62		
Between PHILLIPINES and					
Alabama	78	Delaware	77	New Jersey	79
Alaska	52	District of Columbia	77	New Mexico	79
Arizona	72	Florida	79	New York	79
Arkansas	84	Georgia	80	North Carolina	82
California	72	Idaho	67	North Dakota	79
Canada		Illinois	80	Ohio	78
Alberta	78	Indiana	79	Oklahoma	78
—British Columbia	70	Iowa	84	Oregon	66
—Labrador	95	Kansas	79	Pennsylvania	78
—Manitoba	82	Kentucky	79	Rhode Island	79
—New Brunswick	83	Louisiana	77	South Carolina	80
—Newfoundland	90	Maine	80	South Dakota	79
—Northwest Terr	62	Maryland	77	Tennessee	84
—Nova Scotia	85	Massachusetts	77	Texas	77
—Ontario	86	Michigan	83	Utah	73
—Pr. Edward Isl	86	Minnesota	84	Vermont	80
—Quebec	84	Mississippi	78	Virginia	78
—Saskatchewan	76	Missouri	80	Washington	65
—Yukon	57	Montana	73	West Virginia	77
Colorado	76	Nebraska	81	Wisconsin	81
Connecticut	79	Nevada	72	Wyoming	77
		New Hampshire	80		
Between POLAND and					
Alabama	65	Delaware	59	New Jersey	61
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	61
Arkansas	62	Georgia	60	North Carolina	60
California	66	Idaho	68	North Dakota	72
Canada		Illinois	62	Ohio	60
—Alberta	77	Indiana	61	Oklahoma	66
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	77	Kansas	67	Pennsylvania	60
—Manitoba	75	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	64	South Carolina	60
—Newfoundland	72	Maine	62	South Dakota	72
—Northwest Terr	74	Maryland	59	Tennessee	62
—Nova Scotia	67	Massachusetts	59	Texas	66
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	68	Minnesota	65	Vermont	62
—Quebec	66	Mississippi	65	Virginia	60
—Saskatchewan	75	Missouri	67	Washington	66
—Yukon	69	Montana	72	West Virginia	59
Colorado	67	Nebraska	69	Wisconsin	63
Connecticut	61	Nevada	66	Wyoming	72
		New Hampshire	62		

State	Days	State	Days	State	Days
Between PORTUGAL and					
Alabama	64	Delaware	60	New Jersey	61
Alaska	62	District of Columbia	60	New Mexico	62
Arizona	63	Florida	62	New York	62
Arkansas	66	Georgia	57	North Carolina	57
California	64	Idaho	67	North Dakota	67
Canada		Illinois	63	Ohio	61
—Alberta	74	Indiana	62	Oklahoma	61
—British Columbia	72	Iowa	65	Oregon	68
—Labrador	77	Kansas	62	Pennsylvania	61
—Manitoba	72	Kentucky	62	Rhode Island	61
—New Brunswick	65	Louisiana	63	South Carolina	57
—Newfoundland	72	Maine	63	South Dakota	67
—Northwest Terr	72	Maryland	60	Tennessee	59
—Nova Scotia	67	Massachusetts	60	Texas	61
—Ontario	68	Michigan	66	Utah	64
—Pr. Edward Isl	68	Minnesota	67	Vermont	63
—Quebec	66	Mississippi	64	Virginia	61
—Saskatchewan	72	Missouri	66	Washington	67
—Yukon	67	Montana	67	West Virginia	60
Colorado	62	Nebraska	64	Wisconsin	64
Connecticut	61	Nevada	65	Wyoming	67
		New Hampshire	61		
Between PUERTO RICO and					
Alabama	42	Delaware	40	New Jersey	39
Alaska	48	District of Columbia	40	New Mexico	46
Arizona	46	Florida	43	New York	39
Arkansas	42	Georgia	41	North Carolina	41
California	48	Idaho	48	North Dakota	48
Canada		Illinois	43	Ohio	43
—Alberta	53	Indiana	43	Oklahoma	44
—British Columbia	56	Iowa	45	Oregon	51
—Labrador	56	Kansas	45	Pennsylvania	39
—Manitoba	51	Kentucky	43	Rhode Island	39
—New Brunswick	44	Louisiana	42	South Carolina	41
—Newfoundland	51	Maine	41	South Dakota	48
—Northwest Terr	58	Maryland	40	Tennessee	42
—Nova Scotia	46	Massachusetts	39	Texas	44
—Ontario	48	Michigan	45	Utah	48
—Pr. Edward Isl	47	Minnesota	45	Vermont	41
—Quebec	44	Mississippi	42	Virginia	40
—Saskatchewan	51	Missouri	45	Washington	51
—Yukon	53	Montana	48	West Virginia	40
Colorado	47	Nebraska	45	Wisconsin	45
Connecticut	39	Nevada	48	Wyoming	48
		New Hampshire	41		
Between QATAR and					
Alabama	61	Delaware	60	New Jersey	62
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	62
Arkansas	64	Georgia	60	North Carolina	61
California	69	Idaho	69	North Dakota	67
Canada		Illinois	65	Ohio	64
—Alberta	77	Indiana	65	Oklahoma	65
—British Columbia	73	Iowa	66	Oregon	69
—Labrador	80	Kansas	66	Pennsylvania	63
—Manitoba	70	Kentucky	63	Rhode Island	62
—New Brunswick	68	Louisiana	62	South Carolina	61
—Newfoundland	75	Maine	65	South Dakota	67
—Northwest Terr	74	Maryland	59	Tennessee	64
—Nova Scotia	70	Massachusetts	62	Texas	64
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	71	Minnesota	66	Vermont	66
—Quebec	67	Mississippi	61	Virginia	60
—Saskatchewan	75	Missouri	65	Washington	68
—Yukon	69	Montana	72	West Virginia	64
Colorado	66	Nebraska	66	Wisconsin	66
Connecticut	62	Nevada	67	Wyoming	68
		New Hampshire	66		

State	Days	State	Days	State	Days
Between ROMANIA and					
Alabama	68	Delaware	66	New Jersey	68
Alaska	69	District of Columbia	66	New Mexico	70
Arizona	72	Florida	67	New York	68
Arkansas	68	Georgia	67	North Carolina	68
California	73	Idaho	72	North Dakota	74
Canada		Illinois	69	Ohio	67
—Alberta	80	Indiana	68	Oklahoma	71
—British Columbia	78	Iowa	72	Oregon	74
—Labrador	85	Kansas	70	Pennsylvania	69
—Manitoba	77	Kentucky	66	Rhode Island	68
—New Brunswick	73	Louisiana	69	South Carolina	64
—Newfoundland	80	Maine	70	South Dakota	74
—Northwest Terr	79	Maryland	66	Tennessee	068
—Nova Scotia	75	Massachusetts	67	Texas	71
—Ontario	74	Michigan	71	Utah	75
—Pr. Edward Isl	76	Minnesota	72	Vermont	69
—Quebec	73	Mississippi	68	Virginia	67
—Saskatchewan	78	Missouri	71	Washington	73
—Yukon	74	Montana	75	West Virginia	66
Colorado	71	Nebraska	72	Wisconsin	69
Connecticut	68	Nevada	74	Wyoming	75
		New Hampshire	69		
Between RUSSIA and					
Alabama	65	Delaware	59	New Jersey	61
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	61
Arkansas	62	Georgia	60	North Carolina	60
California	66	Idaho	68	North Dakota	72
Canada		Illinois	62	Ohio	60
—Alberta	77	Indiana	61	Oklahoma	66
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	77	Kansas	67	Pennsylvania	60
—Manitoba	75	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	64	South Carolina	60
—Newfoundland	72	Maine	62	South Dakota	72
—Northwest Terr	74	Maryland	59	Tennessee	62
—Nova Scotia	67	Massachusetts	59	Texas	66
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	68	Minnesota	65	Vermont	62
—Quebec	66	Mississippi	65	Virginia	60
—Saskatchewan	75	Missouri	67	Washington	66
—Yukon	69	Montana	72	West Virginia	59
Colorado	67	Nebraska	69	Wisconsin	63
Connecticut	61	Nevada	66	Wyoming	72
		New Hampshire	62		
Between SAIPAN and					
Alabama	78	Delaware	77	New Jersey	79
Alaska	52	District of Columbia	77	New Mexico	79
Arizona	72	Florida	79	New York	79
Arkansas	84	Georgia	80	North Carolina	82
California	72	Idaho	67	North Dakota	79
Canada		Illinois	80	Ohio	78
—Alberta	78	Indiana	79	Oklahoma	78
—British Columbia	70	Iowa	84	Oregon	66
—Labrador	95	Kansas	79	Pennsylvania	78
—Manitoba	82	Kentucky	79	Rhode Island	79
—New Brunswick	83	Louisiana	77	South Carolina	80
—Newfoundland	90	Maine	80	South Dakota	79
—Northwest Terr	62	Maryland	77	Tennessee	84
—Nova Scotia	85	Massachusetts	77	Texas	77
—Ontario	86	Michigan	83	Utah	73
—Pr. Edward Isl	86	Minnesota	84	Vermont	80
—Quebec	84	Mississippi	78	Virginia	78
—Saskatchewan	76	Missouri	80	Washington	65
—Yukon	57	Montana	73	West Virginia	77
Colorado	76	Nebraska	81	Wisconsin	81
Connecticut	79	Nevada	72	Wyoming	77
		New Hampshire	80		

State	Days	State	Days	State	Days
Between SAINT LUCIA and					
Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		
Between SAUDI ARABIA and					
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		
Between SCOTLAND and					
Alabama	65	Delaware	60	New Jersey	62
Alaska	66	District of Columbia	60	New Mexico	67
Arizona	68	Florida	61	New York	62
Arkansas	67	Georgia	63	North Carolina	63
California	74	Idaho	72	North Dakota	72
Canada		Illinois	63	Ohio	61
—Alberta	87	Indiana	62	Oklahoma	66
—British Columbia	78	Iowa	71	Oregon	75
—Labrador	79	Kansas	67	Pennsylvania	61
—Manitoba	75	Kentucky	62	Rhode Island	61
—New Brunswick	67	Louisiana	64	South Carolina	61
—Newfoundland	74	Maine	63	South Dakota	72
—Northwest Terr	75	Maryland	60	Tennessee	65
—Nova Scotia	69	Massachusetts	60	Texas	66
—Ontario	70	Michigan	66	Utah	69
—Pr. Edward Isl	70	Minnesota	66	Vermont	63
—Quebec	68	Mississippi	65	Virginia	61
—Saskatchewan	85	Missouri	67	Washington	74
—Yukon	70	Montana	82	West Virginia	60
Colorado	67	Nebraska	69	Wisconsin	64
Connecticut	62	Nevada	75	Wyoming	72
		New Hampshire	62		

State	Days	State	Days	State	Days
Between SENEGAL and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
—Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
Between SIERRA LEONE and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
Between SINGAPORE and					
Alabama	70	Delaware	71	New Jersey	73
Alaska	45	District of Columbia	71	New Mexico	69
Arizona	66	Florida	72	New York	73
Arkansas	71	Georgia	72	North Carolina	73
California	64	Idaho	66	North Dakota	72
Canada		Illinois	72	Ohio	71
—Alberta	73	Indiana	72	Oklahoma	71
—British Columbia	68	Iowa	74	Oregon	63
—Labrador	89	Kansas	72	Pennsylvania	71
—Manitoba	75	Kentucky	72	Rhode Island	73
—New Brunswick	77	Louisiana	68	South Carolina	72
—Newfoundland	84	Maine	74	South Dakota	72
—Northwest Terr	55	Maryland	70	Tennessee	71
—Nova Scotia	79	Massachusetts	72	Texas	71
—Ontario	77	Michigan	74	Utah	67
—Pr. Edward Isl	80	Minnesota	75	Vermont	72
—Quebec	78	Mississippi	72	Virginia	72
—Saskatchewan	71	Missouri	73	Washington	63
—Yukon	50	Montana	68	West Virginia	70
Colorado	68	Nebraska	73	Wisconsin	73
Connecticut	73	Nevada	66	Wyoming	71
		New Hampshire	72		

State	Days	State	Days	State	Days
Between SLOVENIA and					
Alabama	65	Delaware	59	New Jersey	61
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	61
Arkansas	62	Georgia	60	North Carolina	60
California	66	Idaho	68	North Dakota	72
Canada		Illinois	62	Ohio	60
—Alberta	77	Indiana	61	Oklahoma	66
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	77	Kansas	67	Pennsylvania	60
—Manitoba	75	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	64	South Carolina	60
—Newfoundland	72	Maine	62	South Dakota	72
—Northwest Terr	74	Maryland	59	Tennessee	62
—Nova Scotia	67	Massachusetts	59	Texas	66
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	68	Minnesota	65	Vermont	62
—Quebec	66	Mississippi	65	Virginia	60
—Saskatchewan	75	Missouri	67	Washington	66
—Yukon	69	Montana	72	West Virginia	59
Colorado	67	Nebraska	69	Wisconsin	63
Connecticut	61	Nevada	66	Wyoming	72
		New Hampshire	62		
Between SOLOMON ISLANDS and					
2Alabama	73	Delaware	74	New Jersey	78
Alaska	49	District of Columbia	73	New Mexico	73
2Arizona	69	Florida	78	New York	78
Arkansas	77	Georgia	75	North Carolina	77
California	57	Idaho	70	North Dakota	76
Canada		Illinois	76	Ohio	75
—Alberta	75	Indiana	75	Oklahoma	75
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	93	Kansas	75	Pennsylvania	77
—Manitoba	79	Kentucky	75	Rhode Island	78
—New Brunswick	81	Louisiana	73	South Carolina	76
—Newfoundland	88	Maine	78	South Dakota	76
—Northwest Terr	59	Maryland	73	Tennessee	77
—Nova Scotia	83	Massachusetts	74	Texas	76
—Ontario	79	Michigan	76	Utah	72
—Pr. Edward Isl	84	Minnesota	77	Vermont	78
—Quebec	83	Mississippi	75	Virginia	75
—Saskatchewan	73	Missouri	76	Washington	66
—Yukon	54	Montana	70	West Virginia	77
Colorado	71	Nebraska	77	Wisconsin	77
Connecticut	78	Nevada	70	Wyoming	75
		New Hampshire	78		
Between SOUTH AFRICA and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

State	Days	State	Days	State	Days
Between SPAIN and					
Alabama	60	Delaware	59	New Jersey	61
Alaska	62	District of Columbia	59	New Mexico	64
Arizona	65	Florida	61	New York	61
Arkansas	61	Georgia	60	North Carolina	59
California	66	Idaho	63	North Dakota	69
Canada		Illinois	62	Ohio	60
—Alberta	74	Indiana	61	Oklahoma	63
—British Columbia	72	Iowa	67	Oregon	71
—Labrador	77	Kansas	64	Pennsylvania	60
—Manitoba	72	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	59	South Carolina	59
—Newfoundland	72	Maine	62	South Dakota	69
—Northwest Terr	72	Maryland	59	Tennessee	61
—Nova Scotia	67	Massachusetts	59	Texas	63
—Ontario	68	Michigan	65	Utah	66
—Pr. Edward Isl	68	Minnesota	69	Vermont	62
—Quebec	66	Mississippi	60	Virginia	60
—Saskatchewan	72	Missouri	62	Washington	67
—Yukon	67	Montana	69	West Virginia	59
Colorado	64	Nebraska	66	Wisconsin	63
Connecticut	61	Nevada	67	Wyoming	69
		New Hampshire	62		
Between SRI LANKA and					
Alabama	75	Delaware	75	New Jersey	77
Alaska	51	District of Columbia	74	New Mexico	74
Arizona	72	Florida	77	New York	77
Arkansas	76	Georgia	77	North Carolina	76
California	70	Idaho	74	North Dakota	77
Canada		Illinois	77	Ohio	78
—Alberta	80	Indiana	77	Oklahoma	76
—British Columbia	76	Iowa	80	Oregon	74
—Labrador	95	Kansas	77	Pennsylvania	77
—Manitoba	80	Kentucky	78	Rhode Island	77
—New Brunswick	83	Louisiana	74	South Carolina	77
—Newfoundland	90	Maine	80	South Dakota	77
—Northwest Terr	61	Maryland	76	Tennessee	76
—Nova Scotia	85	Massachusetts	77	Texas	75
—Ontario	83	Michigan	80	Utah	74
—Pr. Edward Isl	86	Minnesota	81	Vermont	79
—Quebec	82	Mississippi	78	Virginia	76
—Saskatchewan	78	Missouri	78	Washington	71
—Yukon	56	Montana	75	West Virginia	76
Colorado	74	Nebraska	78	Wisconsin	78
Connecticut	77	Nevada	72	Wyoming	76
		New Hampshire	79		
Between SUDAN and					
Alabama	61	Delaware	60	New Jersey	61
Alaska	65	District of Columbia	60	New Mexico	67
Arizona	69	Florida	62	New York	61
Arkansas	65	Georgia	61	North Carolina	63
California	72	Idaho	69	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	76	Indiana	69	Oklahoma	66
—British Columbia	73	Iowa	70	Oregon	69
—Labrador	86	Kansas	70	Pennsylvania	61
—Manitoba	70	Kentucky	68	Rhode Island	61
—New Brunswick	74	Louisiana	63	South Carolina	63
—Newfoundland	81	Maine	71	South Dakota	67
—Northwest Terr	75	Maryland	62	Tennessee	65
—Nova Scotia	76	Massachusetts	68	Texas	62
—Ontario	70	Michigan	67	Utah	69
—Pr. Edward Isl	77	Minnesota	68	Vermont	66
—Quebec	66	Mississippi	63	Virginia	59
—Saskatchewan	74	Missouri	68	Washington	68
—Yukon	70	Montana	71	West Virginia	65
Colorado	68	Nebraska	66	Wisconsin	69
Connecticut	61	Nevada	68	Wyoming	67
		New Hampshire	66		

State	Days	State	Days	State	Days
Between SURINAME and					
Alabama	52	Delaware	61	New Jersey	64
Alaska	61	District of Columbia	61	New Mexico	59
Arizona	59	Florida	57	New York	64
Arkansas	58	Georgia	57	North Carolina	60
California	64	Idaho	64	North Dakota	64
Canada		Illinois	63	Ohio	62
—Alberta	69	Indiana	62	Oklahoma	60
—British Columbia	69	Iowa	60	Oregon	63
—Labrador	79	Kansas	61	Pennsylvania	63
—Manitoba	67	Kentucky	61	Rhode Island	64
—New Brunswick	67	Louisiana	56	South Carolina	58
—Newfoundland	74	Maine	64	South Dakota	64
—Northwest Terr	71	Maryland	61	Tennessee	58
—Nova Scotia	69	Massachusetts	61	Texas	60
—Ontario	67	Michigan	64	Utah	62
—Pr. Edward Isl	70	Minnesota	64	Vermont	64
—Quebec	69	Mississippi	58	Virginia	61
—Saskatchewan	67	Missouri	60	Washington	64
—Yukon	66	Montana	64	West Virginia	61
Colorado	62	Nebraska	62	Wisconsin	63
Connecticut	64	Nevada	61	Wyoming	64
		New Hampshire	64		
Between SWEDEN and					
Alabama	61	Delaware	55	New Jersey	58
Alaska	60	District of Columbia	55	New Mexico	64
Arizona	64	Florida	57	New York	58
Arkansas	61	Georgia	58	North Carolina	58
California	65	Idaho	64	North Dakota	65
Canada		Illinois	59	Ohio	59
—Alberta	71	Indiana	59	Oklahoma	63
—British Columbia	70	Iowa	64	Oregon	65
—Labrador	75	Kansas	62	Pennsylvania	57
—Manitoba	68	Kentucky	60	Rhode Island	58
—New Brunswick	63	Louisiana	61	South Carolina	58
—Newfoundland	70	Maine	60	South Dakota	65
—Northwest Terr	70	Maryland	55	Tennessee	61
—Nova Scotia	65	Massachusetts	55	Texas	63
—Ontario	63	Michigan	60	Utah	66
—Pr. Edward Isl	66	Minnesota	61	Vermont	59
—Quebec	63	Mississippi	61	Virginia	56
—Saskatchewan	69	Missouri	63	Washington	65
—Yukon	65	Montana	66	West Virginia	58
Colorado	63	Nebraska	63	Wisconsin	61
Connecticut	58	Nevada	64	Wyoming	67
		New Hampshire	59		
Between SWITZERLAND and					
Alabama	67	Delaware	63	New Jersey	63
Alaska	64	District of Columbia	62	New Mexico	69
Arizona	68	Florida	64	New York	62
Arkansas	66	Georgia	63	North Carolina	62
California	69	Idaho	67	North Dakota	72
Canada		Illinois	64	Ohio	64
—Alberta	77	Indiana	64	Oklahoma	68
—British Columbia	71	Iowa	68	Oregon	71
—Labrador	77	Kansas	67	Pennsylvania	63
—Manitoba	75	Kentucky	64	Rhode Island	63
—New Brunswick	65	Louisiana	65	South Carolina	62
—Newfoundland	72	Maine	65	South Dakota	71
—Northwest Terr	74	Maryland	62	Tennessee	66
—Nova Scotia	67	Massachusetts	63	Texas	67
—Ontario	68	Michigan	66	Utah	72
—Pr. Edward Isl	68	Minnesota	66	Vermont	65
—Quebec	66	Mississippi	66	Virginia	63
—Saskatchewan	75	Missouri	67	Washington	67
—Yukon	69	Montana	72	West Virginia	64
Colorado	68	Nebraska	69	Wisconsin	67
Connecticut	63	Nevada	69	Wyoming	73
		New Hampshire	63		

State	Days	State	Days	State	Days
Between SYRIA and					
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		
Between TAHITI and					
Alabama	49	Delaware	50	New Jersey	50
Alaska	49	District of Columbia	50	New Mexico	36
Arizona	36	Florida	58	New York	50
Arkansas	49	Georgia	51	North Carolina	51
California	34	Idaho	40	North Dakota	40
Canada		Illinois	52	Ohio	52
—Alberta	45	Indiana	52	Oklahoma	41
—British Columbia	41	Iowa	41	Oregon	36
—Labrador	68	Kansas	41	Pennsylvania	50
—Manitoba	43	Kentucky	52	Rhode Island	50
—New Brunswick	56	Louisiana	49	South Carolina	51
—Newfoundland	63	Maine	53	South Dakota	40
—Northwest Terr	59	Maryland	50	Tennessee	49
—Nova Scotia	58	Massachusetts	50	Texas	41
—Ontario	49	Michigan	46	Utah	36
—Pr. Edward Isl	59	Minnesota	46	Vermont	53
—Quebec	55	Mississippi	49	Virginia	50
—Saskatchewan	43	Missouri	41	Washington	36
—Yukon	54	Montana	40	West Virginia	50
Colorado	37	Nebraska	41	Wisconsin	46
Connecticut	50	Nevada	36	Wyoming	40
		New Hampshire	53		
Between TAIWAN and					
Alabama	65	Delaware	66	New Jersey	68
Alaska	41	District of Columbia	64	New Mexico	61
Arizona	60	Florida	69	New York	68
Arkansas	68	Georgia	66	North Carolina	66
California	59	Idaho	64	North Dakota	63
Canada		Illinois	67	Ohio	66
—Alberta	69	Indiana	67	Oklahoma	65
—British Columbia	64	Iowa	64	Oregon	62
—Labrador	84	Kansas	67	Pennsylvania	69
—Manitoba	66	Kentucky	68	Rhode Island	68
—New Brunswick	72	Louisiana	65	South Carolina	69
—Newfoundland	79	Maine	69	South Dakota	65
—Northwest Terr	51	Maryland	64	Tennessee	68
—Nova Scotia	74	Massachusetts	68	Texas	67
—Ontario	72	Michigan	69	Utah	63
—Pr. Edward Isl	75	Minnesota	68	Vermont	70
—Quebec	73	Mississippi	67	Virginia	64
—Saskatchewan	67	Missouri	65	Washington	59
—Yukon	46	Montana	64	West Virginia	67
Colorado	63	Nebraska	67	Wisconsin	68
Connecticut	68	Nevada	59	Wyoming	66
		New Hampshire	70		

State	Days	State	Days	State	Days
Between TANZANIA and					
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
Yukon	70	Montana	70	West Virginia	6
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		
Between THAILAND and					
Alabama	73	Delaware	74	New Jersey	75
Alaska	48	District of Columbia	73	New Mexico	73
Arizona	69	Florida	75	New York	75
Arkansas	75	Georgia	75	North Carolina	76
California	68	Idaho	68	North Dakota	75
Canada		Illinois	75	Ohio	75
—Alberta	77	Indiana	75	Oklahoma	74
—British Columbia	71	Iowa	76	Oregon	70
—Labrador	91	Kansas	75	Pennsylvania	74
—Manitoba	78	Kentucky	74	Rhode Island	75
—New Brunswick	79	Louisiana	71	South Carolina	75
—Newfoundland	86	Maine	76	South Dakota	75
—Northwest Terr	58	Maryland	72	Tennessee	75
—Nova Scotia	81	Massachusetts	73	Texas	72
—Ontario	80	Michigan	77	Utah	71
—Pr. Edward Isl	82	Minnesota	78	Vermont	75
—Quebec	80	Mississippi	75	Virginia	74
—Saskatchewan	75	Missouri	76	Washington	66
—Yukon	53	Montana	72	West Virginia	72
Colorado	70	Nebraska	75	Wisconsin	76
Connecticut	75	Nevada	69	Wyoming	71
		New Hampshire	75		
Between TRINIDAD and					
Alabama	52	Delaware	61	New Jersey	64
Alaska	61	District of Columbia	61	New Mexico	59
Arizona	59	Florida	57	New York	64
Arkansas	58	Georgia	57	North Carolina	60
California	64	Idaho	64	North Dakota	64
Canada		Illinois	63	Ohio	62
—Alberta	69	Indiana	62	Oklahoma	60
—British Columbia	69	Iowa	60	Oregon	63
—Labrador	79	Kansas	61	Pennsylvania	63
—Manitoba	67	Kentucky	61	Rhode Island	64
—New Brunswick	67	Louisiana	56	South Carolina	58
—Newfoundland	74	Maine	64	South Dakota	64
—Northwest Terr	71	Maryland	61	Tennessee	58
—Nova Scotia	69	Massachusetts	61	Texas	60
—Ontario	67	Michigan	64	Utah	62
—Pr. Edward Isl	70	Minnesota	64	Vermont	64
—Quebec	69	Mississippi	58	Virginia	61
—Saskatchewan	67	Missouri	60	Washington	64
—Yukon	66	Montana	64	West Virginia	61
Colorado	62	Nebraska	62	Wisconsin	63
Connecticut	64	Nevada	61	Wyoming	64
		New Hampshire	64		

State	Days	State	Days	State	Days
Between TUNISIA and					
Alabama	60	Delaware	56	New Jersey	58
Alaska	60	District of Columbia	56	New Mexico	63
Arizona	64	Florida	55	New York	58
Arkansas	55	Georgia	53	North Carolina	56
California	62	Idaho	68	North Dakota	68
Canada		Illinois	59	Ohio	57
—Alberta	73	Indiana	58	Oklahoma	62
—British Columbia	69	Iowa	66	Oregon	69
—Labrador	74	Kansas	63	Pennsylvania	57
—Manitoba	71	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	59	South Carolina	53
—Newfoundland	69	Maine	59	South Dakota	68
—Northwest Terr	70	Maryland	56	Tennessee	55
—Nova Scotia	64	Massachusetts	56	Texas	62
—Ontario	65	Michigan	62	Utah	65
—Pr. Edward Isl	65	Minnesota	68	Vermont	59
—Quebec	63	Mississippi	60	Virginia	57
—Saskatchewan	71	Missouri	62	Washington	64
—Yukon	65	Montana	68	West Virginia	56
Colorado	63	Nebraska	65	Wisconsin	60
Connecticut	58	Nevada	66	Wyoming	68
		New Hampshire	59		
Between TURKEY and					
Alabama	73	Delaware	76	New Jersey	78
Alaska	79	District of Columbia	76	New Mexico	81
Arizona	81	Florida	75	New York	78
Arkansas	75	Georgia	73	North Carolina	76
California	82	Idaho	86	North Dakota	84
Canada		Illinois	79	Ohio	77
—Alberta	91	Indiana	78	Oklahoma	79
—British Columbia	91	Iowa	80	Oregon	86
—Labrador	94	Kansas	79	Pennsylvania	77
—Manitoba	87	Kentucky	78	Rhode Island	78
—New Brunswick	82	Louisiana	76	South Carolina	73
—Newfoundland	89	Maine	79	South Dakota	84
—Northwest Terr	89	Maryland	76	Tennessee	75
—Nova Scotia	84	Massachusetts	76	Texas	79
—Ontario	85	Michigan	82	Utah	85
—Pr. Edward Isl	85	Minnesota	82	Vermont	79
—Quebec	83	Mississippi	75	Virginia	77
—Saskatchewan	89	Missouri	82	Washington	86
—Yukon	84	Montana	86	West Virginia	76
Colorado	81	Nebraska	83	Wisconsin	80
Connecticut	78	Nevada	86	Wyoming	85
		New Hampshire	79		
Between UGANDA and					
Alabama	61	Delaware	60	New Jersey	61
Alaska	65	District of Columbia	60	New Mexico	67
Arizona	69	Florida	62	New York	61
Arkansas	65	Georgia	61	North Carolina	63
California	72	Idaho	69	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	76	Indiana	69	Oklahoma	66
—British Columbia	73	Iowa	70	Oregon	69
—Labrador	86	Kansas	70	Pennsylvania	61
—Manitoba	70	Kentucky	68	Rhode Island	61
—New Brunswick	74	Louisiana	63	South Carolina	63
—Newfoundland	81	Maine	71	South Dakota	67
—Northwest Terr	75	Maryland	62	Tennessee	65
—Nova Scotia	76	Massachusetts	68	Texas	62
—Ontario	70	Michigan	67	Utah	69
—Pr. Edward Isl	77	Minnesota	68	Vermont	66
—Quebec	66	Mississippi	63	Virginia	59
—Saskatchewan	74	Missouri	68	Washington	68
—Yukon	70	Montana	71	West Virginia	65
Colorado	68	Nebraska	66	Wisconsin	69
Connecticut	61	Nevada	68	Wyoming	67
		New Hampshire	66		

State	Days	State	Days	State	Days
Between UKRAINE and					
Alabama	73	Delaware	76	New Jersey	78
Alaska	79	District of Columbia	76	New Mexico	81
Arizona	81	Florida	75	New York	78
Arkansas	75	Georgia	73	North Carolina	76
California	82	Idaho	86	North Dakota	84
Canada		Illinois	79	Ohio	77
—Alberta	91	Indiana	78	Oklahoma	79
—British Columbia	91	Iowa	80	Oregon	86
—Labrador	94	Kansas	79	Pennsylvania	77
—Manitoba	87	Kentucky	78	Rhode Island	78
—New Brunswick	82	Louisiana	76	South Carolina	73
—Newfoundland	89	Maine	79	South Dakota	84
—Northwest Terr	89	Maryland	76	Tennessee	75
—Nova Scotia	84	Massachusetts	76	Texas	79
—Ontario	85	Michigan	82	Utah	85
—Pr. Edward Isl	85	Minnesota	82	Vermont	79
—Quebec	83	Mississippi	75	Virginia	77
—Saskatchewan	89	Missouri	82	Washington	86
—Yukon	84	Montana	86	West Virginia	76
Colorado	81	Nebraska	83	Wisconsin	80
Connecticut	78	Nevada	86	Wyoming	85
		New Hampshire	79		
Between UNITED ARAB DEM. and					
Alabama	63	Delaware	62	New Jersey	65
Alaska	67	District of Columbia	62	New Mexico	72
Arizona	71	Florida	64	New York	65
Arkansas	66	Georgia	62	North Carolina	66
California	72	Idaho	72	North Dakota	68
Canada		Illinois	67	Ohio	68
—Alberta	78	Indiana	67	Oklahoma	68
—British Columbia	75	Iowa	68	Oregon	72
—Labrador	82	Kansas	68	Pennsylvania	65
—Manitoba	71	Kentucky	66	Rhode Island	65
—New Brunswick	70	Louisiana	64	South Carolina	65
—Newfoundland	77	Maine	67	South Dakota	71
—Northwest Terr	77	Maryland	62	Tennessee	66
—Nova Scotia	72	Massachusetts	65	Texas	66
—Ontario	71	Michigan	68	Utah	70
—Pr. Edward Isl	73	Minnesota	69	Vermont	69
—Quebec	70	Mississippi	64	Virginia	63
—Saskatchewan	76	Missouri	68	Washington	70
—Yukon	72	Montana	73	West Virginia	62
Colorado	71	Nebraska	70	Wisconsin	70
Connecticut	65	Nevada	70	Wyoming	71
		New Hampshire	69	.	
Between UNITED KINGDOM and					
Alabama	61	Delaware	57	New Jersey	59
Alaska	61	District of Columbia	57	New Mexico	63
Arizona	64	Florida	57	New York	59
Arkansas	61	Georgia	55	North Carolina	59
California	70	Idaho	68	North Dakota	68
Canada		Illinois	60	Ohio	58
—Alberta	83	Indiana	59	Oklahoma	62
—British Columbia	75	Iowa	67	Oregon	71
—Labrador	75	Kansas	63	Pennsylvania	58
—Manitoba	71	Kentucky	59	Rhode Island	59
—New Brunswick	63	Louisiana	60	South Carolina	54
—Newfoundland	70	Maine	60	South Dakota	68
—Northwest Terr	71	Maryland	57	Tennessee	61
—Nova Scotia	65	Massachusetts	57	Texas	62
—Ontario	66	Michigan	63	Utah	65
—Pr. Edward Isl	66	Minnesota	63	Vermont	60
—Quebec	64	Mississippi	61	Virginia	58
—Saskatchewan	81	Missouri	63	Washington	70
—Yukon	66	Montana	78	West Virginia	57
Colorado	63	Nebraska	65	Wisconsin	61
Connecticut	59	Nevada	71	Wyoming	68
		New Hampshire	60		

State	Days	State	Days	State	Days
Between URUGUAY and					
Alabama	55	Delaware	63	New Jersey	63
Alaska	60	District of Columbia	63	New Mexico	60
Arizona	60	Florida	58	New York	64
Arkansas	61	Georgia	60	North Carolina	62
California	65	Idaho	64	North Dakota	64
Canada		Illinois	64	Ohio	64
—Alberta	70	Indiana	64	Oklahoma	63
—British Columbia	69	Iowa	63	Oregon	66
—Labrador	80	Kansas	64	Pennsylvania	64
—Manitoba	68	Kentucky	64	Rhode Island	63
—New Brunswick	68	Louisiana	57	South Carolina	60
—Newfoundland	75	Maine	66	South Dakota	65
—Northwest Terr	71	Maryland	63	Tennessee	61
—Nova Scotia	70	Massachusetts	64	Texas	61
—Ontario	67	Michigan	64	Utah	66
—Pr. Edward Isl	71	Minnesota	64	Vermont	65
—Quebec	69	Mississippi	59	Virginia	62
—Saskatchewan	68	Missouri	62	Washington	68
—Yukon	66	Montana	65	West Virginia	64
Colorado	66	Nebraska	64	Wisconsin	67
Connecticut	63	Nevada	61	Wyoming	67
		New Hampshire	64		
Between VENEZUELA and					
Alabama	52	Delaware	61	New Jersey	64
Alaska	61	District of Columbia	61	New Mexico	59
Arizona	59	Florida	57	New York	64
Arkansas	58	Georgia	57	North Carolina	60
California	64	Idaho	64	North Dakota	64
Canada		Illinois	63	Ohio	62
—Alberta	69	Indiana	62	Oklahoma	60
—British Columbia	69	Iowa	60	Oregon	63
—Labrador	79	Kansas	61	Pennsylvania	63
—Manitoba	67	Kentucky	61	Rhode Island	64
—New Brunswick	67	Louisiana	56	South Carolina	58
—Newfoundland	74	Maine	64	South Dakota	64
—Northwest Terr.	71	Maryland	61	Tennessee	58
—Nova Scotia	69	Massachusetts	61	Texas	60
—Ontario	67	Michigan	64	Utah	62
—Pr. Edward Isl.	70	Minnesota	64	Vermont	64
—Quebec	69	Mississippi	58	Virginia	61
—Saskatchewan	67	Missouri	60	Washington	64
—Yukon	66	Montana	64	West Virginia	61
Colorado	62	Nebraska	62	Wisconsin	63
Connecticut	64	Nevada	61	Wyoming	64
		New Hampshire	64		
Between VIETNAM and					
Alabama	73	Delaware	74	New Jersey	75
Alaska	48	District of Columbia	73	New Mexico	73
Arizona	69	Florida	75	New York	75
Arkansas	75	Georgia	75	North Carolina	76
California	68	Idaho	68	North Dakota	75
Canada		Illinois	75	Ohio	75
—Alberta	77	Indiana	75	Oklahoma	74
—British Columbia	71	Iowa	76	Oregon	70
—Labrador	91	Kansas	75	Pennsylvania	74
—Manitoba	78	Kentucky	74	Rhode Island	75
—New Brunswick	79	Louisiana	71	South Carolina	75
—Newfoundland	86	Maine	76	South Dakota	75
—Northwest Terr.	58	Maryland	72	Tennessee	75
—Nova Scotia	81	Massachusetts	73	Texas	72
—Ontario	80	Michigan	77	Utah	71
—Pr. Edward Isl.	82	Minnesota	78	Vermont	75
—Quebec	80	Mississippi	75	Virginia	74
—Saskatchewan	75	Missouri	76	Washington	66
—Yukon	53	Montana	72	West Virginia	72
Colorado	70	Nebraska	75	Wisconsin	76
Connecticut	75	Nevada	69	Wyoming	71
		New Hampshire	75		

State	Days	State	Days	State	Days
Between VIRGIN ISLANDS (St. Croix/St. Thomas) and					
Alabama	42	Delaware	40	New Jersey	39
Alaska	48	District of Columbia	40	New Mexico	46
Arizona	46	Florida	43	New York	39
Arkansas	42	Georgia	41	North Carolina	41
California	48	Idaho	48	North Dakota	48
Canada		Illinois	43	Ohio	43
—Alberta	53	Indiana	43	Oklahoma	44
—British Columbia	56	Iowa	45	Oregon	51
—Labrador	56	Kansas	45	Pennsylvania	39
—Manitoba	51	Kentucky	43	Rhode Island	39
—New Brunswick	44	Louisiana	42	South Carolina	41
—Newfoundland	51	Maine	41	South Dakota	48
—Northwest Terr.	58	Maryland	40	Tennessee	42
—Nova Scotia	46	Massachusetts	39	Texas	44
—Ontario	48	Michigan	45	Utah	48
—Pr. Edward Isl.	47	Minnesota	45	Vermont	41
—Quebec	44	Mississippi	42	Virginia	40
—Saskatchewan	51	Missouri	45	Washington	51
—Yukon	53	Montana	48	West Virginia	40
Colorado	47	Nebraska	45	Wisconsin	45
Connecticut	39	Nevada	48	Wyoming	48
		New Hampshire	41		
Between VIRGIN ISLANDS (St. John) and					
Alabama	42	Delaware	40	New Jersey	39
Alaska	48	District of Columbia	40	New Mexico	46
Arizona	46	Florida	43	New York	39
Arkansas	42	Georgia	41	North Carolina	41
California	48	Idaho	48	North Dakota	48
Canada		Illinois	43	Ohio	43
—Alberta	53	Indiana	43	Oklahoma	44
—British Columbia	56	Iowa	45	Oregon	51
—Labrador	56	Kansas	45	Pennsylvania	39
—Manitoba	51	Kentucky	43	Rhode Island	39
—New Brunswick	44	Louisiana	42	South Carolina	41
—Newfoundland	51	Maine	41	South Dakota	48
—Northwest Terr.	58	Maryland	40	Tennessee	42
—Nova Scotia	46	Massachusetts	39	Texas	44
—Ontario	48	Michigan	45	Utah	48
—Pr. Edward Isl.	47	Minnesota	45	Vermont	41
—Quebec	44	Mississippi	42	Virginia	40
—Saskatchewan	51	Missouri	45	Washington	51
—Yukon	53	Montana	48	West Virginia	40
Colorado	47	Nebraska	45	Wisconsin	45
Connecticut	39	Nevada	48	Wyoming	48
		New Hampshire	41		
Between WESTERN SAMOA					
Alabama	49	Delaware	50	New Jersey	50
Alaska	49	District of Columbia	50	New Mexico	36
Arizona	36	Florida	58	New York	50
Arkansas	49	Georgia	51	North Carolina	51
California	34	Idaho	40	North Dakota	40
Canada		Illinois	52	Ohio	52
—Alberta	45	Indiana	52	Oklahoma	41
—British Columbia	41	Iowa	41	Oregon	36
—Labrador	68	Kansas	41	Pennsylvania	50
—Manitoba	43	Kentucky	52	Rhode Island	50
—New Brunswick	56	Louisiana	49	South Carolina	51
—Newfoundland	63	Maine	53	South Dakota	40
—Northwest Terr	59	Maryland	50	Tennessee	49
—Nova Scotia	58	Massachusetts	50	Texas	41
—Ontario	49	Michigan	46	Utah	36
—Pr. Edward Isl	59	Minnesota	46	Vermont	53
—Quebec	55	Mississippi	49	Virginia	50
—Saskatchewan	43	Missouri	41	Washington	36
—Yukon	54	Montana	40	West Virginia	50
Colorado	37	Nebraska	41	Wisconsin	46
Connecticut	50	Nevada	36	Wyoming	40
		New Hampshire	53		

State	Days	State	Days	State	Days
Between YEMEN and					
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		
Between YUGOSLAVIA and					
Alabama	68	Delaware	66	New Jersey	68
Alaska	69	District of Columbia	66	New Mexico	70
Arizona	72	Florida	67	New York	68
Arkansas	68	Georgia	67	North Carolina	68
California	73	Idaho	72	North Dakota	74
Canada		Illinois	69	Ohio	67
—Alberta	80	Indiana	68	Oklahoma	71
—British Columbia	78	Iowa	72	Oregon	74
—Labrador	85	Kansas	70	Pennsylvania	69
—Manitoba	77	Kentucky	66	Rhode Island	68
—New Brunswick	73	Louisiana	69	South Carolina	64
—Newfoundland	80	Maine	70	South Dakota	74
—Northwest Terr	79	Maryland	66	Tennessee	68
—Nova Scotia	75	Massachusetts	67	Texas	71
—Ontario	74	Michigan	71	Utah	75
—Pr. Edward Isl	76	Minnesota	72	Vermont	69
—Quebec	73	Mississippi	68	Virginia	67
—Saskatchewan	78	Missouri	71	Washington	73
—Yukon	74	Montana	75	West Virginia	66
Colorado	71	Nebraska	72	Wisconsin	69
Connecticut	68	Nevada	74	Wyoming	75
		New Hampshire	69		
Between ZAIRE and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

State	Days	State	Days	State	Days
Between ZAMBIA and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
Between ZIMBABWE and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

12–2 Special POV Transit Times

This HTOS paragraph 12–2 applies for shipments of POV's between CONUS locations and locations in Alaska, Guam, Hawaiian Islands, Puerto Rico and the Virgin Islands AND between locations in Alaska, Guam, Hawaiian Islands, Puerto Rico and the Virgin Islands.

Between and	*Alaskan points	Guam	Hawaiian Islands	Puerto Rico	Virgin Islands-St. Thomas/St. Croix	Virgin Islands-St. John
	Days	Days	Days	Days	Days	Days
AK	.....	25	15	20	20	20
AL	20	28	20	15	15	15
AR	20	28	20	15	15	15
AZ	15	26	15	20	20	20
CA	15	25	15	20	20	20
CO	15	26	15	20	20	20
CT	20	28	20	15	15	15
DC	20	28	20	15	15	15
DE	20	28	20	15	15	15
FL	20	29	20	15	15	15
GA	20	29	20	15	15	15
IA	20	29	20	20	20	20

Between and	*Alaskan points	Guam	Hawaiian Islands	Puerto Rico	Virgin Islands-St. Thomas/St. Croix	Virgin Islands-St. John
	Days	Days	Days	Days	Days	Days
ID	15	28	15	20	20	20
IL	20	29	20	15	15	15
IN	20	29	20	15	15	15
KS	15	29	15	20	20	20
KY	20	29	20	15	15	15
LA	20	28	20	15	15	15
MA	20	28	20	15	15	15
MD	20	28	20	15	15	15
ME	20	29	20	15	15	15
MI	20	30	20	20	20	20
MN	20	30	20	20	20	20
MO	15	29	15	20	20	20
MS	20	28	20	15	15	15
MT	15	28	15	20	20	20
NC	20	29	20	15	15	15
ND	20	28	20	20	20	20
NE	15	29	15	20	20	20
NH	20	29	20	15	15	15
NJ	20	28	20	15	15	15
NM	15	26	15	20	20	20
NV	15	26	15	20	20	20
NY	20	28	20	15	15	15
OH	20	29	20	15	15	15
OK	20	28	20	20	20	20
OR	15	25	15	20	20	20
PA	20	28	20	15	15	15
RI	20	28	20	15	15	15
SC	20	29	20	15	15	15
SD	20	28	20	20	20	20
TN	20	28	20	15	15	15
TX	15	28	15	15	15	15
UT	15	26	15	20	20	20
VA	20	28	20	15	15	15
VT	20	29	20	15	15	15
WA	15	25	15	20	20	20
WI	20	30	20	20	20	20
WV	20	28	20	15	15	15
WY	15	28	15	20	20	20
GUAM	25	.....	20	30	30	30
HAWAII	20	15	.....	20	20	20
PUERTO RICO	20	30	25	.....	10	10
VIRGIN ISL., ST. THOMAS/ST. CROIX	25	30	25	10	.....	10
VIRGIN ISL., ST. JOHN	25	30	25	10	10	.....

*Alaskan points include the following cities: Anchorage, Cordova, Fairbanks, Juneau, Ketchikan, Kodiak, Petersburg, Sitka, and Wrangell.

Section 14—Geographic Coverage

14–1. Geographic Coverage

14–1.1. Domestic

The geographic coverage included in domestic offers is from/to points in the continental United States (CONUS), interstate and intrastate first proviso household goods movements. Offers for service within Alaska or between Alaska and all other points defined as domestic will include only those points identified in the RFO. Offers for all other domestic service must be for all points within the defined service areas for interstate and for the full state for intrastate.

Service Area 1	Points in the State of California
Service Area 2	Points in the States of Washington and Oregon
Service Area 3	Points in the States of Nevada and Utah
Service Area 4	Points in the States of Idaho, Montana, North Dakota, South Dakota, and Wyoming
Service Area 5	Points in the State of Colorado
Service Area 6	Points in the States of Arizona and New Mexico
Service Area 7	Points in the States of Oklahoma and Texas
Service Area 8	Points in the States of Iowa, Kansas, Missouri, and Nebraska
Service Area 9	Points in the States of Michigan, Minnesota, and Wisconsin
Service Area 10	Points in the States of Illinois, Indiana, Kentucky, and Ohio
Service Area 11	Points in the States of Arkansas, Alabama, Louisiana, Mississippi, and Tennessee
Service Area 12	Points in the State of Florida
Service Area 13	Points in the States of Georgia, North Carolina, and South Carolina
Service Area 14	Points in the States of Delaware, Maryland, Virginia, and West Virginia, and the District of Columbia
Service Area 15	Points in the States of Connecticut, Rhode Island, Massachusetts, New Jersey, New York, and Pennsylvania

Service Area 16	Points in the States of Maine, New Hampshire, and Vermont
Service Area 22	Points in the State of Alaska identified in the RFO
Service Area 2300	Points in the Canadian Province of Alberta
Service Area 2301	Points in the Canadian Province of British Columbia
Service Area 2302	Points in the Canadian Province of Labrador
Service Area 2303	Points in the Canadian Province of Manitoba
Service Area 2304	Points in the Canadian Province of New Brunswick
Service Area 2305	Points in the Canadian Province of Newfoundland
Service Area 2306	Points in the Canadian Province of Nova Scotia
Service Area 2307	Points in the Canadian Province of Ontario
Service Area 2308	Points in the Canadian Province of Prince Edward Island
Service Area 2309	Points in the Canadian Province of Quebec
Service Area 2310	Points in the Canadian Province of Saskatchewan
Service Area 2311	Points in the Canadian Province of Northwest Territory
Service Area 2312	Points in the Canadian Province of Yukon

14–1.2. International

Offers for all international service may be between international areas or between international and domestic areas. In any case, offers for international service must be for all points within the defined service areas and/or countries. The geographic coverage included in international offers is from/to points within the defined country, as identified below.

Off-shore application	Via port of
Guam	Oakland, CA.
Hawaiian Islands of Hawaii, Kauai, Maui, and Oahu.	Oakland, CA.
Puerto Rico	Jacksonville, FL.
Virgin Islands	Jacksonville, FL.

14–2. Named Localities Within Off-Shore States, Territories, or Possessions of The United States of America

Agana, Guam (International Program)
Anchorage, Alaska (Domestic Program)
Honolulu, Hawaii (International Program)
San Juan, Puerto (International Program)
St. Thomas, Virgin Islands (International Program)

14–3. Named Localities In Central America

Panama City, Panama
Republic of Mexico, all points
Guatemala City, Guatemala
Quito, Ecuador
San Jose, Costa Rica
The Bahamas

14–4. Named Localities Within Europe

Adana, Turkey
Amsterdam, The Netherlands
Ankara, Turkey
Athens, Greece
Barcelona, Spain
Belfast, Northern Ireland
Berlin, Germany
Bern, Switzerland
Bilboa, Spain
Bonn, Germany
Bordeaux, France
Brussels, Belgium
Copenhagen, Denmark
Edinburgh, Scotland
Florence, Italy
Frankfurt, Germany
Geneva, Switzerland
Genoa, Italy
Hamburg, Germany
Istanbul, Turkey
Izmir, Turkey
Leipzig, Germany
Leon, France
Lisbon, Portugal
London, England
Madrid, Spain
Marseille, France
Milan, Italy
Munich, Germany
Naples, Italy
Palermo, Italy
Paris, France
Reykjavik, Iceland
Rome, Italy
Strasbourg, France
Stuttgart, Germany
The Hague, The Netherlands
Thessaloniki, Greece
Zurich, Switzerland

14–5. Named Localities Within Asia.

Bangkok, Thailand
Beijing, China
Cebu, Philippines
Chiang Mai, Thailand
Fukuoka, Japan
Hong Kong, United Kingdom
Islamabad, Pakistan
Jakarta, Indonesia
Karachie, Pakistan
Manila, Philippines
Naha, Okinawa
New Delhi, India
Osaka-Kobe, Japan
Pusan, Korea
Sapporo, Japan
Sengapore, Singapore
Seoul, Korea
Songkhia, Thailand
Tokyo, Japan
Udorn, Thailand

14–6. Named Localities Within Australia.

Brisbane, Australia
Canberra, Australia
Melbourne, Australia
Sydney, Australia
Perth, Australia

14–7. Named Localities In South America.

Bogota, Colombia
La Paz, Bolivia
Lima, Peru
Montevideo, Uruguay
Santiago, Chile

14–8. Named Localities In The Middle East

Cairo, Egypt
Dakar, Senegal
Jeddah, Saudi Arabia
Manama, Bahrain
Ripadh, Saudi Arabia
United Arab Emerit

14–9. Named Localities by City

14–9.1. Cities Beginning With A

Adana, Turkey
Amsterdam, The Netherlands
Ankara, Turkey
Athens, Greece

14–9.2. Cities Beginning With B

Bangkok, Thailand
Barcelona, Spain
Beijing, China
Belfast, Northern Ireland
Berlin, Germany
Bern, Switzerland
Bilboa, Spain
Bogota, Colombia
Bonn, Germany
Bordeaux, France
Brisbane, Australia
Brussels, Belgium

14–9.3. Cities Beginning With C

Cairo, Egypt
Canberra, Australia
Cebu, Philippines
Chiang Mai, Thailand
Copenhagen, Denmark

14–9.4 Cities Beginning With D

Dakar, Senegal

14–9.5 Cities Beginning With E

Edinburgh, Scotland

14–9.6. Cities Beginning With F

Florence, Italy
Frankfurt, Germany
Fukuoka, Japan

14–9.7. Cities Beginning With G

Geneva, Switzerland
Genoa, Italy
Guatemala City, Guatemala

14–9.8. Cities Beginning With H

The Hague, The Netherlands
Hamburg, Germany
Hong Kong, United Kingdom

14–9.9. Cities Beginning With I

Islamabad, Pakistan
Istanbul, Turkey
Izmir, Turkey

14–9.10. Beginning With J–K

Jakarta, Indonesia
Jeddah, Saudi Arabia
Karachie, Pakistan

14–9.11. Cities Beginning With L

La Paz, Bolivia
Leipzig, Germany
Leon, France
Lima, Peru
Lisbon, Portugal
London, England

14–9.12. Cities Beginning With M

Madrid, Spain
Manama, Bahrain
Manila, Philippines
Marseille, France
Melbourne, Australia
Milan, Italy
Montevideo, Uruguay
Munich, Germany

14–9.13. Cities Beginning With N

Naha, Okinawa
Naples, Italy
New Delhi, India

14–9.14. Cities Beginning With O

Osaka-Kobe, Japan

14–9.15. Cities Beginning With P

Palermo, Italy
Panama City, Panama
Paris, France
Perth, Australia
Pusan, Korea

14–9.16. Cities Beginning With Q

Quito, Ecuador

14–9.17. Cities Beginning With R

Republic of Mexico, all points
Reykjavik, Iceland
Ripadh, Saudi Arabia
Rome, Italy

14–9.18. Cities Beginning With S

San Jose, Costa Rica
Santiago, Chile
Sapporo, Japan
Sengapore, Singapore
Seoul, Korea
Songkhia, Thailand
Strasbourg, France
Stuttgart, Germany
Sydney, Australia

14–9.19. Cities Beginning With T

The Hague,
The Netherlands
Thessaloniki, Greece
Tokyo, Japan

14–9.20. Cities Beginning With U

Udorn, Thailand

14–9.21. Cities Beginning With Z

Zurich, Switzerland

Country	Code
Albania	120A
Algeria	1250
American Samoa	060A
Angola	1410
Antigua	1490
Argentina	150A
Australia	160A
Austria	1650
Azores	735A
Bahamas	1800
Bahrain	1810
Bangladesh	1820
Barbados	1840
Belgium	1900
Belize	2270
Bermuda	1950
Bolivia	2050
Botswana	2100
Brazil	220A
Brunei	2320
Bulgaria	2450
Burkina Faso	9270
Burma	2500
Burundi	2520
Cambodia	2550
Cameroon	2570
Canary Islands	830C
Cayman Islands	2680
Central African Republic	2690
Chad	2730
Chile	2750
China	2800
Colombia	2850
Costa Rica	2950
Croatia	4400
Cuba	3000
Cyprus	3050
Czechoslovakia	3100
Denmark	3150
Djibouti	3170
Dominican Republic	3200
Ecuador	3250
Egypt	9220
El Salvador	3300
England	925E
Ethiopia	3350
Fiji	3380
Finland	3400
France	3500
Gabon	3880
Germany	3940
Ghana	3960
Greece	4000
Guadeloupe	4070
Guatemala	4150
Guinea	4170
Guyana	4180
Haiti	4200
Honduras	4300
Hong Kong	4350
Hungary	4450
Iceland	4500
India	4550
Indonesia	4580
Ireland	4700
Israel	4750
Italy	4800
Ivory Coast	4850
Jamaica	4870
Japan	490J
Jordan	5000
Kazakhstan	5250
Kenya	5050
Korea (South)	5150
Kuwait	5200
Laos	5300
Lebanon	5400
Lithuania	5420
Luxembourg	5700
Madagascar	5750
Malawi	5770
Malaysia	5800
Mali	5850
Malta	5900
Marinas Island	591M
Mauritania	5920
Mauritius	5930
Mexico	5950
Micronesia	0630
Monaco	6070
Morocco	6100
Mozambique	6150
Namibia	8210
Nepal	6250
Netherlands	6300
Netherlands Antilles	6400
New Zealand	6600
Nicaragua	6650
Nigeria	6700
Northern Ireland	925I
Northern Mariana Islands	0690
Norway	6850
Okinawa	490K
Oman	6160
Pakistan	7000
Panama	7100
Papua New Guinea	7120
Paraguay	7150
Peru	7200
Philippines	7250
Poland	7300
Portugal	7350
Qatar	7470
Romania	7550
Russia	8250
Saipan	069S
Santa Lucia	7700
Saudi Arabia	7850
Scotland	925S
Senegal	7870
Sierra Leone	7900
Singapore	7950
Slovenia	7890
Solomon Islands	789S
South Africa	8010

Country	Code
Spain	8300
Sri Lanka	2720
Sudan	8350
Suriname	8400
Sweden	8500
Switzerland	8550
Syria	8580
Tahiti	350T
Taiwan	2810
Tanzania	8650
Thailand	8750
Trinidad	205T
Tunisia	8900
Turkey	9050
Uganda	9100
Venezuela	9400
Vietnam	9450
Western Samoa	9630
Yemen	9650
Yugoslavia	9700
Zaire	2910
Zambia	9900
Zimbabwe	8180

Section 15—Forms

15–1. Carrier Request To Participate And Agreement.

CARRIER REQUEST TO PARTICIPATE AND AGREEMENT TO ABIDE BY THE TERMS AND CONDITIONS OF THE GENERAL SERVICES ADMINISTRATION'S CENTRALIZED HOUSEHOLD GOODS TRAFFIC MANAGEMENT PROGRAM (CHAMP)

This requests approval to participate in the General Services Administration's (GSA) Centralized Household Goods Traffic Management Program (CHAMP). I agree to abide by the terms and conditions set forth in the GSA Household Goods Tender of Service (HTOS), dated [insert date], revisions and supplements thereto or reissues thereof.

I understand that participation in GSA's CHAMP is contingent upon our performance or service as stated in the GSA HTOS. I certify that the information presented herein is completed and correct to the best of my knowledge, understanding that willful submission of false information in my application or on any document furnished pursuant to this HTOS is punishable by fines, imprisonment, or both (US Code, Title 18, Section 1001). I further understand that GSA may terminate my participation in the program upon notice to me of such intent, based upon evidence of my non-compliance with the terms and conditions of the GSA HTOS.

I certify and acknowledge receipt of the HTOS, dated [INSERT DATE] consisting of Sections 1 through 17.

Company Name: _____

_____

Signature and Title of Authorized Official

Date

Carrier/Forwarder Contact Information:

Name _____

Title _____

Address _____

City/State _____

Telephone Number _____

Fax Number: _____

Internet E-Mail Address _____

15.2. Carrier Commercial Port Level Report.

COMMERCIAL PORT LEVEL REPORT

Port of: _____—

Port Agent: _____

Period Ending: _____—

Date of Report: _____

PART 1.—SHIPMENTS ON HAND.

Data Required.

A. Number of import shipments that have not been picked up for line-haul movement ____

B. Number of import shipments that are past the RDD. _____

C. Number of export shipments on hand. ____

D. Number of export shipments on hand that are past the RDD. _____

PART 2.—NARRATIVE COMMENTS.

Provide comments regarding the following:

Processing Problems _____

_____

_____

Availability and Responsiveness of Truckers

_____

_____

Customs Problems _____

_____

Responsiveness of Vessel Operators _____

_____

_____

Other Issues _____

_____

_____

PART 3.—MISSED REQUIRED DELIVERY DATE.

Provide the following information for all on-hand shipments that have missed the RDD:

Relocation Employee's Name	Bill of Lading	Final Destination

PART 4.—MISCELLANEOUS.

Report any specific problems anticipated or encountered in moving personal property to the applicable port.

_____

_____

_____

_____

_____

_____

I certify this to be a true and accurate report

Company Name: _____

Signature and Title of Authorized Official

Date

Carrier Contact Information

Name: _____

Title: _____

Address: _____

City/State: _____

Telephone No.: _____

Fax Number: _____

Internet E-Mail Address: _____

15.3.—Justification Certificate for Use of Foreign Flag Vessel.

GENERAL SERVICES ADMINISTRATION

CENTRALIZED HOUSEHOLD GOODS TRAFFIC MANAGEMENT PROGRAM

JUSTIFICATION CERTIFICATE FOR USE OF FOREIGN FLAG VESSEL.

Date: _____

ITGBL Carrier: _____

I certify that it (is)(was) necessary to transport the household goods of _____

GBL# _____

between _____

and _____

enroute from _____

to _____

via the _____

a foreign flag vessel for the following reasons. _____

Explanation (A full explanation is required):

Required Delivery Date: _____

Departure Date: _____

Arrival Date: _____

Cubic Feet: _____

Gross Weight: _____

Net Weight: _____

Freight Charges: _____

Per: _____

The Thru/GBL rate on file with the General Services Administration will be protected under the terms and conditions of the General Services Administration Household Goods Tender of Service.

_____

Signature of Authorized Participant Representative Date

Title V, GAO Manual—RESPONSIBILITY OF CERTIFYING OFFICER. Certifying officers have the responsibility in the first instance of determining the acceptability of the foregoing certificate which must be attached to bills involving movements by foreign flag vessels prior to the certification of such bills.

Agency: _____

Authorizing Official: _____

Title: _____

Date: _____

15.4 Participant Carrier Certification Statement Of Eligibility.

CARRIER CERTIFICATION STATEMENT OF ELIGIBILITY FOR THE AWARD OF CONTRACTS FOR TRANSPORTATION

A. By submitting this rate tender, the participant certifies that:

(1) Neither the participant, nor any of its subsidiaries, officers, directors, principal owners, or principal employees is currently suspended, debarred,) or in receipt of a notice of proposed debarment from any agency as a result of a civil judgment or criminal conviction or for any cause from GSA), or has been placed in temporary nonuse status by GSA for the routes covered by this tender as of the date that this rate tender is offered.

(2) The participant is not a corporation, partnership, sole proprietorship or any other business entity which has been formed or organized following the suspension or debarment of, a subsidiary, officer, director, principal owner, or principal employee thereof (or from such an entity formed after receipt of a notice of proposed debarment).

B. The following definitions are applicable to this certification:

(1) A subsidiary is a business entity whose management decisions are influenced by the participant through legal or equitable ownership of a controlling interest in the firm's stock, assets, or otherwise.

(2) A principal owner is an individual or company which owns a controlling interest in the participant's stock, or an individual who can control, or substantially influence, the participant's management, through the ownership interest of family members or close associates.

(3) A principal employee is a person(s) acting in a managerial or supervisory capacity (including consultants and business advisors) who is able to direct, or substantially influence, the participant's performance of its obligations under its contracts for transportation with the Federal Government.

C. Knowledge required.

The knowledge of the person who executes this certification is not required to exceed the knowledge which that person can reasonably be expected to possess, following inquiry, regarding the suspended or debarred status of the parties defined in (B), above.

D. Obligation to inform.

The participant has a continuing obligation to inform the GSA office to which this rate tender is submitted of any change in circumstances which results in its ineligibility for the receipt of contracts for transportation.

E. Erroneous certification.

An erroneous certification of eligibility or failure to notify the GSA transportation zone office receiving this tender of a change in eligibility, may result in a recommendation for administrative action against the participant. Additionally, false statements to an agency of the Federal Government are subject to criminal prosecution pursuant to 18 USC 1001, as well as possible civil penalties.

_____

COMPANY NAME

_____

SIGNATURE AND TITLE OF AUTHORIZED OFFICIAL DATE

PARTICIPANT CONTACT

NAME: _____

TITLE: _____

ADDRESS: _____

CITY/STATE: _____

TELEPHONE NO:(_____) _____

General Services Administration—Basic Transportation Trading Partner Agreement

Applicability: Check the box below which represents the activity of your firm under this Trading Partner Agreement:

☐ Freight Common Carrier (All paragraphs, except Paragraph 4, of this agreement will apply and are binding.)

☐ Household Goods Common Carrier (All paragraphs, except Paragraphs 3 and 5G, of this agreement will apply and are binding.)

☐ Freight Forwarder (All paragraphs, except Paragraph 4, of this agreement will apply and are binding.)

☐ Household Goods Freight Forwarder (All paragraphs, except Paragraphs 3 and 5G, of this agreement will apply and are binding.)

☐ Freight Broker (All paragraphs, except Paragraphs 4 and 5G, of this agreement will apply and are binding.)

☐ Freight Shipper Agent/Intermodal Marketing Company (All paragraphs, except Paragraphs 4 and 5G, of this agreement will apply and are binding.)

☐ Rate Filing Service Provider (All paragraphs, except Paragraph 5G, of this agreement will apply and are binding.)

1. Introduction

This agreement prescribes the general procedures and policies to be followed when Electronic Commerce (EC) is used for transmitting and receiving requests for offers, rate tenders, or other business information in lieu of creating one or more paper documents normally associated with conducting business with the General Services Administration. The General Services Administration (GSA or the agency) will transmit and receive using the File Transfer Protocol (FTP) of the Internet network (I–FTP) such transaction sets (documents) as it chooses and as established by the governing tender of service or the request for offers. These transaction sets will be transmitted to those firms, organizations, agencies, or other entities (trading partners) recognized by GSA that agree to accept such documents and to be bound by the terms and conditions contained in those documents, this agreement, and any applicable tender of service.

2. Purpose

This agreement is to ensure that all EC obligations are legally binding on all trading partners. Further, the use of any electronic equivalent of a standard business document referenced in Paragraphs 3 and 4 will be deemed an acceptable business practice and that no trading partner will challenge the admissibility of the electronic information in evidence, except in circumstances in which an analogous paper document could be challenged. Where participant is used in this agreement it will mean carrier/forwarder as applicable.

3. Freight Reference

This agreement, in addition to the terms and conditions stated in Paragraph 5, is subject to the terms and conditions of the following documents:

- GSA Freight Traffic Management Program Standard Tender of Service.
- Optional Form 280
- GSA Freight Traffic Management Program Request for Offers

4. Household Goods Reference

This agreement, in addition to the terms and conditions stated in Paragraph 5, is subject to the terms and conditions of the following documents:

- GSA Centralized Household Goods Traffic Management Program Tender of Service.
- Optional Form 280
- GSA Centralized Household Goods Traffic Management Program Request for Offers

5. Terms and Conditions

(A) GSA will place electronic documents in a publicly accessible website (www.KC.GSA.GOV/FSST) and when warranted in the directory of a confirmed trading partner (trading partner/<SCA>), hereinafter referred to as directory. It will receive documents from confirmed trading partners in each confirmed trading partner's directory via I–FTP. Receipt by the trading partner is considered to occur when the document is placed and either the public directory or the trading partner's directory, as the case may be.

(B) GSA will bear the costs of maintaining the GSA FTP server and the costs of placing documents issued by GSA in the appropriate directory on the GSA FTP server, and the costs of managing documents put on the GSA FTP server by its trading partners. The agency's trading partners are responsible for all costs associated with getting documents from or putting documents on the GSA FTP server.

(C) When the transmissions are submission or fate tenders, the submitting firm must have first met all applicable approval requirements set out in the applicable, governing Tender of Service.

(D) GSA will be responsible for the accuracy of documents issued by it and placed in the GSA FTP server directory. GSA will not be responsible for errors occurring in documents put on the GSA FTP server, nor will GSA be responsible for errors occurring in documents gotten from the GSA FTP server.

(E) GSA will not be responsible for any damages incurred by a trading partner as a result of missing or delayed transmissions when the problem is not with or caused by GSA or the agency's FTP server.

(F) Any document placed in a directory maintained on the GSA FTP server is to be considered a valid and authentic document backed by the same guarantees of legitimacy as are found in a paper transaction. Likewise, any document from a trading partner put into a directory on the GSA FTP server will be considered a valid and authentic document backed by the same guarantees of legitimacy as are found in a paper transaction.

(G) If a participant uses a broker, shipper agent/Intermodal Marketing Company, or filing service to file its rates with GSA, documents submitted on behalf of the participant will be accepted as though submitted by the participant and GSA. The use of a broker, shipper agent/Intermodal Marketing Company, or filing service does not relieve the participant of any of its rights or obligations under the terms of this agreement, including the maintenance of a valid trading partner agreement with GSA.

6. Force Majeure

None of the parties in this agreement will be liable for failure to properly conduct EC in the event of war, accident, riot, fire, flood, epidemic, power outage, labor dispute, act of God, act of public enemy, malfunction or inappropriate design of hardware or software, or any other cause beyond such party's control. If standard business cannot be conducted by EC, GSA, will, at its discretion, return to a paper based system.

7. Effective Date

The effective date of this agreement will be the latest of the date(s) shown on the signature page of this document

8. Agreement Review

The agreement will be affective on a continuing basis, except as provided in Paragraph 9, below; provided, however, that GSA may from time to time make such changes to the agreement as are necessary, and the trading partner may request review of the agreement at any time.

9. Termination

(A) If GSA terminates a participant's participation in the GSA Freight Traffic Management Program and/or the GSA Centralized Household Goods Traffic Management Program, this agreement will be considered terminated as of the date notice is given to a firm of its participation termination.

(B) If a participant terminated its participation in the GSA Freight Traffic Management Program and/or the GSA Centralized Household Goods Traffic Management Program, this agreement will be considered terminated as of the date notice of such termination is received by the GSA.

(C) Except as provided above, this agreement may be terminated by either GSA or its trading partner, effective 30 days after receipt of written notice by either party. Termination will have no effect on transactions occurring before the effective date of termination.

10. Whole Agreement

This agreement and all addenda constitute the entire agreement between the parties. No changes in terms and conditions of this agreement will be effective unless approved and signed by both parties. At the inception of this agreement, Addendum/Addenda (is) (are) not applicable. As the parties develop and implement additional EC capabilities, addenda may be incorporated into this agreement. Each addendum will be signed and dated by both parties. The latest date contained on the signature page will be the effective date of the addenda. The addendum will be appended to this agreement.

Representing the Carrier

_____

Name and Signature

_____

Title

_____

Firm

_____

Street Address

_____

City, State, Zip

_____

Telephone

_____

Fax

_____

Internet E-mail

_____

Electronic Commerce Contact

_____

Telephone

_____

Fax

_____

Internet E-mail

_____

Date

Representing the General Services Administration

_____

Name and Signature

_____

Manager, Centralized Household Goods Traffic Management Program (CHAMP)

_____

Title

_____

Federal Supply Service

_____

Firm

_____

1500 East Bannister Road, Room 1076

_____

Street Address

_____

Kansas City, MO 64131

_____

City, State, Zip

_____

816–823–3646

_____

Telephone

816–823–3656

Fax

Internet E-mail

Electronic Commerce Contact

816–823–3646

Telephone

816–823–3656

Fax

Internet E-mail

Date

Trading Partner Agreement Number

(TO BE COMPLETED BY GSA)

Section 16—Definitions & Explanation of Terms

16–1. Advanced Charges

A charge advanced by the participant for services of others engaged at the request of the RTO, or required by Federal, State or local law.

16.2. Attempted Pickup and/or Delivery [old 16.1]

Is when a participant fails to perform pickup services, through no fault of its own, at a relocating employee's residence. The participant is authorized compensation for labor services and/or vehicle use in accordance with the applicable tariff and/or tender for the origin municipality shown on the bill of lading.

16.3. Attempted Pickup [old 16.1.1]

Is when a participant fails to perform delivery services, through no fault of its own, at a relocating employee's residence. The participant is authorized compensation on direct delivery and from SIT shipments for labor services and/or vehicle use in accordance with the applicable tariff and/or tender for the destination municipality shown on the bill of lading.

16–4. Auxiliary Services

RTO approved labor services and/or non-standard linehaul or delivery vehicles used by the participant to pickup or delivery of shipments when the origin or destination is inaccessible by virtue of building design or roadway nonexistence, design, condition, construction, or obstacles.

16–5. Agency

The Federal shipping or receiving office responsible for shipping a relocating employee's HHG. Any reference in this HTOS made to "agency" will be understood to mean Federal shipping agency, Federal ordering agency, Federal civilian agency or Federal agency.

16–6. Bill of Lading (BL)

An accountable shipping document used for the acquisition of authorized transportation and related services from commercial participants for the movement of GSA sponsored HHG shipments. (See Federal Management Regulation Part 117 (41 CFR Part 102-117) for GBL terms and conditions for all Government shipments moving under this HTOS.)

16–7. BLIO

Bill of Lading Issuing Officer.

16–8. Destination Point [old 16.7]

That city or post shown in the block #5 (destination) on the Government Bill of Lading (International) or the appropriate destination block on the bill of lading (Domestic).

16–9. Diversion [old 16.8]

A change in the original destination of an en route HHG shipment to a new destination more than a 30 mile radius from the original destination point. Shipment requiring further over ocean transportation will be terminated and reshipped.

16–10. Domestic Transportation

The movement of a relocated Government employee's HHG within the conterminous United States (CONUS), including Alaska and Canada.

16–11. Employee

Any reference to "employee" in this HTOS will be understood to mean relocating employee or relocating employee's representative.

16–12. Filing Dates [old 16.9]

Designated dates announced by GSA during which CHAMP rates and other data must be filed.

16–13. Filing Criteria [old 16.10]

The terms and conditions for the filing of rates established in the GSA issued Request for Offers.

16–14. Final Delivery Point [old 16.11]

Place at which participant surrenders possession of property to the relocating employee and no further transportation or services are required under the bill of lading.

16–15. General Services Administration (GSA) [old 16.12]

The Agency responsible for the administration of the Household Goods Tender of Service (HTOS) and the Centralized Household Goods Traffic Management Program (CHAMP). The office is located at 1500 East Bannister Road, Kansas City, MO 64131–3088.

16–16. General Transportation Services

Transportation and accessorial services normally associated with a HHG move as set out in interstate and intrastate tariffs or this HTOS.

16–17. Government Bill of Lading (GBL) [old 16.42]

An accountable shipping document (OF 1203) used for the acquisition of authorized international transportation (including domestic offshore Alaska, Hawaii, Guam, Virgin Islands and Puerto Rico), and related services from commercial participants for the movement of GSA sponsored HHG shipments. For GBL terms and conditions, see Federal Management Regulation Part 102 (41 CFR Part 102–117). The GBL is being retired for domestic use (in all forms) March 31, 2002. For domestic shipments, where reference is made in this HTOS to a GBL, it shall be construed as a BL.

16–18. Government Bill of Lading Office Code (GBLOC) [old 16.14]

A designated code consisting of four alpha characters unique to GSA and each overseas post participating in the ITGBL Program. It is found in block 33b of the GBL.

16–19. GBLIO

Government Bill of Lading Issuing Officer.

16–20. Government Rate Tender (GRT)

The Professional Movers Government Rate Tender, STB HGB 415 series and supplements thereto, issued by the Household Goods Carriers' Bureau Committee, Agent.

16–21. Government Storage Warehouse [old 16.15]

Government-owned or leased facility used for storing household effects shipments.

16–22. Gross Weight [old 16.16]

The aggregate weight of all articles plus necessary packing materials and shipping containers.

16–23. Household Goods (HHG) [old 16.17]

The personal effects of Government employee's and their dependants.

(Please note that GSA does not consider boats to be Household Effects/HHG).

16–24. International Transportation

Door to door container movement of HHG outside the conterminous United States (OCONUS), including Alaska and Canada, in lift vans. A Participant provides complete through service from origin to destination residence by surface ocean means.

16–25. ITBL International Government Bill of Lading

16–24. Item (Or Article) [old 16.20]

The terms "item" and "article" used in this solicitation shall be interchangeable. Each shipping piece or package and the contents thereof shall constitute one item. Any item taken apart or knocked down for handling or loading shall constitute one item.

16–26. Kilogram [old 16.21]

One kilogram is equal to 2.2046 pounds. To convert kilograms into pounds, multiply kilograms by a 2.2046 factor. To convert pounds into kilograms, multiply pounds by a 0.453 factor.

16–27. Kilometer [old 16.22]

One kilometer is equal to 3,280.8 feet or 0.62137 mile. To convert kilometers into miles, multiply the number of kilometers by a 0.62137 factor. To convert miles into kilometers, multiply the number of miles by a 1.609 factor.

16–28. Miscellaneous Charge

Any cost incurred by the participant performing a service authorized by the RTO that is outside the terms of this HTOS.

16–29. Mistake in Rate Filing (MIRF) [old 16.23]

An error acknowledged by the participant after rate submissions. Participants may obtain relief for mistakes in rate filing upon review and approval by GSA.

16–30. Move Management Services (MMS)

Services performed by a MMS provider to arrange, coordinate, and monitor each relocating employee's HHG move, from initial notification of shipment booking through delivery at destination. Services as identified in Section 4A will be provided within a participant's approved scope of operations.

16–31. Net Weight [old 16.24]

The net weight of shipments transported in containers shall be the difference between the tare weight of the empty container and the gross weight of the packed container.

16–32. Non-Temporary Storage (NTS) [old 16.25]

Service for long-term storage, other than storage-in-transit, or personal property at the relocation employee's or Government's expense.

16–33. One-Time-Only (OTO) Rates [old 16.26]

Rates solicited by GSA from individual participants for the one time movement of personal property.

16–34. Packing Carton [old 16.27]

The carton used for packing articles requiring additional protection prior to placing them inside a shipping container.

16–35. Participant [old 16.3]

Any HHG carrier/forwarder that is approved to participate in the Centralized Household Goods Traffic Management Program (CHAMP) and provide HHG General Transportation Services and/or Move Management Services (MMS).

16–36. Participant's Agent [old 16.4]

A business firm, corporation, or individual acting for or in behalf of a participant. A bona fide agent of a personal property participant, as distinguished from a broker, is a person who, or business enterprise which, represents and acts for a participant and performs its duties under the direction of the participant, pursuant to a preexisting agreement with the participant, providing for a continuing relationship between them.

16–37. Pick-up Point [old 16.28]

The specific location where the participant takes possession of HHG for shipment.

16–38. Point of Diversion [old 16.29]

The location of the shipment when orders are given to change destination point.

16–39. Port of Embarkation/Debarkation [old 16.30]

Includes dock, wharf, pier, berth at which cargo is loaded aboard ship or is discharged from ship, including the participant's port terminal facility or warehouse serving the port.

16–40. Program Management Office (PMO)

The PMO is responsible for providing transportation management services to Federal departments and agencies through out the world including CHAMP carrier approval, price negotiation and participant performance measurement. The PMO responsibilities are managed through five GSA Zone Offices in Washington, DC (National Capital Region), Atlanta, GA (Southeast Sunbelt Region), Kansas City, MO (Heartland Region) and San Francisco, CA (Pacific Rim Region). (See GSA website www.kc.gsa.gov/fsstt for detailed information and points of contact) Any reference to PMO in this HTOS will be understood to mean PMO and or its designees or representatives.

16–41. Property Owner

Any reference made to "property owner" or "property owner's representative" in this HTOS will be understood to mean "relocating employee".

16–42. Rate Cycle [old 16.31]

A period of time during which rates filed by participants are effective.

16–43. Rate Solicitation Cycle [old 16.32]

The designation assigned to the bill of lading electronic rates filed with GSA which are effective for a specific rate cycle.

16–44. Regular Working Hours [old 16.33]

Regular working hours include the days Monday through Friday, between the hours of 8 a.m. and 5 p.m. local time, and exclude all other hours of the day, days of the week, and officially declared foreign national, U.S. National or State holidays

16–45. Relocating Employee

An employee of an agency relocating to a different duty station. The term "relocating employee" includes a relocating employee's agent, designee or representative.

16–46. Required Delivery Date (RDD) [old 16.34]

A specified calendar date on or before which the participant agrees to offer the entire shipment of personal property for delivery to the employee or employee's agent at destination. If the RDD falls on a Saturday, Sunday, Foreign National, U.S. National, or State holiday, the RDD will be the following working day.

16–47. Responsible Transportation Officer (RTO) [old 16.35]

The individual or its designee or representative or office within the shipping or receiving agency responsible for HHG traffic management functions.

16–48. Shipper. [old 16.36]

The agency responsible for the payment of the bill of lading or GBL, usually the employer of the relocating personnel.

16–49. Shipping Container. [old 16.37]

External container, lift van, crate, tri-wall, bi-wall as specified by the RTO into which individual articles and/or packing cartons are placed.

16–50. Solicitation Period. [old 16.38]

The period of time specified in the rate solicitation during which the rates will be in effect.

16–51. Storage-in-Transit. [old 16.39]

Temporary storage, other than non-temporary storage of a HHG shipment prior to final delivery.

16–52. Supporting Documentation. [old 16.40]

Documentation requiring participant certification and submission to GSA by designated dates provided in each cycle solicitation letter to include participant Tender of Service Signature Sheet, LOI's, etc.

16–53. Tare Weight

14–10. The weight of an empty vehicle or liftvan before loading and after unloading.

16–54. Unaccompanied Air Baggage (UAB). [old 16.41]

The portion of an employee's prescribed weight allowance of HHG including professional books, papers, and equipment, normally shipped separately from the bulk of personal property and designated as such on the employee's application for shipment.

Section 17—Accessorial Rates, Rules, and Charges

17–1. Purpose

This chapter contains general requirements as well as specific rates and charges permissible under the CHAMP International Program.

17–2. Measurement To Metric Measurement

To convert U.S. customary units to metric units, multiply by the conversion factor. To convert metric to U.S. customary units, divide by the conversion factor.

Symbol	When you know	Multiply by	To find	Symbol
	Length			
in	inches	2.54	centimeters	cm
ft	feet	30.48	centimeters	cm
ft	feet	0.3048	meters	m
yd	yards	0.9144	meters	m
mi	miles	1.6093	meters	m
	Mass			
oz	ounces	28.35	grams	g
lb	pounds	0.4536	kilograms	kg
t	short ton (2,000 lb.)	0.9072	metric ton	t
	Volume			
pt	pints	0.473	liters	L
qt	quarts	0.946	liters	L
gal	gallons	3.785	liters	L

17–3. Rates

Rates as specified herein will apply for accessorial services performed by the carrier in addition to the single factor rate (SFR) for surface transportation from point of origin to point of destination or destination warehouse.

17–4. Minimum Weights

Except as otherwise provided herein, the minimum weight for surface household effects shipments shall be 1,000 pounds (45kg); and the minimum weight of unaccompanied air baggage shipments shall be 45 kilograms (100 lbs).

17–5. Accessorial Services

The accessorial services shown herein, which are not included in the single factor transportation rate will be furnished by the carrier upon request of the shipper at the rates or charges specified herein.

17–6. Additional Services.

A. Geographic application of rates and charges applying to additional services indicated (labor, long caries and storage-related charges at origin) see HTOS paragraph 17–6.1 series.

B. The rates shown opposite the service area and schedule locations in HTOS paragraph 17–7 apply in US dollars and cents for services performed at the named service area locations in HTOS paragraph 17–6.1.

C. Explanations of abbreviations used in HTOS paragraph 17–6–1 series are shown below.

Abbreviation	Meaning	Abbreviation	Meaning
ADDL	Additional	P/D	Pickup Or Delivery
CWT (45KG)	Hundredweight	REG	Regular
EA	Each	SA	Service Area
ELV	Elevator	S/C	Stair Carry
1ST	First	SCH	Schedule
L/C	Long Carry	SIT	Storage-In-Transit
O/T	Overtime	W/H	Warehouse Handling

17–6.1. Service Area Designations

Where reference is made to HTOS paragraph 17–6–1 series, use the service area numbers corresponding to the countries shown therein to determine the applicable rates and charges for services performed at CONUS locations.

17–6.1.1. Alabama Service Areas

County	SA	County	SA	County	SA
2 Autauga	20	46 Dale	8	92 Marengo	16
4 Baldwin	16	48 Dallas	20	94 Marion	4
6 Barbour	212	50 De Kalb	12	96 Marshall	12
8 Bibb	4	52 Elmore	20	98 Mobile	16
10 Blount	4	54 Escambia	188	100 Monroe	16
12 Bullock	20	56 Etowah	4	102 Montgomery	20
14 Butler	20	58 Fayette	4	104 Morgan	12
16 Calhoun	4	60 Franklin	12	106 Perry	20
18 Chambers	212	62 Geneva	8	108 Pickens	436
20 Cherokee	4	64 Greene	4	110 Pike	20
22 Chilton	20	66 Hale	4	112 Randolph	4
24 Choctaw	436	68 Henry	8	114 Russell	212
26 Clarke	16	70 Houston	8	116 Saint Clair	4
28 Clay	4	72 Jackson	12	118 Shelby	4
30 Cleburne	4	74 Jefferson	4	120 Sumter	436
32 Coffee	8	76 Lamar	4	122 Talladega	4
34 Colbert	12	78 Lauderdale	12	124 Tallapoosa	20
36 Conecuh	16	80 Lawrence	12	126 Tuscaloosa	4
38 Coosa	20	82 Lee	212	128 Walker	4
40 Covington	188	84 Limestone	12	130 Washington	16
42 Crenshaw	20	86 Lowndes	20	132 Wilcox	16
44 Cullman	4	88 Macon	20	134 Winston	4
		90 Madison	12		

17–6.1.2. Arizona Service Areas

County	SA	County	SA	County	SA
2 Apache	528	12 Greenlee	32	22 Pima	32
4 Cochise	32	14 La Paz	36	24 Pinal	28
6 Coconino	24	16 Maricopa	28	26 Santa Cruz	32
8 Gila	28	18 Mohave	500	28 Yavapai	24
10 Graham	32	20 Navajo	24	30 Yuma	36

17–6.1.3. Arkansas Service Areas

County	SA	County	SA	County	SA
2 Arkansas	48	52 Garland	48	102 Newton	40
4 Ashley	352	54 Grant	48	104 Ouachita	360
6 Baxter	48	56 Greene	44	106 Perry	48
8 Benton	40	58 Hempstead	360	108 Phillips	44
10 Boone	40	60 Hot Spring	48	110 Pike	360
12 Bradley	352	62 Howard	360	112 Poinsett	44
14 Calhoun	360	64 Independence	48	114 Polk	40
16 Carroll	40	66 Izard	48	116 Pope	48
18 Chicot	424	68 Jackson	44	118 Prairie	48
20 Clark	48	70 Jefferson	48	120 Pulaski	48
22 Clay	44	72 Johnson	40	122 Randolph	44
24 Cleburne	48	74 Lafayette	360	124 Saline	48
26 Cleveland	48	76 Lawrence	44	126 Scott	40
28 Columbia	360	78 Lee	44	128 Searcy	48
30 Conway	48	80 Lincoln	424	130 Sebastian	40
32 Craighead	44	82 Little River	360	132 Sevier	360
34 Crawford	40	84 Logan	40	134 Sharp	48
36 Crittenden	728	86 Lonoke	48	136 St. Francis	44
38 Cross	44	88 Madison	40	138 Stone	48
40 Dallas	48	90 Marion	48	140 Union	352
42 Desha	424	92 Miller	784	142 Van Buren	48
44 Drew	424	94 Mississippi	44	144 Washington	40
46 Faulkner	48	96 Monroe	44	146 White	48
48 Franklin	40	98 Montgomery	40	148 Woodruff	44
50 Fulton	48	100 Nevada	360	150 Yell	40

17–6.1.4. California Service Areas

County	SA	County	SA	County	SA
2 Alameda	80	40 Madera	52	80 San Luis Obispo	56
4 Alpine	68	42 Marin	80	82 San Mateo	80
6 Amador	68	44 Mariposa	60	84 Santa Barbara	56
8 Butte	84	46 Mendocino	84	86 Santa Clara	80
10 Calaveras	68	48 Merced	60	88 Santa Cruz	60
12 Colusa	84	50 Modoc	64	90 Shasta	64
14 Contra Costa	80	52 Mono	68	92 Sierra	504
16 Del Norte	64	54 Monterey	60	94 Siskiyou	64
18 El Dorado	68	56 Napa	80	96 Solano	68
20 Fresno	52	58 Nevada	504	98 Sonoma	80
22 Glenn	84	60 Orange	56	100 Stanislaus	68
24 Humboldt	64	62 Placer	68	102 Sutter	84
26 Imperial	76	64 Plumas	84	104 Tehama	64
28 Inyo	52	66 Riverside	72	106 Trinity	64
30 Kern	56	68 Sacramento	68	108 Tulare	52
32 Kings	52	70 San Benito	60	110 Tuolumne	68
34 Lake	84	72 San Bernardino	72	112 Ventura	56
36 Lassen	64	74 San Diego	76	114 Yolo	68
38 Los Angeles	56	76 San Francisco	80	116 Yuba	84
		78 San Joaquin	68		

17–6.1.5. Canada Service Areas

Province	SA	Province	SA	Province	SA
2 Alberta	88	10 New Brunswick	104	20 Quebec	128
4 British Columbia	92	12 Newfoundland	108	22 Saskatchewan	132
6 Labrador	96	14 Nova Scotia	116	24 Northwest Territory	112
8 Manitoba	100	16 Ontario	120	26 Yukon	136
		18 Prince Edward Isle	124		

17–6.1.6. Colorado Areas

County	SA	County	SA	County	SA
2 Adams	144	44 Fremont	140	86 Montrose	152
4 Alamosa	140	46 Garfield	148	88 Morgan	144
6 Arapahoe	144	48 Gilpin	144	90 Otero	140
8 Archuleta	156	50 Grand	148	92 Ouray	152
10 Baca	140	52 Gunnison	156	94 Park	140
12 Bent	140	54 Hinsdale	156	96 Phillips	144
14 Boulder	144	56 Huerfano	140	98 Pitkin	156
16 Chaffee	156	58 Jackson	148	100 Prowers	140
18 Cheyenne	140	60 Jefferson	144	102 Pueblo	140
20 Clear Creek	144	62 Kiowa	140	104 Rio Blanco	148
22 Conejos	156	64 Kit Carson	140	106 Rio Grande	156
24 Costilla	156	66 La Plata	152	108 Routt	148
26 Crowley	140	68 Lake	156	110 Saguache	140
28 Custer	140	70 Larimer	144	112 San Juan	152
30 Delta	152	72 Las Animas	140	114 San Miguel	152
32 Denver	144	74 Lincoln	140	116 Sedgwick	144
34 Dolores	152	76 Logan	144	118 Summit	144
36 Douglas	144	78 Mesa	152	120 Teller	140
38 Eagle	148	80 Mineral	156	122 Washington	144
40 El Paso	140	82 Moffat	148	124 Weld	144
42 Elbert	144	84 Montezuma	152	126 Yuma	144

17–6.1.7. Connecticut Service Areas

County	SA	County	SA	County	SA
2 Fairfield	544	8 Middlesex	160	14 Tolland	160
4 Hartford	160	10 New Haven	160	16 Windham	160
6 Litchfield	160	12 New London	160		

17–6.1.8. Delaware Service Areas

County	SA	County	SA	County	SA
2 Kent	164	4 New Castle	164	6 Sussex	164

17–6.1.9. District Of Columbia Service Areas

County	SA	County	SA	County	SA
899 Any Point	168				

17–6.1.10. Florida Service Areas

County	SA	County	SA	County	SA
2 Alachua	176	46 Gulf	188	92 Okaloosa	188
4 Baker	176	48 Hamilton	192	94 Okeechobee	180
6 Bay	188	50 Hardee	196	96 Orange	184
8 Bradford	176	52 Hendry	172	98 Osceola	184
10 Brevard	184	54 Hernando	196	100 Palm Beach	180
12 Broward	180	56 Highlands	196	102 Pasco	196
14 Calhoun	188	58 Hillsborough	196	104 Pinellas	196
16 Charlotte	172	60 Holmes	188	106 Polk	196
18 Citrus	196	62 Indian River	184	108 Putnam	176
20 Clay	176	64 Jackson	8	110 Santa Rosa	188
22 Collier	172	66 Jefferson	192	112 Sarasota	196
24 Columbia	176	68 Lafayette	192	114 Seminole	184
26 Dade	180	70 Lake	184	116 St. Johns	176
28 De Soto	196	72 Lee	172	118 St. Lucie	180
30 Dixie	192	74 Leon	192	120 Sumter	196
32 Duval	176	76 Levy	176	122 Suwannee	192
34 Escambia	188	78 Liberty	192	124 Taylor	192
36 Flagler	184	80 Madison	192	126 Union	176
38 Franklin	192	82 Manatee	196	128 Volusia	184
40 Gadsden	192	84 Marion	176	130 Wakulla	192
42 Gilchrist	176	86 Martin	180	132 Walton	188
44 Glades	172	88 Monroe	180	134 Washington	188
		90 Nassau	176		

17–6.1.11. Georgia Service Areas

County	SA	County	SA	County	SA
2 Appling	200	108 Evans	216	214 Newton	204
4 Atkinson	200	110 Fannin	720	216 Oconee	204
6 Bacon	200	112 Fayette	204	218 Oglethorpe	204
8 Baker	200	114 Floyd	720	220 Paulding	204
10 Baldwin	212	116 Forsyth	204	222 Peach	212
12 Banks	204	118 Franklin	204	224 Pickens	204
14 Barrow	204	120 Fulton	204	226 Pierce	200
16 Bartow	204	122 Gilmer	720	228 Pike	212
18 Ben Hill	200	124 Glascock	208	230 Polk	204
20 Berrien	200	126 Glynn	176	232 Pulaski	200
22 Bibb	212	128 Gordon	720	234 Putnam	204
24 Bleckley	200	130 Grady	192	236 Quitman	212
26 Brantley	176	132 Greene	204	238 Rabun	204
28 Brooks	192	134 Gwinnett	204	240 Randolph	200
30 Bryan	216	136 Habersham	204	242 Richmond	208
32 Bulloch	216	138 Hall	204	244 Rockdale	204
34 Burke	208	140 Hancock	204	246 Schley	212
36 Butts	204	142 Haralson	204	248 Screven	216
38 Calhoun	200	144 Harris	212	250 Seminole	8
40 Camden	176	146 Hart	204	252 Spalding	204
42 Candler	216	148 Heard	204	254 Stephens	204
44 Carroll	204	150 Henry	204	256 Stewart	212
46 Catoosa	720	152 Houston	212	258 Sumter	200
48 Charlton	176	154 Irwin	200	260 Talbot	212
50 Chatham	216	156 Jackson	204	262 Taliaferro	208
52 Chattahoochee	212	158 Jasper	204	264 Tattnall	216
54 Chattooga	720	160 Jeff Davis	200	266 Taylor	212
56 Cherokee	204	162 Jefferson	208	268 Telfair	200
58 Clarke	204	164 Jenkins	208	270 Terrell	200
60 Clay	8	166 Johnson	208	272 Thomas	192
62 Clayton	204	168 Jones	212	274 Tift	200
64 Clinch	200	170 Lamar	212	276 Toombs	200
66 Cobb	204	172 Lanier	200	278 Towns	204
68 Coffee	200	174 Laurens	200	280 Treutlen	200
70 Colquitt	200	176 Lee	200	282 Troup	212
72 Columbia	208	178 Liberty	216	284 Turner	200
74 Cook	200	180 Lincoln	208	286 Twiggs	212

County	SA	County	SA	County	SA
76 Coweta	204	182 Long	216	288 Union	204
78 Crawford	212	184 Lowndes	192	290 Upson	212
80 Crisp	200	186 Lumpkin	204	292 Walker	720
82 Dade	720	188 Macon	212	294 Walton	204
84 Dawson	204	190 Madison	204	296 Ware	200
86 De Kalb	204	192 Marion	212	298 Warren	208
88 Decatur	192	194 McDuffie	208	300 Washington	208
90 Dodge	200	196 McIntosh	216	302 Wayne	216
92 Dooly	200	198 Meriwether	212	304 Webster	212
94 Dougherty	200	200 Miller	8	306 Wheeler	200
96 Douglas	204	202 Mitchell	200	308 White	204
98 Early	8	204 Monroe	212	310 Whitfield	720
100 Echols	192	206 Montgomery	200	312 Wilcox	200
102 Effingham	216	208 Morgan	204	314 Wilkes	208
104 Elbert	204	210 Murray	720	316 Wilkinson	212
106 Emanuel	208	212 Muscogee	212	318 Worth	200

17–6.1.12. Hawaii Service Areas

County	SA	County	SA	County	SA
2 Hawaii	220	4 Honolulu	224	8 Maui	232
		6 Kauai	228		

17–6.1.13. Idaho Service Areas

County	SA	County	SA	County	SA
2 Ada	236	32 Cassia	244	62 Lewis	836
4 Adams	236	34 Clark	240	64 Lincoln	244
6 Bannock	240	36 Clearwater	836	66 Madison	240
8 Bear Lake	240	38 Custer	244	68 Minidoka	244
10 Benewah	844	40 Elmore	236	70 Nez Perce	836
12 Bingham	240	42 Franklin	240	72 Oneida	240
14 Blaine	244	44 Fremont	240	74 Owyhee	236
16 Boise	236	46 Gem	236	76 Payette	236
18 Bonner	844	48 Gooding	244	78 Power	240
20 Bonneville	240	50 Idaho	836	80 Shoshone	844
22 Boundary	844	52 Jefferson	240	82 Teton	240
24 Butte	240	54 Jerome	244	84 Twin Falls	244
26 Camas	244	56 Kootenai	844	86 Valley	236
28 Canyon	236	58 Latah	844	88 Washington	236
30 Caribou	240	60 Lemhi	464		

17–6.1.14. Illinois Service Areas.

County	SA	County	SA	County	SA
2 Adams	264	70 Hardin	336	138 Morgan	264
4 Alexander	336	72 Henderson	260	140 Moultrie	264
6 Bond	256	74 Henry	260	142 Ogle	252
8 Boone	252	76 Iroquois	248	144 Peoria	260
10 Brown	264	78 Jackson	336	146 Perry	256
12 Bureau	260	80 Jasper	256	148 Piatt	248
14 Calhoun	456	82 Jefferson	256	150 Pike	264
16 Carroll	260	84 Jersey	456	152 Pope	336
18 Cass	264	86 Jo Daviess	252	154 Pulaski	336
20 Champaign	248	88 Johnson	336	156 Putnam	260
22 Christian	264	90 Kane	252	158 Randolph	256
24 Clark	288	92 Kankakee	252	160 Richland	256
26 Clay	256	94 Kendall	252	162 Rock Island	260
28 Clinton	456	96 Knox	260	164 Saline	336
30 Coles	288	98 La Salle	252	166 Sangamon	264
32 Cook	252	100 Lake	252	168 Schuyler	264
34 Crawford	288	102 Lawrence	288	170 Scott	264
36 Cumberland	288	104 Lee	260	172 Shelby	264
38 De Kalb	252	106 Livingston	248	174 St. Clair	456
40 De Witt	264	108 Logan	264	176 Stark	260
42 Douglas	288	110 Macon	264	178 Stephenson	252
44 Du Page	252	112 Macoupin	264	180 Tazewell	260
46 Edgar	288	114 Madison	456	182 Union	336
48 Edwards	256	116 Marion	256	184 Vermilion	248
50 Effingham	256	118 Marshall	260	186 Wabash	256

County	SA	County	SA	County	SA
52 Fayette	256	120 Mason	260	188 Warren	260
54 Ford	248	122 Massac	336	190 Washington	256
56 Franklin	256	124 McDonough	260	192 Wayne	256
58 Fulton	260	126 McHenry	252	194 White	256
60 Gallatin	336	128 McLean	248	196 Whiteside	260
62 Greene	264	130 Menard	264	198 Will	252
64 Grundy	252	132 Mercer	260	200 Williamson	336
66 Hamilton	256	134 Monroe	456	202 Winnebago	252
68 Hancock	260	136 Montgomery	264	204 Woodford	260

17–6.1.15. Indiana Service Areas

County	SA	County	SA	County	SA
2 Adams	276	64 Hendricks	280	126 Pike	272
4 Allen	276	66 Henry	280	128 Porter	252
6 Bartholomew	280	68 Howard	284	130 Posey	272
8 Benton	284	70 Huntington	276	132 Pulaski	284
10 Blackford	276	72 Jackson	280	134 Putnam	288
12 Boone	284	74 Jasper	252	136 Randolph	280
14 Brown	280	76 Jay	276	138 Ripley	608
16 Carroll	284	78 Jefferson	608	140 Rush	280
18 Cass	284	80 Jennings	280	142 Scott	608
20 Clark	332	82 Johnson	280	144 Shelby	280
22 Clay	288	84 Knox	288	146 Spencer	272
24 Clinton	284	86 Kosciusko	268	148 St. Joseph	268
26 Crawford	272	88 Lagrange	276	150 Starke	268
28 Daviess	288	90 Lake	252	152 Steuben	276
30 Dearborn	608	92 La Porte	268	154 Sullivan	288
32 Decatur	280	94 Lawrence	288	156 Switzerland	608
34 De Kalb	276	96 Madison	280	158 Tippecanoe	284
36 Delaware	280	98 Marion	280	160 Tipton	280
38 Dubois	272	100 Marshall	268	162 Union	280
40 Elkhart	268	102 Martin	288	164 Vanderburgh	272
42 Fayette	280	104 Miami	284	166 Vermillion	288
44 Floyd	332	106 Monroe	288	168 Vigo	288
46 Fountain	284	108 Montgomery	284	170 Wabash	276
48 Franklin	608	110 Morgan	280	172 Warren	284
50 Fulton	284	112 Newton	252	174 Warrick	272
52 Gibson	272	114 Noble	276	176 Washington	272
54 Grant	280	116 Ohio	608	178 Wayne	280
56 Greene	288	118 Orange	272	180 Wells	276
58 Hamilton	280	120 Owen	288	182 White	284
60 Hancock	280	122 Parke	288	184 Whitley	276
62 Harrison	332	124 Perry	272		

17–6.1.16. Iowa Service Areas

County	SA	County	SA	County	SA
2 Adair	296	68 Floyd	304	134 Monona	300
4 Adams	488	70 Franklin	304	136 Monroe	296
6 Allamakee	304	72 Fremont	488	138 Montgomery	488
8 Appanoose	296	74 Greene	296	140 Muscatine	292
10 Audubon	488	76 Grundy	304	142 O'Brien	300
12 Benton	292	78 Guthrie	296	144 Osceola	300
14 Black Hawk	304	80 Hamilton	304	146 Page	488
16 Boone	296	82 Hancock	304	148 Palo Alto	300
18 Bremer	304	84 Hardin	304	150 Plymouth	300
20 Buchanan	304	86 Harrison	488	152 Pocahontas	300
22 Buena Vista	300	88 Henry	292	154 Polk	296
24 Butler	304	90 Howard	304	156 Pottawattamie	488
26 Calhoun	300	92 Humboldt	304	158 Poweshiek	296
28 Carroll	300	94 Ida	300	160 Ringgold	296
30 Cass	488	96 Iowa	292	162 Sac	300
32 Cedar	292	98 Jackson	292	164 Scott	292
34 Cerro Gordo	304	100 Jasper	296	166 Shelby	488
36 Cherokee	300	102 Jefferson	296	168 Sioux	712
38 Chickasaw	304	104 Johnson	292	170 Story	296
40 Clarke	296	106 Jones	292	172 Tama	296
42 Clay	300	108 Keokuk	296	174 Taylor	488
44 Clayton	304	110 Kossuth	304	176 Union	296
46 Clinton	292	112 Lee	292	178 Van Buren	296

County	SA	County	SA	County	SA
48 Crawford	300	114 Linn	292	180 Wapello	296
50 Dallas	296	116 Louisa	292	182 Warren	296
52 Davis	296	118 Lucas	296	184 Washington	292
54 Decatur	296	120 Lyon	712	186 Wayne	296
56 Delaware	304	122 Madison	296	188 Webster	304
58 Des Moines	292	124 Mahaska	296	190 Winnebago	304
60 Dickinson	300	126 Marion	296	192 Winneshiek	304
62 Dubuque	304	128 Marshall	296	194 Woodbury	300
64 Emmet	300	130 Mills	488	196 Worth	304
66 Fayette	304	132 Mitchell	304	198 Wright	304

17–6.1.17.Kansas Service Areas

County	SA	County	SA	County	SA
2 Allen	320	72 Greeley	312	142 Osborne	312
4 Anderson	316	74 Greenwood	320	144 Ottawa	320
6 Atchison	316	76 Hamilton	308	146 Pawnee	308
8 Barber	632	78 Harper	320	148 Phillips	312
10 Barton	312	80 Harvey	320	150 Pottawatomie	316
12 Bourbon	320	82 Haskell	308	152 Pratt	308
14 Brown	316	84 Hodgeman	308	154 Rawlins	312
16 Butler	320	86 Jackson	316	156 Reno	320
18 Chase	320	88 Jefferson	448	158 Republic	316
20 Chautauqua	320	90 Jewell	312	160 Rice	312
22 Cherokee	320	92 Johnson	448	162 Riley	316
24 Cheyenne	312	94 Kearny	308	164 Rooks	312
26 Clark	308	96 Kingman	320	166 Rush	312
28 Clay	316	98 Kiowa	308	168 Russell	312
30 Cloud	316	100 Labette	320	170 Saline	320
32 Coffey	316	102 Lane	312	172 Scott	312
34 Comanche	308	104 Leavenworth	448	174 Sedgwick	320
36 Cowley	320	106 Lincoln	312	176 Seward	308
38 Crawford	320	108 Linn	316	178 Shawnee	316
40 Decatur	312	110 Logan	312	180 Sheridan	312
42 Dickinson	320	112 Lyon	316	182 Sherman	312
44 Doniphan	316	114 Marion	320	184 Smith	312
46 Douglas	448	116 Marshall	316	186 Stafford	308
48 Edwards	308	118 McPherson	320	188 Stanton	308
50 Elk	320	120 Meade	308	190 Stevens	308
52 Ellis	312	122 Miami	448	192 Sumner	320
54 Ellsworth	312	124 Mitchell	312	194 Thomas	312
56 Finney	308	126 Montgomery	320	196 Trego	312
58 Ford	308	128 Morris	316	198 Wabaunsee	316
60 Franklin	448	130 Morton	308	200 Wallace	312
62 Geary	316	132 Nemaha	316	202 Washington	316
64 Gove	312	134 Neosho	320	204 Wichita	312
66 Graham	312	136 Ness	312	206 Wilson	320
68 Grant	308	138 Norton	312	208 Woodson	320
70 Gray	308	140 Osage	316	210 Wyandotte	448

17–6.1.18. Kentucky Service Areas

County	SA	County	SA	County	SA
2 Adair	324	82 Grant	608	162 McLean	324
4 Allen	324	84 Graves	336	164 Meade	332
6 Anderson	332	86 Grayson	324	166 Menifee	860
8 Ballard	336	88 Green	324	168 Mercer	328
10 Barren	324	90 Greenup	860	170 Metcalfe	324
12 Bath	328	92 Hancock	272	172 Monroe	324
14 Bell	340	94 Hardin	332	174 Montgomery	328
16 Boone	608	96 Harlan	340	176 Morgan	860
18 Bourbon	328	98 Harrison	328	178 Muhlenberg	324
20 Boyd	860	100 Hart	324	180 Nelson	332
22 Boyle	328	102 Henderson	272	182 Nicholas	328
24 Bracken	608	104 Henry	332	184 Ohio	324
26 Breathitt	860	106 Hickman	336	186 Oldham	332
28 Breckinridge	332	108 Hopkins	324	188 Owen	608
30 Bullitt	332	110 Jackson	340	190 Owsley	340
32 Butler	324	112 Jefferson	332	192 Pendleton	608
34 Caldwell	324	114 Jessamine	328	194 DPerry	340
36 Calloway	336	116 Johnson	860	196 Pike	860

County	SA	County	SA	County	SA
38 Campbell	608	118 Kenton	608	198 Powell	860
40 Carlisle	336	120 Knott	860	200 Pulaski	340
42 Carroll	608	122 Knox	340	202 Robertson	328
44 Carter	860	124 Larue	332	204 Rockcastle	340
46 Casey	340	126 Laurel	340	206 Rowan	860
48 Christian	324	128 Lawrence	860	208 Russell	340
50 Clark	328	130 Lee	860	210 Scott	328
52 Clay	340	132 Leslie	340	212 helby	332
54 Clinton	340	134 Letcher	860	214 Simpson	324
56 Crittenden	324	136 Lewis	860	216 Spencer	332
58 Cumberland	324	138 Lincoln	340	218 Taylor	324
60 Daviess	272	140 Livingston	336	220 Todd	324
62 Edmonson	324	142 Logan	324	222 Trigg	324
64 Elliott	860	144 Lyon	324	224 Trimble	608
66 Estill	860	146 Madison	328	226 Union	272
68 Fayette	328	148 Magoffin	860	228 Warren	324
70 Fleming	328	150 Marion	332	230 Washington	332
72 Floyd	860	152 Marshall	336	232 Wayne	340
74 Franklin	332	154 Martin	860	234 Webster	324
76 Fulton	336	156 Mason	608	236 DWhitley	340
78 Gallatin	608	158 McCracken	336	238 Wolfe	860
80 Garrard	328	160 McCreary	340	240 DWoodford	328

17–6.1.19. Louisiana Service Areas

County	SA	County	SA	County	SA
2 Acadia	348	44 Grant	344	88 St. Bernard	356
4 Allen	348	46 Iberia	348	90 St. Charles	356
6 Ascension	356	48 Iberville	356	92 St. Helena	356
8 Assumption	356	50 Jackson	352	94 St. James	356
0 Avoyelles	344	52 Jefferson	356	96 St. John The Baptist	356
12 Beauregard	348	54 Jefferson Davis	348	98 St. Landry	348
14 Bienville	352	56 La Salle	344	100 St. Martin	348
16 Bossier	360	58 Lafayette	348	102 St. Mary	348
18 Caddo	360	60 Lafourche	356	104 St. Tammany	356
20 Calcasieu	764	62 Lincoln	352	106 Tangipahoa	356
22 Caldwell	352	64 Livingston	356	108 Tensas	352
24 Cameron	764	66 Madison	352	110 Terrebonne	356
26 Catahoula	344	68 Morehouse	352	112 Union	352
28 Claiborne	352	70 Natchitoches	344	114 Vermilion	348
30 Concordia	344	72 Orleans	356	116 Vernon	344
32 De Soto	360	74 Ouachita	352	118 Washington	356
34 East Baton Rouge	356	76 Plaquemines	356	120 Webster	360
36 East Carroll	352	78 Pointe Coupee	356	122 West Baton Rouge	356
38 East Feliciana	356	80 Rapides	344	124 West Carroll	352
40 Evangeline	348	82 Red River	360	126 West Feliciana	356
42 Franklin	352	84 Richland	352	128 Winn	344
		86 Sabine	344		

17–6.1.20. Maine Service Areas

County	SA	County	SA	County	SA
2 Androscoggin	364	12 Kennebec	364	24 Sagadahoc	364
4 Aroostook	376	14 Knox	364	26 Somerset	368
6 Cumberland	372	16 Lincoln	364	28 Waldo	364
8 Franklin	364	18 Oxford	364	30 Washington	368
10 Hancock	368	20 Penobscot	368	32 York	372
		22 Piscataquis	368		

17–6.1.21. Maryland Service Areas

County	SA	County	SA	County	SA
2 Allegany	828	18 Dorchester	164	34 Queen Annes	164
4 Anne Arundel	380	20 Frederick	380	36 Somerset	164
6 Baltimore	380	22 Garrett	828	38 St. Marys	168
8 Calvert	168	24 Harford	380	40 Talbot	164
10 Caroline	164	26 Howard	380	42 Washington	828
12 Carroll	380	28 Kent	164	44 Wicomico	164
14 Cecil	380	30 Montgomery	168	46 Worcester	164
16 Charles	168	32 Prince Georges	168	610 Baltimore	380

17–6.1.22.064 Massachusetts Service Areas

County	SA	County	SA	County	SA
2 Barnstable	684	12 Franklin	388	22 Norfolk	384
4 Berkshire	388	14 Hampden	388	24 Plymouth	384
6 Bristol	684	16 Hampshire	388	26 Suffolk	384
8 Dukes	684	18 Middlesex	384	28 Worcester	384
10 Essex	384	20 Nantucket	684		

17–6.1.23. Michigan Service Areas

County	SA	County	SA	County	SA
2 Alcona	396	58 Gratiot	404	114 Missaukee	396
4 Alger	408	60 Hillsdale	400	116 Monroe	400
6 Allegan	404	62 Houghton	408	118 Montcalm	404
8 Alpena	396	64 Huron	400	120 Montmorency	396
10 Antrim	396	66 Ingham	400	122 Muskegon	404
12 Arenac	396	68 Ionia	404	124 Newaygo	404
14 Baraga	408	70 Iosco	396	126 Oakland	400
16 Barry	404	72 Iron	408	128 Oceana	404
18 Bay	400	74 Isabella	404	130 Ogemaw	396
20 Benzie	396	76 Jackson	400	132 Ontonagon	412
22 Berrien	268	78 Kalamazoo	404	134 Osceola	396
24 Branch	404	80 Kalkaska	396	136 Oscoda	396
26 Calhoun	404	82 Kent	404	138 Otsego	396
28 Cass	268	84 Keweenaw	408	140 Ottawa	404
30 Charlevoix	396	86 Lake	396	142 Presque Isle	396
32 Cheboygan	396	88 Lapeer	400	144 Roscommon	396
34 Chippewa	408	90 Leelanau	396	146 Saginaw	400
36 Clare	396	92 Lenawee	400	148 Sanilac	400
38 Clinton	404	94 Livingston	400	150 Schoolcraft	408
40 Crawford	396	96 Luce	408	152 Shiawassee	400
42 Delta	408	98 Mackinac	408	154 St. Clair	400
44 Dickinson	408	100 Macomb	400	156 St. Joseph	404
46 Eaton	404	102 Manistee	396	158 Tuscola	400
48 Emmet	396	104 Marquette	408	160 Van Buren	404
50 Genesee	400	106 Mason	396	162 Washtenaw	400
52 Gladwin	396	108 Mecosta	404	164 Wayne	400
54 Gogebic	412	110 Menominee	408	166 Wexford	396
56 Grand Traverse	396	112 Midland	400		

17–6.1.24. Minnesota Service Areas

County	SA	County	SA	County	SA
2 Aitkin	412	60 Isanti	416	118 Pipestone	712
4 Anoka	416	62 Itasca	412	120 Polk	600
6 Becker	596	64 Jackson	712	122 Pope	712
8 Beltrami	412	66 Kanabec	416	124 Ramsey	416
10 Benton	416	68 Kandiyohi	712	126 Red Lake	600
12 Big Stone	712	70 Kittson	600	128 Redwood	712
14 Blue Earth	420	72 Koochiching	412	130 Renville	712
16 Brown	420	74 Lac Qui Parle	712	132 Rice	420
18 Carlton	412	76 Lake	412	134 Rock	712
20 Carver	416	78 Lake Of The Woods	412	136 Roseau	600
22 Cass	412	80 Le Sueur	420	138 Scott	416
24 Chippewa	712	82 Lincoln	712	140 Sherburne	416
26 Chisago	416	84 Lyon	712	142 Sibley	416
28 Clay	596	86 Mahnomen	600	144 St. Louis	412
30 Clearwater	412	88 Marshall	600	146 Stearns	416
32 Cook	412	90 Martin	420	148 Steele	420
34 Cottonwood	712	92 McLeod	416	150 Stevens	712
36 Crow Wing	412	94 Meeker	416	152 Swift	712
38 Dakota	416	96 Mille Lacs	416	154 Todd	412
40 Dodge	420	98 Morrison	416	156 Traverse	712
42 Douglas	596	100 Mower	420	158 Wabasha	420
44 Faribault	420	102 Murray	712	160 Wadena	412
46 Fillmore	420	104 Nicollet	420	162 Waseca	420
48 Freeborn	420	106 Nobles	712	164 Washington	416
50 Goodhue	420	108 Norman	596	166 Watonwan	420
52 Grant	596	110 Olmsted	420	168 Wilkin	596
54 Hennepin	416	112 Otter Tail	596	170 Winona	420
56 Houston	420	114 Pennington	600	172 Wright	416

County	SA	County	SA	County	SA
58 Hubbard	412	116 Pine	416	174 Yellow Medicine	712

17–6.1.25. Mississippi Service Areas

County	SA	County	SA	County	SA
2 Adams	344	56 Issaquena	432	112 Perry	428
4 Alcorn	440	58 Itawamba	440	114 Pike	432
6 Amite	432	60 Jackson	428	116 Pontotoc	440
8 Attala	432	62 Jasper	436	118 Prentiss	440
10 Benton	440	64 Jefferson	432	120 Quitman	440
12 Bolivar	424	66 Jefferson Davis	432	122 Rankin	432
14 Calhoun	440	68 Jones	436	124 Scott	432
16 Carroll	424	70 Kemper	436	126 Sharkey	432
18 Chickasaw	440	72 Lafayette	440	128 Simpson	432
20 Choctaw	440	74 Lamar	428	130 Smith	432
22 Claiborne	432	76 Lauderdale	436	132 Stone	428
24 Clarke	436	78 Lawrence	432	134 Sunflower	424
26 Clay	440	80 Leake	432	136 Tallahatchie	424
28 Coahoma	440	82 Lee	440	138 Tate	440
30 Copiah	432	84 Leflore	424	140 Tippah	440
32 Covington	432	86 Lincoln	432	142 Tishomingo	440
34 De Soto	728	88 Lowndes	436	144 Tunica	440
36 Forrest	428	90 Madison	432	146 Union	440
38 Franklin	432	92 Marion	432	148 Walthall	432
40 George	428	94 Marshall	440	150 Warren	432
42 Greene	428	96 Monroe	440	152 Washington	424
44 Grenada	424	98 Montgomery	424	154 Wayne	436
46 Hancock	428	100 Neshoba	436	156 Webster	440
48 Harrison	428	102 Newton	436	158 Wilkinson	344
50 Hinds	432	104 Noxubee	436	160 Winston	436
52 Holmes	432	106 Oktibbeha	440	162 Yalobusha	424
54 Humphreys	424	108 Panola	440	164 Yazoo	432
		110 Pearl River	428		

17–6.1.26. Missouri Service Areas

County	SA	County	SA	County	SA
2 Adair	444	78 Greene	452	156 Pemiscot	728
4 Andrew	448	80 Grundy	448	158 Perry	456
6 Atchison	448	82 Harrison	448	160 Pettis	448
8 Audrain	444	84 Henry	448	162 Phelps	444
10 Barry	452	86 Hickory	452	164 Pike	456
12 Barton	452	88 Holt	448	166 Platte	448
14 Bates	448	90 Howard	444	168 Polk	452
16 Benton	448	92 Howell	452	170 Pulaski	444
18 Bollinger	456	94 Iron	456	172 Putnam	448
20 Boone	444	96 Jackson	448	174 Ralls	444
22 Buchanan	448	98 Jasper	452	176 Randolph	444
24 Butler	456	100 Jefferson	456	178 Ray	448
26 Caldwell	448	102 Johnson	448	180 Reynolds	456
28 Callaway	444	104 Knox	444	182 Ripley	456
30 Camden	452	106 Laclede	452	184 Saline	448
32 Cape Girardeau	456	108 Lafayette	448	186 Schuyler	444
34 Carroll	448	110 Lawrence	452	188 Scotland	444
36 Carter	456	112 Lewis	444	190 Scott	456
38 Cass	448	114 Lincoln	456	192 Shannon	456
40 Cedar	452	116 Linn	448	194 Shelby	444
42 Chariton	448	118 Livingston	448	196 St. Charles	456
44 Christian	452	120 Macon	444	198 St. Clair	452
46 Clark	444	122 Madison	456	200 St. Francois	456
48 Clay	448	124 Maries	444	202 St. Louis	456
50 Clinton	448	126 Marion	444	204 Ste. Genevieve	456
52 Cole	444	128 McDonald	452	206 Stoddard	456
54 Cooper	444	130 Mercer	448	208 Stone	452
56 Crawford	456	132 Miller	444	210 Sullivan	448
58 Dade	452	134 Mississippi	336	212 Taney	452
60 Dallas	452	136 Moniteau	444	214 Texas	452
62 Daviess	448	138 Monroe	444	216 Vernon	452
64 De Kalb	448	140 Montgomery	456	218 Warren	456
66 Dent	456	142 Morgan	448	220 Washington	456
68 Douglas	452	144 New Madrid	336	222 Wayne	456

County	SA	County	SA	County	SA
70 Dunklin	728	146 Newton	452	224 Webster	452
72 Franklin	456	148 Nodaway	448	226 Worth	448
74 Gasconade	456	150 Oregon	456	228 Wright	452
76 Gentry	448	152 Osage	444	610 St. Louis	456
	—	154 Ozark	452		

17–6.1.27. Montana Service Areas

County	SA	County	SA	County	SA
2 Beaverhead	464	40 Granite	476	78 Powell	472
4 Big Horn	460	42 Hill	472	80 Prairie	468
6 Blaine	468	44 Jefferson	464	82 Ravalli	476
8 Broadwater	464	46 Judith Basin	472	84 Richland	468
10 Carbon	460	48 Lake	476	86 Roosevelt	468
12 Carter	460	50 Lewis and Clark	472	88 Rosebud	460
14 Cascade	472	52 Liberty	472	90 Sanders	476
16 Chouteau	472	54 Lincoln	476	92 Sheridan	468
18 Custer	460	56 Madison	464	94 Silver Bow	464
20 Daniels	468	58 McCone	468	96 Stillwater	460
22 Dawson	468	60 Meagher	472	98 Sweet Grass	460
24 Deer Lodge	464	62 Mineral	476	100 Teton	472
26 Fallon	460	64 Missoula	476	102 Toole	472
28 Fergus	472	66 Musselshell	460	104 Treasure	460
30 Flathead	476	68 Park	464	106 Valley	468
32 Gallatin	464	70 Petroleum	468	108 Wheatland	472
34 Garfield	468	72 Phillips	468	110 Wibaux	468
36 Glacier	472	74 Pondera	472	112 Yellowstone	460
38 Golden Valley	460	76 Powder River	460		

17–6.1.28. Nebraska Service Areas

County	SA	County	SA	County	SA
2 Adams	480	64 Frontier	484	126 Nance	480
4 Antelope	480	66 Furnas	484	128 Nemaha	488
6 Arthur	484	68 Gage	488	130 Nuckolls	480
8 Banner	492	70 Garden	492	132 Otoe	488
10 Blaine	484	72 Garfield	480	134 Pawnee	488
12 Boone	480	74 Gosper	484	136 Perkins	484
14 Box Butte	492	76 Grant	484	138 Phelps	480
16 Boyd	480	78 Greeley	480	140 Pierce	480
18 Brown	484	80 Hall	480	142 Platte	480
20 Buffalo	480	82 Hamilton	480	144 Polk	480
22 Burt	488	84 Harlan	480	146 Red Willow	484
24 Butler	488	86 Hayes	484	148 Richardson	488
26 Cass	488	88 Hitchcock	484	150 Rock	484
28 Cedar	300	90 Holt	480	152 Saline	488
30 Chase	484	92 Hooker	484	154 Sarpy	488
32 Cherry	484	94 Howard	480	156 Saunders	488
34 Cheyenne	492	96 Jefferson	488	158 Scotts Bluff	492
36 Clay	480	98 Johnson	488	160 Seward	488
38 Colfax	488	100 Kearney	480	162 Sheridan	492
40 Cuming	488	102 Keith	484	164 Sherman	480
42 Custer	484	104 Keya Paha	484	166 Sioux	492
44 Dakota	300	106 Kimball	492	168 Stanton	488
46 Dawes	492	108 Knox	480	170 Thayer	480
48 Dawson	484	110 Lancaster	488	172 Thomas	484
50 Deuel	492	112 Lincoln	484	174 Thurston	300
52 Dixon	300	114 Logan	484	176 Valley	480
54 Dodge	488	116 Loup	484	178 Washington	488
56 Douglas	488	118 Madison	480	180 Wayne	300
58 Dundy	484	120 McPherson	484	182 Webster	480
60 Fillmore	480	122 Merrick	480	184 Wheeler	480
62 Franklin	480	124 Morrill	492	186 York	480

17–6.1.29. Nevada Service Areas

County	SA	County	SA	County	SA
2 Carson City	504	14 Eureka	496	26 Nye	496
4 Churchill	504	16 Humboldt	496	30 Pershing	496
6 Clark	500	18 Lander	496	32 Storey	504

County	SA	County	SA	County	SA
8 Douglas	504	20 Lincoln	500	34 Washoe	504
10 Elko	496	22 Lyon	504	36 White Pine	496
12 Esmeralda	496	24 Mineral	504		

17–6.1.30. New Hampshire Service Areas

County	SA	County	SA	County	SA
2 Belknap	508	8 Coos	508	16 Rockingham	384
4 Carroll	508	10 Grafton	508	18 Strafford	372
6 Cheshire	372	12 Hillsboro	384	20 Sullivan	372
		14 Merrimack	372		

17–6.1.31. New Jersey Service Areas

County	SA	County	SA	County	SA
2 Atlantic	512	16 Gloucester	672	30 Ocean	512
4 Bergen	544	18 Hudson	544	32 Passaic	544
6 Burlington	672	20 Hunterdon	544	34 Salem	672
8 Camden	672	22 Mercer	672	36 Somerset	544
10 Cape May	512	24 Middlesex	544	38 Sussex	544
12 Cumberland	512	26 Monmouth	544	40 Union	544
14 Essex	544	28 Morris	544	42 Warren	672

17–6.1.32.New Mexico Service Areas

County	SA	County	SA	County	SA
2 Bernalillo	516	24 Harding	740	46 Roosevelt	524
4 Catron	528	26 Hidalgo	532	48 San Juan	528
6 Chaves	520	28 Lea	520	50 San Miguel	516
8 Cibola	528	30 Lincoln	520	52 Sandoval	516
10 Colfax	516	32 Los Alamos	516	54 Santa Fe	516
12 Curry	524	34 Luna	532	56 Sierra	532
14 De Baca	524	36 McKinley	528	58 Socorro	516
16 Dona Ana	532	38 Mora	516	60 Taos	516
18 Eddy	520	40 Otero	532	62 Torrance	516
20 Grant	532	42 Quay	740	64 Union	740
22 Guadalupe	524	44 Rio Arriba	516	66 Valencia	516

17–6.1.33. New York Service Areas

County	SA	County	SA	County	SA
2 Albany	536	44 Herkimer	556	86 Richmond	544
4 Allegany	540	46 Jefferson	556	88 Rockland	544
6 Bronx	544	48 Kings	544	90 Saratoga	556
8 Broome	680	50 Lewis	556	92 Schenectady	536
10 Cattaraugus	540	52 Livingston	540	94 Schoharie	536
12 Cayuga	552	54 Madison	552	96 Schuyler	552
14 Chautauqua	668	56 Monroe	540	98 Seneca	552
16 Chemung	680	58 Montgomery	536	100 St. Lawrence	548
18 Chenango	552	60 Nassau	544	102 Steuben	540
20 Clinton	548	62 New York	544	104 Suffolk	544
22 Columbia	536	64 Niagara	540	106 Sullivan	536
24 Cortland	552	66 Oneida	556	108 Tioga	680
26 Delaware	536	68 Onondaga	552	110 Tompkins	552
28 Dutchess	544	70 Ontario	540	112 Ulster	544
30 Erie	540	72 Orange	544	114 Warren	556
32 Essex	548	74 Orleans	540	116 Washington	556
34 Franklin	548	76 Oswego	556	118 Wayne	540
36 Fulton	556	78 Otsego	536	120 Westchester	544
38 Genesee	540	80 Putnam	544	122 Wyoming	540
40 Greene	536	82 Queens	544	124 Yates	552
42 Hamilton	556	.....	.....	84 Rensselaer	536

17–6.1.34. North Carolina Service Areas

County	SA	County	SA	County	SA
2 Alamance	584	68 Forsyth	584	136 Orange	580

County	SA	County	SA	County	SA
4 Alexander	564	70 Franklin	580	138 Pamlico	576
6 Alleghany	584	72 Gaston	564	140 Pasquotank	816
8 Anson	564	74 Gates	816	142 Pender	576
10 Ashe	584	76 Graham	560	144 Perquimans	816
12 Avery	584	78 Granville	580	146 Person	580
14 Beaufort	572	80 Greene	572	148 Pitt	572
16 Bertie	572	82 Guilford	584	150 Polk	560
18 Bladen	568	84 Halifax	572	152 Randolph	584
20 Brunswick	576	86 Harnett	568	154 Richmond	564
22 Buncombe	560	88 Haywood	560	156 Robeson	568
24 Burke	564	90 Henderson	560	158 Rockingham	584
26 Cabarrus	564	92 Hertford	572	160 Rowan	564
28 Caldwell	584	94 Hoke	568	162 Rutherford	560
30 Camden	816	96 Hyde	572	164 Sampson	568
32 Carteret	576	98 Iredell	564	166 Scotland	568
34 Caswell	580	100 Jackson	560	168 Stanly	564
36 Catawba	564	102 Johnston	580	170 Stokes	584
38 Chatham	580	104 Jones	576	172 Surry	584
40 Cherokee	720	106 Lee	568	174 Swain	560
42 Chowan	816	108 Lenoir	572	176 Transylvania	560
44 Clay	560	110 Lincoln	564	178 Tyrrell	572
46 Cleveland	564	112 Macon	560	180 Union	564
48 Columbus	568	114 Madison	560	182 Vance	580
50 Craven	576	116 Martin	572	184 Wake	580
52 Cumberland	568	118 McDowell	560	186 Warren	580
54 Currituck	816	120 Mecklenburg	564	188 Washington	572
56 Dare	572	122 Mitchell	560	190 Watauga	584
58 Davidson	584	124 Montgomery	564	192 Wayne	572
60 Davie	584	126 Moore	568	194 Wilkes	584
62 Duplin	576	128 Nash	572	196 Wilson	572
64 Durham	580	130 New Hanover	576	198 Yadkin	584
66 Edgecombe	572	132 Northampton	572	200 Yancey	560
		134 Onslow	576		

17–6.1.35. North Dakota Service Areas

County	SA	County	SA	County	SA
2 Adams	592	38 Grant	588	74 Ransom	596
4 Barnes	596	40 Griggs	596	76 Renville	604
6 Benson	600	42 Hettinger	592	78 Richland	596
8 Billings	592	44 Kidder	588	80 Rolette	604
10 Bottineau	604	46 La Moure	596	82 Sargent	596
12 Bowman	592	48 Logan	588	84 Sheridan	588
14 Burke	604	50 McHenry	604	86 Sioux	588
16 Burleigh	588	52 McIntosh	588	88 Slope	592
18 Cass	596	54 McKenzie	592	90 Stark	592
20 Cavalier	600	56 McLean	588	92 Steele	596
22 Dickey	596	58 Mercer	588	94 Stutsman	596
24 Divide	604	60 Morton	588	96 Towner	600
26 Dunn	592	62 Mountrail	604	98 Traill	596
28 Eddy	600	64 Nelson	600	100 Walsh	600
30 Emmons	588	66 Oliver	588	102 Ward	604
32 Foster	596	68 Pembina	600	104 Wells	588
34 Golden Valley	592	70 Pierce	604	106 Williams	604
36 Grand Forks	600	72 Ramsey	600		

17–6.1.36. Ohio Service Areas

County	SA	County	SA	County	SA
2 Adams	608	60 Guernsey	624	120 Muskingum	616
4 Allen	628	62 Hamilton	608	122 Noble	624
6 Ashland	612	64 Hancock	628	124 Ottawa	628
8 Ashtabula	668	66 Hardin	628	126 Paulding	628
10 Athens	624	68 Harrison	676	128 Perry	616
12 Auglaize	628	70 Henry	628	130 Pickaway	616
14 Belmont	676	72 Highland	608	132 Pike	624
16 Brown	608	74 Hocking	624	134 Portage	612
18 Butler	608	76 Holmes	612	136 Preble	620
20 Carroll	676	78 Huron	612	138 Putnam	628
22 Champaign	620	80 Jackson	860	140 Richland	612
24 Clark	620	82 Jefferson	676	142 Ross	624

County	SA	County	SA	County	SA
26 Clermont	608	84 Knox	616	144 Sandusky	628
28 Clinton	608	86 Lake	612	146 Scioto	860
30 Columbiana	676	88 Lawrence	860	148 Seneca	628
32 Coshocton	616	90 Licking	616	150 Shelby	628
34 Crawford	628	92 Logan	628	152 Stark	612
36 Cuyahoga	612	94 Lorain	612	154 Summit	612
38 Darke	620	96 Lucas	628	156 Trumbull	612
40 Defiance	628	98 Madison	616	158 Tuscarawas	612
42 Delaware	616	100 Mahoning	612	160 Union	616
44 Erie	612	102 Marion	616	162 Van Wert	628
46 Fairfield	616	104 Medina	612	164 Vinton	624
48 Fayette	616	106 Meigs	624	166 Warren	608
50 Franklin	616	108 Mercer	628	168 Washington	624
52 Fulton	628	110 Miami	620	170 Wayne	612
54 Gallia	860	112 Monroe	624	172 Williams	628
56 Geauga	612	114 Montgomery	620	174 Wood	628
58 Greene	620	116 Morgan	624	176 Wyandot	628
		118 Morrow	616		

17–6.1.37. Oklahoma Service Areas

County	SA	County	SA	County	SA
2 Adair	640	54 Grant	632	106 Nowata	640
4 Alfalfa	632	56 Greer	788	108 Okfuskee	636
6 Atoka	636	58 Harmon	788	110 Oklahoma	636
8 Beaver	308	60 Harper	632	112 Okmulgee	640
10 Beckham	636	62 Haskell	40	114 Osage	640
12 Blaine	632	64 Hughes	636	116 Ottawa	452
14 Bryan	636	66 Jackson	788	118 Pawnee	640
16 Caddo	636	68 Jefferson	636	120 Payne	636
18 Canadian	636	70 Johnston	636	122 Pittsburg	40
20 Carter	636	72 Kay	632	124 Pontotoc	636
22 Cherokee	640	74 Kingfisher	632	126 Pottawatomie	636
24 Choctaw	360	76 Kiowa	636	128 Pushmataha	360
26 Cimarron	308	78 Latimer	40	130 Roger Mills	632
28 Cleveland	636	80 Le Flore	40	132 Rogers	640
30 Coal	636	82 Lincoln	636	134 Seminole	636
32 Comanche	636	84 Logan	636	136 Sequoyah	640
34 Cotton	636	86 Love	636	138 Stephens	636
36 Craig	640	88 Major	632	140 Texas	308
38 Creek	640	90 Marshall	636	142 Tillman	788
40 Custer	632	92 Mayes	640	144 Tulsa	640
42 Delaware	640	94 McClain	636	146 Wagoner	640
44 Dewey	632	96 McCurtain	360	148 Washington	640
46 Ellis	632	98 McIntosh	40	150 Washita	636
48 Garfield	632	100 Murray	636	152 Woods	632
50 Garvin	636	102 Muskogee	640	154 Woodward	632
52 Grady	636	104 Noble	632		

17–6.1.38. Oregon Service Areas

County	SA	County	SA	County	SA
2 Baker	656	26 Harney	644	50 Morrow	656
4 Benton	648	28 Hood River	660	52 Multnomah	660
6 Clackamas	660	30 Jackson	652	54 Polk	660
8 Clatsop	660	32 Jefferson	644	56 Sherman	660
10 Columbia	660	34 Josephine	652	58 Tillamook	660
12 Coos	652	36 Klamath	652	60 Umatilla	656
14 Crook	644	38 Lake	644	62 Union	656
16 Curry	652	40 Lane	648	64 Wallowa	656
18 Deschutes	644	42 Lincoln	648	66 Wasco	660
20 Douglas	652	44 Linn	648	68 Washington	660
22 Gilliam	660	46 Malheur	236	70 Wheeler	644
24 Grant	644	48 Marion	660	72 Yamhill	660

17–6.1.39. Pennsylvania Service Areas

County	SA	County	SA	County	SA
2 Adams	672	46 Delaware	672	92 Montgomery	672
4 Allegheny	676	48 Elk	668	94 Montour	680

County	SA	County	SA	County	SA
6 Armstrong	676	50 Erie	668	96 Northampton	672
8 Beaver	676	52 Fayette	676	98 Northumberland	680
10 Bedford	664	54 Forest	668	100 Perry	672
12 Berks	672	56 Franklin	664	102 Philadelphia	672
14 Blair	664	58 Fulton	664	104 Pike	680
16 Bradford	680	60 Greene	676	106 Potter	664
18 Bucks	672	62 Huntingdon	664	108 Schuylkill	680
20 Butler	676	64 Indiana	676	110 Snyder	664
22 Cambria	664	66 Jefferson	668	112 Somerset	676
24 Cameron	668	68 Juniata	664	114 Sullivan	680
26 Carbon	680	70 Lackawanna	680	116 Susquehanna	680
28 Centre	664	72 Lancaster	672	118 Tioga	680
30 Chester	672	74 Lawrence	676	120 Union	664
32 Clarion	668	76 Lebanon	672	122 Venango	668
34 Clearfield	664	78 Lehigh	672	124 Warren	668
36 Clinton	664	80 Luzerne	680	126 Washington	676
38 Columbia	680	82 Lycoming	680	128 Wayne	680
40 Crawford	668	84 McKean	668	130 Westmoreland	676
42 Cumberland	672	86 Mercer	668	132 Wyoming	680
44 Dauphin	672	88 Mifflin	664	134 York	672
		90 Monroe	680		

17–6.1.40. Rhode Island Service Areas

County	SA	County	SA	County	SA
2 Bristol	684	6 Newport	684	10 Washington	684
4 Kent	684	8 Providence	684		

17–6.1.41. South Carolina Service Areas

County	SA	County	SA	County	SA
2 Abbeville	688	32 Darlington	696	64 Lexington	696
4 Aiken	208	34 Dillon	696	66 Marion	696
6 Allendale	692	36 Dorchester	692	68 Marlboro	564
8 Anderson	688	38 Edgefield	208	70 McCormick	208
10 Bamberg	692	40 Fairfield	696	72 Newberry	688
12 Barnwell	692	42 Florence	696	74 Oconee	688
14 Beaufort	692	44 Georgetown	696	76 Orangeburg	696
16 Berkeley	692	46 Greenville	688	78 Pickens	688
18 Calhoun	696	48 Greenwood	688	80 Richland	696
20 Charleston	692	50 Hampton	692	82 Saluda	688
22 Cherokee	688	52 Horry	696	84 Spartanburg	688
24 Chester	564	54 Jasper	692	86 Sumter	696
26 Chesterfield	564	56 Kershaw	696	88 Union	688
28 Clarendon	696	58 Lancaster	564	90 Williamsburg	696
30 Colleton	692	60 Laurens	688	92 York	564
		62 Lee	696		

17–6.1.42. South Dakota Service Areas

County	SA	County	SA	County	SA
2 Aurora	704	46 Fall River	708	90 McPherson	700
4 Beadle	712	48 Faulk	700	92 Meade	708
6 Bennett	704	50 Grant	700	94 Mellette	704
8 Bon Homme	712	52 Gregory	704	96 Miner	712
10 Brookings	712	54 Haakon	704	98 Minnehaha	712
12 Brown	700	56 Hamlin	700	100 Moody	712
14 Brule	704	58 Hand	704	102 Pennington	708
16 Buffalo	704	60 Hanson	712	104 Perkins	708
18 Butte	708	62 Harding	708	106 Potter	700
20 Campbell	700	64 Hughes	704	108 Roberts	700
22 Charles Mix	704	66 Hutchinson	712	110 Sanborn	712
24 Clark	700	68 Hyde	704	112 Shannon	708
26 Clay	712	70 Jackson	704	114 Spink	700
28 Codington	700	72 Jerauld	704	116 Stanley	704
30 Corson	708	74 Jones	704	118 Sully	704
32 Custer	708	76 Kingsbury	712	120 Todd	704
34 Davison	712	78 Lake	712	122 Tripp	704
36 Day	700	80 Lawrence	708	124 Turner	712
38 Deuel	712	82 Lincoln	712	126 Union	712

County	SA	County	SA	County	SA
40 Dewey	708	84 Lyman	704	128 Walworth	700
42 Douglas	704	86 Marshall	700	132 Yankton	712
44 Edmunds	700	88 McCook	712	134 Ziebach	708

17–6.1.43. Tennessee Service Areas

County	SA	County	SA	County	SA
2 Anderson	724	66 Hamilton	720	130 Morgan	724
4 Bedford	732	68 Hancock	716	132 Obion	728
6 Benton	728	70 Hardeman	728	134 Overton	732
8 Bledsoe	720	72 Hardin	728	136 Perry	732
10 Blount	724	74 Hawkins	716	138 Pickett	724
12 Bradley	720	76 Haywood	728	140 Polk	720
14 Campbell	724	78 Henderson	728	142 Putnam	732
16 Cannon	732	80 Henry	728	144 Rhea	720
18 Carroll	728	82 Hickman	732	146 Roane	724
20 Carter	716	84 Houston	732	148 Robertson	732
22 Cheatham	732	86 Humphreys	732	150 Rutherford	732
24 Chester	728	88 Jackson	732	152 Scott	724
26 Claiborne	724	90 Jefferson	724	154 Sequatchie	720
28 Clay	732	92 Johnson	716	156 Sevier	724
30 Cocke	724	94 Knox	724	158 Shelby	728
32 Coffee	12	96 Lake	728	160 Smith	732
34 Crockett	728	98 Lauderdale	728	162 Stewart	732
36 Cumberland	724	100 Lawrence	732	164 Sullivan	716
38 Davidson	732	102 Lewis	732	166 Sumner	732
40 De Kalb	732	104 Lincoln	12	168 Tipton	728
42 Decatur	732	106 Loudon	724	170 Trousdale	732
44 Dickson	732	108 Macon	732	172 Unicoi	716
46 Dyer	728	110 Madison	728	174 Union	724
48 Fayette	728	112 Marion	720	176 Van Buren	720
50 Fentress	724	114 Marshall	732	178 Warren	732
52 Franklin	12	116 Maury	732	180 Washington	716
54 Gibson	728	118 McMinn	720	182 Wayne	732
56 Giles	732	120 McNairy	728	184 Weakley	728
58 Grainger	724	122 Meigs	720	186 White	732
60 Greene	716	124 Monroe	720	188 Williamson	732
62 Grundy	720	126 Montgomery	732	190 Wilson	732
64 Hamblen	724	128 Moore	12		

17–6.1.44. Texas Service Areas

County	SA	County	SA	County	SA
2 Anderson	784	172 Gillespie	744	342 Moore	740
4 Andrews	776	174 Glasscock	776	344 Morris	784
6 Angelina	764	176 Goliad	748	346 Motley	772
8 Aransas	748	178 Gonzales	780	348 Nacogdoches	784
10 Archer	788	180 Gray	740	350 Navarro	752
12 Armstrong	740	182 Grayson	752	352 Newton	764
14 Atascosa	780	184 Gregg	784	354 Nolan	776
16 Austin	744	186 Grimes	764	356 Nueces	748
18 Bailey	772	188 Guadalupe	780	358 Ochiltree	740
20 Bandera	780	190 Hale	772	360 Oldham	740
22 Bastrop	744	192 Hall	772	362 Orange	764
24 Baylor	788	194 Hamilton	736	364 Palo Pinto	736
26 Bee	748	196 Hansford	740	366 Panola	784
28 Bell	744	198 Hardeman	788	368 Parker	752
30 Bexar	780	200 Hardin	764	370 Parmer	772
32 Blanco	744	202 Harris	764	372 Pecos	756
34 Borden	776	204 Harrison	784	374 Polk	764
36 Bosque	752	206 Hartley	740	376 Potter	740
38 Bowie	784	208 Haskell	788	378 Presidio	760
40 Brazoria	764	210 Hays	744	380 Rains	784
42 Brazos	744	212 Hemphill	740	382 Randall	740
44 Brewster	760	214 Henderson	784	384 Reagan	776
46 Briscoe	772	216 Hidalgo	748	386 Real	756
48 Brooks	748	218 Hill	752	388 Red River	784
50 Brown	736	220 Hockley	772	390 Reeves	760
52 Burleson	744	222 Hood	752	392 Refugio	748
54 Burnet	744	224 Hopkins	784	394 Roberts	740
56 Caldwell	744	226 Houston	764	396 Robertson	744

County	SA	County	SA	County	SA
58 Calhoun	748	228 Howard	776	398 Rockwall	752
60 Callahan	736	230 Hudspeth	760	400 Runnels	736
62 Cameron	748	232 Hunt	752	402 Rusk	784
64 Camp	784	234 Hutchinson	740	404 Sabine	784
66 Carson	740	236 Irion	776	406 San Augustine	784
68 Cass	784	238 Jack	788	408 San Jacinto	764
70 Castro	772	240 Jackson	764	410 San Patricio	748
72 Chambers	764	242 Jasper	764	412 San Saba	736
74 Cherokee	784	244 Jeff Davis	760	414 Schleicher	756
76 Childress	772	246 Jefferson	764	416 Scurry	776
78 Clay	788	248 Jim Hogg	768	418 Shackelford	736
80 Cochran	772	250 Jim Wells	748	420 Shelby	784
82 Coke	776	252 Johnson	752	422 Sherman	740
84 Coleman	736	254 Jones	736	424 Smith	784
86 Collin	752	256 Karnes	780	426 Somervell	752
88 Collingsworth	740	258 Kaufman	752	428 Starr	768
90 Colorado	744	260 Kendall	780	430 Stephens	736
92 Comal	780	262 Kenedy	748	432 Sterling	776
94 Comanche	736	264 Kent	772	434 Stonewall	772
96 Concho	736	266 Kerr	780	436 Sutton	756
98 Cooke	752	268 Kimble	736	438 Swisher	772
100 Coryell	744	270 King	772	440 Tarrant	752
102 Cottle	772	272 Kinney	756	442 Taylor	736
104 Crane	776	274 Kleberg	748	444 Terrell	756
106 Crockett	756	276 Knox	788	446 Terry	772
108 Crosby	772	278 La Salle	768	448 Throckmorton	788
110 Culberson	760	280 Lamar	784	450 Titus	784
112 Dallam	740	282 Lamb	772	452 Tom Green	776
114 Dallas	752	284 Lampasas	744	454 Travis	744
116 Dawson	776	286 Lavaca	780	456 Trinity	764
118 De Witt	780	288 Lee	744	458 Tyler	764
120 Deaf Smith	740	290 Leon	764	460 Upshur	784
122 Delta	784	292 Liberty	764	462 Upton	776
124 Denton	752	294 Limestone	752	464 Uvalde	756
126 Dickens	772	296 Lipscomb	740	466 Val Verde	756
128 Dimmit	768	298 Live Oak	748	468 Van Zandt	784
130 Donley	740	300 Llano	744	470 Victoria	748
132 Duval	768	302 Loving	760	472 Walker	764
134 Eastland	736	304 Lubbock	772	474 Waller	764
136 Ector	776	306 Lynn	772	476 Ward	776
138 Edwards	756	308 Madison	764	478 Washington	744
140 El Paso	760	310 Marion	784	480 Webb	768
142 Ellis	752	312 Martin	776	482 Wharton	764
144 Erath	736	314 Mason	736	484 Wheeler	740
146 Falls	744	316 Matagorda	764	486 Wichita	788
148 Fannin	752	318 Maverick	768	488 Wilbarger	788
150 Fayette	744	320 McCulloch	736	490 Willacy	748
152 Fisher	776	322 McLennan	744	492 Williamson	744
154 Floyd	772	324 McMullen	768	494 Wilson	780
156 Foard	788	326 Medina	780	496 Winkler	776
158 Fort Bend	764	328 Menard	736	498 Wise	752
160 Franklin	784	330 Midland	776	500 Wood	784
162 Freestone	752	332 Milam	744	502 Yoakum	772
164 Frio	780	334 Mills	736	504 Young	788
166 Gaines	776	336 Mitchell	776	506 Zapata	768
168 Galveston	764	338 Montague	752	508 Zavala	768
170 Garza	772	340 Montgomery	764		

17–6.1.45 Utah Service Areas

County	SA	County	SA	County	SA
2 Beaver	792	22 Iron	792	42 Sevier	792
4 Box Elder	800	24 Juab	796	44 Summit	800
6 Cache	800	26 Kane	792	46 Tooele	800
8 Carbon	796	28 Millard	792	48 Uintah	796
10 Daggett	888	30 Morgan	800	50 Utah	796
12 Davis	800	32 Piute	792	52 Wasatch	796
14 Duchesne	796	34 Rich	800	54 Washington	792
16 Emery	796	36 Salt Lake	800	56 Wayne	792
18 Garfield	792	38 San Juan	792	58 Weber	800
20 Grand	152	40 Sampete	796		

17–6.1.46 Vermont Service Areas

County	SA	County	SA	County	SA
2 Addison	808	12 Franklin	808	22 Rutland	804
4 Bennington	804	14 Grand Isle	808	24 Washington	808
6 Caledonia	804	16 Lamoille	808	26 Windham	804
8 Chittenden	808	18 Orange	804	28 Windsor	804
10 Essex	804	20 Orleans	804		

17–6.1.47 Virginia Service Areas

County	SA	County	SA	County	SA
2 Accomack	164	92 Isle of Wight	816	184 Westmoreland	820
4 Albemarle	812	94 James City	820	186 Wise	716
6 Alleghany	812	96 King and Queen	820	188 Wythe	824
8 Amelia	820	98 King George	168	190 York	816
10 Amherst	812	100 King William	820	610 Alexandria	168
12 Appomattox	812	102 Lancaster	820	612 Bedford	824
14 Arlington	168	104 Lee	716	614 Bristol	716
16 Augusta	812	106 Loudon	168	616 Buena Vista	812
18 Bath	812	108 Louisa	812	618 Charlottesville	812
20 Bedford	824	110 Lunenburg	820	620 Chesapeake	816
22 Bland	824	112 Madison	168	622 Clifton forge	812
24 Botetourt	824	114 Mathews	820	630 Colonial Heights	820
26 Brunswick	820	116 Mecklenburg	820	632 Covington	812
28 Buchanan	716	118 Middlesex	820	635 Danville	824
30 Buckingham	820	120 Montgomery	824	638 Emporia	816
32 Campbell	824	122 Nelson	812	640 Fairfax	168
34 Caroline	168	124 New Kent	820	650 Falls Church	168
36 Carroll	584	126 Northampton	164	660 Franklin	816
38 Charles City	820	128 Northumberland	820	670 Fredericksburg	168
40 Charlotte	820	130 Nottoway	820	674 Galax	824
42 Chesterfield	820	132 Orange	168	680 Hampton	816
44 Clarke	828	134 Page	168	682 Harrisonburg	168
46 Craig	824	136 Patrick	584	690 Hopewell	820
48 Culpeper	168	138 Pittsylvania	824	692 Lexington	812
50 Cumberland	820	140 Powhatan	820	695 Lynchburg	824
52 Dickenson	716	142 Prince Edward	820	700 Manassas	168
54 Dinwiddie	820	144 Prince George	820	710 Manassas Park	168
56 Essex	820	146 Prince William	168	715 Martinsville	824
58 Fairfax	168	148 Pulaski	824	720 Newport News	816
60 Fauquier	168	150 Rappahannock	168	730 Norfolk	816
62 Floyd	824	152 Richmond	820	735 Norton	716
64 Fluvanna	812	154 Roanoke	824	740 Petersburg	820
66 Franklin	824	156 Rockbridge	812	750 Poquoson	816
68 Frederick	828	158 Rockingham	168	760 Portsmouth	816
70 Giles	824	160 Russell	716	765 Radford	824
72 Gloucester	820	162 Scott	716	770 Richmond	820
74 Goochland	820	164 Shenandoah	828	780 Roanoke	824
76 Grayson	584	166 Smyth	824	790 Salem	824
78 Greene	812	168 Southampton	816	795 South Boston	820
80 Greensville	816	170 Spotsylvania	168	797 Staunton	812
82 Halifax	820	172 Stafford	168	800 Suffolk	816
84 Hanover	820	174 Surry	816	820 Virginia Beach	816
86 Henrico	820	176 Sussex	816	825 Waynesboro	812
88 Henry	824	178 Tazewell	824	830 Williamsburg	820
90 Highland	812	180 Warren	828	840 Winchester	828
		182 Washington	716		

17–6.1.48. Washington Service Areas

County	SA	County	SA	County	SA
2 Adams	844	28 Grays Harbor	840	54 Pierce	840
4 Asotin	836	30 Island	840	56 San Juan	832
6 Benton	836	32 Jefferson	840	58 Skagit	832
8 Chelan	848	34 King	840	60 Skamania	660
10 Clallam	840	36 Kitsap	840	62 Snohomish	840
12 Clark	660	38 Kittitas	848	64 Spokane	844
14 Columbia	836	40 Klickitat	660	66 Stevens	844
16 Cowlitz	660	42 Lewis	840	68 Thurston	840
18 Douglas	848	44 Lincoln	844	70 Wahkiakum	660
20 Ferry	844	46 Mason	840	72 Walla Walla	836

County	SA	County	SA	County	SA
22 Franklin	836	48 Okanogan	832	74 Whatcom	832
24 Garfield	836	50 Pacific	840	76 Whitman	844
26 Grant	848	52 Pend Oreille	844	78 Yakima	848

17–6.1.49. West Virginia Service Areas

County	SA	County	SA	County	SA
2 Barbour	856	38 Jefferson	828	76 Pocahontas	852
4 Berkeley	828	40 Kanawha	852	78 Preston	856
6 Boone	852	42 Lewis	856	80 Putnam	852
8 Braxton	852	44 Lincoln	860	82 Raleigh	852
10 Brooke	676	46 Logan	860	84 Randolph	856
12 Cabell	860	48 Marion	856	86 Ritchie	624
14 Calhoun	852	50 Marshall	676	88 Roane	852
16 Clay	852	52 Mason	860	90 Summers	852
18 Doddridge	856	54 McDowell	824	92 Taylor	856
20 Fayette	852	56 Mercer	824	94 Tucker	856
22 Gilmer	856	58 Mineral	828	96 Tyler	624
24 Grant	828	60 Mingo	860	98 Upshur	856
26 Greenbrier	852	62 Monongalia	856	100 Wayne	860
28 Hampshire	828	64 Monroe	852	102 Webster	852
30 Hancock	676	66 Morgan	828	104 Wetzel	856
32 Hardy	828	68 Nicholas	852	106 Wirt	624
34 Harrison	856	70 Ohio	676	108 Wood	624
36 Jackson	624	72 Pendleton	828	110 Wyoming	852
		74 Pleasants	624		

17–6.1.50. Wisconsin Service Areas

County	SA	County	SA	County	SA
2 Adams	868	50 Iowa	868	98 Polk	864
4 Ashland	412	52 Iron	412	100 Portage	876
6 Barron	864	54 Jackson	864	102 Price	876
8 Bayfield	412	56 Jefferson	868	104 Racine	872
10 Brown	876	58 Juneau	868	106 Richland	868
12 Buffalo	864	60 Kenosha	872	108 Rock	868
14 Burnett	412	62 Kewaunee	876	110 Rusk	864
16 Calumet	868	64 La Crosse	868	112 Sauk	868
18 Chippewa	864	66 Lafayette	868	114 Sawyer	412
20 Clark	864	68 Langlade	876	116 Shawano	876
22 Columbia	868	70 Lincoln	876	118 Sheboygan	872
24 Crawford	868	72 Manitowoc	868	120 St. Croix	416
26 Dane	868	74 Marathon	876	122 Taylor	876
28 Dodge	872	76 Marinette	876	124 Trempealeau	864
30 Door	876	78 Marquette	868	126 Vernon	868
32 Douglas	412	80 Menominee	876	128 Vilas	876
34 Dunn	864	82 Milwaukee	872	130 Walworth	872
36 Eau Claire	864	84 Monroe	868	132 Washburn	412
38 Florence	876	86 Oconto	876	134 Washington	872
40 Fond Du Lac	872	88 Oneida	876	136 Waukesha	872
42 Forest	876	90 Outagamie	876	138 Waupaca	876
44 Grant	868	92 Ozaukee	872	140 Waushara	868
46 Green	868	94 Pepin	864	142 Winnebago	868
48 Green Lake	868	96 Pierce	864	144 Wood	876

17–6.1.51. Wyoming Service Areas

County	SA	County	SA	County	SA
2 Albany	880	18 Hot Springs	884	34 Sheridan	884
4 Big Horn	884	20 Johnson	884	36 Sublette	888
6 Campbell	708	22 Laramie	880	38 Sweetwater	888
8 Carbon	880	24 Lincoln	888	40 Teton	884
10 Converse	880	26 Natrona	880	42 Uinta	888
12 Crook	708	28 Niobrara	880	44 Washakie	884
14 Fremont	888	30 Park	884	46 Weston	708
16 Goshen	880	32 Platte	880		

17–6.2. Service Areas. Geographic Application of Rates for Additional Services.

SA No	Service area	HTOS paragraph 17.9		HTOS para 17.30	HTOS paragraph 17.21 storage			HTOS para 17.23
		Reg	OT	L/C	1st day	EA ADD day	W/H	P/D from SIT
4	Birmingham AL	27.75	42.00	D	1.90	0.20	4.40	D
8	Dothan AL	19.00	28.25	B	1.15	0.16	2.10	B
12	Huntsville AL	23.25	35.00	C	1.30	0.20	3.35	C
16	Mobile AL	19.00	28.25	B	1.15	0.16	2.10	B
20	Montgomery AL	19.00	28.25	B	1.45	0.20	2.95	B
24	Flagstaff AZ	37.00	55.75	F	1.40	0.17	2.35	F
28	Phoenix AZ	32.50	48.75	E	1.60	0.20	3.35	E
32	Tucson AZ	37.00	55.75	F	1.40	0.17	2.45	F
36	Yuma AZ	32.50	48.75	E	1.15	0.15	2.05	E
40	Ft. Smith/Fayetteville AR	23.25	35.00	C	1.15	0.16	2.20	C
44	Jonesboro AR	19.00	28.25	B	1.05	0.15	1.90	B
48	Little Rock AR	27.75	42.00	D	1.40	0.17	2.20	D
52	Fresno CA	45.75	68.50	H	1.50	0.20	4.10	H
56	Los Angeles CA	45.75	68.50	H	2.00	0.21	5.25	H
60	Monterey CA	45.75	68.50	H	1.75	0.20	4.60	H
64	Redding CA	37.00	55.75	F	1.40	0.17	1.90	F
68	Sacramento CA	45.75	68.50	H	1.70	0.20	4.65	H
72	San Bernadino CA	41.25	62.00	G	2.00	0.21	5.25	G
76	San Diego CA	45.75	68.50	H	2.00	0.21	5.25	H
80	San Francisco CA	45.75	68.50	H	2.15	0.22	5.25	H
84	Yuba City CA	45.75	68.50	G	1.40	0.17	1.90	G
88	Alberta Prov., CN	50.75	76.00	H	2.25	0.25	5.10	H
92	British Columbia, CN	50.75	76.00	H	2.25	.025	5.40	H
96	Labrador Prov., CN	50.75	76.00	H	2.25	0.25	5.40	H
100	Manitoba Prov., CN	45.75	68.50	G	2.10	0.25	5.05	G
104	New Brunswick, CN	45.75	68.50	G	2.10	0.25	5.05	G
108	Newfoundland, CN	45.75	68.50	G	2.10	0.25	5.05	G
112	Northwest Terr., CN	50.75	76.00	H	2.25	0.25	5.40	H
116	Nova Scotia, CN	45.75	68.50	G	2.10	0.25	5.05	G
120	Ontario Prov., CN	50.75	76.00	H	2.25	0.25	5.40	H
124	Pr. Edward Isl., CN	45.75	68.50	G	2.10	0.25	5.05	G
128	Quebec Prov., CN	50.75	76.00	H	2.25	0.25	5.40	H
132	Saskatchewan, CN	45.75	76.00	G	2.10	0.25	5.05	G
136	Yukon Prov., CN	50.75	76.00	H	2.25	0.25	5.40	H
140	Colorado Springs CO	37.00	55.75	F	1.45	0.20	5.25	F
144	Denver CO	32.50	48.75	E	1.60	0.20	5.50	E
148	Glenwood Springs CO	32.50	48.75	E	1.05	0.15	1.90	E
152	Grand Junction CO	37.00	55.75	F	1.60	0.20	3.80	F
156	Gunnison CO	32.50	48.75	E	1.25	0.17	2.75	E
160	Hartford CT	45.75	68.50	H	1.60	0.20	3.75	H
164	Dover DE	41.25	62.00	G	1.45	0.20	3.80	G
168	Washington DC	32.50	48.75	E	1.75	0.20	3.85	E
172	Ft. Myers FL	32.50	48.75	E	1.45	0.20	2.70	E
176	Jacksonville FL	19.00	28.25	B	1.40	0.17	2.35	B
180	Miami FL	37.00	55.75	F	1.60	0.20	4.85	F
184	Orlando FL	27.75	42.00	D	1.25	0.17	2.95	D
188	Pensacola FL	27.75	42.00	D	1.45	0.20	2.95	D
192	Tallahassee FL	27.75	42.00	D	1.60	0.20	2.95	D
196	Tampa FL	27.75	42.00	D	1.50	0.20	4.05	D
200	Albany GA	27.75	42.00	D	1.15	0.16	2.10	D
204	Atlanta GA	32.50	48.75	E	1.70	0.20	3.10	E
208	Augusta GA	23.25	35.00	C	1.25	0.17	2.35	C
212	Columbus GA	14.25	21.25	A	1.25	0.17	2.05	A
216	Savannah GA	27.75	42.00	D	1.70	0.20	3.10	D
220	Hawaii, HI	25.75	38.75	C	1.55	0.21	3.05	C
224	Honolulu, HI	30.75	46.50	D	1.90	0.22	2.25	D
228	Kauai, HI	25.75	38.75	C	1.55	0.21	3.05	C
232	Maui, HI	25.75	38.75	C	1.55	0.21	3.05	C
236	Boise ID	37.00	55.75	F	1.45	0.20	4.05	F

SA No	Service area	HTOS paragraph 17.9		HTOS para 17.30	HTOS paragraph 17.21 storage			HTOS para 17.23
		Reg	OT	L/C	1st day	EA ADD day	W/H	P/D from SIT
240	Pocatello ID	37.00	55.75	F	1.40	0.17	2.35	F
244	Twin Falls ID	27.75	42.00	D	1.20	0.16	3.55	D
248	Bloomington IL	37.00	55.75	F	1.60	0.20	4.75	F
252	Chicago IL	45.75	68.50	H	2.25	0.25	5.20	H
256	Mount Vernon IL	45.75	68.50	H	1.45	0.20	3.55	H
260	Peoria IL	32.50	48.75	E	1.50	0.20	4.30	E
264	Springfield IL	37.00	55.75	F	1.45	0.20	4.60	F
268	Elkhart IN	41.25	62.00	G	1.50	0.20	4.10	G
272	Evansville IN	27.75	42.00	D	1.40	0.17	3.05	D
276	Ft. Wayne IN	37.00	55.75	F	1.40	0.17	2.85	F
280	Indianapolis IN	32.50	48.75	E	1.25	0.17	2.45	E
284	Lafayette IN	32.50	48.75	E	1.40	0.17	2.85	E
288	Terre Haute IN	37.00	55.75	F	1.30	0.17	2.80	F
292	Davenport IA	32.50	48.75	E	1.50	0.20	4.10	E
296	Des Moines IA	27.75	42.00	D	1.60	0.20	4.10	D
300	Sioux City IA	37.00	55.75	F	1.40	0.17	3.55	F
304	Waterloo IA	32.50	48.75	E	1.50	0.20	4.10	E
308	Dodge City KS	32.50	48.75	E	1.05	0.15	1.90	E
312	Great Bend KS	32.50	48.75	E	1.05	0.15	1.90	E
316	Topeka KS	27.75	42.00	D	1.40	0.17	3.80	D
320	Wichita KS	32.50	48.75	E	1.25	0.17	3.05	E
324	Bowling Green KY	23.25	35.00	C	1.15	0.16	2.35	C
328	Lexington KY	19.00	28.25	B	1.25	0.17	2.45	B
332	Louisville KY	27.75	42.00	D	1.70	0.21	4.85	D
336	Paducah KY	23.25	35.00	C	1.15	0.15	1.90	C
340	Somerset KY	23.25	35.00	C	1.05	0.15	1.90	C
344	Alexandria LA	32.50	48.75	E	1.25	0.17	2.35	E
348	Lafayette LA	27.75	42.00	D	1.45	0.20	2.75	D
352	Monroe LA	41.25	62.00	G	1.15	0.16	2.35	G
356	New Orleans LA	19.00	28.25	B	1.25	0.17	2.35	B
360	Shreveport LA	19.00	28.25	B	1.25	0.17	2.35	B
364	Augusta ME	32.50	48.75	E	1.25	0.17	2.95	E
368	Bangor ME	32.50	48.75	E	1.25	0.17	3.35	E
372	Portland ME	37.00	55.75	F	1.50	0.20	3.35	F
376	Presque Isle ME	32.50	48.75	E	1.40	0.17	3.35	E
380	Baltimore MD	37.00	55.75	F	1.50	0.20	2.70	F
384	Boston MA	45.75	68.50	H	1.75	0.20	4.20	H
388	Springfield MA	41.25	62.00	G	1.45	0.20	3.10	G
392	Not Applicable	.....	.....		.....	.....	.....	
396	Cadillac MI	41.25	62.00	G	1.40	0.17	3.85	G
400	Detroit MI	45.75	68.50	H	1.75	0.20	5.25	H
404	Grand Rapids MI	45.75	68.50	H	1.45	0.20	2.85	H
408	Marquette MI	41.25	62.00	G	1.40	0.17	2.45	G
412	Duluth MN	45.75	68.50	H	1.50	0.20	4.40	H
416	Minneapolis MN	45.75	68.50	H	2.00	0.21	4.75	H
420	Rochester MN	41.25	62.00	G	1.40	0.20	2.95	G
424	Greenville MS	27.75	42.00	D	1.15	0.16	1.90	D
428	Gulfport MS	27.75	42.00	D	1.40	0.17	2.20	D
432	Jackson MS	37.00	55.75	F	1.20	0.16	2.45	F
436	Meridian MS	19.00	28.25	B	1.05	0.15	1.90	B
440	Tupelo MS	27.75	42.00	D	1.05	0.15	1.90	D
444	Columbia MO	19.00	28.25	B	1.45	0.20	2.85	B
448	Kansas City MO	32.50	48.75	E	1.45	0.20	4.10	E
452	Springfield MO	19.00	28.25	B	1.05	0.15	1.90	B
456	St. Louis MO	37.00	55.75	F	1.40	0.17	3.35	F
460	Billings MT	23.25	35.00	C	1.45	0.20	5.25	C
464	Butte MT	32.50	48.75	E	1.25	0.16	3.55	E
468	Glasgow MT	32.50	48.75	E	1.05	0.15	2.70	E

SA No	Service area	HTOS paragraph 17.9		HTOS para 17.30	HTOS paragraph 17.21 storage			HTOS para 17.23
		Reg	OT	L/C	1st day	EA ADD day	W/H	P/D from SIT
472	Great Falls MT	41.25	62.00	G	1.45	0.20	5.25	G
476	Missoula MT	37.00	55.75	F	1.40	0.17	3.05	F
480	Grand Island NE	23.25	35.00	C	1.05	0.15	2.35	C
484	North Platte NE	23.25	35.00	C	1.15	0.16	2.25	C
488	Omaha NE	27.75	42.00	D	1.40	0.17	2.80	D
492	Scottsbluff NE	14.25	21.25	A	1.15	0.16	2.10	A
496	Elko NV	45.75	68.50	H	1.05	0.15	1.90	H
500	Las Vegas NV	45.75	68.50	H	1.85	0.21	5.05	H
504	Reno NV	41.25	62.00	G	2.15	0.22	3.80	G
508	Laconia NH	32.50	48.75	E	1.25	0.17	2.65	E
512	Lakewood NJ	37.00	55.75	F	1.75	0.21	4.10	F
516	Albuquerque NM	32.50	48.75	E	1.25	0.17	3.05	E
520	Carlsbad NM	32.50	48.75	E	1.25	0.17	2.00	E
524	Clovis NM	27.75	42.00	D	1.15	0.15	2.25	D
528	Gallup NM	32.50	48.75	E	1.25	0.17	3.05	E
532	Las Cruces NM	27.75	42.00	D	1.05	0.15	2.05	D
536	Albany NY	37.00	55.75	F	1.45	0.20	3.55	F
540	Buffalo NY	45.75	68.50	H	1.60	0.20	4.80	H
544	New York NY	45.75	68.50	H	2.25	0.22	5.20	H
548	Plattsburgh NY	32.50	48.75	E	1.25	0.17	3.10	E
552	Syracuse NY	41.25	62.00	G	1.45	0.20	3.80	G
556	Utica NY	27.75	42.00	D	1.25	0.17	2.25	D
560	Asheville NC	23.25	35.00	C	1.15	0.16	2.35	C
564	Charlotte NC	27.75	42.00	D	1.25	0.17	2.25	D
568	Fayetteville NC	14.25	21.25	A	1.15	0.16	2.35	A
572	Greenville NC	23.25	25.00	C	1.05	0.15	1.90	C
576	Jacksonville NC	19.00	28.25	B	1.15	0.16	2.10	B
580	Raleigh Durham NC	27.75	42.00	D	1.20	0.16	2.25	D
584	Winston Salem NC	27.75	42.00	D	1.15	0.16	2.45	D
588	Bismarck ND	23.25	35.00	C	1.75	0.20	4.40	C
592	Dickinson ND	23.25	35.00	C	1.75	0.20	4.40	C
596	Fargo ND	27.75	42.00	D	1.75	0.20	4.40	D
600	Grand Forks ND	41.25	62.00	G	1.45	0.20	3.15	G
604	Minot ND	23.25	35.00	C	1.75	0.20	4.40	C
608	Cincinnati OH	37.00	55.75	F	1.70	0.20	4.35	F
612	Cleveland OH	45.75	68.50	H	1.75	0.21	4.75	H
616	Columbus OH	27.75	42.00	D	1.25	0.17	3.10	D
620	Dayton OH	37.00	55.75	F	1.85	0.20	2.70	F
624	Marietta OH	27.75	42.00	D	1.50	0.17	4.35	D
628	Toledo OH	32.50	48.75	E	1.75	0.20	4.20	E
632	Enid OK	37.00	55.75	F	1.20	0.16	2.80	F
636	Oklahoma City OK	19.00	28.25	B	1.70	0.20	4.00	B
640	Tulsa OK	32.50	48.75	E	1.70	0.20	3.35	E
644	Bend OR	37.00	55.75	F	1.60	0.20	4.85	F
648	Eugene OR	37.00	55.75	F	2.05	0.21	5.05	F
652	Medford OR	41.25	62.00	G	1.45	0.20	4.20	G
656	Pendleton OR	32.50	48.75	E	1.45	0.20	4.20	E
660	Portland OR	45.75	68.50	H	2.05	0.21	5.05	H
664	Altoona PA	32.50	48.75	E	1.40	0.17	2.45	E
668	Erie PA	37.00	55.75	F	1.25	0.17	3.80	F
672	Philadelphia PA	41.25	62.00	G	1.85	0.20	5.25	G
676	Pittsburgh PA	32.50	55.75	F	2.05	0.21	4.65	F
680	Scranton PA	41.25	62.00	G	1.25	0.17	2.05	G
684	Providence RI	45.75	68.50	H	1.45	0.17	3.15	H
688	Anderson SC	23.25	35.00	C	1.25	0.17	2.25	C
692	Charleston SC	32.50	48.75	E	1.25	0.17	2.25	E
696	Columbia SC	23.25	35.00	C	1.25	0.17	2.35	C
700	Aberdeen SD	27.75	42.00	D	1.20	0.16	2.70	D

SA No	Service area	HTOS paragraph 17.9		HTOS para 17.30	HTOS paragraph 17.21 storage			HTOS para 17.23
		Reg	OT	L/C	1st day	EA ADD day	W/H	P/D from SIT
704	Pierre SD	27.75	42.00	D	1.20	0.16	2.20	D
708	Rapid City SD	19.00	28.25	B	1.40	0.17	2.45	B
712	Sioux Falls SD	32.50	48.75	E	1.40	0.17	3.05	E
716	Bristol TN	37.00	55.75	F	1.05	0.15	2.35	F
720	Chattanooga TN	23.25	35.00	C	1.25	0.17	2.80	C
724	Knoxville TN	27.75	42.00	D	1.05	0.15	2.65	D
728	Memphis TN	37.00	55.75	F	1.75	0.20	4.95	F
732	Nashville TN	23.25	35.00	C	1.25	0.17	2.35	C
736	Abilene TX	27.75	42.00	D	1.25	0.17	2.10	D
740	Amarillo TX	27.75	42.00	D	1.05	0.15	2.65	D
744	Austin TX	32.50	48.75	E	1.20	0.16	2.45	E
748	Corpus Christi TX	37.00	55.75	F	1.05	0.15	1.90	F
752	Dallas TX	32.50	48.75	E	2.20	0.25	4.75	E
756	Del Rio TX	27.75	42.00	D	1.05	0.15	1.90	D
760	El Paso TX	23.25	35.00	C	1.05	0.15	1.90	C
764	Houston TX	27.75	42.00	D	1.50	0.20	4.00	D
768	Laredo TX	27.75	42.00	D	1.05	0.15	1.90	D
772	Lubbock TX	27.75	42.00	D	1.40	0.17	2.65	D
776	Midland TX	23.25	35.00	C	1.70	0.20	4.35	C
780	San Antonio TX	23.25	35.00	C	1.40	0.17	3.55	C
784	Tyler TX	27.75	42.00	D	1.05	0.15	2.35	D
788	Wichita Falls TX	37.00	55.75	F	1.40	0.17	2.70	F
792	Cedar City UT	27.75	42.00	D	1.25	0.17	3.05	D
796	Provo UT	27.75	42.00	D	1.40	0.17	2.70	D
800	Salt Lake City UT	27.75	42.00	D	1.40	0.17	2.70	D
804	Bennington VT	27.75	42.00	D	1.05	0.20	2.90	D
808	Burlington VT	27.75	42.00	D	1.45	0.20	2.85	D
812	Charlottesville VA	27.75	42.00	D	1.15	0.16	2.35	D
816	Norfolk VA	23.25	35.00	C	1.25	0.17	2.25	C
820	Richmond VA	32.50	48.75	E	1.05	0.16	3.80	E
824	Roanoke VA	27.75	42.00	D	1.05	0.16	3.80	D
828	Winchester VA	32.50	48.75	E	1.05	0.15	1.90	E
832	Bellingham WA	41.25	62.00	G	1.60	0.20	4.40	G
836	Richland WA	41.25	62.00	G	1.40	0.17	3.90	G
840	Seattle WA	41.25	62.00	G	2.10	0.21	5.25	G
844	Spokane WA	41.25	62.00	G	1.40	0.17	3.90	G
848	Yakima WA	37.00	55.75	F	1.50	0.20	3.90	F
852	Charleston WV	32.50	48.75	E	1.50	0.17	4.35	E
856	Clarksburg WV	32.50	48.75	E	1.40	0.17	3.05	E
860	Huntington WV	27.75	42.00	D	1.50	0.20	4.35	D
864	Eau Claire WI	32.50	48.75	E	1.05	0.15	3.05	E
868	Madison WI	37.00	55.75	F	1.40	0.17	3.05	F
872	Milwaukee WI	37.00	55.75	F	1.60	0.20	4.20	F
876	Wausau/Green Bay WI	37.00	55.75	F	1.40	0.17	4.05	F
880	Casper WY	32.50	48.75	E	1.25	0.17	2.35	E
884	Cody WY	27.75	42.00	D	1.25	0.15	2.45	D
888	Rock Springs WY	45.75	68.50	H	1.90	0.22	4.20	H

17–7 Reserved for Future Use

17–8. Auxiliary Services

A. Auxiliary services rates will be applied under the conditions stated in this HTOS Paragraph 17–8.

B. Charges for auxiliary service:

(1) Per additional vehicle: US$29.45 per hour.

(2) Labor: Apply labor rates contained in HTOS Paragraph 17–9.

17–9. Labor Charges

A. Covers all services for which no charges are otherwise provided in the solicitation when such services are authorized and confirmed in writing on a DD Form 619 (Statement of Assessorial Services Performed) or comparable commercial form by the RTO.

B. Charges based on time are computed by multiplying the hourly rate by the time involved. When fractions of an hour are used, charges will be as follows: 15 minutes or less, one quarter of an hour; 16 to 30 minutes, one-half hour; 31 to 45 minutes, three-quarters of an hour; and in excess of 45 minutes, 1 hour.

C. See HTOS Paragraph 17–6, Geographical Application of Rates and Schedules, for Labor Rates to apply to HHG and UB shipments WHEN SERVICE IS PERFORMED AT POINTS WITHIN CONUS, CANADA, AND HAWAII.

D. Applicable rates are shown below:

	Rates (In dollars and cents)	
	Regular hour per man	Overtime hour per man
WHEN Services is Performed at all points outside Conus, Canada, and Hawaii, Except as Provided below	US$11.90	US$17.85
Germany, Belgium, and The Netherlands	$17.90	$26.85
Alaska	$42.00	$50.00

17–10. Waiting Time

A. This HTOS Paragraph 17–10 will not apply when waiting time is the fault of the carrier.

B. Loading and unloading or pickup and delivery will be performed during regular working hours. (See definition in Chapter II). Waiting time charges will be applicable only between these hours at rate of US$29.45 per hour per vehicle less free waiting time.

C. Free waiting time is allowed as follows: For direct deliveries, 3 hours; for deliveries from storage-in-transit, 1 hour, for attempted pickup of HHG only, 1 hour.

D. Additional waiting time, after expiration of the free waiting time, requires RTO prior approval and is subject to carrier's convenience.

E. Charges based on time are computed by multiplying the hourly rate by the time involved. When fractions of an hour are used, the charges will be as follows: 15 minutes or less, one quarter of an hour; 16 to 30 minutes, one-half hour; 31 to 45 minutes, three quarters of an hour; and in excess of 45 minutes, one hour.

F. Labor charges for the vehicle driver and helper(s) will be at the hourly labor rate in HTOS Paragraph 17.9.

17–11. Overtime Loading and Unloading

A. Except as otherwise provided for and subject to applicable notes below, an additional charge of US$2.35 per net CWT (45kg) will apply for each overtime loading or each overtime unloading when this service is performed other than during regular working hours and when authorized and confirmed, in writing, by the RTO.

B. Overtime loading and unloading charges apply when: the service is performed other than during regular working hours when this service is made necessary by landlord requirements, or is required by prevailing laws or ordinances, or is rendered at the specific request of RTO or its agent, made in writing, and the shipper or its agent is notified of the additional charge specified in this HTOS Paragraph 17.11 for this service before the loading and/or unloading begins. (See notes below.)

Note 1: Overtime loading and unloading charges will be based on the net hundredweight (45 kg) of the shipments subject to a minimum of 500 pounds (227 kg).

Note 2: Overtime loading and unloading charges will not apply when service is performed for carrier's convenience or when shipments are delivered to a warehouse at destination.

Note 3: Overtime loading and unloading services will be rendered only at the option of the carrier. Service involving loading or unloading at a warehouse must be agreed to by the warehouseman.

Note 4: Other than regular working hours is defined as follows:

(a) Between 5 p.m. and 8 a.m., except Saturdays, Sundays, and holidays.

(b) During any hour on Saturday.

(c) During any hour on Sunday.

(d) During any hour on officially declared Foreign National, U.S. National or State holidays, except such charges apply on State holidays ONLY when service is rendered within that State on such holiday.

17–12. Reweigh—Household Effects

A. The carrier will reweigh the shipment prior to delivery when requested to do so by the RTO. The lower of the two net scales weights will be used for determining transportation charges. No reweigh service charge will apply.

B. Reweigh provisions are not applicable when constructive weight is used in accordance with HTOS Paragraph 4–10.5.

17–13. Reserved for Future Use.

17–14. Unpacking Service Unaccompanied Air Baggage Only.

A. Additional charges apply when unpacking service is requested by the RTO and verified by the employee.

(1) When carrier unpacks the external container/crate, and places each article in the residence or other building, a US$.60 per cubic foot (US$20.00 per cubic meter) charge will apply.

(2) When a carrier unpacks the internal cartons and places each article in the residence or other building, the carrier has the option of billing a per cubic foot (cubic meters) charge as outlined in (1) above; or a per carton charge, whichever is greater. Carrier cannot bill for both.

B. Charges. Charges shall be in accordance with the following.

Description	Per	Unpacking rate (In US dollars and cents)
CFFT = Cubic Foot (Cubic Meter) or Fraction Thereof.		
BARRELS		
Barrel, dish-pack, drum or specially designed containers for use in lieu of barrel, dish-pack or drum of not less than 5 cubic feet (0.15 cubic meters) capacity.	Each	US$3.40
BOXES		
Not over 5 cubic feet (0.15 cubic meters)	Each	US$1.90
Over 5 but not over 8 cubic feet (over 0.15 but not over 0.24 cubic meters).	Each	US$3.25

Description	Per	Unpacking rate (In US dollars and cents)
Over 8 cubic feet (0.24 cubic meters)	CFFT	US$.60 (US$20.00 per cubic meter)
CARTONS		
Double or Triple-Wall (Federal Specifications PPP–B–1364 or PPP–B–640		
Not over 4 cubic feet (0.12 cubic meters)	Each	US$3.50
Over 4 but not over 6 cubic feet (0.12 cubic meters)	Each	US$3.85
Over 6 but not over 8 cubic feet (over 0.18 but not over 0.24 cubic meters).	Each	US$4.35
Over 8 cubic feet (0.24 cubic meters)	CFFT	US$0.60 (US$20.00 per cubic meter)
When cartons of more than 1½ cubic feet (0.045 cubic meters) are used and no rate is shown for the size carton used, charges will be based on the rate for the next lower size carton shown. Cubic content must be shown on all cartons.		
WARDROBE CARTON		
Not less than 10 cubic feet (0.3 cubic meters)	Each	None.
CONTAINERS OR CRATES specifically designated for mirrors, painting, glass or marble tops and similar fragile articles.		
Gross measurement of specially designed container or crate	CFFT	US$.60 (US$20.00 per cubic meter)
Minimum charge per specially designed container or crate	Each	US$2.15

17–15. Crates/Special Containers.

A. Compensation to the carrier is authorized for construction of crates/containers necessary for safe transit of motorcycles, mopeds, minibikes and items of unusual nature such as but not limited to, hang gliders, sail boards, hot tubs, slate pool tables, marble/glass table tops and certain grandfather clocks (protruding glass faces), and other similar articles requiring special protection.

B. External shipping containers are authorized for items that will not fit into standard household effects shipping containers.

(1) Compensation: US$4.55 per cubic foot, (US$152.00 per cubic meter) no minimum charge.

(2) Container becomes property of the Government.

C. Internal crates are authorized for items that will fit not standard household effects shipping containers but require additional protection for safe transit.

(1) Compensation: US$14.45 per crate or US$3.35 per cubic foot (US$112.00 per cubic meter) whichever is greater.

(2) Crates remain the property of employee.

D. Carriers are responsible for notifying the RTO of any property requiring crates/containers prior to performing service. RTO must provide written authorization prior to construction of crates/containers.

E. With the exception of vehicular equipment, such as motorcycles, mopeds, minibikes, the RTO is responsible for determining the necessity of carrier's, as well as employees', requests for crating. Vehicular items are not automatically approved for crating. See HTOS Paragraph 4.7.1.4. Note: Some countries require that motorcycles be crated separately. It is the responsibility of the carrier to determine which destinations have this requirement.

F. If a carrier utilizes crates retained by the employee from a previous move, compensation for service performed will be made under labor costs.

17–16. Extra Pickup or Delivery

A. Portions of a shipment may be picked up or delivered at one or more places, origins, destinations, or enroute, provided all portions of the shipment are made available to the carrier at the same time. Service under this HTOS Paragraph 17–16 will be authorized by proper entry on the GBL or by ordering of service and certification on DD Form 619 or comparable commercial form by the RTO.

B. Charges for extra pickup or delivery of HHG will be computed as follows:

Contiguous United States and Hawaii	Overseas, excluding Alaska	Alaska
Within A 50 Mile Radius Of The Extra Origin/Destination		
US $57.10 per extra pickup/delivery	US $57.10 per extra pickup/delivery	US $38.60 per extra pickup/delivery;
51–150 Miles Of The Origin/Destination Point		
US $57.10 per shipment plus US $0.05 net per CWT (45kg) per highway mile from 51 miles to 150 miles inclusive (subject to a 50 mile minimum).	US $57.10 per shipment plus US$0.03 net per CWT (45kg) per highway mile from 51 miles to 150 miles inclusive (subject to a 50 mile minimum).	US $77.20 per shipment plus US $0.85 for each 20 miles or fraction thereof.

Contiguous United States and Hawaii	Overseas, excluding Alaska	Alaska
151 Miles And Over Of The Origin/Destination Point		
US$57.10 per shipment plus US $0.05 net CWT (US $.05) (45kg) per highway mile from 51 miles to 150 miles inclusive plus US $0.01 net CWT (45kg) per highway mile from 151 miles and over.	US$57.10 per shipment plus US $0.03 net CWT (45kg) per highway mile from 51 miles to 150 miles inclusive plus US$0.01 net CWT (45kg) per highway mile from 151 miles and over.	US $77.20 per shipment plus US$0.85 net CWT (45kg) for each 20 miles or fraction thereof from 51 miles and over.

C. Land transportation rates, when applicable, will be calculated on the weight of the additional pickup or delivery. When the carrier is required to unstuff and restuff containers to affect the extra pickup/delivery, the labor rates in HTOS Paragraph 17–9 will apply.

D. Charges for Extra Pickup or Delivery of UB will be as follows:

(1) Portions of a shipment may be picked up or delivered at one or more places at origin or destination, provided that all portions of the shipment are made available to the carrier at the same time. Services performed under this HTOS Paragraph 17–16 will be ordered on a DD Form 619 or comparable commercial form and certified by the RTO.

(2) An additional charge of US$12.85 per extra pickup or delivery per shipment will apply.

17–17. Attempted Delivery to Residence From SIT

A. Compensation to the carriers for attempted delivery to residence from Storage-In-Transit when failure to deliver is not the fault of the carrier, will be as follows:

(1) Round trip mileage from the warehouse to residence and return.

(a) If total mileage is 50 miles (80 km) or less, Pickup or Delivery Transportation Rate on storage-in-transit shipments will apply.

(b) If total mileage is greater than 50 miles, (80 km) applicable provisions of HTOS Paragraphs 17–33 17–47 will apply.

(2) Warehouse Handling: A second warehouse handling charge will apply if the shipment is again placed into SIT.

Note: If the shipment remains on the vehicle until delivered, this additional warehouse handling charge WILL NOT APPLY.

(3) Waiting Time: The provisions of HTOS Paragraph 17.9 will apply if carrier is required to wait at residence.

(4) Storage-In-Transit: If property is again placed into SIT, the same SIT control number will apply. Storage charges in CONUS and CANADA will continue at the additional daily rate. Storage charges in overseas areas will continue on a 30-day basis for HHG and a 15-day basis for UB.

17–18. Attempted Pickup and Direct Delivery Charges

A. Whenever attempted pick-up or direct delivery occurs, under conditions stated in definition of the term in HTOS paragraph 16–1, service will be supported by DD Form 619 or comparable commercial form certified by the RTO.

B. Charges for this service will be computed as follows:

(1) *Per vehicle:* US$29.45 per hour.

(2) Labor: Apply labor rates contained in HTOS Paragraph 17–9.

(3) Waiting Time: One hour free time in accordance with HTOS Paragraph 17–10 (Household Goods only).

17–19. Delivery to Storage in Government Facilities

Shipment delivered to nontemporary storage in Government facilities will be considered as terminated. Such Government facilities will be considered the final delivery point for the shipment.

17–20. Reserved for Future Use

17–21. Storage-in-Transit and Warehouse Handling Charge Household Goods Surface Shipment

A. Storage-in-transit and warehouse handling charges are in dollars and cents per net cwt (45kg) and apply based on location of warehouse where storage-in-transit service is provided. Charges for these services will be based on actual weight of goods stored in transit, subject to a 1000 pound (454 kg) minimum. Rates in effect on the date of initial pick-up at origin will apply.

B. This HTOS Paragraph 17–21 applies when SIT is ordered by RTO and performed by a carrier or its agent.

(1) CONUS and CANADA locations: Storage charges apply for each day of storage, and apply exact time storage-in-transit service is rendered. Storage days will include the day goods are placed in storage, and the day goods are removed from storage. If the goods are removed from storage on the same day they are placed in storage, one (1) day storage will apply.

(2) OVERSEAS locations: Storage charges apply for 30 days of storage or fraction thereof, and each time storage-in-transit service is rendered. Storage days will include the day goods are placed in storage, but not the day removed from storage. If the goods are removed from storage on the same day they are placed in storage, one 30 day storage period will apply.

C. Warehouse handling charge applies once each time shipment is placed in storage-in-transit.

D. Except as provided below, a shipment or portion thereof may be placed in storage-in-transit one or more times for an aggregate period not to exceed 180 days unless additional storage is authorized by the RTO, who will notify carrier of the extension of the projected termination date. When not removed from SIT at the expiration of the time limit specified herein, liability of the carrier shall terminate at midnight on the 180th day or at the end of the extended SIT period authorized by the RTO. The through GBL character of the shipment will cease, the warehouse will be considered the destination of the shipment, the warehouseman will become the agent for the shipper and the shipment becomes subject to the rules, regulations and charges of the warehouseman.

Exception: When the shipper has requested final delivery of their property, on a date five days preceding the expiration of storage, and when the carrier, through no fault of the shipper, does not deliver the property prior to the end of the 180 day period, or any extension thereof, then storage-in-transit charges will not apply after the 180 days or at the end of the extended SIT period. All other provisions under the original tender will continue in effect until property is delivered to final residence.

E. Delivery to residence will be made on the date requested. If prior commitments prevent the carrier from delivery on that date, then delivery will be made as soon as possible thereafter. In any event, storage charges will cease on the following date, whichever is earlier:

(1) Requested delivery date, or five working days following the date of notification to deliver, whichever is later; or

(2) Date of actual delivery for CONUS and CANADA locations, or the date

immediately prior to the date of actual delivery for overseas locations.

F. See HTOS Paragraph 17–6 Geographical Application of Rates and Schedules, for Storage-In-Transit and Warehouse Handling Rate to apply WHEN SERVICE IS PERFORMED AT POINTS WITHIN CONUS, CANADA, AND HAWAII (other than points listed below).

Overseas

Application: Rates apply as shown below based on the location of warehouse when Storage-In-Transit service is provided. Also see HTOS Paragraph 4–18.

Location	Overseas storage for each 30 days or fraction thereof per cwt (45kg)	Warehouse handling charge per cwt. (45kg)
At any point other than those listed below	US$2.45	US$2.80
Alaska	US$4.90	US$3.85
Australia (both East and West)	US$2.95	US$3.70
Beligum	US$2.60	US$3.30
Germany, United Kingdom, and Scotland, Switzerland	US$1.95	US$1.95
Netherlands, The	US$3.70	US$4.90
Iceland	US$3.24	US$3.24
Japan (less Okinawa)	US$7.39	US$6.58
Okinawa	US$4.33	US$4.32

17–22. Storage-in-Transit and Warehouse Handling Charge Household Goods, Unaccompanied Air Baggage

Rates are in dollars and cents per gross CWT (45 kg) and apply in territory or areas shown below, based on location of warehouse where SIT service is provided:

When warehouse is located at	Sit for each 15 days or fraction thereof		Warehouse handling charge	
	Per gross Cwt (45kg)	Minimum charge per each 15 days or fraction thereof	Per gross Cwt (45kg)	Minimum charge per shipment
Any point within CONUS and CANADA	US$1.45	US$7.55	US$1.45	US$7.55
Any overseas point not listed below	US$1.15	US$5.95	US$1.15	US$5.95
Alaska	US$2.35	US$11.85	US$2.35	US$11.85
Hawaii	US$2.10	US$10.70	US$3.00	US$12.90
Puerto Rico	US$2.00	US$10.10	US$2.00	US$10.10

Note 1: Delivery to residence will be made on the date specified by the RTO provided the RTO has given the carrier 3 working days notice. The carrier must deliver the shipment no later than 3 working days after RTO notification. If notification is given before noon of a working day, that day will be considered day one. If notification is given after noon of a working day, the following day will be considered day one. Storage charges will cease as shown below:

(a) After day 3, when the shipment is delivered beyond the 3rd working day at the convenience of the carrier.

(b) The day after the shipment is removed from storage, when the shipment is delivered beyond the 3rd working day at the RTO's request.

Note 2: This HTOS Paragraph 17–22 applies when SIT is ordered by a RTO and performed by a carrier or its agent. Storage days will include the day goods are placed in storage and the day goods are removed from storage. If the goods are removed from storage on the same day they are placed in storage, one 15-day storage period will apply.

Note 3: Warehouse Handling Charge applies once each time shipment is placed in SIT.

17–23. Pick-Up or Delivery Transportation Rates To Apply on Storage-in-Transit Shipment Household Effects, Surface

A. Rates in this HTOS Paragraph 17–23 apply to drayage of SIT shipments as follows:

(1) From residence to SIT facility at origin.

(2) From destination SIT facility to final residence.

Note: Applies to shipments stored at either a commercial or Government facility.

B. Shipments stored within CONUS, CANADA, or HAWAII:

(1) Pick-up or delivery within 50 miles (80 km) radius of SIT facility, apply the rates in applicable schedule in this item.

(2) Pick-up or delivery beyond 50 miles (80 km) radius of SIT facility, apply the schedules in this item, plus the rate for additional mileage beyond 50 miles, refer to HTOS Paragraphs 17–33–17.47.

C. Shipments stored within overseas area refer to HTOS Paragraphs 17–33–17.47.

D. RTO may order, subject to carrier's concurrence, the services provided by this HTOS Paragraph 17–23 during other than regular working hours. The rates specified below plus overtime loading and/or unloading charges will apply. These additional charges will not apply when service is performed for the convenience of the carrier. When such service is ordered, it must be confirmed in writing. Rates in effect on date of initial pickup at origin will apply.

E. See HTOS Paragraph 17–6, Geographical Application of Rates and Schedules for Pick-up or Delivery Transportation Schedules to apply WHEN SERVICE IS PERFORMED AT POINTS WITHIN CONUS AND CANADA.

Note 1: Rates are expressed in terms of dollars per shipment and in terms of dollars per cwt (45 kg) for each 100 pounds (45 kg) or fraction thereof, in excess of 22,999 pounds (10,432 kg). The "Add'l CWT. (45 kg)" rate applies for each additional 100 pounds (45 kg), or fraction thereof, in excess of 22,999 pounds (10,432 kg), *plus* the base rate per shipment.

Note 2: For rates applicable for Hawaii, apply Schedule D; for Alaska apply Schedule H.

PICKUP OR DELIVERY TRANSPORTATION RATES ON STORAGE-IN-TRANSIT SHIPMENTS

Weight		Schedules							
From	Thru	A	B	C	D	E	F	G	H
1000	1099	125	139	154	171	190	211	234	260
1100	1199	135	150	166	185	205	227	252	280
1200	1299	145	161	178	198	220	244	271	301
1300	1399	155	172	191	212	235	261	289	321
1400	1499	165	183	203	225	250	277	308	342
1500	1599	175	194	215	239	265	294	326	362
1600	1699	184	205	227	252	280	311	345	383
1700	1799	194	216	239	266	295	327	363	403
1800	1899	204	227	252	279	310	344	382	424
1900	1999	214	238	264	293	325	361	400	445
2000	2199	226	251	279	310	344	382	424	470
2200	2399	241	268	297	330	366	407	451	501
2400	2599	256	284	316	350	389	432	479	532
2600	2799	271	301	334	371	411	457	507	563
2800	2999	286	317	352	391	434	482	535	593
3000	3199	301	334	371	411	456	507	562	624
3200	3399	316	350	389	432	479	532	590	655
3400	3599	330	367	407	452	502	557	618	686
3600	3799	345	383	425	472	524	582	646	717
3800	3999	360	400	444	492	547	607	673	748
4000	4199	374	416	461	512	568	631	700	777
4200	4399	388	431	478	531	589	654	726	806
4400	4599	402	446	495	550	610	678	752	835
4600	4799	416	462	513	569	632	701	778	864
4800	4999	430	477	530	588	653	724	804	892
5000	5199	444	493	547	607	674	748	830	921
5200	5399	458	508	564	626	695	771	856	950
5400	5599	471	523	581	645	716	794	882	979
5600	5799	485	539	598	664	737	818	908	1007
5800	5999	499	554	615	683	758	841	934	1036
6000	6199	513	569	632	702	779	864	959	1065
6200	6399	527	585	649	720	800	888	985	1094
6400	6599	541	600	666	739	821	911	1011	1123
6600	6799	555	616	683	758	842	934	1037	1151
6800	6999	568	631	700	777	863	958	1063	1180
7000	7199	582	646	717	796	884	981	1089	1209
7200	7399	596	662	734	815	905	1004	1115	1238
7400	7599	610	677	752	834	926	1028	1141	1266
7600	7799	624	692	769	853	947	1051	1167	1295
7800	7999	638	708	786	872	968	1074	1193	1324
8000	8499	661	733	814	904	1003	1113	1236	1372
8500	8999	693	769	854	948	1052	1167	1296	1438
9000	9499	725	805	893	992	1101	1222	1356	1505
9500	9999	757	840	933	1035	1149	1276	1416	1572
10000	10499	789	876	972	1079	1198	1330	1476	1639
10500	10999	821	911	1011	1123	1246	1383	1535	1704
11000	11499	854	948	1052	1167	1296	1438	1597	1772
11500	11999	886	983	1091	1211	1345	1493	1657	1839
12000	12499	917	1018	1129	1254	1392	1545	1715	1903
12500	12999	946	1050	1166	1294	1437	1595	1770	1965
13000	13499	976	1083	1203	1335	1482	1645	1826	2027
13500	13999	1006	1116	1239	1376	1527	1695	1881	2088

PICKUP OR DELIVERY TRANSPORTATION RATES ON STORAGE-IN-TRANSIT SHIPMENTS—Continued

Weight		Schedules							
From	Thru	A	B	C	D	E	F	G	H
14000	14499	1035	1149	1276	1416	1572	1745	1937	2150
14500	14999	1065	1182	1312	1457	1617	1795	1992	2211
15000	15499	1095	1215	1349	1497	1662	1845	2048	2273
15500	15999	1125	1248	1386	1538	1707	1895	2103	2335
16000	16499	1153	1280	1421	1577	1750	1943	2157	2394
16500	16999	1180	1310	1454	1614	1792	1989	2207	2450
17000	17499	1207	1340	1488	1651	1833	2035	2258	2507
17500	17999	1235	1370	1521	1688	1874	2080	2309	2563
18000	18499	1262	1401	1555	1726	1916	2126	2360	2620
18500	18999	1289	1431	1588	1763	1957	2172	2411	2676
19000	19499	1316	1461	1622	1800	1998	2218	2462	2733
19500	19999	1343	1491	1655	1837	2039	2264	2513	2789
20000	20499	1371	1521	1689	1875	2081	2310	2564	2846
20500	20999	1398	1552	1722	1912	2122	2356	2615	2902
21000	21499	1425	1582	1756	1949	2163	2401	2666	2959
21500	21999	1452	1612	1789	1986	2205	2447	2716	3015
22000	22499	1480	1642	1823	2023	2246	2493	2767	3072
22500	22999	1507	1672	1856	2061	2287	2539	2818	3128
Add'l Cwt. (45 kg)	.....	5	6	7	7	8	9	10	11

17–24. Pickup or Delivery Transportation Rates To Apply on Storage-in-Transit Shipment Unaccompanied Air Baggage

A. Rates apply for pickup of shipments at residence and transportation to origin agents warehouse for SIT or for delivery from SIT at destination agent's warehouse to residence or other final delivery point.

Note: This HTOS Paragraph 17–24 applies when either a commercial or Government storage facility is used.

B. Rates apply in territory or areas shown below based on location of warehouse where SIT service is provided. Charges are subject to a US$32.55 minimum per shipment.

C. The following rates apply within 50-mile (80 km) radius of warehouse:

Applicable rates when warehouse is located at	Rates per gross Cwt (45kg)
Any point within CONUS and CANADA	US$8.85
Any overseas point not listed below	US$4.40
Alaska	US$12.55
Germany	US$7.80
Hawaii	US$11.15

D. For distances over a 50-mile (80 km) radius:

(1) Within CONUS, CANADA and the Island of Oahu, Hawaii, apply the rates in the applicable linehaul rate tables or the above rates, whichever is greater, subject to a US$37.00 minimum charge per shipment.

(2) Overseas (except Germany, Alaska, and the Island of Oahu, Hawaii), apply the rates in the applicable linehaul rate tables or the above rate, whichever is greater, subject to a US$30.65 minimum charge per shipment.

(3) Within Alaska, apply the rates in the applicable linehaul rate tables or the above rate, whichever is greater, subject to a US$37.00 minimum charge per shipment.

(4) Germany (either origin and/or destination) apply rates in the applicable linehaul rate tables or the above rate, whichever is greater, subject to a US$30.65 minimum charge per shipment.

(5) An administrative fee of US$15.00 per shipment will apply.

E. For delivery or pickup of shipments from/to SIT to Islands of Hawaii other than Oahu, the rate of US$8.20 per gross CWT (45kg) in addition to the above will apply.

F. Pickups and/or deliveries may be made after regular hours or days at the written request of the RTO, subject to the carrier's concurrence and additional charges. If this service is provided for the convenience of the carrier with the member's concurrence, additional charges WILL NOT APPLY.

G. Charges noted above are in addition to the SFR.

17–25. Termination of Shipment Household Effects, Surface.

A. A shipment will be terminated when appropriate and ordered by the RTO or other authorized Government representative.

B. When an order for termination is received, the carrier will locate the shipment, advise RTO of shipment's location and effect the required change. RTO will issue a GBL correction notice to reflect the termination point.

C. The following will apply to shipment terminated for the convenience of the Government:

(1) Shipments terminated prior to departure from the origin area (both CONUS, CANADA and overseas). Applicable payments are authorized as follows:

(a) US$54.00 per net cwt (45kg) including the use of packing materials and stuffing into household effects containers.

(b) SIT Charges, warehouse handling charges and delivery to SIT when required and authorized.

(c) When SIT is not ordered, apply applicable line haul rate table to cover local drayage charges, when applicable.

(2) Shipments terminated subsequent to movement from origin but prior to commencement of ocean or air transportation. Applicable payments are authorized as follows:

(a) US$54.00 per new cwt (45kg) including the use of packing materials and stuffing into household effects containers.

(b) See HTOS Paragraphs 17–33–17–47 below regarding rates to cover local drayage from residence to warehouse.

(c) See HTOS Paragraphs 17–33–17–47 below regarding rates from origin warehouse to point of termination.

(d) SIT and warehouse handling charges apply when required and authorized.

(3) Shipments terminated during or subsequent to the completion of overwater transportation. Applicable payments are authorized as follows:

(a) Carrier's SFR to rate area of the termination point or carrier's SFR to the rate area of the original destination point whichever is less, minus US$3.00 per cwt (45kg) for non-performance of the unpacking services. The GBL correction notice will reflect this reduction.

(b) If the shipment is to be delivered to a residence or warehouse also within the rate area of the termination point, the carrier's SFR as specified above in paragraph c (1) plus appropriate charges for additional services as ordered by DOS on a DD Form 619 or comparable commercial form will apply.

(4) A termination charge of US$40.00 per shipment will apply in addition to other charges authorized herein. The termination charge will be supported by the GBL correction notice.

D. When shipments are terminated through the fault of the carrier, the provisions of the HTOS Paragraph 8–1.1.17, Shipment Termination, apply.

Note: Any charges for services performed after the termination of the shipment will be in accordance with applicable rules and rates.

17–26. Termination of Shipment Unaccompanied Air Baggage

A. A shipment will be terminated when appropriate and ordered by a RTO or other authorized Government representative.

B. When an order for termination is received, the carrier will locate the shipment, advise the RTO of shipment's location and effect the required change. The RTO will issue a GBL correction notice to reflect the termination point.

C. The following will apply to shipment terminated for the convenience of the Government:

(1) Shipments terminated prior to departure from the origin area (both CONUS, CANADA and overseas). Applicable payments are authorized as follows:

(a) US$5.00 per gross CWT (45kg) for packing, including the use of packing materials and stuffing into containers, if used.

(b) SIT charges, warehouse handling charges, and delivery to or from SIT, when required and authorized.

(c) Unpacking charges, if applicable.

(d) When SIT is not ordered, apply applicable linehaul rate table to cover local drayage charges.

(2) Shipments terminated subsequent to movement from origin but prior to commencement of ocean or air transportation. Applicable payments are authorized as follows:

(a) US$5.00 per gross CWT (45kg) for packing, including the use of packing materials and stuffing into containers, if used.

(b) Applicable linehaul rates for mileage from origin to point of termination.

(c) SIT and warehouse handling charges, when required and authorized.

(d) Unpacking charges, if applicable.

(3) Shipments terminated during or subsequent to the completion of overwater transportation. Applicable payments are authorized as follows:

(a) Carrier's SFR to rate area of the termination point or carrier's SFR to the rate area of the original destination point, whichever is less.

(b) If the shipment is to be delivered to a residence also within the rate area of the termination point, the carrier's SFR rate as specified above, plus appropriate charges for additional services as ordered by the RTO on a DD Form 619 or comparable commercial form, will apply.

(4) A termination charge of US$10.00 per shipment will apply in addition to other charges authorized herein. The termination charge will be supported by the GBL correction notice.

D. When shipments are terminated through the fault of the carrier, the provisions of HTOS Paragraph 8–1.1.17, Shipment Termination, apply. The termination charge of US$10.00 will not apply.

17–27. Reshipments-Household Effects, Surface

A. This HTOS Paragraph 17–27 applies to shipments which are terminated for the convenience of the government and which require over ocean transportation either by air or water. A reshipment normally will be handled by the carrier originally tendered the shipment if that carrier has a cost effective GSA approved rate on file.

B. The point of termination will be considered the final destination of the original shipment and the GBL will be adjusted accordingly.

C. Onward movement of property will be treated as a new shipment under a new GBL. The following procedures will be followed in determining applicable rates for the new GBL.

(1) If the carrier originally handling the shipment has a cost effective GSA approved rate on file to the new destination, that SFR, less US$54.00 per net cwt (45kg) will apply. The reduction will be supported by DOS annotation on the original GBL.

(2) If the carrier originally handling the shipment does not have a cost effective rate on file to the new destination, an acceptable rate wail be negotiated with RTO or the shipment will be tendered to another carrier.

(3) If the shipment is tendered to another carrier with a cost effective GSA approved rate on file, the SFR will be reduced by US$49.00 per net cwt (45kg) for non-performance of packing services. The shipment will be decontainerized and restuffed into other containers and original containers returned to owner.

(D) The above procedures are not applicable to those shipments terminated and retendered due to the fault of the carrier, such as carrier bankruptcy or failure to complete movement as defined in HTOS Paragraph 8–1.1.17. In these instances, due to the need to expedite onward movement, shipments will remain in the original carrier's containers. These containers will be made available to the original carrier by the new carrier at destination.

(E) Old and new GBLs will be cross-referenced.

17–28. Reshipments—Unaccompanied Air Baggage

(A) this HTOS Paragraph 17–28 applies to shipments which are terminated for convenience of the Government and which require over ocean transportation either by air or water. A reshipment normally will be handled by the carrier originally tendered the shipment if that carriers has a cost effective, GSA approved rate on file or negotiates an acceptable OTO rate with GSA.

(B) The point of termination will be considered the final destination and the original GBL will be terminated at that point.

(C) Onward movement of property will be treated as a new shipment under a new GBL. The following procedures will be followed in determining applicable rates for the new GBL

(1) If the carrier originally handling the shipment has a cost effective, GSA approved rate on file to the new destination, that SFR, less US$5.00 per gross CWT (45kg) for nonperformance of packing will apply. The reduction will be supported by a RTO annotation on the original GBL.

(2) If the carrier originally handling the shipment does not have a cost effective, GSA approved rate on file to

the new destination, an acceptable OTO SFR will be negotiated or the shipment will be tendered to another carrier.

(3) If the shipment is tendered to another carrier, this SFR will be reduced by US$5.00 per gross CWT (45kg) for nonperformance of packing services.

D. Old and new GBLs will be cross-referenced.

17–29. Shipments Diverted After Commencement Of Transportation Service

A. Upon instructions made and confirmed in writing by RTO, shipments will be diverted subject to the provisions and charges shown below. However, when charges are assessed in accordance with the provisions of this item, the charges associated with delivery from SIT herein, will not apply.

B. The term "diverted" or "diversion" as used herein, means a change to a new destination point more than fifty (50) (80 km) miles from the original destination point. A diversion will be made only at an ocean port of embarkation, an ocean port of debarkation, or at destination point. If the RTO directs the movement of the shipment to a place which is less than 50 (80 km) miles from the original destination point of the shipment, the shipment will be terminated at the point designated by the RTO and no diversion will occur. In such instance, the SFR will be that applicable to the original destination point. If the RTO directs the movement of the shipment to a place which is more than 50 (80 km) miles from the original destination point, the transportation charges as stated below in this HTOS Paragraph 17–29 will apply.

Exception: The provisions of this HTOS Paragraph 17–29 will not apply if instructions are received to change the destination of a shipment that is in SIT as destination. In such instances, transportation charges to the new destination point from the SIT warehouse will be computed under the provisions of Pickup/Delivery Transportation Rate to apply on SIT shipments.

C. When an order for diversion is received by carrier, diligent effort will be made by carrier to locate the shipment at the ocean port of embarkation or debarkation, or destination and effect the change desired. The carrier will not be responsible for failure to effect the change ordered, unless such failure is due to error or negligence of the carrier or its employees.

D. Upon receipt of a diversion certificate from the RTO, and properly affixed to carrier's bill to support billing for diversion charges, a US$40.00 per shipment charge will apply and when applicable the following additional provisions, and associated rates and charges will apply:

SHIPMENTS ORIGINATING IN CONUS AND CANADA

Shipment diverted at CONUS AND CANADA ocean port of embarkation (POE).	Diverted to a CONUS AND CANADA destination point.	There will be no diversions to a CONUS AND CANADA destination point. Shipment will be terminated at the POE and the international nature of the movement will cease (See Termination of Shipment Movement to the CONUS AND CANADA destination point will be affected under domestic shipping procedures.
Shipment diverted at CONUS AND CANADA ocean port of embarkation (POE).	Diverted to a different overseas rate area using the same (original) POE where diversion is effected..	Use the carrier's SFR from origin to new overseas rate area (See Note below).
Shipment diverted at CONUS AND CANADA ocean port of embarkation (POE).	Diverted to a different overseas rate area using a different (new) POE.	Use applicable line haul rate table from the origin to the original POE where diversion is effected. Use the carrier's SFR from the original POE where diversion is effected to the new overseas rate area (See Note below).
Shipment diverted at overseas ocean port of debarkation (POD).	Diverted to a CONUS AND CANADA destination point.	There will be no diversion to a CONUS AND CANADA destination point. The shipment will be terminated at the POD and reshipped to CONUS AND CANADA. (See Reshipments and Termination of Shipment).
Shipment diverted at overseas ocean port of debarkation (POD).	Diverted to an overseas destination point in the same overseas rate area as the original destination point.	Use the carrier's SFR from origin to destination rate area (no change in SFR).
Shipment diverted at overseas ocean port of debarkation (POD).	Diverted to an overseas destination point in another overseas rate area which uses the same (original) POD..	Use the carrier's SFR from origin to new overseas rate area (See Note below).
Shipment diverted at overseas ocean port of debarkation (POD).	Diverted to an overseas destination point in another overseas rate area which uses a different POD but no further overwater transportation is required.	Use carrier's SFR to the original POD where diversion is effected. Rate will be negotiated with GSA or the RTO.
Shipment diverted at overseas ocean port of debarkation (POD).	Diverted to an overseas destination point in another overseas rate area which uses a different (new) POD and where further over water transportation is required.	There will be no diversion to a new overseas rate area requiring further over water transportation. Shipment will be terminated at the POD in accordance with Termination of Shipment procedures. Rate will be negotiated with GSA or RTO.

SHIPMENTS ORIGINATING IN CONUS AND CANADA—Continued

Shipment diverted at overseas destination	There will be no diversion from overseas destination. Shipments will terminate at destination and reshipment will be made as a new shipment..	

Note: If the carrier does not have a SFR on file from the POE or POD when diversion is effected to the new destination, the carrier will contact GSA or appropriate GSO for further guidance.

SHIPMENTS ORIGINATING OVERSEAS

Shipment diverted at overseas ocean port of embarkation (POE).	Diverted at the overseas POE enroute to a CONUS OR CANADA destination.	There will be no diversion. The shipment will be terminated at the overseas POE. Reshipment to new destination will be made as a new shipment.
Shipment diverted at overseas ocean port of embarkation (POE).	Diverted at overseas POE to an overseas destination point in the same overseas rate area as the POE where diversion is effected.	There will be no diversion. Shipment will be terminated at the overseas POE. Reshipment to new destination will be made as a new shipment.
Shipment diverted at overseas ocean port of embarkation (POE).	Diverted at the overseas POE to another overseas destination point in another overseas rate area.	There will be no diversion. Shipment will be terminated at the overseas POE. Reshipment to new destination will be made as a new shipment.
Shipment diverted at CONUS OR CANADA/ overseas port of debarkation (POD)..	Diverted at CONUS OR CANADA POD to a new destination point in CONUS OR CANADA.	There will be no diversion. Shipment will be terminated at the CONUS OR CANADA POD. Reshipment to new destination will be made as a new shipment.
Shipment diverted at CONUS OR CANADA/ overseas port of debarkation (POD)..	Diverted at CONUS OR CANADA POD to a destination point overseas.	There will be no diversion. Shipment will be terminated at the POD. Reshipment to new destination will be made as a new shipment.
Shipment diverted at CONUS OR CANADA/ overseas port of debarkation (POD).	Diverted at an overseas POD to a destination point in CONUS OR CANADA.	There will be no diversion. Shipment will be terminated at the overseas POD. Reshipment to new destination will be made as a new shipment.
Shipment diverted at CONUS OR CANADA/ overseas port of debarkation (POD).	Diverted at overseas POD to a new destination point overseas.	There will be no diversion. Shipment will be terminated at the overseas POD. Reshipment to new destination will be made as a new shipment.
Shipment diverted at CONUS OR CANADA destination.	Diverted at CONUS OR CANADA POD to a new destination point in CONUS OR CANADA.	There will be no diversion of shipment at CONUS OR CANADA destination. Shipment will be terminated at CONUS OR CANADA destination. Reshipment to new destination will be made under domestic procedures as a new shipment.

17–30. Excessive Distance Carry Charges To and From Mini-Warehouse Storage (Long Carries)

On shipments picked up at or delivered to a mini-warehouse which involve a carry in excess of 75 feet (23 meters) between the carrier's vehicle and the outside entrance door of the actual storage area. An additional long carry charge will apply as follows:

RATES IN DOLLARS AND CENTS PER CWT (45KG) SCHEDULES

A	B	C	D	E	F	G	H
US$0.70	US$0.70	US$0.85	US$0.90	US$1.00	US$1.05	US$1.10	US$1.20

Note 1: Refer to HTOS Paragraph 17–6 for application of charges.

Note 2: Refer to HTOS Paragraph 17–6 for CONUS geographic application of rate schedules in this item. Apply Schedule H at all overseas points.

17–31. Reserved for Future Use

17–32. Surface Linehaul Rate Table for Overseas Areas Not Otherwise Specified

The following table will be used for all overseas areas not otherwise specified for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	3.80	1,737	3.30	3,637	3.00
51–75	5.40	1,723	4.65	3,613	4.20
76–100	6.15	1,724	5.30	3,623	4.80
101–150	6.90	1,740	6.00	3,567	5.35
151–200	7.65	1,752	6.70	3,583	6.00
201—250	8.45	1,740	7.35	3,592	6.60
251—300	9.20	1,740	8.00	3,601	7.20
301—350	10.00	1,741	8.70	3,587	7.80
351—400	10.75	1,740	9.35	3,573	8.35
401—450	11.50	1,740	10.00	3,581	8.95
451—500	12.30	1,740	10.70	3,589	9.60
501—550	13.05	1,740	11.35	3,595	10.20
551—600	13.80	1,740	12.00	3,601	10.80
601—650	14.55	1,739	12.65	3,605	11.40
651—700	15.35	1,740	13.35	3,596	12.00
701—750	16.10	1,740	14.00	3,601	12.60
751—800	16.90	1,734	14.65	3,605	13.20
801—850	17.65	1,740	15.35	3,597	13.80
851—900	18.40	1,740	16.00	3,601	14.40

Note: Over 900 miles, add US$1.35 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–33. Surface Linehaul Rate Table for Belgium, Italy, The Netherlands, and West Germany

The following table will be used for Belgium, Italy, The Netherlands, and West Germany for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1—50	3.95	1,747	3.45	3,595	3.10
51—75	6.35	1,733	5.50	3,637	5.00
76—100	7.95	1,736	6.90	3,595	6.20
101—150	9.50	1,748	8.30	3,591	7.45
151—200	11.10	1,739	9.65	3,607	8.70
201—250	12.20	1,746	10.65	3,587	9.55
251—300	13.35	1,738	11.60	3,587	10.40
301—350	14.45	1,738	12.55	3,602	11.30
351—400	15.55	1,737	13.50	3,601	12.15
401—450	16.65	1,742	14.50	3,601	13.05
451—500	17.80	1,736	15.45	3,599	13.90
501—550	18.85	1,741	16.40	3,610	14.80
551—600	20.00	1,736	17.35	3,609	15.65
601—650	21.10	1,740	18.35	3,597	16.50
651—700	22.20	1,739	19.30	3,596	17.35
701—750	23.30	1,743	20.30	3,597	18.25
751—800	24.45	1,739	21.25	3,596	19.10
801—850	25.55	1,738	22.20	3,604	20.00
851—900	26.65	1,738	23.15	3,603	20.85
901—950	27.75	1,741	24.15	3,562	21.50
951—1000	28.85	1,741	25.10	3,602	22.60
1001—1100	29.95	1,740	26.05	3,601	23.45
1101—1200	33.35	1,737	28.95	3,600	26.05
1201—1300	35.50	1,741	30.90	3,599	27.80
1301—1400	37.75	1,738	32.80	3,604	29.55
1401—1500	40.00	1,738	34.75	3,603	31.30
1501—1600	42.15	1,742	36.70	3,603	33.05

Note: Over 1,600 miles, add US$2.00 for each additional 100 miles or fraction thereof, to 600-mile rate shown above.

17–34. Surface Linehaul Rate Table for CONUS, Canada, Alaska, and Hawaii

The following table will be used for CONUS, Canada, Alaska, and Hawaii for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
1–10	14.95	653	9.75	1,683	8.20	3,464	7.10	6,536	5.80	11,690	5.65
11–20	15.50	668	10.35	1,653	8.55	3,369	7.20	6,667	6.00	11,501	5.75
21–30	16.30	672	10.95	1,644	9.00	3,356	7.55	6,464	6.10	11,410	5.80
31–40	17.20	652	11.20	1,643	9.20	3,348	7.70	6,598	6.35	11,528	6.10
41–50	18.05	649	11.70	1,659	9.70	3,382	8.20	6,244	6.40	11,532	6.15
51–60	18.80	636	11.95	1,657	9.90	3,374	8.35	6,611	6.90	11,131	6.40
61–70	19.60	641	12.55	1,650	10.35	3,305	8.55	6,737	7.20	11,501	6.90
71–80	20.30	648	13.15	1,613	10.60	3,378	8.95	6,749	7.55	11,444	7.20
81–90	21.30	639	13.60	1,618	11.00	3,346	9.20	6,696	7.70	11,767	7.55
91–100	22.10	629	13.90	1,619	11.25	3,432	9.65	6,881	8.30	11,133	7.70
101–110	22.90	634	14.50	1,614	11.70	3,317	9.70	6,887	8.35	11,138	7.75
111–120	23.60	634	14.95	1,592	11.90	3,278	9.75	6,934	8.45	11,787	8.30
121–130	24.30	636	15.45	1,573	12.15	3,260	9.90	6,910	8.55	11,720	8.35
131–140	24.90	639	15.90	1,579	12.55	3,251	10.20	6,942	8.85	11,458	8.45
141–150	25.60	637	16.30	1,589	12.95	3,182	10.30	6,952	8.95	11,866	8.85
151–160	26.15	643	16.80	1,572	13.20	3,197	10.55	6,863	9.05	11,934	9.00
161–170	26.80	648	17.35	1,534	13.30	3,294	10.95	7,051	9.65	11,254	9.05
171–180	27.40	646	17.70	1,549	13.70	3,241	11.10	7,028	9.75	11,324	9.20
181–190	27.95	646	18.05	1,563	14.10	3,192	11.25	7,254	10.20	11,236	9.55
191–200	28.65	639	18.30	1,574	14.40	3,251	11.70	7,077	10.35	11,305	9.75
201–220	29.45	639	18.80	1,575	14.80	3,230	11.95	7,331	10.95	11,179	10.20
221–240	30.25	640	19.35	1,597	15.45	3,211	12.40	7,226	11.20	11,304	10.55
241–260	30.85	650	20.05	1,582	15.85	3,168	12.55	7,267	11.40	11,685	11.10
261–280	31.70	641	20.30	1,621	16.45	3,210	13.20	7,243	11.95	11,448	11.40
281–300	32.35	645	20.85	1,641	17.10	3,182	13.60	7,353	12.50	11,473	11.95
301–320	33.20	647	21.45	1,628	17.45	3,187	13.90	7,454	12.95	11,584	12.50
321–340	33.85	653	22.10	1,634	18.05	3,214	14.50	7,338	13.30	11,685	12.95
341–360	34.45	664	22.85	1,637	18.70	3,198	14.95	7,412	13.85	11,524	13.30
361–380	35.10	666	23.35	1,658	19.35	3,205	15.50	7,433	14.40	11,542	13.85
381–400	35.75	662	23.65	1,675	19.80	3,213	15.90	7,523	14.95	11,559	14.40
401–420	36.35	672	24.40	1,656	20.20	3,258	16.45	7,538	15.50	11,459	14.80
421–440	37.15	667	24.75	1,669	20.65	3,274	16.90	7,527	15.90	11,661	15.45
441–460	37.95	661	25.05	1,701	21.30	3,259	17.35	7,586	16.45	11,417	15.65
461–480	38.60	668	25.75	1,678	21.60	3,278	17.70	7,594	16.80	11,358	15.90
481–500	39.35	665	26.15	1,691	22.10	3,267	18.05	7,579	17.10	11,544	16.45
501–520	39.95	671	26.80	1,691	22.65	3,232	18.30	7,585	17.35	11,620	16.80
521–540	40.55	668	27.05	1,705	23.05	3,263	18.80	7,532	17.70	11,594	17.10
541–560	40.95	670	27.40	1,716	23.50	3,252	19.10	7,561	18.05	11,535	17.35
561–580	41.60	669	27.80	1,702	23.65	3,290	19.45	7,527	18.30	11,443	17.45
581–600	41.90	670	28.05	1,730	24.25	3,242	19.65	7,614	18.70	11,583	18.05
601–620	42.50	673	28.60	1,707	24.40	3,287	20.05	7,542	18.90	11,620	18.30
621–640	42.95	672	28.85	1,709	24.65	3,278	20.20	7,703	19.45	11,445	18.55
641–660	43.35	673	29.15	1,709	24.90	3,318	20.65	7,613	19.65	11,481	18.80
661–680	43.65	672	29.30	1,748	25.60	3,266	20.90	7,675	20.05	11,432	19.10
681–700	44.20	670	29.60	1,747	25.85	3,296	21.30	7,587	20.20	11,644	19.60
701–725	44.55	674	30.00	1,744	26.15	3,282	21.45	7,628	20.45	11,619	19.80
726–750	44.95	680	30.55	1,729	26.40	3,281	21.65	7,723	20.90	11,541	20.10
751–775	45.45	679	30.85	1,738	26.80	3,284	22.00	7,746	21.30	11,437	20.30
776–800	45.80	683	31.25	1,732	27.05	3,350	22.65	7,630	21.60	11,584	20.85
801–825	46.25	686	31.70	1,729	27.40	3,365	23.05	7,636	22.00	11,646	21.35
826–850	46.40	689	31.95	1,741	27.80	3,353	23.30	7,691	22.40	11,599	21.65
851–875	46.55	690	32.10	1,742	27.95	3,364	23.50	7,779	22.85	11,554	22.00
876–900	46.95	690	32.35	1,744	28.20	3,355	23.65	7,814	23.10	11,533	22.20
901–925	47.15	695	32.75	1,747	28.60	3,399	24.30	7,688	23.35	11,641	22.65
926–950	47.60	695	33.05	1,746	28.85	3,418	24.65	7,660	23.60	11,721	23.05
951–975	47.75	698	33.30	1,757	29.25	3,426	25.05	7,745	24.25	11,555	23.35

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
976–1000	48.95	684	33.45	1,770	29.60	3,473	25.70	7,627	24.50	11,584	23.65
1001–1050 ...	50.15	686	34.40	1,768	30.40	3,448	26.20	7,817	25.60	11,602	24.75
1051–1100 ...	51.60	684	35.25	1,774	31.25	3,489	27.25	7,692	26.20	11,726	25.60
1101–1150 ...	52.90	680	35.95	1,786	32.10	3,477	27.90	7,757	27.05	11,623	26.20
1151–1200 ...	54.20	686	37.15	1,780	33.05	3,462	28.60	7,805	27.90	11,635	27.05
1201–1250 ...	55.35	685	37.90	1,771	33.55	3,494	29.30	7,809	28.60	11,707	27.90
1251–1300 ...	56.60	682	38.60	1,783	34.40	3,489	30.00	7,814	29.30	11,714	28.60
1301–1350 ...	57.35	688	39.40	1,787	35.20	3,506	30.85	7,780	30.00	11,701	29.25
1351–1400 ...	58.15	694	40.35	1,772	35.75	3,519	31.45	7,784	30.60	11,726	29.90
1401–1450 ...	59.00	696	41.05	1,779	36.50	3,507	32.00	7,863	31.45	11,676	30.60
1451–1500 ...	59.75	700	41.80	1,780	37.20	3,522	32.75	7,842	32.10	11,683	31.25
1501–1550 ...	60.40	704	42.50	1,786	37.95	3,526	33.45	7,845	32.80	11,744	32.10
1551–1600 ...	61.20	705	43.10	1,792	38.60	3,539	34.15	7,813	33.35	11,803	32.80
1601–1650 ...	61.85	705	43.60	1,801	39.25	3,547	34.80	7,817	34.00	11,771	33.35
1651–1700 ...	62.55	707	44.20	1,808	39.95	3,555	35.50	7,809	34.65	11,775	34.00
1701–1750 ...	63.25	708	44.75	1,813	40.55	3,547	35.95	7,845	35.25	11,796	34.65
1751–1800 ...	63.85	712	45.45	1,820	41.35	3,560	36.80	7,805	35.90	11,783	35.25
1801–1850 ...	64.55	717	46.25	1,804	41.70	3,578	37.30	7,840	36.55	11,787	35.90
1851–1900 ...	65.05	721	46.85	1,796	42.05	3,620	38.05	7,822	37.20	11,791	36.55
1901–1950 ...	65.90	723	47.60	1,803	42.90	3,595	38.55	7,866	37.90	11,763	37.15
1951–2000 ...	66.50	725	48.20	1,799	43.35	3,599	39.00	7,857	38.30	11,875	37.90
2001–2050 ...	67.25	728	48.95	1,794	43.90	3,618	39.70	7,849	38.95	11,877	38.55
2051–2100 ...	67.85	728	49.35	1,806	44.55	3,632	40.45	7,793	39.40	11,879	39.00
2101–2150 ...	68.55	732	50.15	1,803	45.20	3,633	41.05	7,815	40.10	11,821	39.50
2151–2200 ...	69.20	730	50.50	1,814	45.80	3,642	41.70	7,789	40.60	11,853	40.10
2201–2250 ...	69.75	733	51.10	1,817	46.40	3,634	42.15	7,849	41.35	11,783	40.60
2251–2300 ...	70.25	737	51.75	1,815	46.95	3,647	42.80	7,814	41.80	11,785	41.05
2301–2350 ...	70.75	736	52.05	1,826	47.50	3,634	43.15	7,815	42.15	11,872	41.70
2351–2400 ...	71.30	741	52.80	1,809	47.75	3,657	43.65	7,863	42.90	11,791	42.15
2401–2450 ...	72.00	741	53.30	1,809	48.20	3,677	44.30	7,793	43.15	11,931	42.90
2451–2500 ...	72.45	744	53.90	1,813	48.85	3,665	44.75	7,804	43.65	43.35	
									11,918		
2501–2550 ...	72.65	747	54.20	1,812	49.10	3,662	44.95	7,885	44.30	11,824	43.65
2551–2600 ...	72.85	747	54.40	1,822	49.55	3,670	45.45	7,877	44.75	11,866	44.25
2601–2650 ...	73.50	746	54.80	1,831	50.15	3,654	45.80	7,878	45.10	11,828	44.45

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
2651–2700 ...	73.65	751	55.25	1,827	50.45	3,671	46.30	7,888	45.65	11,764	44.75
2701–2750 ...	73.95	750	55.45	1,827	50.65	3,669	46.45	7,906	45.90	11,791	45.10
2751–2800 ...	74.10	755	55.90	1,829	51.10	3,676	46.95	7,907	46.40	11,807	45.65
2801–2850 ...	74.75	752	56.20	1,828	51.35	3,701	47.50	7,891	46.85	11,757	45.90
2851–2900 ...	74.95	756	56.65	1,828	51.75	3,691	47.75	7,892	47.10	11,822	46.40
2901–2950 ...	75.15	756	56.80	1,831	52.00	3,708	48.20	7,884	47.50	11,836	46.85
2951–3000 ...	75.50	760	57.35	1,828	52.40	3,699	48.45	7,885	47.75	11,850	47.15
3001–3050 ...	76.00	761	57.80	1,831	52.90	3,702	48.95	7,878	48.20	11,864	47.65
3051–3100 ...	76.25	761	58.00	1,837	53.25	3,689	49.10	7,943	48.75	11,767	47.80
3101–3150 ...	76.40	762	58.20	1,842	53.60	3,698	49.55	7,904	48.95	11,829	48.25
3151–3200 ...	76.90	765	58.80	1,837	54.00	3,719	50.20	7,841	49.20	11,891	48.75
3201–3250 ...	77.05	766	59.00	1,838	54.20	3,724	50.45	7,874	49.65	11,831	48.95
3251–3300 ...	77.50	768	59.45	1,844	54.80	3,698	50.65	7,929	50.20	11,738	49.10
3301–3350 ...	77.55	768	59.55	1,848	55.00	3,713	51.05	7,899	50.40	11,751	49.35
3351–3400 ...	77.80	767	59.65	1,855	55.30	3,715	51.35	7,891	50.65	11,847	50.00
3401–3450 ...	78.15	765	59.75	1,857	55.45	3,734	51.75	7,892	51.05	11,801	50.20
3451–3500 ...	78.20	770	60.15	1,846	55.50	3,734	51.80	7,892	51.10	11,848	50.45
3501–3550 ...	78.40	770	60.30	1,858	56.00	3,715	52.00	7,901	51.35	11,837	50.65
3551–3600 ...	78.60	772	60.65	1,854	56.20	3,730	52.40	7,901	51.75	11,838	51.05
3601–3650 ...	78.90	773	60.95	1,858	56.60	3,718	52.60	7,902	51.95	11,816	51.15
3651–3700 ...	79.15	774	61.20	1,853	56.70	3,732	52.90	7,872	52.05	11,897	51.60
3701–3750 ...	79.60	773	61.50	1,849	56.85	3,747	53.25	7,880	52.45	11,852	51.80
3751–3800 ...	79.75	775	61.75	1,858	57.35	3,732	53.50	7,896	52.80	11,819	52.00

17–35. Surface Linehaul Rate Table for Greece, Spain, and Other European Countries Not Otherwise Specified

The following table will be used for Greece, Spain, and other European Countries not otherwise specified for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	4.80	1,751	4.20	3,572	3.75
51–75	6.75	1,734	5.85	3,624	5.30
76–100	7.70	1,728	6.65	3,640	6.05
101–150	8.65	1,735	7.50	3,627	6.80
151–200	9.60	1,740	8.35	3,593	7.50
201–250	10.55	1,745	9.20	3,587	8.25
251–300	11.55	1,741	10.05	3,602	9.05
301–350	12.50	1,737	10.85	3,613	9.80
351–400	13.45	1,740	11.70	3,590	10.50
401–450	14.40	1,744	12.55	3,602	11.30
451–500	15.40	1,734	13.35	3,611	12.05

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
501–550	16.30	1,743	14.20	3,606	12.80
551–600	17.30	1,740	15.05	3,589	13.50
601–650	18.25	1,737	15.85	3,609	14.30
651–700	19.20	1,740	16.70	3,605	15.05
701–750	20.15	1,742	17.55	3,602	15.80
751–800	21.15	1,740	18.40	3,598	16.55
801–850	22.10	1,738	19.20	3,605	17.30
851–900	23.05	1,740	20.05	3,601	18.05

Note: Over 900 miles, add US$1.70 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–36. Surface Linehaul Rate Table for Japan

The following table will be used for Japan for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	2.55	1,765	2.25	3,556	2.00
51–75	5.20	1,731	4.50	3,601	4.05
76–100	7.50	1,681	6.30	3,620	5.70
101–150	9.35	1,744	8.15	3,583	7.30
151–200	10.40	1,741	9.05	3,603	8.15
201–250	11.45	1,730	9.90	3,617	8.95
251–300	12.45	1,743	10.85	3,503	9.50
301–350	13.50	1,741	11.75	3,592	10.55
351–400	14.55	1,739	12.65	3,589	11.35
401–450	15.55	1,743	13.55	3,602	12.20
451–500	16.60	1,741	14.45	3,599	13.00
501–550	17.65	1,740	15.35	3,597	13.80
551–600	18.70	1,738	16.25	3,594	14.60
601–650	19.70	1,742	17.15	3,604	15.45
651–700	20.75	1,740	18.05	3,602	16.25
701–750	21.80	1,739	18.95	3,599	17.05
751–800	22.85	1,738	19.85	3,597	17.85
801–850	23.90	1,737	20.75	3,605	18.70
851–900	24.90	1,739	21.65	3,603	19.50

Note: Over 900 miles, add US$1.80 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–37. Surface Linehaul Rate Table for Korea, Philippines, and Other Pacific Areas

The following table will be used for Korea, Philippines, and other Pacific areas for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs incl.	Break point	4,000 lbs. and over
1–50	3.20	1,751	2.80	3,572	2.50
51–75	6.45	1,737	5.60	3,608	5.05
76–100	9.00	1,745	7.85	3,593	7.05
101–150	11.60	1,742	10.10	3,585	9.05
151–200	12.90	1,729	11.15	3,624	10.10
201–250	14.15	1,739	12.30	3,610	11.10
251–300	15.45	1,742	13.45	3,599	12.10
301–350	16.75	1,738	14.55	3,602	13.10
351–400	18.05	1,740	15.70	3,593	14.10

Note: Over 400 miles, add US$2.25 for each additional 100 miles or fraction thereof, to 400-mile rate shown above.

17–38. Surface Linehaul Rate Table for the United Kingdom

The following table will be used for the United Kingdom for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 Lbs. Incl.	Break point	2,000 to 3,999 lbs. include.	Break point	4,000 Lbs. and over
1–50	4.60	1,740	4.00	3,651	3.65
51–75	6.55	1,726	5.65	3,611	5.10
76–100	7.45	1,732	6.45	3,597	5.80
101–150	8.40	1,727	7.25	3,587	6.50
151–200	9.30	1,742	8.10	3,605	7.30
201–250	10.25	1,737	8.90	3,596	8.00
251–300	11.15	1,740	9.70	3,609	8.75
301–350	12.10	1,736	10.50	3,601	9.45
351–400	13.05	1,740	11.35	3,595	10.20
401–450	13.95	1,742	12.15	3,573	10.85
451–500	14.90	1,739	12.95	3,599	11.65
501–550	15.80	1,741	13.75	3,608	12.40
551–600	16.75	1,738	14.55	3,602	13.10
601–650	17.65	1,740	15.35	3,610	13.85
651–700	18.60	1,742	16.20	3,593	14.55
701–750	19.55	1,740	17.00	3,601	15.30
751–800	20.50	1,737	17.80	3,607	16.05
801–850	21.40	1,739	18.60	3,603	16.75
851–900	22.35	1,737	19.40	3,598	17.45

Note: Over 900 miles, add US$1.60 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–39. Unaccompanied Air Baggage Linehaul Rate Table for Alaska

The following table will be used for Alaska for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
1–10	16.45	653	10.73	1,683	9.02	3,464	7.81	6,536	6.38	11,690	6.22
11–20 ...	17.05	668	11.39	1,653	9.41	3,369	7.92	6,667	6.60	11,501	6.33
21–30 ...	17.93	672	12.05	1,644	9.90	3,356	8.31	6,464	6.71	11,410	6.38
31–40 ...	18.92	652	12.32	1,643	10.12	3,348	8.47	6,598	6.99	11,528	6.71
41–50 ...	19.86	649	12.87	1,659	10.67	3,382	9.02	6,244	7.04	11,532	6.77
51–60 ...	20.68	636	13.15	1,657	10.89	3,374	9.19	6,611	7.59	11,131	7.04
61–70 ...	21.56	641	13.81	1,650	11.39	3,305	9.41	6,737	7.92	11,501	7.59
71–80 ...	22.33	648	14.47	1,613	11.66	3,378	9.85	6,749	8.31	11,444	7.92
81–90 ...	23.43	639	14.96	1,618	12.10	3,346	10.12	6,696	8.47	11,767	8.31
91–100	24.31	629	15.29	1,619	12.38	3,432	10.62	6,881	9.13	11,133	8.47
101–110	25.19	634	15.95	1,614	12.87	3,317	10.67	6,887	9.19	11,138	8.53
111–120	25.96	634	16.45	1,592	13.09	3,278	10.73	6,934	9.30	11,787	9.13
121–130	26.73	636	17.00	1,573	13.37	3,260	10.89	6,910	9.41	11,720	9.19
131–140	27.39	639	17.49	1,579	13.81	3,251	11.22	6,942	9.74	11,458	9.30
141–150	28.16	637	17.93	1,589	14.25	3,182	11.33	6,952	9.85	11,866	9.74
151–160	28.77	643	18.48	1,572	14.52	3,197	11.61	6,863	9.96	11,934	9.90
161–170	29.48	648	19.09	1,534	14.63	3,294	12.05	7,051	10.62	11,254	9.96
171–180	30.14	646	19.47	1,549	15.07	3,241	12.21	7,028	10.73	11,324	10.12
181–190	30.75	646	19.86	1,563	15.51	3,192	12.38	7,254	11.22	11,236	10.51
191–200	31.52	639	20.13	1,574	15.84	3,251	12.87	7,077	11.39	11,305	10.73
201–220	32.40	639	20.68	1,575	16.28	3,230	13.15	7,331	12.05	11,179	11.22

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
221–240	33.28	640	21.29	1,597	17.00	3,211	13.64	7,226	12.32	11,304	11.61
241–260	33.94	650	22.06	1,582	17.44	3,168	13.81	7,267	12.54	11,685	12.21
261–280	34.87	641	22.33	1,621	18.10	3,210	14.52	7,243	13.15	11,448	12.54
281–300	35.59	645	22.94	1,641	18.81	3,182	14.96	7,353	13.75	11,473	13.15
301–320	36.52	647	23.60	1,628	19.20	3,187	15.29	7,454	14.25	11,584	13.75
321–340	37.24	653	24.31	1,634	19.86	3,214	15.95	7,338	14.63	11,685	14.25
341–360	37.90	664	25.14	1,637	20.57	3,198	16.45	7,412	15.24	11,524	14.63
361–380	38.61	666	25.69	1,658	21.29	3,205	17.05	7,433	15.84	11,542	15.24
381–400	39.33	662	26.02	1,675	21.78	3,213	17.49	7,523	16.45	11,559	15.84
401–420	39.99	672	26.84	1,656	22.22	3,258	18.10	7,538	17.05	11,459	16.28
421–440	40.87	667	27.23	1,669	22.72	3,274	18.59	7,527	17.49	11,661	17.00
441–460	41.75	661	27.56	1,701	23.43	3,259	19.09	7,586	18.10	11,417	17.22
461–480	42.46	668	28.33	1,678	23.76	3,278	19.47	7,594	18.48	11,358	17.49
481–500	43.29	665	28.77	1,691	24.31	3,267	19.86	7,579	18.81	11,544	18.10
501–520	43.95	671	29.48	1,691	24.92	3,232	20.13	7,585	19.09	11,620	18.48
521–540	44.61	668	29.76	1,705	25.36	3,263	20.68	7,532	19.47	11,594	18.81
541–560	45.05	670	30.14	1,716	25.85	3,252	21.01	7,561	19.86	11,535	19.09
561–580	45.76	669	30.58	1,702	26.02	3,290	21.40	7,527	20.13	11,443	19.20
581–600	46.09	670	30.86	1,730	26.68	3,242	21.62	7,614	20.57	11,583	19.86
601–620	46.75	673	31.46	1,707	26.84	3,287	22.06	7,542	20.79	11,620	20.13
621–640	47.25	672	31.74	1,709	27.12	3,278	22.22	7,703	21.40	11,445	20.41
641–660	47.69	673	32.07	1,709	27.39	3,318	22.72	7,613	21.62	11,481	20.68
661–680	48.02	672	32.23	1,748	28.16	3,266	22.99	7,675	22.06	11,432	21.01
681–700	48.62	670	32.56	1,747	28.44	3,296	23.43	7,587	22.22	11,644	21.56
701–725	49.01	674	33.00	1,744	28.77	3,282	23.60	7,628	22.50	11,619	21.78
726–750	49.45	680	33.61	1,729	29.04	3,281	23.82	7,723	22.99	11,541	22.11
751–775	50.00	679	33.94	1,738	29.48	3,284	24.20	7,746	23.43	11,437	22.33
776–800	50.38	683	34.38	1,732	29.76	3,350	24.92	7,630	23.76	11,584	22.94
801–825	50.88	686	34.87	1,729	30.14	3,365	25.36	7,636	24.20	11,646	23.49
826–850	51.04	689	35.15	1,741	30.58	3,353	25.63	7,691	24.64	11,599	23.82
851–875	51.21	690	35.31	1,742	30.75	3,364	25.85	7,779	25.14	11,554	24.20
876–900	51.65	690	35.59	1,744	31.02	3,355	26.02	7,814	25.41	11,533	24.42

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
901–925	51.87	695	36.03	1,747	31.46	3,399	26.73	7,688	25.69	11,641	24.92
926–950	52.36	695	36.36	1,746	31.74	3,418	27.12	7,660	25.96	11,721	25.36
951–975	52.53	698	36.63	1,757	32.18	3,426	27.56	7,745	26.68	11,555	25.69
976–1000 ..	53.85	684	36.80	1,770	32.56	3,473	28.27	7,627	26.95	11,584	26.02
1001–1050 ..	55.17	686	37.84	1,768	33.44	3,448	28.82	7,817	28.16	11,602	27.23
1051–1100 ..	56.76	684	38.78	1,774	34.38	3,489	29.98	7,692	28.82	11,726	28.16
1101–1150 ..	58.19	680	39.55	1,786	35.31	3,477	30.69	7,757	29.76	11,623	28.82
1151–1200 ..	59.62	686	40.87	1,780	36.36	3,462	31.46	7,805	30.69	11,635	29.76
1201–1250 ..	60.89	685	41.69	1,771	36.91	3,494	32.23	7,809	31.46	11,707	30.69
1251–1300 ..	62.26	682	42.46	1,783	37.84	3,489	33.00	7,814	32.23	11,714	31.46
1301–1350 ..	63.09	688	43.34	1,787	38.72	3,506	33.94	7,780	33.00	11,701	32.18
1351–1400 ..	63.97	694	44.39	1,772	39.33	3,519	34.60	7,784	33.66	11,726	32.89
1401–1450 ..	64.90	696	45.16	1,779	40.15	3,507	35.20	7,863	34.60	11,676	33.66
1451–1500 ..	65.73	700	45.98	1,780	40.92	3,522	36.03	7,842	35.31	11,683	34.38
1501–1550 ..	66.44	704	46.75	1,786	41.75	3,526	36.80	7,845	36.08	11,744	35.31
1551–1600 ..	67.32	705	47.41	1,792	42.46	3,539	37.57	7,813	36.69	11,803	36.08
1601–1650 ..	68.04	705	47.96	1,801	43.18	3,547	38.28	7,817	37.40	11,771	36.69
1651–1700 ..	68.81	707	48.62	1,808	43.95	3,555	39.05	7,809	38.12	11,775	37.40
1701–1750 ..	69.58	708	49.23	1,813	44.61	3,547	39.55	7,845	38.78	11,796	38.12
1751–1800 ..	70.24	712	50.00	1,820	45.49	3,560	40.48	7,805	39.49	11,783	38.78
1801–1850 ..	71.01	717	50.88	1,804	45.87	3,578	41.03	7,840	40.21	11,787	39.49
1851–1900 ..	71.56	721	51.54	1,796	46.26	3,620	41.86	7,822	40.92	11,791	40.21
1901–1950 ..	72.49	723	52.36	1,803	47.19	3,595	42.41	7,866	41.69	11,763	40.87
1951–2000 ..	73.15	725	53.02	1,799	47.69	3,599	42.90	7,857	42.13	11,875	41.69
2001–2050 ..	73.98	728	53.85	1,794	48.29	3,618	43.67	7,849	42.85	11,877	42.41
2051–2100 ..	74.64	728	54.29	1,806	49.01	3,632	44.50	7,793	43.34	11,879	42.90
2101–2150 ..	75.41	732	55.17	1,803	49.72	3,633	45.16	7,815	44.11	11,821	43.45
2151–2200 ..	76.12	730	55.55	1,814	50.38	3,642	45.87	7,789	44.66	11,853	44.11
2201–2250 ..	76.73	733	56.21	1,817	51.04	3,634	46.37	7,849	45.49	11,783	44.66
2251–2300 ..	77.28	737	56.93	1,815	51.65	3,647	47.08	7,814	45.98	11,785	45.16
2301–2350 ..	77.83	736	57.26	1,826	52.25	3,634	47.47	7,815	46.37	11,872	45.87
2351–2400 ..	78.43	741	58.08	1,809	52.53	3,657	48.02	7,863	47.19	11,791	46.37

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
2401–2450 ..	79.20	741	58.63	1,809	53.02	3,677	48.73	7,793	47.47	11,931	47.19
2451–2500 ..	79.70	744	59.29	1,813	53.74	3,665	49.23	7,804	48.02	11,918	47.69
2501–2550 ..	79.92	747	59.62	1,812	54.01	3,662	49.45	7,885	48.73	11,824	48.02
2551–2600 ..	80.14	747	59.84	1,822	54.51	3,670	50.00	7,877	49.23	11,866	48.68
2601–2650 ..	80.85	746	60.28	1,831	55.17	3,654	50.38	7,878	49.61	11,828	48.90
2651–2700 ..	81.02	751	60.78	1,827	55.50	3,671	50.93	7,888	50.22	11,764	49.23
2701–2750 ..	81.35	750	61.00	1,827	55.72	3,669	51.10	7,906	50.49	11,791	49.61
2751–2800 ..	81.51	755	61.49	1,829	56.21	3,676	51.65	7,907	51.04	11,807	50.22
2801–2850 ..	82.23	752	61.82	1,828	56.49	3,701	52.25	7,891	51.54	11,757	50.49
2851–2900 ..	82.45	756	62.32	1,828	56.93	3,691	52.53	7,892	51.81	11,822	51.04
2901–2950 ..	82.67	756	62.48	1,831	57.20	3,708	53.02	7,884	52.25	11,836	51.54
2951–3000 ..	83.05	760	63.09	1,828	57.64	3,699	53.30	7,885	52.53	11,850	51.87
3001–3050 ..	83.60	761	63.58	1,831	58.19	3,702	53.85	7,878	53.02	11,864	52.42
3051–3100 ..	83.88	761	63.80	1,837	58.58	3,689	54.01	7,943	53.63	11,767	52.58
3101–3150 ..	84.04	762	64.02	1,842	58.96	3,698	54.51	7,904	53.85	11,829	53.08
3151–3200 ..	84.59	765	64.68	1,837	59.40	3,719	55.22	7,841	54.12	11,891	53.63
3201–3250 ..	84.76	766	64.90	1,838	59.62	3,724	55.50	7,874	54.62	11,831	53.85
3251–3300 ..	85.25	768	65.40	1,844	60.28	3,698	55.72	7,929	55.22	11,738	54.01
3301–3350 ..	85.31	768	65.51	1,848	60.50	3,713	56.16	7,899	55.44	11,751	54.29
3351–3400 ..	85.58	767	65.62	1,855	60.83	3,715	56.49	7,891	55.72	11,847	55.00
3401–3450 ..	85.97	765	65.73	1,857	61.00	3,734	56.93	7,892	56.16	11,801	55.22
3451–3500 ..	86.02	770	66.17	1,846	61.05	3,734	56.98	7,892	56.21	11,848	55.50
3501–3550 ..	86.24	770	66.33	1,858	61.60	3,715	57.20	7,901	56.49	11,837	55.72
3551–3600 ..	86.46	772	66.72	1,854	61.82	3,730	57.64	7,901	56.93	11,838	56.16
3601–3650 ..	86.79	773	67.05	1,858	62.26	3,718	57.86	7,902	57.15	11,816	56.27
3651–3700 ..	87.07	774	67.32	1,853	62.37	3,732	58.19	7,872	57.26	11,897	56.76
3701–3750 ..	87.56	773	67.65	1,849	62.54	3,747	58.58	7,880	57.70	11,852	56.98
3751–3800 ..	87.73	775	67.93	1,858	63.09	3,732	58.85	7,896	58.08	11,819	57.20

17–40. Unaccompanied Air Baggage Linehaul Rate Table for All Overseas Areas Except Those Otherwise Specified

The following table will be used for all overseas areas except those otherwise specified for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	5.51	1,737	4.79	3,637	4.35
51–75	7.83	1,723	6.74	3,613	6.09
76–100	8.92	1,724	7.69	3,623	6.96
101–150	10.01	1,740	8.70	3,567	7.76
151–200	11.09	1,752	9.72	3,583	8.70
201–250	12.25	1,740	10.66	3,592	9.57
251–300	13.34	1,740	11.60	3,601	10.44
301–350	14.50	1,741	12.62	3,587	11.31
351–400	15.59	1,740	13.56	3,573	12.11
401–450	16.68	1,740	14.50	3,581	12.98
451–500	17.84	1,740	15.52	3,589	13.92
501–550	18.92	1,740	16.46	3,595	14.79
551–600	20.01	1,740	17.40	3,601	15.66
601–650	21.10	1,739	18.34	3,605	16.53
651–700	22.26	1,740	19.36	3,596	17.40
701–750	23.35	1,740	20.30	3,601	18.27
751–800	24.51	1,734	21.24	3,605	19.14
801–850	25.59	1,740	22.26	3,597	20.01
851–900	26.68	1,740	23.20	3,601	20.88

Note: Over 900 miles, add US$1.35 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–41. Unaccompanied Air Baggage Linehaul Rate Table for Belgium, Italy, and The Netherlands

The following table will be used for Belgium, Italy, and The Netherlands for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	2.57	1,747	2.24	3,595	2.02
51–75	4.13	1,733	3.58	3,637	3.25
76–100	5.17	1,736	4.49	3,595	4.03
101–150	6.18	1,748	5.40	3,591	4.84
151–200	7.22	1,739	6.27	3,607	5.66
201–250	7.93	1,746	6.92	3,587	6.21
251–300	8.68	1,738	7.54	3,587	6.76
301–350	9.39	1,738	8.16	3,602	7.35
351–400	10.11	1,737	8.78	3,601	7.90
401–450	10.82	1,742	9.43	3,601	8.48
451–500	11.57	1,736	10.04	3,599	9.04
501–550	12.25	1,741	10.66	3,610	9.62
551–600	13.00	1,736	11.28	3,609	10.17
601–650	13.72	1,740	11.93	3,597	10.73
651–700	14.43	1,739	12.55	3,596	11.28
701–750	15.15	1,743	13.20	3,597	11.86
751–800	15.89	1,739	13.81	3,596	12.42
801–850	16.61	1,738	14.43	3,604	13.00
851–900	17.32	1,738	15.05	3,603	13.55
901–950	18.04	1,741	15.70	3,562	13.98
951–1000	18.75	1,741	16.32	3,602	14.69
1001–1100	19.47	1,740	16.93	3,601	15.24
1101–1200	21.68	1,737	18.82	3,600	16.93
1201–1300	23.08	1,741	20.09	3,599	18.07
1301–1400	24.54	1,738	21.32	3,604	19.21
1401–1500	26.00	1,738	22.59	3,603	20.35
1501–1600	27.40	1,742	23.86	3,603	21.48

Note: Over 1,600 miles, add US$1.30 for each additional 100 miles or fraction thereof, to 600-mile rate shown above.

17–42. Unaccompanied Air Baggage Linehaul Rate Table for CONUS, Canada, and Hawaii

The following table will be used for CONUS, Canada, and Hawaii for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	BRK pt.	12,000 lbs. and over
1–10	12.71	653	8.29	1,683	6.97	3,464	6.04	6,536	4.93	11,690	4.80
11–20 ...	13.18	668	8.80	1,653	7.27	3,369	6.12	6,667	5.10	11,501	4.89
21–30 ...	13.86	672	9.31	1,644	7.65	3,356	6.42	6,464	5.19	11,410	4.93
31–40 ...	14.62	652	9.52	1,643	7.82	3,348	6.55	6,598	5.40	11,528	5.19
41–50 ...	15.34	649	9.95	1,659	8.25	3,382	6.97	6,244	5.44	11,532	5.23
51–60 ...	15.98	636	10.16	1,657	8.42	3,374	7.10	6,611	5.87	11,131	5.44
61–70 ...	16.66	641	10.67	1,650	8.80	3,305	7.27	6,737	6.12	11,501	5.87
71–80 ...	17.26	648	11.18	1,613	9.01	3,378	7.61	6,749	6.42	11,444	6.12
81–90 ...	18.11	639	11.56	1,618	9.35	3,346	7.82	6,696	6.55	11,767	6.42
91–100	18.79	629	11.82	1,619	9.56	3,432	8.20	6,881	7.06	11,133	6.55
101–110	19.47	634	12.33	1,614	9.95	3,317	8.25	6,887	7.10	11,138	6.59
111–120	20.06	634	12.71	1,592	10.12	3,278	8.29	6,934	7.18	11,787	7.06
121–130	20.66	636	13.13	1,573	10.33	3,260	8.42	6,910	7.27	11,720	7.10
131–140	21.17	639	13.52	1,579	10.67	3,251	8.67	6,942	7.52	11,458	7.18
141–150	21.76	637	13.86	1,589	11.01	3,182	8.76	6,952	7.61	11,866	7.52
151–160	22.23	643	14.28	1,572	11.22	3,197	8.97	6,863	7.69	11,934	7.65
161–170	22.78	648	14.75	1,534	11.31	3,294	9.31	7,051	8.20	11,254	7.69
171–180	23.29	646	15.05	1,549	11.65	3,241	9.44	7,028	8.29	11,324	7.82
181–190	23.76	646	15.34	1,563	11.99	3,192	9.56	7,254	8.67	11,236	8.12
191–200	24.35	639	15.56	1,574	12.24	3,251	9.95	7,077	8.80	11,305	8.29
201–220	25.03	639	15.98	1,575	12.58	3,230	10.16	7,331	9.31	11,179	8.67
221–240	25.71	640	16.45	1,597	13.13	3,211	10.54	7,226	9.52	11,304	8.97
241–260	26.22	650	17.04	1,582	13.47	3,168	10.67	7,267	9.69	11,685	9.44
261–280	26.95	641	17.26	1,621	13.98	3,210	11.22	7,243	10.16	11,448	9.69
281–300	27.50	645	17.72	1,641	14.54	3,182	11.56	7,353	10.63	11,473	10.16
301–320	28.22	647	18.23	1,628	14.83	3,187	11.82	7,454	11.01	11,584	10.63
321–340	28.77	653	18.79	1,634	15.34	3,214	12.33	7,338	11.31	11,685	11.01
341–360	29.28	664	19.42	1,637	15.90	3,198	12.71	7,412	11.77	11,524	11.31
361–380	29.84	666	19.85	1,658	16.45	3,205	13.18	7,433	12.24	11,542	11.77
381–400	30.39	662	20.10	1,675	16.83	3,213	13.52	7,523	12.71	11,559	12.24
401–420	30.90	672	20.74	1,656	17.17	3,258	13.98	7,538	13.18	11,459	12.58
421–440	31.58	667	21.04	1,669	17.55	3,274	14.37	7,527	13.52	11,661	13.13
441–460	32.26	661	21.29	1,701	18.11	3,259	14.75	7,586	13.98	11,417	13.30
461–480	32.81	668	21.89	1,678	18.36	3,278	15.05	7,594	14.28	11,358	13.52
481–500	33.45	665	22.23	1,691	18.79	3,267	15.34	7,579	14.54	11,544	13.98
501–520	33.96	671	22.78	1,691	19.25	3,232	15.56	7,585	14.75	11,620	14.28
521–540	34.47	668	22.99	1,705	19.59	3,263	15.98	7,532	15.05	11,594	14.54
541–560	34.81	670	23.29	1,716	19.98	3,252	16.24	7,561	15.34	11,535	14.75
561–580	35.36	669	23.63	1,702	20.10	3,290	16.53	7,527	15.56	11,443	14.83
581–600	35.62	670	23.84	1,730	20.61	3,242	16.70	7,614	15.90	11,583	15.34
601–620	36.13	673	24.31	1,707	20.74	3,287	17.04	7,542	16.07	11,620	15.56
621–640	36.51	672	24.52	1,709	20.95	3,278	17.17	7,703	16.53	11,445	15.77
641–660	36.85	673	24.78	1,709	21.17	3,318	17.55	7,613	16.70	11,481	15.98
661–680	37.10	672	24.91	1,748	21.76	3,266	17.77	7,675	17.04	11,432	16.24
681–700	37.57	670	25.16	1,747	21.97	3,296	18.11	7,587	17.17	11,644	16.66
701–725	37.87	674	25.50	1,744	22.23	3,282	18.23	7,628	17.38	11,619	16.83
726–750	38.21	680	25.97	1,729	22.44	3,281	18.40	7,723	17.77	11,541	17.09
751–775	38.63	679	26.22	1,738	22.78	3,284	18.70	7,746	18.11	11,437	17.26
776–800	38.93	683	26.56	1,732	22.99	3,350	19.25	7,630	18.36	11,584	17.72
801–825	39.31	686	26.95	1,729	23.29	3,365	19.59	7,636	18.70	11,646	18.15
826–850	39.44	689	27.16	1,741	23.63	3,353	19.81	7,691	19.04	11,599	18.40
851–875	39.57	690	27.29	1,742	23.76	3,364	19.98	7,779	19.42	11,554	18.70
876–900	39.91	690	27.50	1,744	23.97	3,355	20.10	7,814	19.64	11,533	18.87
901–925	40.08	695	27.84	1,747	24.31	3,399	20.66	7,688	19.85	11,641	19.25
926–950	40.46	695	28.09	1,746	24.52	3,418	20.95	7,660	20.06	11,721	19.59
951–975	40.59	698	28.31	1,757	24.86	3,426	21.29	7,745	20.61	11,555	19.85

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	BRK pt.	12,000 lbs. and over
976–1000 ..	41.61	684	28.43	1,770	25.16	3,473	21.85	7,627	20.83	11,584	20.10
1001–1050 ..	42.63	686	29.24	1,768	25.84	3,448	22.27	7,817	21.76	11,602	21.04
1051–1100 ..	43.86	684	29.96	1,774	26.56	3,489	23.16	7,692	22.27	11,726	21.76
1101–1150 ..	44.97	680	30.56	1,786	27.29	3,477	23.72	7,757	22.99	11,623	22.27
1151–1200 ..	46.07	686	31.58	1,780	28.09	3,462	24.31	7,805	23.72	11,635	22.99
1201–1250 ..	47.05	685	32.22	1,771	28.52	3,494	24.91	7,809	24.31	11,707	23.72
1251–1300 ..	48.11	682	32.81	1,783	29.24	3,489	25.50	7,814	24.91	11,714	24.31
1301–1350 ..	48.75	688	33.49	1,787	29.92	3,506	26.22	7,780	25.50	11,701	24.86
1351–1400 ..	49.43	694	34.30	1,772	30.39	3,519	26.73	7,784	26.01	11,726	25.42
1401–1450 ..	50.15	696	34.89	1,779	31.03	3,507	27.20	7,863	26.73	11,676	26.01
1451–1500 ..	50.79	700	35.53	1,780	31.62	3,522	27.84	7,842	27.29	11,683	26.56
1501–1550 ..	51.34	704	36.13	1,786	32.26	3,526	28.43	7,845	27.88	11,744	27.29
1551–1600 ..	52.02	705	36.64	1,792	32.81	3,539	29.03	7,813	28.35	11,803	27.88
1601–1650 ..	52.57	705	37.06	1,801	33.36	3,547	29.58	7,817	28.90	11,771	28.35
1651–1700 ..	53.17	707	37.57	1,808	33.96	3,555	30.18	7,809	29.45	11,775	28.90
1701–1750 ..	53.76	708	38.04	1,813	34.47	3,547	30.56	7,845	29.96	11,796	29.45
1751–1800 ..	54.27	712	38.63	1,820	35.15	3,560	31.28	7,805	30.52	11,783	29.96
1801–1850 ..	54.87	717	39.31	1,804	35.45	3,578	31.71	7,840	31.07	11,787	30.52
1851–1900 ..	55.29	721	39.82	1,796	35.74	3,620	32.34	7,822	31.62	11,791	31.07
1901–1950 ..	56.02	723	40.46	1,803	36.47	3,595	32.77	7,866	32.22	11,763	31.58
1951–2000 ..	56.53	725	40.97	1,799	36.85	3,599	33.15	7,857	32.56	11,875	32.22
2001–2050 ..	57.16	728	41.61	1,794	37.32	3,618	33.75	7,849	33.11	11,877	32.77
2051–2100 ..	57.67	728	41.95	1,806	37.87	3,632	34.38	7,793	33.49	11,879	33.15
2101–2150 ..	58.27	732	42.63	1,803	38.42	3,633	34.89	7,815	34.09	11,821	33.58
2151–2200 ..	58.82	730	42.93	1,814	38.93	3,642	35.45	7,789	34.51	11,853	34.09
2201–2250 ..	59.29	733	43.44	1,817	39.44	3,634	35.83	7,849	35.15	11,783	34.51
2251–2300 ..	59.71	737	43.99	1,815	39.91	3,647	36.38	7,814	35.53	11,785	34.89
2301–2350 ..	60.14	736	44.24	1,826	40.38	3,634	36.68	7,815	35.83	11,872	35.45
2351–2400 ..	60.61	741	44.88	1,809	40.59	3,657	37.10	7,863	36.47	11,791	35.83
2401–2450 ..	61.20	741	45.31	1,809	40.97	3,677	37.66	7,793	36.68	11,931	36.47
2451–2500 ..	61.58	744	45.82	1,813	41.52	3,665	38.04	7,804	37.10	11,918	36.85
2501–2550 ..	61.75	747	46.07	1,812	41.74	3,662	38.21	7,885	37.66	11,824	37.10
2551–2600 ..	61.92	747	46.24	1,822	42.12	3,670	38.63	7,877	38.04	11,866	37.61

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	BRK pt.	12,000 lbs. and over
2601–2650 ..	62.48	746	46.58	1,831	42.63	3,654	38.93	7,878	38.34	11,828	37.78
2651–2700 ..	62.60	751	46.96	1,827	42.88	3,671	39.36	7,888	38.80	11,764	38.04
2701–2750 ..	62.86	750	47.13	1,827	43.05	3,669	39.48	7,906	39.02	11,791	38.34
2751–2800 ..	62.99	755	47.52	1,829	43.44	3,676	39.91	7,907	39.44	11,807	38.80
2801–2850 ..	63.54	752	47.77	1,828	43.65	3,701	40.38	7,891	39.82	11,757	39.02
2851–2900 ..	63.71	756	48.15	1,828	43.99	3,691	40.59	7,892	40.04	11,822	39.44
2901–2950 ..	63.88	756	48.28	1,831	44.20	3,708	40.97	7,884	40.38	11,836	39.82
2951–3000 ..	64.18	760	48.75	1,828	44.54	3,699	41.18	7,885	40.59	11,850	40.08
3001–3050 ..	64.60	761	49.13	1,831	44.97	3,702	41.61	7,878	40.97	11,864	40.50
3051–3100 ..	64.81	761	49.30	1,837	45.26	3,689	41.74	7,943	41.44	11,767	40.63
3101–3150 ..	64.94	762	49.47	1,842	45.56	3,698	42.12	7,904	41.61	11,829	41.01
3151–3200 ..	65.37	765	49.98	1,837	45.90	3,719	42.67	7,841	41.82	11,891	41.44
3201–3250 ..	65.49	766	50.15	1,838	46.07	3,724	42.88	7,874	42.20	11,831	41.61
3251–3300 ..	65.88	768	50.53	1,844	46.58	3,698	43.05	7,929	42.67	11,738	41.74
3301–3350 ..	65.92	768	50.62	1,848	46.75	3,713	43.39	7,899	42.84	11,751	41.95
3351–3400 ..	66.13	767	50.70	1,855	47.01	3,715	43.65	7,891	43.05	11,847	42.50
3401–3450 ..	66.43	765	50.79	1,857	47.13	3,734	43.99	7,892	43.39	11,801	42.67
3451–3500 ..	66.47	770	51.13	1,846	47.18	3,734	44.03	7,892	43.44	11,848	42.88
3501–3550 ..	66.64	770	51.26	1,858	47.60	3,715	44.20	7,901	43.65	11,837	43.05
3551–3600 ..	66.81	772	51.55	1,854	47.77	3,730	44.54	7,901	43.99	11,838	43.39
3601–3650 ..	67.07	773	51.81	1,858	48.11	3,718	44.71	7,902	44.16	11,816	43.48
3651–3700 ..	67.28	774	52.02	1,853	48.20	3,732	44.97	7,872	44.24	11,897	43.86
3701–3750 ..	67.66	773	52.28	1,849	48.32	3,747	45.26	7,880	44.58	11,852	44.03
3751–3800 ..	67.79	775	52.49	1,858	48.75	3,732	45.48	7,896	44.88	11,819	44.20

17–43. Unaccompanied Air Baggage Linehaul Rate Table for Greece, Spain, and Other European Areas

The following table will be used for Greece, Spain, and other European areas for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	5.04	1,751	4.41	3,572	3.94
51–75	7.09	1,734	6.14	3,624	5.57
76–100	8.09	1,728	6.98	3,640	6.35
101–150	9.08	1,735	7.88	3,627	7.14
151–200	10.08	1,740	8.77	3,593	7.88
201–250	11.08	1,745	9.66	3,587	8.66

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
251–300	12.13	1,741	10.55	3,602	9.50
301–350	13.13	1,737	11.39	3,613	10.29
351–400	14.12	1,740	12.29	3,590	11.03
401–450	15.12	1,744	13.18	3,602	11.87
451–500	16.17	1,734	14.02	3,611	12.65
501–550	17.12	1,743	14.91	3,606	13.44
551–600	18.17	1,740	15.80	3,589	14.18
601–650	19.16	1,737	16.64	3,609	15.02
651–700	20.16	1,740	17.54	3,605	15.80
701–750	21.16	1,742	18.43	3,602	16.59
751–800	22.21	1,740	19.32	3,598	17.38
801–850	23.21	1,738	20.16	3,605	18.17
851–900	24.20	1,740	21.05	3,601	18.95

Note: Over 900 miles, add US$1.79 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–44. Unaccompanied Air Baggage Linehaul Rate Table for Japan

The following table will be used for Japan for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	1.91	1,765	1.69	3,556	1.50
51–75	3.90	1,731	3.38	3,601	3.04
76–100	5.63	1,681	4.73	3,620	4.28
101–150	7.01	1,744	6.11	3,583	5.48
151–200	7.80	1,741	6.79	3,603	6.11
201–250	8.59	1,730	7.43	3,617	6.71
251–300	9.34	1,743	8.14	3,503	7.13
301–350	10.13	1,741	8.81	3,592	7.91
351–400	10.91	1,739	9.49	3,589	8.51
401–450	11.66	1,743	10.16	3,602	9.15
451–500	12.45	1,741	10.84	3,599	9.75
501–550	13.24	1,740	11.51	3,597	10.35
551–600	14.03	1,738	12.19	3,594	10.95
601–650	14.78	1,742	12.86	3,604	11.59
651–700	15.56	1,740	13.54	3,602	12.19
701–750	16.35	1,739	14.21	3,599	12.79
751–800	17.14	1,738	14.89	3,597	13.39
801–850	17.93	1,737	15.56	3,605	14.03
851–900	18.68	1,739	16.24	3,603	14.63

Note: Over 900 miles, add US$1.35 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–45. Unaccompanied Air Baggage Linehaul Rate Table for Korea, Philippines, and Other Pacific Areas

The following table will be used for Korea, Philippines, and other Pacific areas for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	3.20	1,751	2.80	3,572	2.50
51–75	6.45	1,737	5.60	3,608	5.05
76–100	9.00	1,745	7.85	3,593	7.05
101–150	11.60	1,742	10.10	3,585	9.05
151–200	12.90	1,729	11.15	3,624	10.10
201–250	14.15	1,739	12.30	3,610	11.10
251–300	15.45	1,742	13.45	3,599	12.10
301–350	16.75	1,738	14.55	3,602	13.10

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
351–400	18.05	1,740	15.70	3,593	14.10

Note: Over 400 miles, add US$2.25 for each additional 100 miles or fraction thereof, to 400-mile rate shown above.

17–46. Unaccompanied Air Baggage Linehaul Rate Table for the United Kingdom.

The following table will be used for the United Kingdom for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	4.60	1,740	4.00	3,651	3.65
51–75	6.55	1,726	5.65	3,611	5.10
76–100	7.45	1,732	6.45	3,597	5.80
101–150	8.40	1,727	7.25	3,587	6.50
151–200	9.30	1,742	8.10	3,605	7.30
201–250	10.25	1,737	8.90	3,596	8.00
251–300	11.15	1,740	9.70	3,609	8.75
301–350	12.10	1,736	10.50	3,601	9.45
351–400	13.05	1,740	11.35	3,595	10.20
401–450	13.95	1,742	12.15	3,573	10.85
451–500	14.90	1,739	12.95	3,599	11.65
501–550	15.80	1,741	13.75	3,608	12.40
551–600	16.75	1,738	14.55	3,602	13.10
601–650	17.65	1,740	15.35	3,610	13.85
651–700	18.60	1,742	16.20	3,593	14.55
701–750	19.55	1,740	17.00	3,601	15.30
751–800	20.50	1,737	17.80	3,607	16.05
801–850	21.40	1,739	18.60	3,603	16.75
851–900	22.35	1,737	19.40	3,598	17.45

Note: Over 900 miles, add US $1.60 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–47. Unaccompanied Air Baggage Linehaul Rate Table for West Germany

The following table will be used for the United Kingdom for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	4.15	1,747	3.62	3,595	3.26
51–75	6.67	1,733	5.78	3,637	5.25
76–100	8.35	1,736	7.25	3,595	6.51
101–150	9.98	1,748	8.72	3,591	7.82
151–200	11.66	1,739	10.13	3,607	9.14
201–250	12.81	1,746	11.18	3,587	10.03
251–300	14.02	1,738	12.18	3,587	10.92
301–350	15.17	1,738	13.18	3,602	11.87
351–400	16.33	1,737	14.18	3,601	12.76
401–450	17.48	1,742	15.23	3,601	13.70
451–500	18.69	1,736	16.22	3,599	14.60
501–550	19.79	1,741	17.22	3,610	15.54
551–600	21.00	1,736	18.22	3,609	16.43
601–650	22.16	1,740	19.27	3,597	17.33
651–700	23.31	1,739	20.27	3,596	18.22
701–750	24.47	1,743	21.32	3,597	19.16
751–800	25.67	1,739	22.31	3,596	20.06
801–850	26.83	1,738	23.31	3,604	21.00
851–900	27.98	1,738	24.31	3,603	21.89
901–950	29.14	1,741	25.36	3,562	22.58
951–1000	30.29	1,741	26.36	3,602	23.73

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1001–1100	31.45	1,740	27.35	3,601	24.62
1101–1200	35.02	1,737	30.40	3,600	27.35
1201–1300	37.28	1,741	32.45	3,599	29.19
1301–1400	39.64	1,738	34.44	3,604	31.03
1401–1500	42.00	1,738	36.49	3,603	32.87
1501–1600	44.26	1,742	38.54	3,603	34.70

Note: Over 1,600 miles, add US$2.10 for each additional 100 miles or fraction thereof, to 600-mile rate shown above.

17–48. Reserved for Future Use

17–49. Excess Valuation Charges

The relocating employee has the right to increase the value in excess of the base valuation established under the following provisions:

(1) Transportation: If a value greater than the base valuation of ___ (NOTE) times the net weight of the shipment in pounds is expressly declared, a Full Value Protection Service Shipment Charge of ___ (NOTE) will apply on the portion of the valuation declared in excess of shipments released value of____ (NOTE) times the weight. This excess valuation charge will be in addition to the SFR.

(2) Storage-in-Transit: If a value greater than ___ (NOTE) times the net weight of the shipment in pounds is expressly declared a Full Value Protection Service Storage Liability Charge of ___ (NOTE) will apply on that portion of the valuation declared in excess of shipments released at full value of (NOTE) times the weight. This excess valuation charge will apply only once regardless of the length of time that a shipment is in SIT, but may be applied each time the shipment is placed in storage-in-transit.

Note: For applicable charges and value amount, refer to the RFO.

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Part III

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 574 et al.

Reporting of Information and Documents About Potential Defects Retention of Records That Could Indicate Defects; Proposed Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 574, 576, 579

[Docket No. NHTSA 2001–8677; Notice 2]

RIN 2127–AI25

Reporting of Information and Documents About Potential Defects Retention of Records That Could Indicate Defects

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This document proposes a regulation that would implement the ''early warning reporting requirements'' of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Under this proposal, motor vehicle and motor vehicle equipment manufacturers would be required to report information and to submit documents on customer satisfaction campaigns and other activities that may assist in identifying defects related to motor vehicle safety.

We are also proposing amendments to NHTSA's general and tire recordkeeping regulations (Parts 576 and 574) to assure that manufacturers retain the information that must be reported to NHTSA under the early warning rule.

DATES: *Comment Closing Date:* Comments must be received on or before February 4, 2002.

ADDRESSES: All comments on this NPRM should refer to the docket and notice number set forth above and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. The docket room hours are from 9:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact Jonathan White, Office of Defects Investigation, NHTSA (phone: 202–366–5226). For legal issues, contact Taylor Vinson, Office of Chief Counsel, NHTSA (phone: 202–366–5263).

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I. Summary of the Proposed Rule

The proposed rule—the first phase of early warning reporting rulemaking—would in effect divide manufacturers of motor vehicles and motor vehicle equipment into two groups with different responsibilities for reporting information that could indicate the existence of potential safety related defects.

The first group would consist of larger manufacturers of motor vehicles, and all manufacturers of child restraint systems and tires. In general, vehicle manufacturers would report separately on five categories of vehicles (if they produced, imported, or sold 500 or more of a category annually in the United States): light vehicles, medium-heavy vehicles, buses, trailers, and motorcycles. These manufacturers would report certain specified information about each incident involving a death that occurred in the United States that is identified in a claim against the manufacturer or in a notice to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's product together with each death occurring in foreign countries that is identified in a claim against the manufacturer involving the manufacturer's product, or one that is identical or substantially similar to a product that the manufacturer has offered for sale in the United States. These manufacturers would also report the following:

• *Injuries.* Certain specified information about each incident that occurred in the United States in which a person was injured that is identified in a claim against the manufacturer or in a notice to the manufacturer alleging or proving that the injury was caused by a possible defect in the manufacturer's product.

• *Property damage.* Manufacturers other than child seat manufacturers would report the numbers of claims for $1,000 or more in property damage that occurred in the United States that are related to alleged problems with certain specified components and systems (there would be no minimum amount of property damage for claims received by tire manufacturers).

• *Consumer complaints.* Manufacturers (other than tire manufacturers) would report the numbers of consumer complaints they receive that are related to problems with certain specified components and systems that occurred in the United States.

• *Warranty claims information.* Manufacturers would report the number of warranty claims they receive that are related to problems with certain specified components and systems that occurred in the United States.

• *Field reports.* Manufacturers would report the total number of field reports they

receive from the manufacturer's employees and dealers, and from fleets, that are related to problems with certain specified components and systems and potential defects that occurred in the United States. In addition, manufacturers would provide copies of reports received from their employees and fleets, but would not need to provide copies of reports received from dealers.

These manufacturers would report the numbers identified above for each model and model or production year.

A tire manufacturer or brand name owner would not have to report any information other than information relating to incidents involving deaths for tires of the same size and design for which the cumulative annual production and importation does not exceed 15,000 (readers should note this exclusion in reviewing the proposed reporting requirements of this document, as we may not repeat it in all instances in which it may apply).

The second group would consist of all other manufacturers of motor vehicles and motor vehicle equipment, i.e., vehicle manufacturers insofar as they produced, imported, or sold in the United States fewer than 500 light vehicles, medium-heavy vehicles, buses, motorcycles, or trailers annually, manufacturers of original motor vehicle equipment and manufacturers of replacement motor vehicle equipment other than child restraint systems and tires. These manufacturers would report the same information about incidents involving deaths as the first category, but would not be required to report any other information.

In addition, all vehicle and equipment manufacturers in both groups would be required to provide copies of all documents sent or made available to more than one dealer, distributor, or owner, in the United States with respect to consumer advisories, recalls, or activities involving the repair or replacement of vehicles or equipment.

Reports would be submitted electronically, in specified formats. The components and systems on which reporting would be required would vary, depending on the type of product involved.

There would be four reporting periods each calendar year of three months each. All reports would be due not later than 30 days after the end of a calendar quarter. For submission of documents, the documents would be due not later than 30 days after the end of the month in which they are received or generated by the manufacturer. To help NHTSA identify trends that could indicate potential safety problems, manufacturers would be required, on a one-time basis, to report historical information by quarter for each of the reportable items covering the three-year period from January 1, 2000 through December 31, 2002, the date preceding the beginning of the first reporting period that would be established by the final rule, January 1, 2003.

The early warning reporting requirements would comprise subpart C of a new 49 CFR Part 579. The foreign defect reporting requirements proposed on October 11, 2001 (66 FR 51907) would comprise Subpart B of Part 579. This NPRM proposes a Subpart A containing general requirements that will apply to both subparts.

We also propose to expand recordkeeping requirements:

- For vehicles, records now required to be maintained under 49 CFR Part 576 for eight years would have to be maintained for 10 years.
- For the first time, manufacturers of tires and child restraint systems would be required to maintain the same types of records that manufacturers of vehicles have been required to keep under 49 CFR Part 576.
- Manufacturers of tires would be required to retain for five years records of purchasers of tires they manufacture. Manufacturers of motor vehicles would be required to retain for five years records of tires on each vehicle manufactured and the purchaser of each vehicle. Currently, 49 CFR Part 574 requires that these records be retained for three years. The early warning final rule, the final rule pertaining to foreign defect campaigns, and current 49 CFR 573.8 would become 49 CFR Part 579. The provisions of current Part 579 would be moved to Part 573. Proposed effective dates: for amendments to Parts 574 and 576, 30 days after publication of the final rule; for revised Part 579, January 1, 2003.

II. Background: The TREAD Act (Public Law 106–414)

The Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act was enacted on November 1, 2000, Public Law 106–414.

The TREAD Act provides for NHTSA to require manufacturers of motor vehicles and motor vehicle equipment to submit information, periodically or upon NHTSA's request, that includes claims for deaths and serious injuries, property damage data, communications to customers and others, information on incidents resulting in fatalities or serious injuries from possible defects in vehicles or equipment in the United States or in identical or substantially similar vehicles or equipment in a foreign country, and other information that would assist NHTSA in identifying potential safety-related defects.

The TREAD Act amends 49 U.S.C. 30166 to add a new subsection (m), Early warning reporting requirements. Sections 30166(m)(3), (4), and (5) address, respectively, the elements to be reported, the handling and utilization of reported information, and periodic review and update of the final rule.

The crux of the early warning provisions is Section 30166(m)(3), which states: (3) Reporting elements.

(A) *Warranty and claims data.* As part of the final rule * * * the Secretary [of Transportation] shall require manufacturers of motor vehicles and motor vehicle equipment to report, periodically or upon request by the Secretary, information which is received by the manufacturer derived from foreign and domestic sources to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States and which concerns—

(i) data on claims submitted to the manufacturer for serious injuries (including death) and aggregate statistical data on property damage from alleged defects in a motor vehicle or in motor vehicle equipment; or

(ii) customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment.

(B) *Other data.* As part of the final rule * * *, the Secretary may, to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States, require manufacturers of motor vehicles or motor vehicle equipment to report, periodically or upon request of the Secretary, such information as the Secretary may request.

(C) *Reporting of possible defects.* The manufacturer of a motor vehicle or motor vehicle equipment shall report to the Secretary, in such manner as the Secretary establishes by regulation, all incidents of which the manufacturer receives actual notice which involve fatalities or serious injuries which are alleged or proven to have been caused by a possible defect in such manufacturer's motor vehicle or motor vehicle equipment in the United States, or in a foreign country when the possible defect is in a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States.

The Secretary has delegated to the NHTSA Administrator the authority to carry out 49 U.S.C. Chapter 301 (49 CFR 1.50(a)).

On January 22, 2001, we issued an advance notice of proposed rulemaking (ANPRM) to discuss and to solicit comments on the ways in which NHTSA may best implement these statutory provisions (66 FR 6532). The reader is referred to that document for a discussion of the background of the TREAD Act and a manufacturer's reporting obligations prior to the TREAD Act. On October 11, 2001, we issued a notice of proposed rulemaking (NPRM) that would implement another provision of the TREAD Act, adding Section 30166(l) to Title 49 (66 FR 51907). Subsection (l) also applies to manufacturers of motor vehicles and motor vehicle equipment; it requires them to notify us of defect campaigns that they conduct outside the United States, or are ordered by a foreign government to conduct abroad, on vehicles and equipment identical or substantially similar to those sold in the United States. Readers are requested to review that NPRM in parallel with the early warning NPRM to ensure consistency between application and definitions as we intend for each final rule to become a subchapter of Part 579.

In response to the ANPRM, we received comments from a variety of sources. Motor vehicle manufacturers and associated trade organizations who commented were Ford Motor Company (Ford), Volvo Trucks North America (Volvo), the Truck Manufacturers Association (TMA), Blue Bird Body Co. (Blue Bird), International Truck and Engine Corporation (International Truck), Mack Trucks, Inc. (Mack), DaimlerChrysler

Corporation (DaimlerChrysler), the Association of International Automobile Manufacturers, Inc. (AIAM), the Recreational Vehicle Industry Association (RVIA), Harley-Davidson Motor Company (Harley-Davidson), Nissan North America, Inc. (Nissan), Volkswagen of America, Inc. (for itself, Volkswagen, AG and Audi AG) (Volkswagen), the Truck Trailer Manufacturers Association (TTMA), American Honda Motor Company (Honda), the Motorcycle Industry Council (MIC), the National Automobile Dealers Association (NADA), Fontaine Modification Company (Fontaine), and the Alliance of Automobile Manufacturers (the Alliance). The tire industry was represented by the Rubber Manufacturers Association (RMA) and the Bridgestone Corporation. Other motor vehicle equipment manufacturers and associated trade organizations who commented were the Automotive Occupants Restraint Council (AORC), TRW, Inc. (TRW), Atwood Mobile Products (Atwood), the Battery Council International, ArvinMeritor, Peterson Manufacturing Company, the Motor and Equipment Manufacturers Association (MEMA) and the Original Equipment Suppliers Association (OESA), both supported by Eagle-Picher Industries, Breed Technologies (Breed), Dana Corporation (Dana), Pilkington North America, Inc. (PNA), the Transportation Safety Equipment Institute (TSEI), the Automotive Aftermarket Industry Association (AAIA), Johnson Controls, the Torrington Company, the Specialty Equipment Manufacturers Association (SEMA), the National Truck Equipment Association (NTEA), Delphi Automotive Systems, LLC (Delphi), Webb Wheel Products, Inc. (Webb), Hella North America, Inc. (Hella), Osram Sylvania, Shepherd Hardware Products, LLC (Shepherd), Valeo, Inc., Am-Safe Commercial Products, Inc., and Harbour Industries. We also received comments from Consumer Union, Public Citizen, and Advocates for Highway and Auto Safety (Advocates).

These comments have provided us with numerous insights in developing this NPRM. We plan to issue a final rule by the statutory deadline, June 30, 2002, which will incorporate the early warning reporting elements specifically set forth in the TREAD Act. In addition to these elements, under Section 30166(m)(3)(B) we propose to require the submission of additional information that may assist in the identification of defects in vehicles in the United States. This will complete the first phase of our early warning rulemaking. Consistent with Section 30166(m)(5), we will periodically review the final rule; such review could result in amendments after June 30, 2002.

III. Manufacturers That Would Be Covered by the New Reporting Requirements

A. Manufacturers of Motor Vehicles

The TREAD Act provides for the agency to require manufacturers of motor vehicles [1] to submit information that may assist in the identification of safety-related defects. We must decide which manufacturers of motor vehicles would be required to submit reports under this rule, and whether different reporting requirements should apply to various categories of manufacturers. Section 30166(m)(3) does not exempt any manufacturer of motor vehicles from its coverage. On the other hand, it provides substantial discretion to the agency. The word ''may'' is used at several points in the statute. In addition, the agency's ability to use the information submitted is a statutory concern.

One of the threshold questions in this rulemaking is whether the agency should exercise its discretion to defer the imposition of some or all potential early warning reporting requirements on some classes of manufacturers. The early warning regulation would be a new regulation, and inevitably the agency and regulated entities will face some issues in implementing it. It would be counterproductive to require the submission of more information than we could beneficially review or to impose impracticable requirements, particularly on small manufacturers. We have concluded that we should phase in the early warning reporting requirements and that, for the most part, it would be appropriate to focus first on larger volume manufacturers and on information regarding incidents and activities in the United States, as contrasted to those occurring in foreign countries.

Vehicles produced in small quantities have a smaller overall impact upon safety than large production vehicles, as we have frequently noted in providing temporary exemptions from one of more of the Federal motor vehicle safety standards under 49 U.S.C. 30113. Although we would not expect the volume of reports from any individual small volume manufacturer to be overwhelming if we were to require comprehensive reporting by smaller manufacturers, there would be some burden on them. More important, our interactions with, and review of submissions by, the large number of small manufacturers would divert the agency's resources from reports submitted by high volume manufacturers involving potential safety defects that could affect a far greater number of vehicles and thus have a greater impact on safety.

For the present time, we propose to exclude from most of the reporting requirements any vehicle manufacturer that manufactures for sale, offers for sale, imports, or sells, in the United States, fewer than 500 vehicles in the year of the reporting period, or which has done so in the two calendar years preceding the reporting period. We are also proposing to exclude registered importers (RIs) of vehicles not originally manufactured to comply with Federal motor vehicle safety standards from most of the reporting requirements. RIs would not have information that would be useful because most are small, and those that are not import vehicles on which we would generally receive reports from assembling or importing manufacturers. This exclusion would also apply to many manufacturers of multistage vehicles and alterers since most manufacture or sell fewer than 500 vehicles annually. However, these smaller volume manufacturers would not be exempt from the requirements, addressed below, to report to us certain specified information regarding all deaths occurring in the United States that are identified in claims against the manufacturer or in notices to in which it is alleged or proven that a death was caused by a possible defect in the manufacturer's vehicle, together with information on deaths occurring in foreign countries that are identified in claims against the manufacturer involving a vehicle that is identical or substantially similar to a vehicle that the manufacturer has offered for sale in the United States. With respect to all such reported deaths, manufacturers would have to provide certain information regarding the underlying incident, as described in greater detail below. These manufacturers would also have to provide copies of documents related to customer satisfaction campaigns, consumer advisories, recalls, and other safety activities under proposed section 579.5.

For those motor vehicle manufacturers that are not excluded from full reporting based on low levels of sales in the United States, we are proposing to establish separate reporting requirements based on the category of vehicle produced. We are proposing five categories of vehicles: Light vehicles, medium-heavy vehicles, buses, motorcycles and trailers. Each category has components and systems that distinguish it from the other four categories, and which may develop safety-related problems unique to that category. Therefore, we would require different information regarding each category of vehicle, which will help to reduce the complexity and burdensomeness of the rule.

Under our proposal, light vehicles would comprise any motor vehicle, except a bus, trailer, or motorcycle, with a GVWR of 10,000 lbs. or less. Medium-heavy vehicles would include trucks and multipurpose passenger vehicles with a GVWR over 10,000 lbs. Buses (including school buses) and trailers would be separately categorized regardless of GVWR. Motorcycles would include any two- or three-wheeled vehicle meeting the definition of motorcycle in 49 CFR 571.3(b).

We ask for comments on whether an annual aggregate production, importation, or sales of 500 vehicles in the United States is an appropriate figure upon which to base this distinction, whether a manufacturer's eligibility for these lesser reporting requirements should be determined based upon its production in the two calendar years preceding this report or whether a shorter, longer, or different period would be appropriate, and whether small volume vehicle manufacturers should be required to provide other data and information in addition to that relating to deaths. Finally, we are interested in having comments on our proposed five categories of vehicles. For instance, we are not proposing a separate category of ''medium vehicle'' because it seems to us that the components and systems of such vehicles would be those for which reporting would be required are those with which either light or medium-heavy vehicles are equipped.

[1] The term ''motor vehicle'' is a broad one. The statutory definition of ''motor vehicle'' (49 U.S.C. 30102(a)(6)) has been the subject of numerous interpretations since 1966.

B. Manufacturers of Motor Vehicle Equipment

The TREAD Act also provides for the agency to require manufacturers of motor vehicle equipment to submit early warning reporting information that may assist in the identification of safety-related defects. ''Motor vehicle equipment'' is defined in 49 U.S.C. 30102(a)(7), and consists of ''original equipment'' (OE) and ''replacement equipment.'' These two terms are currently defined in 49 CFR 579.4. We are not changing the definitions, but we are revising the language in new section 579.4(c) to make it more understandable.

1. Original Equipment

There are approximately 10,000 to 14,000 individual items of OE in a contemporary passenger car. Some are fabricated by the vehicle manufacturer, some by parts manufacturers, and some parts are incorporated into systems or modules assembled by various suppliers. There is a growing trend to packaging individual parts into a single unit, or module. For example, a steering wheel assembly may include an air bag, horn control, turn signal control, wiper control, ignition switch, cruise control, lighting controls, as well as associated wiring. Many of these units are assembled by a supplier, often with components from various manufacturers. Each of these fabricators or assemblers is also a manufacturer of motor vehicle equipment.

When a component or module installed as OE on a vehicle fails, generally vehicle owners will complain or file a claim with the entity that has manufactured and warranted the vehicle, rather than the assembler of the module or the manufacturers of the individual parts, who in most instances are unknown to the vehicle owner. In view of this, the Alliance, Ford, and AIAM specifically supported exclusion of OE manufacturers (OEMs) from early warning reporting requirements in their comments on the ANPRM.

OEMs, however, are not currently exempt from defect reporting requirements. Pursuant to 49 CFR 573.3(f), if an OEM sells an item of OE to more than one vehicle manufacturer and a defect or noncompliance is decided to exist in that OE, the OEM is required to notify us (as are the manufacturers of the vehicles in which the OE is installed). If the defective OE is used in the vehicles of only one vehicle manufacturer, the OEM may notify us on behalf of both itself and the vehicle manufacturer (Section 573.3(e))(in either case, the OEM may also be the party remedying the safety defect or the noncompliance). Thus, OEMs can and do make determinations that OE contains safety-related defects, and they will have some information of the type that the TREAD Act authorizes us to require, such as claims alleging failures of their products. Thus, we do not propose to totally exempt OEMs from early warning reporting.

We have tentatively decided that most meaningful information about possible defects is more likely to come to the attention of the vehicle manufacturer earlier than it would to the OEM. However, we want to be certain that we obtain information regarding deaths attributed to defects in OE. Accordingly, at this time, we are proposing that OEMs be exempt from all reporting requirements regarding OE they manufacture, except for reporting to us regarding deaths in the same manner as small volume vehicle manufacturers, discussed above. Of course, the vehicle manufacturer would be required to report fully in its capacity as a vehicle manufacturer, even if the vehicle manufacturer believed that the problem was the responsibility of the OEM.

2. Replacement Equipment, Including Tires

Replacement equipment comprises an even broader universe of parts than OE. Under both current 49 CFR 579.4(b) and proposed 579.4(c), it includes all motor vehicle equipment other than OE. Not only does the term have the literal meaning of equipment that is intended to replace OE, it also includes accessory equipment and ''off-vehicle equipment'' that is not part of a motor vehicle, such as retroreflective motorcycle rider apparel and child restraints. Manufacturers of replacement equipment are within the scope of the early warning reporting provisions of the statute.

Some replacement equipment items are critically important from a safety perspective, while others have less of a safety nexus. Tires, of course, are essential items of motor vehicle equipment, and tire manufacturers have the duty to conduct notification and remedy campaigns and to address defective or noncompliant tires, whether sold in the aftermarket or installed on new vehicles (see current 49 CFR 579.5(b)). Tire brand name owners (e.g., house brands) are also considered manufacturers (49 U.S.C. 30102(b)(1)(E)) and have the same defect and noncompliance reporting requirements as the actual fabricators of the tires (49 CFR 573.3(d)). Child restraints are also critical safety items. Therefore, we are proposing that all tire manufacturers, tire brand name owners, and manufacturers of child restraints would be required to provide the full range of information and documents proposed. There are relatively few manufacturers of child restraints and tires, and most are large businesses.

There is a large number of manufacturers of other types of replacement equipment. Much of this equipment is imported by or for auto parts houses such as J.C. Whitney, or general merchandisers such as K–Mart. An importer for resale is considered a manufacturer under the statute. See 49 U.S.C. 30102(a)(5)(B). A large universe of entities would be subject to multiple requirements if we were to fully apply early warning reporting requirements to all fabricators and importers of replacement equipment.

Therefore, at least for purposes of this initial rulemaking, we are proposing that, as with lower volume vehicle manufacturers and original equipment manufacturers, manufacturers of other types of replacement equipment would only be required to report to us claims and notices regarding deaths allegedly due to defects in their products. However, we may revisit these limitations under our periodic review of the rule.

C. Foreign Manufacturers of Motor Vehicles and Equipment

As defined before the enactment of the TREAD Act, a manufacturer is defined as ''a person manufacturing or assembling motor vehicles or motor vehicle equipment, or importing motor vehicles or motor vehicle equipment for resale'' (49 U.S.C. 30102(a)(5)). Foreign manufacturers offering vehicles or vehicle equipment for import must designate an agent on whom service may be made (49 U.S.C. 30164).

In its defect and noncompliance reporting regulations, the agency has addressed the question of who may file a defect or noncompliance report related to an imported item. Under 49 CFR 573.3(b), in the case of vehicles or equipment imported into the United States, a defect or noncompliance report may be filed by either the fabricating manufacturer or the importer of the vehicle or equipment. Defect and noncompliance reports covering vehicles manufactured outside of the United States have generally been submitted by the importer of the vehicles, which is usually a subsidiary of a foreign parent corporation (e.g., defects in vehicles made in Japan by Honda Motor Co. Ltd. are reported by American Honda Motor Co., Inc., even if the vehicle was certified by Honda Motor Co. Ltd.).

The TREAD Act expanded manufacturers' responsibilities with respect to foreign events and activities. See 49 U.S.C. 30166(l) and (m). It is evident that the TREAD Act has extraterritorial effect. In its comments on the ANPRM, the Alliance recognized that the TREAD Act was clearly written by Congress to apply to persons and activities outside of the United States and it is therefore a clear assertion of extraterritorial jurisdiction by the United States (Alliance comment, Attachment 10, p. 9). The Alliance went on to state that the early warning rule could reasonably require reports from foreign companies manufacturing vehicles for sale in the United States as long as the required reports relate to issues that could arise in those vehicles (p. 11). Today's proposal is consistent with that conclusion. Foreign entities would be required to provide the same information as we would require for domestic manufacturers, but as explained in further detail below, only with respect to vehicles and equipment that they sell in the United States, and to incidents involving death outside the United States that involve identical or substantially similar vehicles or equipment. To assure that we receive information initially provided to various foreign entities, including affiliates of foreign parent corporations, we propose to apply Part 579 to all vehicle and equipment manufacturers ''with respect to all vehicles and equipment that have been offered for sale, sold, or leased by the manufacturer, any parent corporation of the manufacturer, any subsidiary or affiliate of the manufacturer, or any subsidiary or affiliate of any parent corporation of the manufacturer.''

This leaves the question of who must and who may report. In view of the definition of manufacturer and in further view of the specific provisions of Section 30166(m), we believe that the agency has authority to require a report from the foreign entity that

maintains the information, from the fabricating manufacturer, and from the importer of the vehicle or equipment. However, we are proposing to apply the reporting requirements for early warning in the same manner as we currently utilize for reporting noncompliance and defect determinations to NHTSA under Part 573, and that we have proposed for reporting of safety recalls and other safety campaigns in foreign countries pursuant to Section 3(a) of the TREAD Act, 49 U.S.C. 30166(l). See 66 FR 51905 et seq., October 11, 2001. Thus, under today's proposal, the report must be filed by either the fabricating manufacturer or by the importer of the vehicle or equipment. This is consistent with current reporting of safety defects and noncompliances. See 49 CFR 573.3(b).

A multinational corporation must ensure that all relevant information on matters for which reports are required throughout the world are made available to whatever entity makes those reports so that its designated entity timely provides the information to NHTSA. Thus, it would be a violation of law for a foreign fabricating manufacturer to designate its U.S. importer as its reporting entity, and then fail to assure that it is provided with the information that must be reported under this rule. Such manufacturers will have to adopt and implement practices to assure the proper flow of relevant information.

D. Other Representatives of Manufacturers

Most of the information covered by this rule would be provided directly to the entity (usually a corporation) that assembles or imports vehicles or equipment. However, some information, such as claims-related documents or field reports, might be initially received by affiliates or other representatives of manufacturers, such as their registered agents and outside counsel. Consistent with the thrust of the early warning statutory provisions, we are proposing to deem information received by these entities to be in the possession of the manufacturer, and thus to require each manufacturer to ensure that entities that it has the ability to control furnish it with relevant early warning information so that the manufacturer may make a full and timely report to NHTSA. However, we are not proposing to require such an affiliate or representative to report directly to NHTSA. We also ask for comments on our proposed applicability of this regulation to parents, affiliates, and subsidiaries of vehicle manufacturers.

In general, motor vehicle dealers are independent businesses (this is not the case with respect to some tire dealers). To the extent that they are independent, claims and other information received by dealers would not automatically be considered in the possession of the manufacturer. However, if the dealer were to convey such information to any employee or other representative of a manufacturer, the manufacturer would be deemed to have possession of it upon receipt.

IV. Information That Would Be Reported

Section 30166(m)(3)(A) directs NHTSA to require manufacturers to report information which concerns data on ''claims submitted to the manufacturer for serious injuries (including death) and aggregate statistical data on property damage from alleged defects in a motor vehicle or in motor vehicle equipment,'' and on ''customer satisfaction campaigns, consumer advisories, recalls or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment.'' Section 30166(m)(3)(B) authorizes us to require manufacturers to report other ''such information'' that may assist in the identification of safety defects. Finally, Section 30166(m)(3)(C) requires reporting of incidents, of which the manufacturer receives actual notice, involving deaths or serious injuries which are alleged or proven to have been caused by a possible defect in the manufacturer's vehicle or equipment in the United States, or in a foreign country when the possible defect is in a vehicle or equipment identical or substantially similar to that sold in the United States.

A. Production Information

For each reporting period, we would require manufacturers of vehicles whose sales, production, or importation for sale in the United States is 500 or more, and manufacturers of child restraint systems and tires, to provide information on the volume of production of their products. Production numbers are needed because the agency's trend analyses frequently are normalized to the number of claims, complaints, etc. per unit of production. These manufacturers would submit the following information with respect to each model and model year of vehicle manufactured in the calendar year of the reporting period and the nine model years prior to the model year of the reporting period, including models no longer in production: the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period, and the total model year production for all model years for which production has ceased. For all models of vehicles that are manufactured with more than one type of fuel system, the information required by this subsection would be reported separately for gasoline-powered vehicles and for non-gasoline-powered vehicles. For medium-heavy vehicles, there would be further subcategorization by service brake system (e.g., hydraulic, air).

We recognize that manufacturers of child restraint systems and tires generally do not specify ''model years'' for their products. For purposes of this rule, to avoid confusion, we are defining the term ''model year'' as the year that the item of equipment was manufactured.

Figure 1, below, represents a pro-forma example of how production information would be reported by a manufacturer of medium-heavy trucks, using an electronic spreadsheet. For each model/model year, there would be multiple rows if the medium-heavy truck model was produced with different types of fuel or brake systems.

Production Information

MEDIUM-HEAVY TRUCKS
Reporting Period:
Manufacturer:

Make	Model	Model year	Production	Fuel system type (see below)	Brake system type (see below)
		2003	#		
		2002	#		
		2001	#		
		2000	#		
		1999	#		
		1998	#		
		1997	#		
		1996	#		
		1995	#		

Make	Model	Model year	Production	Fuel system type (see below)	Brake system type (see below)
		1994	#		

Fuel System Type:
a. Gasoline
b. Diesel
c. Other
Brake System Type:
a. Hydraulic
b. Air
c. Other than hydraulic or air

Figure 1

We ask for comments on this suggested format for providing production information by electronic means.

B. Claim: A Proposed Definition

Section 30166(m)(3)(A) refers to claims data. The ANPRM stated that, in order to achieve the goals of the TREAD Act, the term ''claim'' must be construed broadly and provided some examples.

We have researched the definition of claim, considered comments received in response to the ANPRM, and considered our investigatory experience with requests for claims information.

Case law provides interpretations of the word ''claim'' in various contexts. In a Federal law context, '' 'claim' is something more than mere notice of an accident and an injury. The term 'claim' contemplates, in general usage, a demand for payment or relief.'' *Avril* v. *U.S.*, 461 F.2d 1090, 1091 (9th Cir. 1972). See also, *Conoco, Inc.* v. *United States*, 39 Env't. Rep. Cas. (BNA) 1541 (N.D. La. 1994)(written request for compensation for damages or costs); 31 U.S.C. 3729(c) (claim involves request for demand for money or property).

State case law also provides a definition of the word ''claim.'' For example, *Fireman's Fund Insurance Co.* v. *The Superior Court of Los Angeles County*, 65 Cal. App. 4th 1205, 1216 (1997), noted that a claim encompasses more than a suit:

> ''claim'' can be any number of things, none of which rise to the formal level of a suit—it may be a demand for payment communicated in a letter, or a document filed to protect an injured party's right to sue a governmental entity, or the document used to initiate a wide variety of administrative proceedings.

Other state law cases have further addressed the meaning of ''claim.'' *Safeco Surplus Lines Co.* v. *Employer's Reinsurance Corp.*, 11 Cal. App. 4th 1403, 1407 (1992), held that a ''claim'' is ''the assertion, demand or challenge of something as a right; the assertion of a liability to the party making it do some service or pay a sum of money.'' *Phoenix Ins. Co.* v. *Sukut Construction Co.*, 136 Cal. App. 3d 673, 677 (1982), stated that ''a claim both in its ordinary meaning and as interpreted by the courts, is a demand for something as a right, or as due and a formal lawsuit is not required before a claim is made.''

Commenters provided a variety of views on a possible definition of a claim. The Alliance offered this definition to which Ford and Delphi agreed:

> A claim or incident involving serious injury or death is any written demand, complaint, subrogation request or lawsuit received by a manufacturer from or on behalf of the person seriously or fatally injured that (a) involves ''serious injury,'' as further defined, or death, (b) alleges that a product defect was, at least in part, a contributing cause of the serious or fatal injury, and (c) contains sufficient information to identify the motor vehicle or item of motor vehicle equipment involved.

DaimlerChrysler would add that a ''claim'' includes a formal request for compensation. International Truck stated that the term should exclude warranty claims, which International considers to be dealer or customer submissions for reimbursement on parts and labor. TRW also pointed out the difference between claims for deaths and injuries and those submitted under warranties. TRW offered a definition for claims in the personal injury context as

> a written demand for compensation against the manufacturer or written notice to the manufacturer of litigation where compensation is sought from the manufacturer and it is expressly alleged that death or serious personal injury has been caused by a defect in a specified vehicle and/or in specified motor vehicle equipment of the manufacturer.

Mack Truck stated that claims should be defined as verified written communications transmitted to the manufacturer, requesting compensation for property damage, death or personal injury allegedly caused by safety-related defects in a specified product of the manufacturer. Volvo Trucks would restrict ''claim'' to ''any lawsuit filed requesting compensation for personal injuries or property damage that is the result of an alleged safety-related defect in a motor vehicle'' and did not include subrogation claims. It would also exclude ''any request for consequential damages that are the result of a warrantable repair or an alleged defect that does not relate to safety.''

We have considered the case law and the comments. We believe that the definition of claim should be broad, and meet our needs under the TREAD Act. We propose the following definition for claim:

> A written request or demand for relief, including money or other compensation, assumption of expenditures, or equitable relief, related to a motor vehicle crash, accident, the failure of a component or system of a vehicle or an item of motor vehicle equipment, or a fire. Claim includes but is not limited to a demand in the absence of a lawsuit, a complaint initiating a lawsuit, an assertion or notice of litigation, a settlement, covenant not to sue or release of liability in the absence of a written demand, and a subrogation request. A claim exists regardless of any denial or refusal to pay it, and regardless of whether it has been settled or resolved in the manufacturer's favor. The existence of a claim may not be conditioned on the receipt of anything beyond the document stating a claim.

The proposed definition includes many of the elements addressed above by commenters. We do not address, as did the Alliance and others, what the claim must involve, allege or contain, as those matters are not parts of a definition of a claim. They are addressed below. However, we do refer to a motor vehicle crash, accident, component or system failure, and a fire, as these are the events that have safety implications. The definition would exclude, for example, events with which the rule is not concerned, such as injuries in manufacturers' factories. Warranties are addressed separately below. The last two sentences of our proposal are designed to assure that all relevant claims are provided to us. This would preclude attempts, similar to those that have been made by some manufacturers in our investigations, to evade reporting claims by conditioning them on receipt of parts, or their own assessments of the merits of claims.

C. Notice: A Proposed Definition

Section 30166(m)(3)(C) requires that the rule include the reporting of ''all incidents of which the manufacturer receives actual notice,'' involving fatalities or serious injuries that are alleged or proven to have been caused by a possible defect in its products. The term ''actual notice'' is extremely broad. Nonetheless, to avoid impractical requirements, we are proposing only to require reporting of incidents of which a manufacturer receives or obtains documentation (e.g., in written or electronic formats). Therefore, in this context, we would define ''notice'' of an applicable incident to mean ''a document received by or prepared by a manufacturer that does not include a demand for relief.'' This would include, for example, a letter advising a manufacturer of a crash in which there was a death or injury and an allegation of a defect in the vehicle where there was no claim for monetary or other relief. It would also include police accident reports transmitted to a manufacturer regarding deaths or injuries in which a causative factor was stated to be a performance failure of the vehicle or equipment, but would not include reports where no defect in, or failure of, the vehicle or equipment was indicated (e.g., a crash due to the driver losing control, with no system or equipment failure reported). Newspaper articles or other media reports would not, in themselves, constitute ''notice,'' unless either they were provided to the manufacturer, such as by an owner, or actions taken by the manufacturer reflect that it had received notice of the incidents in question.

D. Identification of the Product in Claims and Notices

To be covered by these early warning requirements, a claim or notice, as well as other matters addressed below, would have to identify the vehicle or equipment item involved in at least a minimal way. Otherwise, it would not be possible to identify what vehicle or equipment was involved, and the information would not help us to identify potential defects. In the context of identification, we propose to use the term ''minimal specificity'' and define it to mean ''(a) for a vehicle, the make, model and model year, (b) for a child seat, the model (either the model name or model number), (c) for a tire, the model and size, and (d) for other motor vehicle equipment, if there is a model or family of models, the model name or model number.''

With regard to claims, notices, and other reporting obligations discussed below, for vehicles, we would define ''model'' to mean ''a name that a manufacturer applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type.'' ''Make,'' in turn, would mean ''a name that a manufacturer applies to a group of vehicles.'' The proposed definition of ''make'' is the identical definition of ''make'' used in 49 CFR Part 565, *Vehicle Identification Number Requirements* (see section 565.3(g)). The proposed definition of ''model'' is the definition the VIN regulation uses for ''[vehicle] line'' (see section 565.3(f)). Our objective is to obtain reports by commonly-understood designations. For example, with regard to the General Motors S–10 platform, we would expect to receive separate reports for pickup trucks and sport-utility vehicles, but the total for each would include both Chevrolet and GMC nameplates. But we would expect C and K platform pickup trucks to be reported together (the total including both Chevrolet and GMC nameplates) as they are both pickup trucks and the relevant difference (2- vs. 4-wheel drive) appears to be insignificant for early warning reporting. As another example, with regard to Ford pickup trucks, we expect separate reports for the F–150 and F–250, but, within each designation, do not want separate reports for two-door and four-door versions, or versions with different engines or transmissions. We request comments on this approach and how our definition may achieve it.

We would define ''model year'' for this and all other early warning reporting purposes to include the year that a vehicle was manufactured if the manufacturer has not assigned a model year to the vehicle covered by the report.

For equipment, ''model'' would mean the name that its manufacturer uses to designate it. ''Model year'' would mean the calendar year in which the equipment was manufactured.

We ask for comments on the clarity and inclusiveness of these proposed definitions.

If an otherwise covered claim or notice as initially received by the manufacturer does not identify the allegedly defective product with minimal specificity but a subsequent communication does, it would become a covered claim or notice at the time of the subsequent communication, and the manufacturer would be required to report it in its next report to NHTSA.

E. Claims and Notices Involving Death

1. Whether to Define Death

We are not proposing to define death or fatality because we do not believe that it is necessary or appropriate to do so. Our reason is simple: the subject matter of this category of information is claims involving deaths and notices of incidents involving fatalities. Proof of death is not necessary, nor does it matter when death occurred.

2. Claims Involving Death

We propose that every manufacturer be required to report certain information about each incident involving a death identified in claims it has received during each reporting period, if the claim identifies the product with minimal specificity. This would apply to claims regarding fatal incidents in foreign countries as well as the United States. Reports of claims involving death would be in electronic form, as we discuss later.

3. Notices Involving Death

We are also proposing that manufacturers be required to report similar information about each incident involving a death that occurred in the United States that is identified in a notice (as defined above) in which it is alleged or proven that the fatality was caused in whole or in part by a possible defect in such manufacturer's vehicle or equipment, received during each reporting period, if the product is identified with minimal specificity. Information about such deaths would be combined with information about claims of death on the same report.

4. Information About Deaths

The information about deaths to be reported would contain, for each incident, model and model year of the vehicle or equipment, the date of the incident, the number of deaths that occurred in the incident, the name of the State in the United States or the specific foreign country in which the incident occurred, and the identification of each component or system that allegedly contributed to the incident or the death reported.

We are proposing that manufacturers who sell 500 or more vehicles annually in the United States and manufacturers of tires (except as to low production tires) and child restraint systems identify systems or components involved in the same manner as those used for their other reporting obligations. These are discussed below. Vehicle manufacturers who sell fewer than 500 vehicles annually in the United States would also identify

systems or components involved in the same manner. However, given the large and varying universe of motor vehicle equipment, manufacturers of original equipment and of replacement equipment other than tires and child restraint systems would describe the systems or components involved in their own words, based on the claim or notice. We are proposing this approach to make reporting by these manufacturers simpler than it would otherwise be if they had to use designations with which they are not familiar.

For claims and notices, if the component or system is not identified, the manufacturer would enter ''unknown.'' If the manufacturer was not aware of one or more of the required items of information at the time the report was submitted, it would have to provide the information in a further report covering the reporting period in which it was received.

F. Claims and Notices Involving Injuries

1. The Difficulties of Defining ''Serious Injury''

The issue of whether to define ''serious injury,'' and if so, how, has proven to be one of the more challenging tasks in the development of this NPRM.

We have considered several approaches. Originally, it seemed to us that it might be appropriate to use the Abbreviated Injury Scale (AIS) system. The AIS system was developed by a joint Committee on Injury Scaling, comprised of representatives from the American Medical Association, Association for the Advancement of Automotive Medicine, and the Society of Automotive Engineers (SAE). The AIS system ranks the severity of injuries numerically from 1 to 7. The injuries that are recorded are those that occur to the head, face, neck, thorax, abdomen, spine, upper and lower extremities, external/skin, burns and other trauma. In the ANPRM, the agency sought input on the potential use of the AIS system. The commenters had many disparate views.

In its comments, the Alliance labeled the AIS system unworkable for this purpose due to the highly sophisticated coding and complex nature of identifying claims. The Alliance noted that each manufacturer would need to have a staff of thoroughly trained personnel who understand the entire system. The manufacturer would have to train its responsible personnel to understand basic medicine and medical terms and to use the AIS coding system, which is not a simple task. There is a lengthy manual, and the Association for the Advancement of Automotive Medicine offers a two-day course for injury scaling according to the AIS. The course is designed for trauma nurses, registrars, physicians, hospital records personnel, and researchers who are responsible for injury databases. A general knowledge of anatomy is required before taking the class.

Another issue with using the AIS system is the amount of information required to determine the actual injury level. A manufacturer may never have enough information to properly code an injury according to the AIS system. Many claims and notices received by a manufacturer will allege an injury but contain insufficient information for AIS coding. In the absence of information demonstrating that the injury in question reached whatever threshold AIS level might be selected, a manufacturer would be justified in not reporting the incident, which could result in substantial under-reporting.

In addition, the AIS system necessarily involves subjective judgments. This could introduce error and inconsistency. Moreover, the manufacturers have stated that they are reluctant to interpret medical records.

Another concern is universal administration. The AIS system is prevalent in some professional circles in the United States, but many manufacturers indicated that the AIS system is not utilized outside the U.S. This may cause confusion when translating or reviewing foreign claims, especially if there is a different reporting system for injuries in foreign countries. Similarly, while most major vehicle manufacturers probably have employees who are familiar with it, the AIS system may not be utilized by many smaller manufacturers. Many smaller manufacturers commented that they were unaware of the AIS or believed that using it as a determinant of serious injury would be unworkable. We do not believe that it would be appropriate to specify different reporting criteria for different industry segments.

Nissan diverged from most manufacturers and supported a system similar to the AIS system for defining serious injuries, but sought a simplified, flexible system. Nissan suggested that the government and the industry create a joint task force to develop a table based upon the AIS system that would allow the ranking of injuries to define serious injury. Similar to Nissan, AIAM suggested that the AIS system needed to be simplified to allow manufacturers to easily classify an injury as serious or not serious. We do not know whether this approach would be workable. However, even if it were, there is insufficient time to develop such a system within the statutory deadline for the early warning rule.

CU and Advocates both supported the use of the AIS system as a triggering device. However, both commenters stated that if a claim alleges an injury and it cannot be determined if it involves a serious injury, the claim should be reported to the agency.

We also considered basing the definition of serious injury for purposes of the early warning rule on certain statutory and regulatory definitions. RMA suggested the definition from 18 U.S.C. 1365(g)(3). In that section, serious injury is defined as: ''a bodily injury which involves (a) a substantial risk of death; (b) extreme physical pain; (c) protracted and obvious disfigurement; or (d) protracted loss or impairment of the function of a bodily member, organ or mental faculty.'' The MIC suggested that we define serious injury similarly to the Consumer Product Safety Commission's (CPSC) definition of ''grievous bodily injury'' (16 CFR 1116.2 (b)). That section states, in pertinent part:

(b) Grievous bodily injury includes, but is not limited to, any of the following categories of injury:
(1) Mutilation or disfigurement. Disfigurement includes permanent facial disfigurement or non-facial scarring that results in permanent restriction of motion;
(2) Dismemberment or amputation, including the removal of a limb or other appendage of the body;
(3) The loss of important bodily functions or debilitating internal disorder. These terms include:
(i) Permanent injury to a vital organ, in any degree;
(ii) The total loss or loss of use of any internal organ,
(iii) Injury, temporary or permanent, to more than one internal organ;
(iv) Permanent brain injury to any degree or with any residual disorder (e.g. epilepsy), and brain or brain stem injury including coma and spinal cord injuries;
(v) Paraplegia, quadriplegia, or permanent paralysis or paresis, to any degree;
(vi) Blindness or permanent loss, to any degree, of vision, hearing, or sense of smell, touch, or taste;
(vii) Any back or neck injury requiring surgery, or any injury requiring joint replacement or any form of prosthesis, or;
(viii) Compound fracture of any long bone, or multiple fractures that result in permanent or significant temporary loss of the function of an important part of the body;
(4) Injuries likely to require extended hospitalization, including any injury requiring 30 or more consecutive days of in-patient care in an acute care facility, or 60 or more consecutive days of in-patient care in a rehabilitation facility;
(5) Severe burns, including any third degree burn over ten percent of the body or more,

or any second degree burn over thirty percent of the body or more;
(6) Severe electric shock, including ventricular fibrillation, neurological damage, or thermal damage to internal tissue caused by electric shock.
(7) Other grievous injuries, including any allegation of traumatically induced disease.

In the context of early warning reporting, these definitions suffer from many of the same deficiencies as identified above regarding the AIS system. Reporting would ultimately depend on highly subjective determinations, including the assessment of terms like ''substantial,'' ''extreme,'' and ''protracted.'' This could lead to inconsistencies, under-reporting, and unwarranted delays. In addition, many categories, such as ''substantial risk of death'' and ''extreme physical pain,'' would need to be further defined.

We also considered using a surrogate for serious injury, such as hospitalization. The Alliance, which, as noted above, opposed technical assessments of injuries under the AIS system, took this approach. The Alliance would define serious injury as any non-fatal injury resulting in an overnight hospital admission (but not including emergency room treatment if the person was treated and released). The Alliance asserts that it is simple and is easier to administer than the AIS system. This is true; the Alliance's definition is simple and does not require sophisticated training of reporting personnel. Also, the definition provides an objective criterion. The reporting trigger, the hospitalization, would not need to be interpreted by the manufacturer to determine if it meets another standard.

On the other hand, the Alliance's definition is not broad enough. The definition only includes injuries that result in an overnight admission into a hospital, but excludes significant emergency room treatment. For the purposes of early warning, in our view, this is not sufficient. Due to various factors, such as health care management practices and evolving medical approaches, individuals with injuries that most people would view as serious are often treated in an emergency room but not actually admitted to a hospital. For example, under the Alliance's definition, a person who fractured a leg might not be considered to have incurred a serious injury, since he or she might not be admitted into the hospital for an overnight stay. Yet we believe that most people would agree that a fractured leg would be considered a serious injury. In addition, for various reasons, some seriously injured people, such as the poor and people in various religious groups, might not be admitted into a ''hospital.'' Most important, it is likely that most claims, and possibly even lawsuits, will not specifically state whether or not there was a hospital stay. Thus, many serious injuries that involved hospitalization would not be reported under this definition.

A difficulty that would exist under any definition of serious injury is the effort that would be needed to monitor the progress of claims to see if a claim that initially did not allege an injury that satisfied the definition was amended or supplemented such that the injury was serious. The Alliance asserted that constant monitoring of claims is not feasible and would not further the goals of the early warning provisions. The Alliance further commented that the burden should not be on the manufacturer to determine if a claim involves a serious injury. We disagree with the Alliance's assertion that follow up review under such a scenario would not further the goals of early warning. Nonetheless, we recognize that such efforts would impose significant additional burdens on manufacturers.

2. Reporting of Incidents in Which Persons Were Injured, Based on Claims and Notices

In view of the substantial problems associated with defining ''serious injury,'' for purposes of early warning reporting we are proposing to require certain categories of manufacturers to report each incident in which persons are injured in the United States that is identified in a claim or notice alleging or proving that the injury was caused by a possible defect in the manufacturer's product, if the claim or notice identifies the product with minimal specificity. For these manufacturers, the report would be combined with the reporting of incidents involving fatalities. This would limit the number of reports and avoid duplication that could be associated with separate reports of deaths and injuries stemming from the same incident.

We recognize that Sections 30166(m)(3)(A) and (C) refer to ''serious injuries.'' Nevertheless, we are authorized to require reporting of claims about, and notices of, all injuries by Section 30166(m)(3)(B) which provides:

Other Data. As part of the final rule * * *, the Secretary may, to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States, require manufacturers * * * to report, periodically or upon request of the Secretary, such information as the Secretary may request.

It is evident that information about injuries caused by defects in vehicles and equipment will ''assist in the identification of defects related to safety.'' Often, the gravity of an injury does not help determine whether a vehicle or equipment is defective, since the fact that a possible defect led to a crash is generally more relevant than the degree of injury experienced by a vehicle occupant in the crash. Thus, limiting reporting to serious injuries would not better lead to the discovery of defect trends. By requiring all claims and notices of injury to be reported, we would increase the robustness of the data base on which we could analyze whether a possible defect trend existed. Thus, such a requirement is authorized by Section 30166(m)(3)(B), and satisfies the agency's obligations under Sections 30166(m)(3)(A) and (C).

This proposed requirement avoids the operational difficulties described above associated with any attempt to develop a universal, objective definition of ''serious'' injuries. The decision about whether an incident involving an injury must be reported could be made on the basis of the limited information that would be expected in a claim or a notice of a covered incident, without requiring complicated coding efforts, or awaiting detailed information about the specifics of the injury or the extent of hospitalization. Thus, it would reduce delays that could turn ''early warning'' into ''late warning.''

There are other benefits to this approach. Because manufacturers would not have to determine if the alleged injury met one or more potentially complex criteria for seriousness of an injury as provided under some proposals, this approach would eliminate the need for subjective determinations, and thus address the concern of manufacturers that their decisions could be second-guessed.

Although the incidents that would be reported in which persons were injured would be greater than under a more limited definition of ''serious injury,'' this approach would actually reduce the burden on manufacturers. They would not need specialized or highly trained staffs to make decisions about ''seriousness.'' As importantly, the need to monitor and repeatedly review incoming information to reassess whether an injury was ''serious'' would be minimized, if not eliminated. Also, most manufacturers would not have to significantly restructure their existing database systems to comply with this reporting requirement, since most, if not all, manufacturers keep a record of claims.

We have considered the consequence upon NHTSA of receiving, organizing, and analyzing this information. The Alliance has raised the specter that agency would be flooded with a tremendous amount of data, even if it was submitted in electronic form, stating that there are over 3.2 million injuries per year as a result of 6.3 million police-reported crashes. The Alliance has overstated the burden on NHTSA. The vast majority of those crashes and injuries do not result in claims against manufacturers, and do not involve alleged defects. In fact, the Alliance's supplemental comments noted that only 9,200 claims alleging death or injury were filed against their manufacturer members and two other manufacturers in the United States in 2000. Also, NHTSA would not be overwhelmed because, as discussed below, only a limited amount of information involving injury-producing incidents would be reported, as opposed to copies of the underlying claims or notices themselves.

We would require those manufacturers that must report information about injuries to provide the same information as required with respect to incidents involving deaths. If an incident involved both deaths and injuries, it would only be reported once, with both the number of deaths and the number of injuries specified.

G. Other Possible Conditions on Reporting of Deaths and Injuries

Some commenters suggested that, to be covered under the reporting provisions, a claim or notice must also specifically allege that the fatality or injury was caused by a possible defect. The allegation of a defect is not statutorily required under Section 30166(m)(3)(A) or (B). Moreover, such a limitation would lead to under-reporting. In a lawsuit, which is one type of a claim, a defect need not be alleged if the pleading requirements of the relevant jurisdiction do not require such an averment. For example, in some states such as California, the claim/pleading requirements for complaints do not require the plaintiff to allege the existence of a defect. Moreover, with respect to claims, the assertion of a defect is implicit, since ordinarily there would otherwise be no reason to make the claim. Therefore, we are proposing that, for early warning reporting purposes, a claim need not specifically allege or describe a defect. It is enough if the claim contains information indicating that a death or injury has allegedly occurred, and it is alleged or proven that the manufacturer's product is responsible.

Different considerations apply to those incidents of which the manufacturer receives notice that does not amount to a claim, since only incidents in which a defect is alleged or proven are to be reported under Section 30166(m)(3)(C). Thus, for such incidents, we would require an allegation of a defect. Otherwise, the manufacturer would be required to report incidents that came to its attention when no one believes that the manufacturer's product contributed to the death or injury; e.g., a fatal crash due to high speed or drunk driving. However, the specific component or system that allegedly led to the incident would not have to be identified in the claim or notice.

Some manufacturers suggested that the allegation that a vehicle component is involved would have to be confirmed before an incident would have to be reported. We reject this suggestion, since the litigation process is lengthy, and it may be months or years before the involvement of a component is confirmed, if at all. The vast majority of cases settle without findings and of those that do not, many may not identify the defective component in jury resolutions. Also, the earlier that information arrives at the agency, the earlier our investigators will have information to determine whether an investigation needs to be opened.

Some manufacturers also suggested that the reportable incidents be limited to failures of or problems with certain vehicle systems. As discussed below, we believe that this approach is appropriate for certain types of information. However, while deaths and injuries due to alleged defects are relatively rare, they are so significant that we want our information to be as complete as possible. Therefore, we propose to require reporting of all deaths and injuries in the United States based on claims and notices, regardless of the implicated components.

Section 30166(m)(3)(A) refers to claims ''derived from foreign and domestic sources.'' In the same vein, Section 30166(m)(3)(C) refers to the reporting of certain incidents of which the manufacturer receives actual notice that occur in a foreign country, when the vehicle or equipment is identical or substantially similar to products offered for sale in the United States. In an effort to minimize the burdens associated with gathering information about incidents in foreign countries, in this phase of rulemaking we are proposing to require only reporting of such claims involving fatalities occurring in a foreign country but not to require reports about incidents in foreign countries that resulted in non-fatal injuries. Relatively few claims are filed outside the United States, and, in light of the anticipated robustness of the domestic data, we do not believe that our early warning capabilities would be adversely affected. We recognize that this proposal would require manufacturers and their affiliates to review foreign information bases, but believe the seriousness of fatalities associated with potential defects warrants this requirement.

H. Identical or Substantially Similar Motor Vehicles or Equipment.

Under Section 30166(m)(3)(C), manufacturers of vehicles or equipment must report:

* * * incidents of which the manufacturer receives actual notice which involve fatalities or serious injuries which are alleged or proven to have been caused by a possible defect in such manufacturer's motor vehicle or motor vehicle equipment * * * in a foreign country when the possible defect is *in a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States.* (emphasis added)

In response to the ANPRM, we received comments on the meaning and scope of this phrase. These comments helped us in preparing the NPRM (''Foreign Defect NPRM'') published on October 11, 2001 which would implement Section 30166(l), Reporting of defects in motor vehicles and products in foreign countries (66 FR 51907), which contains the underlined phrase.

1. The Meaning of ''Identical''

The ANPRM asked:

''1. Is the word 'identical' understood internationally, or do we need to define it? If so, how?''

We discussed this issue extensively in the Foreign Defect NPRM (see 66 FR 51907 at 10–11) and incorporate that discussion by reference. We concluded that a definition of ''identical'' was not needed. The same applies to this notice.

2. Substantially Similar Motor Vehicles

The Foreign Defect NPRM discussed extensively the comments received in response to the ANPRM on the meaning of ''substantially similar motor vehicles'' (see 66 FR 51907 at 11–13), and that discussion is also incorporated by reference. On the basis of these comments, we proposed that motor vehicles would be substantially similar to each other for foreign defect reporting if one or more of five criteria was met, at proposed 49 CFR 579.12:

(a) A motor vehicle sold or in use outside the United States is identical or substantially

similar to a motor vehicle sold or offered for sale in the United States if:

(1) Such a vehicle has been sold in Canada or has been certified as complying with the Canadian Motor Vehicle Safety Standards;

(2) Such a vehicle is listed in Appendix A to part 593 of this chapter or determined to be eligible for importation into the United States in any agency decision issued between amendments to Appendix A to part 593;

(3) Such a vehicle is manufactured in the United States for sale in a foreign country;

(4) Such a vehicle is a counterpart of a vehicle sold or offered for sale in the United States or

(5) Such a vehicle and a vehicle sold or offered for sale in the United States both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, without regard to the vehicle platform on which the components or systems is installed and regardless of whether the part numbers are identical.

We believe that the first four proposed criteria are equally appropriate for the purposes of early warning reporting, and are proposing them in this notice. With respect to the fourth criterion, or alternative test, the preamble of the Foreign Defect NPRM did not directly explain what we meant by a ''counterpart'' vehicle. However, by example, a discussion appearing on page 51912 provides an explanation of what, in our view, would be counterpart vehicles: ''An example would be Ford Explorers assembled outside the United States, such as those assembled in Venezuela.'' We added that ''We would appreciate comments on whether this latter class of vehicles needs to be defined with greater specificity,'' warning that that ''in our view the term substantially similar sweeps with a broad brush and is not to be defeated by persons bent on finding or inventing distinctions to evade reporting.'' We have now decided to propose a definition of ''counterpart vehicle'' for early warning which we believe should also apply for foreign defect reporting. A ''counterpart vehicle'' would be ''a vehicle made in a foreign country that is equivalent to one made in the United States except that it may have a different name, labeling, driver side restraints, lighting or wheels/tires, or metric system measurements.'' This would apply to both foreign defect reporting and early warning reporting.

The fifth alternative test, while appropriate for foreign defect reporting, is not relevant for purposes of early warning. Under the Foreign Defect NPRM, vehicles would be substantially similar if ''both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, without regard to the vehicle platform on which the component or systems is installed and regardless of whether the part numbers are identical.'' Under Section 30166(l), a potential safety defect has already been identified in a specific component or system of a motor vehicle, usually by the manufacturer. In that context, the relative precision of a component-or system-based determination is workable. However, under Section 30166(m), a defect has not yet been identified by the manufacturer, and often a component-or system-based analysis will not be possible based on the information contained in a claim received by the manufacturer. Accordingly, we believe that a less precise focus is warranted. More particularly, we believe that platform-based reporting is consistent with the breadth of early warning reporting, yet specific enough to provide focus. We would consider foreign and U.S. vehicles as substantially similar if they use the same vehicle platform. An example would be the Cadillac Catera which uses the same vehicle platform as the Opel Omega, or the Jaguar S-Class, which shares a platform with the Lincoln LS. We specifically request comment on our view that foreign and U.S. vehicles would be substantially similar for reporting under Section 30166(m) if they shared a platform. We have not proposed a definition for ''platform.'' If a commenter believes that a definition of this term is necessary, we invite the commenter to suggest a definition that the commenter believes is appropriate.

3. Substantially Similar Motor Vehicle Equipment and Tires

Both Sections 30166(l) and (m) require reports pertaining to substantially similar motor vehicle equipment and tires, and the preamble to the Foreign Defect NPRM contains a pertinent discussion of this issue (see p. 51913–14).

For purposes of foreign defect reporting, we proposed to deem foreign and U.S. motor vehicle equipment as identical or substantially similar ''if such equipment and the equipment sold or offered for sale in the United States are the same component or system, or both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, regardless of whether the part numbers are identical.'' The reference to a safety recall is inapposite for purposes of early warning, but we believe that the remainder of the proposed definition is valid. Accordingly, we are proposing that an item of motor vehicle equipment sold or in use outside the United States would be identical or substantially similar to equipment sold or offered for sale in the United States ''if such equipment and the equipment sold or offered for sale in the United States have one or more components or systems that are the same, regardless of whether the part numbers are identical.'' We believe that the breadth provided by this definition is necessary given the nature of claims, which often do not identify particular problematic components. In this light, we would regard foreign child restraint systems as substantially similar (if not identical) to U.S. counterparts if they incorporate one or more parts that are used in models of child restraints offered for sale in the U.S., regardless of whether the restraints are designed for children of different sizes than those sold in the U.S. and regardless of whether they share the same model number or name. For example, if buckles, tether hooks, anchorages, or straps are common throughout a manufacturer's range of models, the child restraints would be substantially similar even though the buckles, hooks, anchorages, or straps might be used on a variety of add-on, backless, belt positioning, rear-facing or booster seats produced by the manufacturer.

In light of the foregoing discussion, we request comments on the appropriate formulation of test(s) for determining whether foreign motor vehicle equipment is substantially similar to U.S. equipment.

Finally, the Foreign Defect NPRM contained a relevant discussion on identical or substantially similar tires (see p. 51914). We proposed that tires would be identical or substantially similar ''if they have the same model name and size designation, or if they are identical except for the model name.'' The wording of today's proposal differs slightly; tires would be identical or substantially similar if they have ''the same model and size designation, or if [they are] identical in design except for the model name.'' We see no real substantive difference in the two proposals and will adopt a common interpretation of this phrase that will be identical in both final rules.

I. Claims and Notices Involving Property Damage

Section 30166(m)(3)(A)(i) provides for reporting of ''aggregate statistical data on property damage'' from alleged defects in the manufacturer's products.

1. Definition of ''Property Damage,'' and Whether to Define ''Aggregate Statistical Data''

In response to the ANPRM, manufacturers proposed definitions of

property damage to be reported. Nissan would limit it

> to those claims received from vehicle owners, owner representatives, or insurance companies, which involve a crash, tire failure or fire where there is an allegation of defect which may have caused the crash, tire failure or fire. Specifically excluded would be communications requesting restitution for mechanical breakdown or improper operation such as the example of the engine that fails due to lack of maintenance.

AIAM would ''include only claims received by the manufacturer in writing * * * limited to incidents in which a defect is alleged in one of the critical safety systems (brakes, steering, occupant restraint, fuel).'' AIAM also suggested that a ''dollar value threshold should be set (perhaps $2500)'' to reduce the reporting of minor claims.

In our view, this portion of Section 30166(m)(3)(A)(i) is not limited to ''claims'' for property damage. Subparagraph (i) refers to ''data on claims * * * for serious injuries (including death) and aggregate statistical data on property damage.'' The words ''claims for'' do not pertain to property damage. Nevertheless, we recognize in most cases that manufacturers will only be aware of property damage that may be related to potential defects if they receive a claim seeking payment for the damage. Accordingly, with respect to property damage, we are proposing to require only reporting of claims information and not incidents of which a manufacturer receives actual notice.

We believe that the term ''property damage'' needs to be defined, and the comments have been helpful in formulating a proposed definition. We would include damage to the vehicle or other tangible property, but exclude equipment failure and matters solely involving warranty repairs. For example, if the brakes failed and there were no physical consequences other than the need to repair the brake system, there would be no property damage. If there was a brake failure and the vehicle hit an object, there could be property damage to the vehicle or object. Accordingly, for purposes of this rule, we propose that property damage means ''physical injury to tangible property.'' A property damage claim would mean:

> A claim for property damage, excluding that part of a claim, if any, pertaining solely to damage to a component or system of a vehicle or an item of equipment itself based on the alleged failure or malfunction of the component, system, or item, and further excluding matters addressed under warranty.

We also asked for comments on how to define ''aggregate statistical data on property damage.'' We learned that there is no generally understood meaning of the term. For example, Fontaine believes ''aggregate statistical data'' means ''the compilation of quantitative data without specific information on individual events.'' For Delphi, ''aggregate statistical data'' means ''summaries of property damage information organized by category (e.g. model year, product type, damage type) and tabulated as to total cost or number of incidents.''

AIAM would define aggregate statistical data ''to exclude allegations of simple failure or breakage of a component'' and limit it ''to the number of incidents involving a collision, tire failure or fire and occurring in the U.S.'' DaimlerChrysler would restrict ''aggregate statistical data'' to warranty information.

The Alliance stated that non-injury claims data should be normalized on the basis of total production or total sales. Trailer manufacturers, according to TTMA, ''propose to report statistical data related to warranty claims, claims and lawsuits involving property damage resulting from an alleged safety-related defect involving the following components or systems: tires, axles/suspension/brake components, rear impact guards, lighting and related components, king pins and fifth-wheel couplers, pintle hooks and drawbar eyes.''

The property damage information that we are proposing to require manufacturers to submit is limited to the number of claims involving a limited number of systems, components, and fires (to be discussed later). Thus, the information to be submitted will be ''aggregate statistical data.'' Therefore, we do not see a need for a separate regulatory definition of this term.

2. Reports Involving Property Damage

Unlike reporting of claims and notices of incidents involving deaths and injuries, we would only require reporting of property damage claims when one or more specified vehicle components or systems has been identified as causing or contributing to the incident or damage. These components and systems were selected based upon their connection to safety recalls in the past, as described in Section IV below. They vary depending on the type of vehicle or equipment that is the subject of the report.

If the incident that allegedly led to the property damage also resulted in a death or injury, the manufacturer would only report the incident as one involving a death or injury, and it would not be required to report the incident under the property damage requirement. Otherwise, there could be a misleading ''double count.''

Reports of property damage claims would be submitted in the same manner as the number of consumer complaints, warranty claims, and field reports, discussed later. The information would be reported separately for each model and model year and would be submitted in electronic form, as discussed in Section VII below. The manufacturer would not be required to submit documents reflecting the extent of the property damage or the details of the incident that allegedly led to the damage.

With respect to manufacturers of motor vehicle equipment, we are proposing to require only manufacturers of tires to report property damage information. We note that it is extremely unlikely that a child restraint would cause significant property damage.

We also propose that a vehicle manufacturer need not include in its report property damage claims that are for $1,000 or less, on the ground that this would exclude minor matters and reduce reporting burdens. We request comments on whether it is appropriate to establish such an exclusion, and, if so, what the level should be.

Tire manufacturers have historically kept records of all property damage claims, without regard for the amount of the claim, and this information has proven to be very valuable in identifying potential tire defects. For these reasons, we are proposing to require tire manufacturers to report all property damage claims, regardless of the amount of the claim.

J. Consumer Complaints

We are proposing to require submission of information about certain ''consumer complaints'' as ''other data'' under Section 30166(m)(3)(B).

1. Definition of ''Consumer Complaint''

The ANPRM addressed consumer complaints but did not suggest a definition of ''consumer complaint.'' Nissan commented that the meaning of ''consumer complaints'' in the ANPRM was not clear, and that a definition was needed. DaimlerChrysler proposed the following definition: ''Reports of incidents causing some dissatisfaction with the product, not necessarily accompanied by any demand for compensation or reimbursement.'' Both DaimlerChrysler and Nissan noted that there was overlap between ''consumer complaints'' and ''claims,'' and that it would be difficult to completely separate the two. DaimlerChrysler also stated that about half of the over 100,000 ''customer contacts'' it receives

monthly represent consumer complaints and half involve questions or comments about the product.

NTEA argued that only safety-related complaints should be reported, and that non-safety-related complaints should not be reported.

Notwithstanding DaimlerChrysler's and Nissan's assertions, we believe that we can formulate a definition for ''consumer complaint'' that would not overlap with our proposed definition of ''claim.'' The primary distinction is that a ''consumer complaint'' would not seek monetary or other relief. It would be defined as:

> a communication of any kind made by a consumer (or other person) to a manufacturer expressing dissatisfaction with a product, or relating the unsatisfactory performance of a product, or any actual or potential defect in a product, or any event that allegedly was caused by any actual or potential defect in a product, but not including a claim of any kind or a notice involving a fatality or injury.

The term ''a communication of any kind'' would primarily include communications that are written but it would also include oral complaints, such as made through a telephone call, that a manufacturer memorializes in a document, including an electronic information system. The definition we propose would also include communications in which the owner of a vehicle or item of equipment that is subject to a defect or noncompliance recall asserted that the remedy failed to correct the defect or noncompliance.

We recognize that this definition would include complaints about problems that do not involve safety. Based on our past experience during defect investigations, we do not believe that it would be appropriate to simply require reporting of ''safety-related'' problems, since manufacturers often have a much more narrow view of what constitutes a safety-related problem than we do. As explained below, we will assure that manufacturers only need to report consumer complaints about safety-related problems by itemizing the specific safety-related components and systems with respect to which complaints must be reported.

2. The Rationale for Requiring Reports of Consumer Complaints

Over the years, NHTSA's Office of Defects Investigation (ODI) has made productive use of consumer complaints to manufacturers in its investigations of alleged defects. The problem experience of owners or operators in the real-world use of their vehicles and equipment, as reflected in their communications to manufacturers, has indicated failures of components and systems that can have an impact on safety. While a given level of complaints regarding some components or systems may not indicate the existence of a defect, a higher level might. (This level would vary, depending on the component or system involved.) Because we have no way to measure directly, or to count, all failures in the field, the frequency of consumer complaints (which complement warranty claims and field reports) can provide valuable indications of possible safety problems warranting further investigation. Consumer complaints were discussed in the Congressional hearings that led to the TREAD Act. See, e.g. Firestone Tire Recall: Hearing before the Subcomm. on Telecomm. Trade & Consumer Prot. and the Subcomm. on Oversight & Investigations of the House Comm. on Commerce. 106th Congress (as yet unpublished) (September 6, 2000) (Statement of Dr. Susan Bailey, Administrator, NHTSA).

We stated in the ANPRM that consumer complaints might help in the early detection of possible safety-related defects, and might be ''particularly important after the expiration of warranties.'' During the warranty period, consumer complaint data would complement warranty data. We sought comments on how, whether, and to what extent we should require manufacturers to submit information about consumer complaints to us under Section 30166(m)(3)(B).

The responses from advocacy groups and the manufacturers differed significantly. Advocates and Public Citizen supported requiring the submission of consumer complaint information. One manufacturers' group, AORC, which represents a segment of equipment manufacturers, agreed with us that consumer complaints can provide a means to help NHTSA identify potential safety defects.

Most manufacturers and trade associations that commented on this issue opposed requiring the submission of consumer complaint information. Essentially, they argued that consumer complaint data would not be of any real value as early warning information. With respect to light vehicles, Ford and the Alliance noted that owner and consumer correspondence is less technically rich or timely than other sources of information. Three equipment manufacturers (ArvinMeritor, Atwood and TRW) argued that consumer complaints were of only marginal value. RMA, representing tire manufacturers, stated that reporting of all informal complaints would generate information that is misleading because it might be misinterpreted as fact, and that verbal complaints did not usually provide sufficient information to verify the legitimacy of the complaint. MIC also argued that the majority of consumer complaints are unreliable.

The ANPRM did not specifically state whether we expected to require manufacturers to submit complete copies of consumer complaints or simply ''counts'' of those complaints. MIC stated that ''reporting of consumer complaints should not be required due to the large volume and the need to evaluate them as material to the purpose of the rule unless the Agency contemplates receiving all such communications.'' Johnson Controls commented that even a count of customer complaints would overwhelm the agency ''by data that has questionable relevance to safety.''

With respect to data other than consumer complaints, Public Citizen stated that, in most cases, summary information would be adequate until evidence of a potential defect surfaces. However, it would make an exception for consumer complaints. It would require submission of complete consumer complaints, because NHTSA ''already has in place a well-developed system for categorizing those complaints by scanning them into a searchable format.'' Advocates argued that consumer complaint information ''is an important resource,'' but suggested only that it ''should be reported in aggregate form in conjunction with other reported information.'' It would have a manufacturer search its database for relevant consumer reports for entries about the same or similar type of occurrence, vehicle system, part, or component when the manufacturer had information about a death, injury, or property damage.

After reviewing the comments received and assessing the value of consumer complaints to an early warning system, we have decided to propose requiring manufacturers of 500 or more vehicles as well as all child seat manufacturers to provide aggregated consumer complaint information to us on a periodic basis, but not to require copies of such complaints periodically. NHTSA relies heavily on consumer complaint information in initiating and conducting defect investigations. We often open investigations on the basis of consumer complaints that we receive and screen. More than 75 percent of the investigations conducted by ODI are opened on the basis of complaints that we receive from individual consumers, or that are furnished to us by interested third parties, such as consumer groups, police departments, State vehicle

inspectors, and school bus and other fleets.

After it opens investigations, ODI routinely asks manufacturers to provide information and copies of consumer complaints on the ''subject defect;'' also, ODI often asks manufacturers to update complaint information during the course of the investigation. This sort of information is very valuable in evaluating whether a defect related to motor vehicle safety exists in a given vehicle or equipment item. Since our first litigated defects enforcement case, *United States* v. *General Motors Corp.* (*''Wheels''*), 518 F.2d 420, 438 (D.C. Cir. 1975), which held that a *prima facie* case of defect can be made by showing a significant, ''non de minimis number'' of failures of a critical part that is expected to last for the life of the vehicle, the federal courts have recognized that consumer complaints can be a valuable source of evidence of the existence of a safety-related defect in motor vehicles.

ODI's experience has shown that consumers are more likely to report a problem to the manufacturer than to NHTSA. Historically, the number of consumer complaints to the manufacturer (either directly or through dealers) that NHTSA obtains after opening a defect investigation usually exceeds by a substantial amount the number of complaints that NHTSA had received directly from consumers prior to opening the investigation. Also, many consumers do not complain to NHTSA until after they have complained (unsuccessfully) to the manufacturer. Although there is no single threshold of consumer complaints about a particular component or system that will automatically trigger a defect investigation, it is likely that if it were aware of a relatively large number of consumer complaints to a manufacturer, ODI might well open investigations earlier. To the extent that such an investigation led to a recall, opening it earlier would likely have led to corrective action at an earlier date and the avoidance of some additional incidents.

Consumer complaints to child seat manufacturers have also consistently far outnumbered those to NHTSA about particular problems. For example, in November 1996, ODI opened an investigation of harness release button breaks in certain infant car seats. ODI had received four consumer complaints when it opened the investigation. After writing to the manufacturer and requesting complaint information, ODI learned that the company had received 328 complaints about the harness release button in those seats. Similarly, in May 1998, ODI opened an investigation of harness buckle failure in infant car seats on the basis of two consumer complaints. After writing to the manufacturer, ODI learned in July 1998, only two months later, that the company had received 92 complaints. Both of these investigations led to corrective action by the manufacturers.

We believe that NHTSA's ability to identify potential defects in a timely manner, and to identify and understand emerging defect trends, would be greatly strengthened if the agency were to receive information about consumer complaints relatively shortly after the manufacturer does. At present, ODI's decisions as to which products should be investigated are often based on limited information from consumers.

We are not proposing to require tire manufacturers to report the number of consumer complaints. We have concluded, from our experience with conducting tire investigations, that consumer complaints to tire manufacturers generally do not contain useful information for analysis of the alleged problem. For example, tire complaints do not consistently have full information describing the tire model, size, and date of manufacture. Without this identification, an analysis of failure rates and trends is not possible. Far more useful for analysis of potential defect trends is the tire manufacturer's adjustment (warranty) and claims data. The adjustment and claims data contain complete identification of the tire make, model, build plant type, and date of production. We have received such data in response to information requests issued during our defect investigations and find that these data are far superior than that contained in complaints.

We are proposing to require larger motor vehicle manufacturers, and all child restraint system manufacturers, to report the number of consumer complaints that the manufacturers have received about designated components and systems of their vehicles or equipment during each reporting period. Vehicle manufacturers would also report complaints about fire. The designated components and systems would be the same as those on which property damage claims are reported.

We are not proposing at this time to require reporting of consumer complaints from outside the United States. There are a number of issues related to foreign complaints, such as manufacturer review of potentially large numbers of complaints in foreign languages and NHTSA follow-up use, that dictate against requiring reporting, at least for the present.

NTEA, representing final stage manufacturers, said that manufacturers should be required to report only about components for which they are responsible, rather than about all components in a vehicle about which they may have received complaints. In view of our proposal to only require reporting from manufacturers of 500 or more vehicles per year (other than incidents involving fatalities), it is likely that few NTEA members will have to submit consumer complaint information. However, for these that are covered, we note that the issue of which manufacturer's product is ''responsible'' often is disputed and is not determinative for early warning purposes. Moreover, the final stage manufacturer is often the only entity with which an owner deals. For example, a consumer who experiences a fuel leak in a vehicle is more likely to complain to that manufacturer than the chassis manufacturer. To assure that important information is submitted, we are proposing to require that each covered vehicle manufacturer report on all consumer complaints (and other specified information) that it receives.

Under this proposal, manufacturers would be required to review, maintain, and compile consumer complaints made in any form, including those made by telephone to their customer relations representatives (employees or contractors) and those made to dealers that are transmitted to the manufacturer, as well as written communications directly to the manufacturer. The manufacturers have the capability to do this, as they presently submit relevant complaints in response to ODI information requests during defect investigations.

K. Warranty Claims Information

We are proposing to require submission of information about certain ''warranty claims'' as ''other data'' under Section 30166(m)(3)(B).

1. Definitions of ''Warranty'' and ''Warranty Claim''

In the ANPRM, we sought input related to reporting of warranty claims but did not define them. We have decided to propose definitions of warranty and warranty claim. After reviewing various definitions of ''warranty,'' and comments on the issue, we have decided to propose a definition of warranty based on the definition of written warranty in the Moss-Magnuson Act, 15 U.S.C. 2301(6), to which manufacturers are subject. Under that Act, a ''written warranty'' means:

(A) any written affirmation of fact or written promise made in connection with the sale of

a consumer product by a supplier to a buyer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time, or

(B) any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking, which written affirmation, promise, or undertaking becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.

We propose to tailor that definition to the subject matter at issue and to define ''warranty'' as:

Any written affirmation of fact or written promise made in connection with the sale or lease of a motor vehicle or motor vehicle equipment by a manufacturer, distributor, or dealer to a buyer or lessee that relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time (including any extensions of such specified period of time), or any undertaking in writing in connection with the sale or lease by a manufacturer, distributor, or dealer of a motor vehicle or item of motor vehicle equipment to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking.

As explained below, we propose to require reporting of the number of repairs and/or replacements free of charge under warranties, as well as those under formal or informal extended warranties and good will. Good will includes the repair or replacement of a motor vehicle or item of motor vehicle equipment, including labor, paid for by the manufacturer, at least in part, when the repair or replacement is not covered under warranty. This can occur because the terms of the warranty have expired, or the issue is outside the terms of the warranty, for example, when the manufacturer pays or participates in voluntary Buy-Backs and Lemon Law Buy-Backs of vehicles or motor vehicle equipment.

The normal practice is for dealers to perform the repair or to provide the replacement and then to submit a claim for reimbursement to the manufacturer. Accordingly, we propose that warranty claim means ''any claim presented to a manufacturer for payment pursuant to a warranty program, extended warranty program, or good will.''

2. Reports Involving Warranty Claims

In the ANPRM, we indicated that we believed that information about warranty claims can often provide relevant information that indicates the possible existence of a safety defect. Manufacturers, however, questioned this. The Alliance and Ford indicated that the data could be used to provide a dimension for a problem, but would be unlikely to be accurate as an early warning indicator. The primary problem, as seen by light duty vehicle manufacturers, is that there is a range of reasons for warranty claims that do not necessarily imply a safety defect. As Honda put it, ''Warranty rates may be more reflective of Honda's customer satisfaction policy than an indication of product quality or failure rate.''

Most heavy duty vehicle manufacturers expressed concerns similar to those of light duty vehicle manufacturers. International Truck noted that ''a manufacturer usually identifies safety issues long before there is any indication of such problems in the warranty system.'' Several others commented on what they believed to be a lack of relationship between warranty claims and safety defects. Heavy duty vehicle purchasers, these commenters related, can choose from standard or premium warranty coverage terms, and some fleets negotiate individual coverage plans that are different from those applicable to light duty vehicles. The particular warranty terms vary from one to eight years, 100,000 miles to 1,000,000 miles, and 3250 operating hours to 18,000 operating hours.

These commenters asserted that, without knowing the warranty terms for the vehicles on which manufacturers report claim data, it would not be possible for NHTSA to interpret the data validly. Additionally, these commenters stated, because purchasers can choose their warranty coverage, they can tailor it to their expected use of the vehicle. As a result, some warranty coverage categories could show particularly high occurrences of claims as a result of use patterns rather than safety defects. While this would suggest that comparisons might not be valid in determinations whether there is a defect, it does not demonstrate that the information would have little or no use. For example, high rates or substantially increasing trends might warrant further inquiry by the agency. Without this information, the agency might not have a basis to look into the matter.

If some reporting of warranty data is required, light duty vehicle manufacturers argued that claims from foreign countries should be excluded. The reasons given by Nissan for exclusion include significantly greater complexity of reporting, the existence of a rich statistical sample due to volume and diverse operating conditions in the U.S. without additional foreign reports, different warranty periods in overseas markets, and different cultures and environments overseas. RVIA also opposed providing foreign warranty data. PACCAR suggested reporting foreign warranty information only if the components are substantially similar.

MIC suggested including warranty claims information related to major systems or components, but excluding foreign warranty data. Harley Davidson would like to exclude claims unrelated to safety or performance, such as fit, finish, or top speed.

Most equipment manufacturers opposed the reporting of warranty data; some asserted that they did not have such data and others asserted any they did have was of too poor quality to use. AAIA believes that historic data involving safety-related items that suggest potential for defects and/or recalls should be included in reporting. The major issue underlying the opposition of most equipment manufacturers appears to be that, in most cases, manufacturers of the vehicles receive warranty claims rather than the equipment manufacturers. As a result, the equipment manufacturers have limited information, much of which is considered proprietary by the vehicle manufacturers. Equipment manufacturers also repeated the data quality concerns asserted by both light and heavy duty vehicle manufacturers.

Tire manufacturers, represented by RMA, cautioned against assuming that warranty adjustments reflect tire defects. It noted that ''many dealers, as well as tire manufacturers, sometimes use warranty adjustments as a means to ''keep the customer happy,'' and therefore the adjustment is ''not necessarily a statement about product performance or an indication of product deficiency.'' It also suggested that no foreign data or data prior to the effective date of the rule should be reported. It believes that foreign data is not comparable because of differences in coverage and road conditions and would be a burden to collect because of possible availability or integration problems between foreign and U.S. data.

Advocacy groups wanted warranty claims data to be reported as part of the early warning system.

Assuming that domestic warranty claims reporting is required, there was a common view among light duty vehicle manufacturers on what categories to include or exclude. Restraint systems, brake systems, steering systems and fuel systems would be included, as well as tires. However, this does not cover numerous

components whose failure has led to safety recalls.

There was no consensus among heavy duty vehicle manufacturers on what warranty claims information should be reported. In part, the variance is a reflection of the different products the commenters manufacture. RVIA and PACCAR both named restraint systems, fuel tanks, steering systems, and axle/suspension/brake components as the most important systems on which to report (PACCAR suggested that build date of vehicles should be used in place of model year because model year is not identified in their warranty data and varies by manufacturer). TTMA focused on the components relevant to its members: axle/suspension/brake components, rear impact guards, tires, lighting and related components, king-pins and fifth wheel couplers, and pintle hooks and drawbar eyes. Fontaine suggested that only components most frequently associated with recalls, including equipment to which a FMVSS applies and defined safety-related items, should be subject to reporting.

After reviewing the comments received and assessing the value of warranty claims data to the early identification of possible safety defects, we have decided to propose to require manufacturers of 500 or more vehicles annually and all child seat and tire manufacturers to report aggregated warranty claims data from the U.S. on certain specified components and systems (as described below).

Although we agree that the evidence of even a relatively high rate of warranty claims does not necessarily indicate the existence of a defect, our experience in conducting defect investigations has demonstrated that warranty claims information often reveals a potential problem that could be related to safety. As noted above, we are limiting our proposal to require information regarding only some systems. Moreover, we would not require actual copies of warranty claims, but rather a listing of the number of such claims regarding each specified component or system in each vehicle or equipment model received by the manufacturer in each reporting period.

As with consumer complaints, manufacturers would have to maintain warranty claims, group the numbers of claims by reporting categories, and report them. Most, if not all, manufacturers maintain warranty information in computerized databases, and they have the ability to provide problem-specific warranty information under this rule, since they already do so in response to ODI's information requests during defect investigations.

L. Field Reports

As part of its defect investigations, ODI regularly requires manufacturers to provide ''field reports'' about alleged defects. These include communications received by a manufacturer from the manufacturer's technical staff, a dealer, an authorized service center, or others, regarding an alleged problem in or dissatisfaction with a product in use. They are usually prepared by someone with technical expertise. There are far fewer field reports than consumer complaints, although practices resulting in the generation of field reports vary widely among manufacturers. Field reports are not specifically mentioned in the TREAD Act, but were addressed in the ANPRM. We sought input on the appropriate definition of field report, the components or systems on which field reports would be valuable in an early warning context, information in them that should be reported to NHTSA, and manufacturers' use of them. We are proposing to require submission of information and documents about certain ''field reports'' as ''other data'' under Section 30166(m)(3)(B).

1. Definition of ''Field Report''

The ANPRM asked for comments on an appropriate definition of ''field report.'' Two broad themes cut across industry responses. First, respondents stressed the importance of clearly and precisely defining the term ''field report.'' The term has a variety of meanings, both within and across industry segments. The Alliance requested that the term be defined as technical reports by technical staff involving one or more incidents in the field involving a covered vehicle system on a vehicle that had been sold. According to other respondents, the term has numerous meanings within the medium and heavy-duty truck industry as well as among equipment manufacturers and is not well defined across the tire industry. We were told that the trailer industry, for example, does not use the term ''field reports.''

The second broad theme in the comments by manufacturers was a recommendation to limit the number and types of field reports to be reported to us. As reflected in the definition suggested above, the Alliance would limit it to certain technical reports about an incident (or several similar incidents) that are prepared by technical representatives. The Alliance would exclude unverified reports regarding customer complaints that are passed through to the manufacturer without any technical analysis. They would also exclude research reports or accident reconstruction reports prepared for local police departments or litigation. Commenters in the tire industry and the heavy trucking industry indicated that many of the communications they refer to as field reports deal with sales, marketing and customer satisfaction programs, which they would exclude.

We have concluded that the Alliance's proposed restriction of the definition to ''technical reports'' that are prepared by ''technical'' employees is not feasible. It would require a definition of ''technical'' and ''technical report'' and assessments of whether the author was a technical employee and whether the content amounted to a technical report, which could result in delays, under-reporting, and unnecessary burdens. Nonetheless, we agree that sales and marketing literature should not be included.

There was considerable discussion about whether we should require the reporting of field reports prepared by a dealer's technicians. The Alliance recommended including both types of reports in an early warning system. Some manufacturers as well as MIC, however, felt that submission of dealer reports should not be required. We believe that it is important for us to receive information about such dealer reports received by manufacturers regarding potential defects because they are a valuable source of relevant information. Indeed, they are one of the bases upon which manufacturers become aware of potential defects in their products. We therefore are proposing to require reporting of the cumulative number of field reports prepared both by manufacturers' employees or representatives and by dealers, including their employees. However, manufacturers would not have to submit copies of reports prepared by dealers or dealer employees.

We also propose to include in our definition of ''field report'' any document received by a manufacturer that was prepared by a person owning or representing one or more fleets of vehicles. For these purposes, a fleet would be defined as more than ten vehicles of the same model and model year. Such reports often contain data on multiple incidents involving vehicles used by delivery companies (e.g., FedEx, UPS), rental companies, trucking companies, police departments, and school districts. Fleet vehicles generally accumulate greater miles over a given period of time than non-commercial vehicles and therefore can serve as a valuable source of predictive information for early warning purposes.

Other definitional issues raised by commenters were whether field reports should be limited to written communication and to ''non-privileged'' documents. Reporting would be required with regard to documented communications (e.g., those in writing, entered electronically, or otherwise converted into a document in the broadest sense of the word). With respect to the issue of privilege, we recognize that a field report truly prepared in anticipation of litigation could be considered as work product, and thus ordinarily be exempt from production in litigation. We believe that the existence of any such reports should be indicated to us, even though privileged and work product documents would not have to be submitted.

Accordingly, we propose the following definition for ''field report:''

A communication in writing, including communications in electronic form, from an employee or representative of a manufacturer of motor vehicles or motor vehicle equipment, a dealer or authorized service facility of such manufacturer, or by an entity that owns or operates a fleet, to a manufacturer, regarding the failure, malfunction, lack of durability, or other performance problem of a motor vehicle or motor vehicle equipment, or any part thereof, produced by that manufacturer, regardless of whether the problem is verified or assessed to be lacking in merit.

2. Reporting of Field Reports

The ANPRM asked whether reporting of field reports should be limited to reports on systems and components that are safety-related, and whether the same systems and components should be covered as for warranty claims. The ANPRM did not identify the specific systems and components with respect to which the submission of field reports might be required.

TTMA supplied a list that included some equipment: rear impact guards, lighting and related components, king pins and fifth wheel couplers, pintle hooks and drawbar eyes. On the opposing side, ArvinMeritor felt that each manufacturer is best able to determine what components and environmental and loading factors constitute a possible risk of product failure and whether those failures are likely to pose a risk to safety. Public Citizen opposed limiting early warning programs to certain components or special lists of parts. It argued that an incremental approach is ''dangerously under-inclusive and thus out of conformance with Congressional intent under the TREAD Act.''

We do not agree that each manufacturer should be allowed to determine possible risks of product failure and whether they are likely to pose a risk to safety before reporting field report information. On the other hand, we do not agree with Public Citizen that an incremental approach under which only certain reports would have to be submitted would be ''dangerously under-inclusive,'' particularly if we require the submission of field reports on systems and components that historically have been most represented in safety defect recall campaigns.

We have tentatively decided, therefore, that manufacturers of 500 or more motor vehicles and all manufacturers of child restraint systems and tires must report the number of field reports originating in the United States regarding the same components and systems as for property damage claims, consumer complaints, and warranty claims. As with these categories of information, reporting would be done separately for each model and model year.

Consumer complaints that were merely forwarded to the manufacturer by the dealer without any comment or assessment would not have to be reported as field reports, but they would have to be reported as consumer complaints.

In addition to requiring the number of field reports by category that are prepared or received during each reporting period, we would require copies of the field reports themselves that are generated by employees or representatives of the manufacturer or by representatives of fleets of the manufacturers' vehicles. We would not require copies of reports that are prepared by dealers or their employees.

M. Customer Satisfaction Campaigns, Consumer Advisories, Recalls, or Other Activities Involving the Repair or Replacement of Motor Vehicles or Motor Vehicle Equipment

Section 30166(m)(3)(A)(ii) provides for submission of information (derived from foreign and domestic sources) that concerns ''customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment'' (we will use the term ''campaign'' at times hereafter collectively to refer to all such actions by the manufacturer). As we stated in the ANPRM, this new section is broader than 49 CFR 573.8 (2001) (which implements Section 30166(f)), which requires a manufacturer to provide copies of communications to more than one manufacturer, distributor, dealer, lessor, lessee, or purchaser regarding ''any defect'' including ''any failure or malfunction beyond normal deterioration in use, or any flaw or unintended deviation from design specifications, whether or not such defect is safety related.'' We further stated in the ANPRM that this category of information would encompass any communication to, or made available to, more than one dealer, distributor, other manufacturer, or more than one owner, whether in writing or by electronic means, relating to replacement or repair of a component, or modification of the way that a vehicle or equipment item is to be operated.

The ANPRM requested comments on whether the various campaign activities identified in the TREAD Act should be defined, and, if so, what would be appropriate definitions. Most of the comments from the light and heavy vehicle manufacturers generally argued that campaigns should be defined because the term has different meanings across industry segments. Nevertheless, only the Alliance suggested a definition (also endorsed by Ford and Nissan), which reads as follows:

Customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment shall mean those actions, other than foreign recalls or other safety campaigns as further defined [by the Alliance], undertaken or authorized by a manufacturer in which a class of affected owners of motor vehicles or items of motor vehicle equipment are notified of an offer to repair or replace the vehicle or equipment or to extend any applicable vehicle or equipment warranty.

The proposed Alliance definition does not address one of the categories of action identified in the statute: ''other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment.'' It is also too limited with respect to some of the other categories. For instance, ''customer satisfaction campaigns'' and ''consumer advisories'' need not involve repair, replacement, or extended warranties. Also, a ''consumer advisory'' could include a warning relating to the way that a vehicle is to be driven or maintained. Accordingly, it would not necessarily involve repair or replacement.

We agree with the Alliance's suggestion that foreign recall and safety campaigns, which are covered under Section 30166(l), and a new Subpart B to 49 CFR Part 579 (see the Foreign Defect NPRM at 66 FR 51907 *et seq.*), need not be separately reported under the early warning provisions.

We propose to define the phrase ''customer satisfaction campaign, consumer advisory, recall, or other activity involving the repair or replacement of motor vehicles or motor vehicle equipment,'' to mean:

> Any communication by a manufacturer to, or made available to, more than one dealer, distributor, lessor, lessee, other manufacturer, or owner, whether in writing or by electronic means, relating to (1) repair, replacement, or modification of a vehicle, component of a vehicle or item of equipment, or a component thereof (2) the manner in which a vehicle or equipment is to be maintained or operated, or (3) or advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment.

We have included communications related to operation and maintenance because they may relate to a potential defect. For example, a warning not to turn on the wipers when the windshield has snow on it may indicate a wiper defect.

The proposed definition would not include routine marketing documents or documents relating to surveys of owner satisfaction. It would include all notifications, product improvement or technical service bulletins, advisories, and other communications regarding the subject matter that are issued to, or made available to, more than one vehicle or equipment dealer, distributor, lessor, lessee, other manufacturer or owner involving any systems or components in the vehicle or equipment, not merely the specified components for which reports must be submitted regarding property damage claims, consumer complaints, warranty claims, or field reports. This would include any category of information relating to the replacement or repair of a vehicle or vehicle component, or the way a vehicle or vehicle equipment item is to be maintained or operated, whether or not there has been any determination by the manufacturer that these actions pertain to or are being undertaken because of a defect or a safety-related concern.

In our view, this requirement is similar to although somewhat broader than the notices, bulletins, and other communications that for years have been required to be submitted by 49 CFR 573.8 (2001). Under Section 573.8, a manufacturer might argue that a condition that was the subject of a communication to dealers or others did not rise to the level of a ''defect'' or ''malfunction,'' and that it therefore did not have to provide copies of such a communication to NHTSA. Under early warning reporting, it would have to provide these related notices regardless of whether a ''defect'' existed.

Nevertheless, because of these similarities, we are proposing to implement this aspect of early warning reporting by including it in the same section as current Section 573.8, which would be moved to a new Section 579.5(a). This new Section 579.5(b) would also apply to all manufacturers of vehicles and equipment, which are currently required to submit copies of similar communications to NHTSA on a monthly basis. We anticipate that there will be relatively few documents covered by this proposal that would not have been covered under Section 573.8.

In our administration of existing Section 573.8, we have noted several problems, such as the failure of a manufacturer to make monthly submissions of covered documents and disputes over what had actually been sent to us. These problems could have been avoided if the manufacturer had issued a cover letter identifying the submitted documents. Therefore, we are proposing to require a cover letter for each monthly submission of documents required to be submitted under proposed Section 579.5 that identifies each communication in the submission by name or subject matter and date.

If a communication falls within the category described in both Section 579.5(a) and Section 579.5(b), it would only have to be submitted once.

Finally, the ANPRM sought comments on whether we should require manufacturers to provide additional information regarding the facts and analysis that led to the decision to conduct the campaigns. Many of the commenters opposed a requirement of this nature, feeling that requiring the routine submission of background information regarding the facts and analysis that led to campaigns would be extremely burdensome. On the other hand, both CU and Advocates contended that NHTSA should receive information regarding the facts and analysis that led to the manufacturer's decision to initiate the campaign.

The general consensus of manufacturers was that NHTSA should review all covered communications, including service bulletins that the agency currently receives under Section 573.8, and then decide whether to request additional facts and analysis on a case-by-case basis. This is what we currently do with respect to communications received under Section 573.8. Certain communications suggest a potential safety issue which requires clarification. ODI then contacts the manufacturer to obtain additional information, as appropriate. We plan to proceed in the same manner with respect to these submissions, except that we would require each submission to be accompanied by a cover letter identifying each communication that is part of the submission and the date of the communication.

N. Components, Systems and Fires To Be Included in Reports

We considered requiring manufacturers to provide us with the number of property damage claims, consumer complaints, warranty claims and field reports that are associated with all systems and components of a vehicle or item of equipment. We decided against doing so, because this approach could generate large volumes of information that, we believe, would not be particularly useful. Instead, NHTSA has attempted to identify, for each category of vehicle, for child restraint systems, and for tires, those systems and components whose failures are most likely to lead to safety recalls. These are the systems and components on which it is most important that we obtain timely information regarding failures, as compared to failures that are not related to safety or those that rarely, if ever, lead to safety recalls. Our goal was to select those systems and components which capture the vast majority of safety recalls. In identifying these vehicle systems and components, we requested the Volpe National Transportation Systems Center (Volpe) to conduct an analysis of past defect recalls. For each category of vehicle, Volpe looked at, among others, the total number of defect recalls associated with various specific systems and components, the number of vehicles covered by those recalls, the number of recalls influenced by ODI investigations, and the number of recalled vehicles influenced by ODI investigations.

The study provided information on different components and systems implicated in recalls for light vehicles, medium-heavy vehicles, buses, motorcycles, and trailers. A copy of the study, which includes a description of the methodology, is in the docket. The underlying data are in NHTSA's DIMS II data base which can be searched by the public through the NHTSA website. The components and systems are identified below as part of the discussion on reporting requirements.

For light vehicles, we propose to require manufacturers to separately report the number of problems/incidents related to steering, suspension, service brakes, parking brakes, engine and engine cooling system, fuel system integrity, power train, electrical system, lighting, visual

systems, climate control system including defroster, airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), seat belts (including anchorages and other related components), structure (other than latches), seats, engine speed control including throttle and cruise control, integrated child restraint systems, latches (door, hood, hatch), tires, wheels, trailer hitches and related attachments, and the number of incidents in which there was a fire. For incidents of death and injury only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice, the incident would be included, and ''other'' would be specified. Figures 2 and 3, below, represent pro-forma examples of how a manufacturer of light vehicles would report incidents involving deaths and injuries and warranty claims, using electronic spreadsheets.

Incidents Involving Deaths and/or Injuries Based on Claims and Notices

LIGHT VEHICLES
Reporting Period:
Manufacturer:

Make	Model	Model year	Incident date	Number of deaths	Number of injuries (U.S. only)	State or foreign country	Involved systems or components (see below)

Involved Systems or Components:
01 Steering
02 Suspension
03 Service Brakes
04 Parking Brakes
05 Engine Speed Control Including Throttle and Cruise Control
06 Air Bags
07 Seat Belts
08 Integrated Child Restraint Systems
09 Latches—Doors, Hoods, Hatches
10 Tires
11 Fuel System Integrity
12 Power Train
13 Electrical System
14 Engine and Engine Cooling System
15 Structure (other than Latches)
16 Visual Systems
17 Seats
18 Lighting
19 Wheels
20 Climate Control System Including Defroster
21 Trailer Hitches and Related Attachments
22 Fire
99 Other

Fig. 2

Warranty Claims

Light Vehicles
Manufacturer:
Reporting Period:

Make	Model	Model year	Number of reports																					
			Steering	Suspension	Service brakes	Parking brakes	Engine	Fuel system	Power train	Electrical	Lighting	Visual	Climate control	Seat belts	Air bags	Structure	Seats	Engine speed controls	Integrated child restraints	Latches	Tires	Wheels	Hitches	Fires
		2003																						
		2002																						
		2001																						
		2000																						
		1999																						
		1998																						
		1997																						

Note: Make, model, and model year data will be coded in a way to relate it to data in the products table shown in Figure 1. Reports must be broken out for each subgroup, by fuel system type and brake system type for each subgroup where more than one brake or fuel system was produced in a given make, model, and model year product line.

Figure 3

We have placed in the docket copies of pro-forma spreadsheets for other types of numerical reporting, such as property damage claims, and request comments on the appropriateness and utility of this format. We have also proposed definitions for many of the systems and components for which reporting would be required, such as suspension, vehicle speed control, and latches. While we believe that these definitions are straight forward and self-explanatory, we request comments on their accuracy and completeness.

For medium-heavy vehicles, we propose to require manufacturers to separately report the number of problems/incidents relating to steering, suspension, service brakes, parking brake, engine and engine cooling system, fuel system integrity, power train, electrical system, lighting, visual systems, climate control system including defroster, airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), seat belts including anchorages and other related components, structure (other than latches), seats, engine speed control including cruise control, latches (door, hood, hatch), tires, wheels, trailer hitches and related attachments, engine exhaust system, the number of incidents in which there was a fire, and, for incidents of death only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

For buses/school buses, we propose to require manufacturers to separately report the number of problems/incidents relating to steering, suspension, service brakes, parking brake, engine and engine cooling system, fuel system integrity, power train, electrical system, lighting/horn/alarms, visual systems, climate control system including defroster, airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), seat belts including anchorages and other related components, structure (other than latches), seats, engine speed control including throttle and cruise control, latches (door, hood, hatch), tires, wheels, trailer hitches and related attachments, engine exhaust systems, the number of incidents in which there was a fire, and, for incidents of death only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

For trailers, we propose to require manufacturers to separately report the number of problems/incidents relating to suspension, service brakes, parking brakes, electrical system, lighting/horns/alarms, climate control systems (including fuel systems in camping/travel trailers), structure (other than latches), latches, tires, wheels, trailer hitches and related attachments, the number of incidents in which there was a fire, and, for incidents of death only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

For motorcycles, we propose to require manufacturers to separately report the number of problems/incidents relating to steering, suspension, service brakes, engine and engine cooling system, fuel system integrity, powertrain, electrical system, lighting, structure, engine speed control (including throttle and cruise control), wheels, tires, the number of incidents in which there was a fire, and, for incidents of death only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice

ODI did not ask Volpe to analyze recalls of child restraint systems. Rather, ODI separately reviewed those recalls to identify the components whose failures have led to most of the recalls. Based on this review, which has been placed in the docket, we propose to require manufacturers to separately report the number of problems/incidents relating to the buckle and restraint harness, handle, shell, and base.

With respect to tires, we are proposing to follow the suggestions of the Rubber Manufacturers Association (RMA) in its comments. Fatality and injury reporting would include the information required of manufacturers of other products, and would also include the damage claimed, the vehicle manufacturer, the vehicle make, model and model year, the tire size, ''the tire line,'' and the DOT identification code for the tire. In addition, under RMA's suggestions shown in Attachment B to Comment NHTSA 2001–8677–15, warranty and property damage claim data would be provided for each applicable ''tire size, tire line, SKU, serial code, Mfg. Plant, OE/Repl, OE Vehicle & Year.'' (We specifically request RMA to provide their comments on appropriate definitions of the terms ''bead,'' ''common green,'' ''tire line,'' ''sidewall,'' ''SKU,'' and ''serial code''.) For each year of production, the manufacturer would provide the number of tires produced under warranty and the total number of tires produced, the number of adjustments, the warranty adjustment rate, the number of property damage claims, and the property damage claims rate.

For property damage and warranty adjustments, we propose to require manufacturers to separately report the number of problems/incidents relating to tread, sidewall, and bead. For incidents involving death, if another component is allegedly involved, or if the component is not specified in the claim, the incident would still have to be reported.

Each tire manufacturer would also have to include information regarding ''common green tires'' with respect to each applicable tire model.

Consistent with the approach taken in connection with the Uniform Tire Quality Grading Standard, 49 CFR 575.104, we are not proposing to require reporting of warranty adjustment, property damage claims, and field reports with respect to tires for which total annual production of the same design and size is 15,000 or less. This would include retreaded tires as well, and may have the practical effect of excluding most, if not all, retreaded tire manufacturers from all reporting requirements except for reports of incidents involving death.

O. One-time Reporting of Information on Certain Information Received From January 1, 2000 to December 31, 2002, on 1994–2003 Model Year Vehicles, and on Child Restraints and Tires Manufactured on or After January 1, 1998

As early warning reporting begins, receipt by NHTSA of information from the first several reporting periods would not provide sufficient information to allow us to identify potential safety defects unless we could compare it to similar information about earlier periods. Without this historical information, we would not be able to identify potential defect trends or make comparisons. For example, data indicating that a particular component in a particular model/model year vehicle was the subject of six property damage claims in the third year after the model was introduced would be more relevant if we knew the claims history of similar models in recent years. To assure that the data are useful from the onset of reporting, we must ''seed'' our data base with historical data rather than merely letting it accumulate from the effective date of the final rule. Therefore, we are proposing that, no later than the date that a manufacturer must submit its first reports under the final rule, expected to be April 30, 2003, each manufacturer would also submit, on a one-time basis, corresponding reports reflecting the same information required by paragraphs (a) and (c) in each of proposed Sections 579.21

through 579.27, as applicable, providing information on the numbers of property damage claims, consumer complaints, warranty claims, and field reports that it received in each calendar quarter from January 1, 2000, to December 31, 2002, for each model and model year vehicle manufactured in model years 1994 through 2003, for child restraint systems manufactured on or after January 1, 1998, and for tires manufactured on or after January 1, 1998. Each report would identify the alleged system or component related to the claim, incident, etc., as would the reports for the current reporting period. We would not require such historical information on claims for deaths and injuries because we do not expect information of this type to indicate trends in potential defects to the same extent as warranty claims or property damage claims may.

We request comment on whether the time frame for the proposal is appropriate, and whether we should exclude historical data for deaths and injuries.

V. Information That We Would Not Require at This Time

The ANPRM requested comments on whether we should require reporting on a number of additional types of information that could help us to promptly identify possible defects. However, given the fact that a final rule must be published in less than eight months from the publication date of this notice, and in recognition of the potential burdens on manufacturers to develop information systems capable of retaining and reporting information to us, we have attempted to minimize these burdens to the extent possible. Moreover, we have concentrated our efforts on identifying the types of information noted in the statute or for which most manufacturers currently maintain records, such as customer complaints and warranty claim data.

A. Internal Investigations and Design Changes in Parts and Components

We received a number of comments on the questions we asked regarding manufacturers' internal investigations of possible safety-related defects. Manufacturers generally called attention to the semantic difficulties in determining when an investigation had been commenced and the alleged chilling effect a reporting requirement might have on such investigations. For the present, we have decided not to seek this type of information, but we may give further consideration to this issue in future rulemaking relating to early warning reporting.

We also asked for comments on requiring reporting of changes in the design or construction of parts. Many commenters felt that this would be burdensome due to the sheer number of changes, few of which relate to safety. We are deferring any consideration of requiring reports of parts changes.

B. Most Activities and Events in Foreign Countries

As noted above, at this time we are proposing to require manufacturers to report to us information on claims regarding foreign deaths (and on foreign campaigns under Section 30166(l)), involving substantially similar motor vehicles and equipment. We may decide to propose reporting of additional information regarding foreign activities and incidents in a future rulemaking.

VI. When Information Would Be Reported

Section 30166(m)(3)(A) and (B) state that the information covered by those paragraphs shall be reported ''periodically or upon request'' by NHTSA. Section 30166(m)(3)(C) states that the information covered by that paragraph shall be reported ''in such manner as [NHTSA] establishes by regulation.'' The ANPRM discussed several possibilities.

A. Periodically

The statute authorizes us to require periodic reporting of information related to the early warning of defects. In the ANPRM, we posited reporting on bases of ''information-as-received,'' monthly, and quarterly, depending upon our perception of the gravity of the information involved (e.g., we suggested the possibility that information about deaths allegedly caused by safety defects might justify a more frequent period of reporting than other types of information).

Commenters generally objected to reporting information ''as received.'' There was no objection to reporting on a quarterly basis, the same as is required for defect campaign reporting under 49 CFR 573.6.

On balance, we have concluded that, with respect to statistical reports, an ''as received'' or even monthly basis would impose too great a burden and would be unlikely to provide significant timeliness benefits. A quarterly reporting period would appear to be more appropriate. However, we request comments on whether we should require reporting six times per year. Finally, the burden upon manufacturers would be lessened if a common reporting date were adopted for the submission of all statistical early warning information that we will require ''periodically.''

We are proposing that all information, as well as copies of relevant field reports, be submitted to us not later than the 30th day of the calendar month following the end of the reporting period. We believe that 30 days will be sufficient to compile this information, but we request comments on whether a shorter or longer period would be appropriate. We also propose that all communications that would be required by Section 579.5 (those presently required by 49 CFR 573.8 and those that would be covered by the early warning rule, i.e., communications relating to a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or equipment) be submitted to us monthly, within 5 working days of the end of the month, as is presently required for submissions under Section 573.8.

B. Upon NHTSA's Request

The TREAD Act also requires all manufacturers to provide information within the scope of the early warning provision when we request it. Such a requirement complements our pre-TREAD authority to request safety-related information as part of our investigations. Under this new authority, the information need not relate to an investigation; it need only be of such a nature that it may assist us in the identification of safety-related defects. Thus, we plan to follow up with manufacturers to obtain additional information if the information in the periodic reports suggests that there may be a possible problem. Such inquiries need not be characterized as formal defect investigations. Rather, they would be part of the agency's screening process under which it decides whether to open a defect investigation into particular matters.

VII. The Manner and Form in Which Information Would Be Reported

Section 30166(m)(4)(A) (iii) requires us to specify ''the manner and form of reporting [early warning] information including in electronic form.''

Before the ANPRM, we had a limited amount of knowledge about information that manufacturers receive regarding certain types of incidents and activities in the United States, in what form it is received, and how, if at all, they route, code, maintain, and review the information. It seemed likely to us that the types of information to be reported would be kept in a variety of manufacturer computer systems and formats, at least for major and mid-sized

manufacturers. Some manufacturers might use different computer systems for different types of information, and some might not be computerized at all. We noted that to be able to use most of the early warning information efficiently, we would have to maintain it in computer systems that can read and incorporate the information into a standardized set of data fields, definitions, and codes.

In the ANPRM, we discussed the possibility of establishing levels below which manufacturers would not be required to report to us, citing the practice of the California Air Resources Board in establishing a ''trigger'' of a percentage of returned emissions system components. Upon reflection, we have concluded that determining appropriate triggers is not possible at this time. We lack a basis for establishing triggers, and it would be unduly complicated to determine a dividing line. Companies have different practices with respect to warranty programs, field reports, and other information items. The comments did not give us sufficient information to establish appropriate dividing lines. We believe that the solution we propose, the submission of the numbers of activities or incidents, will provide us with more usable information and obviate the need for a manufacturer to calculate rates based upon production figures that change from one reporting period to the next.

In the ANPRM, we discussed the possibility of using spreadsheets in a specified format with separate reports of the numbers of various categories of information (e.g., claims/notices of deaths and injuries, consumer complaints, warranty claims, field reports) along with other information (such as production volumes) by make, model, model year, and by component (we would specify which components). We would then be able to utilize a computer to identify aggregate numbers, rates (using production data which would be submitted), or unusual trends in each of these categories. This would obviate the need for manufacturers to provide us with their warranty or claims codes or to make significant revisions to their current coding procedures.

NHTSA is considering several alternative methods for manufacturers' to submit their periodic reports. As described elsewhere, aggregate data would be required from some manufacturers. These data would be formatted in either a Microsoft Excel spreadsheet, or in a form readily importable into an Excel spreadsheet, using the then-current version of Excel. NHTSA would establish a link on its web site to a data repository suitable for containing these data. Manufacturers would be able to use that link to ''push'' their file to the NHTSA site. Upon receipt of the data, an acknowledgement would be returned to the submitter, noting the date and time of the submission.

For data files smaller than the size limit of the DOT Internet e-mail server, currently set at 5 MB [megabyte], manufacturers could submit their data as an attachment to an e-mail message. NHTSA would establish an e-mail address to receive these submissions. The e-mail system would provide a return receipt. There is, however, increased risk that this method would not result in the data actually arriving at the appropriate office in NHTSA, since e-mail servers are often unreliable in handling of large attachments, both within DOT and, possibly, within the manufacturers' own systems. We believe that the preferred method, based on ease of use and reliability, would be the web site link described above.

NHTSA would also accept the data on a CD-ROM, mailed to the Office of Defects Investigation via certified mail with the postal service return receipt.

For small manufacturers, which only need to submit minimal amounts of data, we are considering establishing an interactive form on our web site that could be filled out by manual data entry by the submitter. It is anticipated that this method will require completing a form for each make, model, and model year of a product that was involved in a fatal incident.

Paper documents, computer printouts, or similar non-electronic submissions of the required aggregate data would not be acceptable.

With respect to copies of communications submitted under proposed Section 579.5 and copies of manufacturer and fleet field reports, we would prefer receiving the documents in electronic form using any state of the art graphic compression protocol available, through any of the first three methods described above. However, we would also accept paper copies of those documents mailed to ODI.

Submitting manufacturers would have to provide ODI with the name and contact information (phone number, address, e-mail address, etc.) of a technical IT (information technology) point-of-contact person who will be responsible for resolving issues with data submissions as they come up from time to time.

We are willing to consider other methods for delivery of the data, and we invite comment on the feasibility of these suggestions, and any other proposed methods.

After the final rule is published but before the first reporting period, NHTSA will conduct a public meeting at the DOT headquarters in Washington to discuss implementation of the data transmission methods. Interested persons, particularly the manufacturers' IT staff members, will be invited to discuss technical issues in an open forum to resolve any issues regarding the technical issues related to the submission of data.

There would be six reports for manufacturers of 500 and more vehicles, representing: (1) production information, (2) incidents involving deaths and injuries identified in claims and notices, (3) property damage claims, (4) consumer complaints, (5) warranty claims data, and (6) field reports. We have previously discussed the information content for Category (2) in Section IV.D.4 above, and for the other categories in Section IV.N above.

We would not require manufacturers to submit the actual documents constituting claims and notices involving death or injuries, property damage claims, warranty claims, consumer complaints, or dealer field reports. Manufacturers would have to retain each such claim, report, etc., for a period of five calendar years from the date the manufacturer acquires it, but would not have to retain it after the calendar year is or becomes ten years greater than the model year of the motor vehicle that is the subject of the document. For example, if on July 1, 2002, a manufacturer were to receive two consumer complaints relating to 1996 and 1999 model year automobiles, the manufacturer would have to retain the complaint on the MY1999 automobile until July 1, 2007. However, it would only have to keep the complaint about the MY1996 automobile until the beginning of the 2006 model year, even though less than five years had passed. (For purposes of this provision only, and to avoid any uncertainty, we will construe the model year as beginning on September 1 of the preceding year).

While this proposal would not require manufacturers to maintain records in electronic recordkeeping systems, we believe that the burdens associated with the proposed reporting requirements would be significantly reduced if manufacturers maintained data and records in searchable electronic systems. We again seek comments on the nature of manufacturers' recordkeeping systems for data and documents related to early warning reporting and as to the feasibility of various ways of searching their systems for relevant information.

VIII. How NHTSA Plans To Handle and Utilize Early Warning Information

A. Review and Use of Information

Section 30166(m)(4)(A)(i) and (ii) require that our early warning rule specify how the information reported to us will be used. Those paragraphs provide:

> (A) [NHTSA's] specifications. In requiring the reporting of any information requested by [NHTSA] under this subsection, [NHTSA] shall specify in the final rule * * *
>
> (i) how [early warning] information will be reviewed and utilized to assist in the identification of defects related to motor vehicle safety; [and]
>
> (ii) the systems and processes [that NHTSA] will employ or establish to review and utilize such information.

In the Alliance's view, under Section 30166(m), NHTSA ''cannot compel the reporting of information unless it will 'assist in the identification of defects related to motor vehicle safety.''' This provision ''is a substantive limitation on NHTSA's new information gathering powers, and therefore one that cannot be made absent notice and an opportunity for public comment on the agency's tentative conclusions.'' For this reason, the Alliance believes that NHTSA should explain as part of this NPRM ''how it will review and use any information it proposes to require 'to assist in the identification of effects related to motor vehicle safety,' and allow public comment on that explanation.''

We do not agree with the Alliance's assertion, since these provisions relate to internal NHTSA matters and are not ordinarily required by the Administrative Procedure Act to be adopted pursuant to notice and comment rulemaking procedures. Nevertheless, we sought, and continue to seek, public comment on ways to improve our collection, review, and analysis of information and data with the new reporting tools that Congress has given us.

We stated in the ANPRM that we would specifically address the matters covered by subparagraphs (i) and (ii) above. We originally thought that we would do this through amendments to 49 CFR Part 554, *Standards Enforcement and Defects Investigation* (one purpose of which is to inform the public of the procedures we follow in investigating possible safety-related defects). Upon review, however, we have concluded that Part 554 covers agency enforcement investigations and actions, and does not relate to material of the nature that would be reported to the agency under early warning reporting (we shall refer to this as ''pre-investigation'' information or materials). Therefore, we are not proposing amendments to that regulation.

Rather, we will comply with the statutory provision by explaining in this document that we intend to consider pre-investigation information received under Section 30166(m) in the same manner as we currently treat other information that is now available to us about possible safety defects, such as consumer complaints to NHTSA and documents received from manufacturers under 49 CFR 573.8. That is to say, we will review the available data and information to determine whether potentially problematic trends are developing in the vehicles, equipment items, components, and systems for which information has been provided. As noted earlier, if we identify matters that might possibly suggest the existence of a safety defect, we plan to seek additional clarifying information from the manufacturer in question, and from other sources, to help us to decide whether to open a formal defect investigation. If we decide to change this approach, we will discuss any such changes in the final rule to be issued in 2002.

We are in the process of developing an enhanced data warehouse and data processing system called ARTEMIS—Advanced Retrieval (Tire, Equipment, Motor vehicles) Information System. ARTEMIS will provide for centralized storage of information, include a document management system, use data analysis tools, allow access to electronic information such as NASS and FARS, and facilitate the provision of appropriate information to the public. We expect to have a fully functional system by the summer of 2002, although modifications may be made throughout the remainder of 2002 in preparation for the receipt of early warning information beginning in early 2003.

B. Information in the Possession of the Manufacturer

Section 30166(m)(4)(B) provides as follows:

> (B) Information in possession of manufacturer.—The [early warning] regulations may not require a manufacturer of a motor vehicle or motor vehicle equipment to maintain or submit records respecting information not in the possession of the manufacturer.

The information that we are proposing to require manufacturers to submit to us is in their possession, or will be under the recordkeeping requirements that we plan to adopt. For example, if a manufacturer does not have ''possession'' of a claim or a complaint or a field report, it obviously cannot (and would not have to) report to us about such a document. However, we want to emphasize that we will not tolerate any attempts by manufacturers to utilize this provision to avoid reporting by improperly failing to obtain, maintain, and retain relevant records.

For many years, pursuant to 49 CFR Part 576, *Record Retention*, we have required manufacturers of motor vehicles to retain for a period of five years from the date of generation or acquisition ''complaints, reports, and other records concerning motor vehicle malfunctions that may be related to motor vehicle safety'' (49 CFR 576.1). These are described with great specificity in 49 CFR 576.6:

> Records to be maintained by manufacturers * * * include all documentary materials, films, tapes, and other information-storing media that contain information concerning malfunctions that may be related to motor vehicle safety. Such records include, but are not limited to, communications from vehicle users and memoranda of user complaints; reports and other documents, including material generated or communicated by computer, telefax or other electronic means, that are related to work performed under or claims made under warranties; service reports or similar documents, including electronic transmissions; from dealers or manufacturer's field personnel; and any lists, compilations, analyses, or discussions of such malfunctions contained in internal or external correspondence of the manufacturer, including communications transmitted electronically.

Section 576.8 sets forth the meaning of ''malfunctions that may be related to motor vehicle safety,'' which include with respect to a motor vehicle:

> * * * any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications, that could in any reasonably foreseeable manner be a causative factor in, or aggravate, an accident or an injury to a person.

Thus, manufacturers of motor vehicles, by virtue of complying with Part 576, already have in their possession the types of information that would have to be reported under this rule.[2]

As we stated in the ANPRM, we interpret ''possession'' as meaning not only information in the actual possession of a manufacturer's employees or in its proprietary databases, but also constructive possession and ultimate control of information, such as information in the possession of affiliates or subsidiaries in

[2] NHTSA is proposing in this document to require similar retention of records by manufacturers of motor vehicle equipment, as well as a longer period for retention. See discussion below.

foreign countries, or information possessed by outside counsel or consultants. Thus, manufacturers would have to report claims to us that may be in the form of lawsuits filed with attorneys outside the company who are representing the manufacturer. This may require a manufacturer to periodically consult with its counsel and foreign affiliates to ensure that reports are accurate.

C. Disclosure

The TREAD Act does not affect the right of a manufacturer to request confidential treatment for information that it submits to NHTSA. The rules that pertain to such requests can be found in 49 CFR Part 512, *Confidential Business Information*.

Specifically, as provided in Part 512, manufacturers that submit information claimed to be confidential should identify the particular portions of their submission for which they claim confidentiality and they should stamp or mark the word ''confidential'' or some other term that clearly indicates the presence of information claimed to be confidential, on the top of each page that contains information claimed to be confidential.

In addition, submitters of information claimed to be confidential should include with their submissions a certification stating that the manufacturer (or its agents) have made a diligent inquiry to ascertain that the submitted information has not been disclosed or otherwise been made public and should also include information supporting their claim for confidential treatment. The supporting information should, among other things, inform the agency of the period of time for which confidential treatment is being requested and describe the particular harm that would result from disclosure.

In accordance with Part 512, requests for confidential treatment should be submitted in a separate enclosure marked confidential to the Office of Chief Counsel, NCC–30, 400 Seventh Street SW., Washington, DC 20590. In addition, at least one complete copy of the submission (including the portions that contain information claimed to be confidential) and also at least one copy of a public version of the submission (from which portions claimed to be confidential have been redacted) should be submitted directly to the office that requested that information. Information submitted to the agency by a manufacturer pursuant to its obligations under the TREAD Act and the agency's implementing regulations will be entitled to confidential treatment if its disclosure would be likely to result in competitive harm to the submitter of the information, in accordance with 5 U.S.C. 552(b)(4) and *National Parks & Conservation Ass'n* v. *Morton*, 498 F.2d 765 (D.C. Cir. 1974). (Since the submission of the information is compelled by the agency, the alternative criteria for voluntarily submitted information described in *Critical Mass Energy Project* v. *NRC*, 975 F.2d 871 (D.C. Cir. 1992), (*en banc*), *cert denied*, 507 U.S. 984 (1994), would not apply.)

It is expected that the types of information that manufacturers would be required to submit to the agency under this NPRM would include information about claims and notices that allege death or injury; numbers of property damage claims, consumer complaints, warranty claims, and field reports. They would also have to submit documents related to customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or equipment, as well as certain field reports. Historically, these types of information generally have not been considered by the agency to be entitled to confidential treatment, unless the disclosure of the information would reveal other proprietary business information, such as confidential production figures, product plans, designs, specifications, or costs. See 49 CFR Part 512, Appendix B. Light vehicle production information is generally not confidential, unlike production data on child restraint systems and tires.

Accordingly, the agency does not expect to receive many requests for confidential treatment for submissions under the early warning reporting requirements of the TREAD Act. However, if a manufacturer believes that any portion of materials submitted to the agency should be treated confidentially, the manufacturer should request confidential treatment for the information, in accordance with Part 512.

Some of the materials that manufacturers would be required to submit to the agency under this NPRM, such as field reports and supplemental reports about claims and notices of deaths, may contain personal information regarding individuals. Such personal information might include names, addresses, telephone numbers, driver license, credit card or social security numbers; or medical information. One issue presented by this rulemaking is how will the privacy of individuals be protected. In particular, the agency seeks comment on whether the manufacturer should submit only redacted versions of required field reports, or some alternative.

D. The Proposed Requirements Are Not Unduly Burdensome

Section 30166(m)(4)(D), Burdensome requirements, requires that the final rule:

> shall not impose requirements unduly burdensome to a manufacturer or a motor vehicle or motor vehicle equipment, taking into account the manufacturer's cost of complying with such requirements and [NHTSA's] ability to use the information sought in a meaningful manner to assist in the identification of defects related to motor vehicle safety.

The ANPRM gave manufacturers a general idea of the types of data and information that they may be required to submit under a final rule. This allowed them to make a tentative assessment of the burdens that an early warning reporting rule may entail. Some manufacturers and other commenters addressed these issues. There is a fuller discussion in the agency's Preliminary Regulatory Evaluation (PRE) of estimated costs to manufacturers which has been placed in the docket. We have taken these comments into consideration in formulating a proposed rule. This will allow manufacturers to make a more accurate assessment of potential compliance burdens and to identify them with specificity. The agency has tried to reduce the burden to the extent possible while still fulfilling the intent of the TREAD Act.

In our view, there is unlikely to be a significant burden associated with the actual *reporting* of information. Rather, the burden on each manufacturer will depend on the extent to which that manufacturer must revise and/or supplement its current information management and retention systems. Most major manufacturers already have a log or database of information about each of the categories for which early warning reporting would be required that is comprehensive and regularly updated. In this case, the burden associated with the rule would not be substantial. At most, such manufacturers would have to add several data elements, such as the identification of components involved in claims and a process for dealing with foreign claims related to deaths.

If a manufacturer does not already have logs or databases that include relevant categories of information, it would have to develop one or more systems to review, retrieve, organize and log the information it receives. It may also have to utilize manual systems and retrieve information from files.

The PRE estimates the number of claims, warranty claims, customer complaints, field reports, etc. for each of the following groups of manufacturers: light vehicles, medium and heavy trucks, buses, trailers, motorcycles, tires, and child restraint systems. It estimates the costs of setting up computer systems to handle the reporting requirements and the types of skills and labor hours needed to provide the proposed information. For example, for light vehicle manufacturers, the PRE estimates the first year start-up costs will be over $1.6 million and that recurring annual costs will be over $1 million. Similar estimates are made for each of the other groups of manufacturers. Cumulative costs for the other groups are significantly higher, since they include many more manufacturers, and many of those manufacturers are not as computerized today as the light vehicle manufacturers. The total start-up costs for all affected industries is estimated to be about $18 million, while recurring annual costs will be about $6 million.

We eliminated reporting requirements that could potentially create significant burdens when we thought that the information that would have been provided would not substantially improve our ability to detect potential defects in a timely manner. We have significantly reduced the burden on manufacturers of vehicles and equipment from the levels that could have been required under the TREAD Act, at least for this phase of rulemaking. First, other than requiring reports about incidents involving deaths based on claims and notices, which do not need to be maintained in a complex computer system, and campaign documents, we have decided not to require small vehicle manufacturers, original equipment manufacturers and replacement equipment manufacturers (other than manufacturers of child restraint systems and tires), to submit periodic early warning reports. Second, we have decided not to require at this time any information about incidents that occur in foreign countries except for those based on claims involving deaths. We believe there would be problems in collecting data, categorizing it by component or system, translating it, and deciding if it related to vehicles or equipment that were similar to vehicles and equipment in the United States. We believe the costs of doing so might be up to ten times the cost of supplying similar information from the United States.

We also considered requiring information for all systems and components of a vehicle, instead of those specified in Section IV.N above. We believe that the reduced number of components on which reporting is required will reduce reporting costs.

With respect to field reports, we also considered whether to require a hard copy of all reports by fleets, manufacturers, and dealers. After the Alliance estimated that there are about two million dealer field reports per year (on all subjects), we decided not to require copies of dealer reports.

E. Periodic Review

Under section 30166(m)(5), NHTSA must specify in the final rule ''procedures for the periodic review and update of such rule.'' Once a final early warning rule is developed and issued, we anticipate that our experience will indicate areas where the regulation ought to be amended, to add or delete information required, and to modify our information-gathering procedures. We would then make internal adjustments where called for, or propose appropriate modifications to the final rule. This would be an on-going process of evaluation. We plan to commence the initial review of the rule within one year after the initial reports are received. Subsequently, we plan to review our defect information-gathering procedures at least once every four years.

IX. Proposed Extension of Recordkeeping Requirements To Include Manufacturers of Child Restraint Systems and Tires

Our principal record keeping regulation is 49 CFR Part 576, *Record Retention.* The current regulation applies only to motor vehicle manufacturers and requires them to keep certain records for a period of five years.

A colloquy on the floor of the House with respect to Section 30166(m)(4)(B) addressed the need to preserve relevant records to assure that the goals of the TREAD Act are achieved:

> Mr. Markey: Concern has been expressed that this provision not become a loophole for unscrupulous manufacturers who might be willing to destroy a record in order to demonstrate that it is no longer in its possession. Would [Mr. Tauzin] agree that it is in [NHTSA's] discretion to require a manufacturer to maintain records that are in fact in the manufacturer's possession and that it would be a violation of such a requirement to destroy such a record?
>
> Mr. Tauzin: The gentleman is again correct.

As we discussed in Section VIII above, we are proposing to amend Part 576 to assure that documents covered by the early warning regulation are kept for an appropriate length of time after a manufacturer acquires or generates them.

Part 576 currently applies only to vehicle manufacturers, while the TREAD Act covers manufacturers of motor vehicle equipment as well. We propose to extend the applicability of Part 576 to those equipment manufacturers from whom we would require full reporting, i.e., manufacturers of child restraint systems and of tires. We ask for comments on whether record retention requirements should also be expanded to include manufacturers of replacement equipment other than child restraint systems and tires and manufacturers of original equipment.

Until the TREAD Act, the requirement that a remedy for safety defects and noncompliances be provided without charge did not apply if a vehicle or child restraint system was bought by the first purchaser more than eight calendar years, or a tire, including an original equipment tire, was bought by the first purchaser more than three calendar years, before the determination that a defect or noncompliance existed. (Section 30120(g)(1)). Section 4 of the TREAD Act amended Section 30120(g)(1) to extend the free remedy period to ten years for vehicles and most replacement equipment including child restraint systems, and to five years for tires.

Currently, 49 CFR 576.5 requires manufacturers of motor vehicles to retain the records specified in 49 CFR 576.6 for a period of five years from the date they were acquired or generated by the manufacturer. The purpose of Part 576 is:

> * * * to preserve records that are needed for the proper investigation, and adjudication or other disposition, of possible defects related to motor vehicle safety and instances of nonconformity to the motor vehicle safety standards and associated regulations (49 CFR 576.2)).

To effectuate this purpose, we believe that records that may be pertinent to possible defects and noncompliances should be retained by a manufacturer of motor vehicles for the period during which the manufacturer is required to provide a remedy without charge. Thus, we are proposing amending Section 576.5 to extend the record retention period from five years to ten years for the records specified in Section 576.6. Given that manufacturers of child restraint systems and tires are also required by statute to remedy defects and noncompliances without charge, and that they are also covered by the TREAD Act's early warning reporting requirements, we have tentatively decided that manufacturers of child

restraint systems and tires should be required to retain records for ten and five years, respectively.

We find the same justification for including manufacturers of child restraint systems and tires that we did in our original proposal of August 20, 1974, to adopt Part 576 (which was limited to vehicle manufacturers):

> Typically, the manufacturer is the main recipient of complaints of malfunctions by the vehicle [or equipment] owner. Many reports of malfunctions are processed through channels for the administration of vehicle [or equipment] warranties by manufacturers and their dealers. Manufacturers' field service representatives may also serve as collection points for information of this nature. It is to be expected that manufacturers compile analyses and lists of malfunction reports, with a view toward * * * the remedying of safety-related defects. Since some defects are not revealed as such until months or years after the vehicle's [or equipment's] manufacture, a determination by NHTSA of the proper disposition of a possible defect * * * may be seriously hindered if manufacturers do not retain these records (39 FR 30048).

We note that in 1995 we amended 49 CFR 576.5 to extend the record retention period from five years from receipt of the information to eight years from the last date of the model year in which the vehicle to which the record relates was produced, in order to make it congruent with the period for free remedy. However, we received a number of petitions for reconsideration of the amendment, rescinded it, and, on January 4, 1996, reinstated the previous period of five years. In doing so, we noted (61 FR 274 at 276):

> The primary reason for this decision is the time and cost burdens that the amendment would have placed upon vehicle manufacturers. Several manufacturers stated that it would be highly costly and extremely time consuming to change their computerized record keeping systems to comply with the new record retention requirements. The agency has concluded that the safety benefit that would be derived from revising the record retention period requirements would be far outweighed by costs and other burdens on resources that would be incurred by manufacturers in order to make the change.

The agency believes that costs of data retention technology on a unit storage basis in electronic format have decreased since 1996, and, therefore, that the cost of record keeping systems would be acceptable in light of the TREAD Act provisions.

Currently, Section 576.6 includes as records to be kept ''communications from vehicle users and memoranda of user complaints; * * * material * * * related to * * * claims made under warranties; service reports or similar documents, including electronic transmissions, from dealers or manufacturer's field personnel; * * *.'' This definition clearly covers consumer complaints, warranty claims, and field reports, which we are proposing to require manufacturers to keep for periods of not more than five years. We would remove these categories from Section 576.6 where we are proposing that the documents covered by that section be held by vehicle manufacturers for ten years.

Finally, we have reviewed our regulation on tire record keeping, 49 CFR Part 574. Section 574.6(d) and Section 574.10 require, respectively, tire manufacturers and motor vehicle manufacturers to maintain records of new tires they produce, and tires on new vehicles and the names and addresses of the first purchaser of the vehicles for not less than three years after the date of purchase. In light of the statutory amendment increasing the period from three to five years for free remedy of tires, and our proposed conforming change to Part 576, we are proposing conforming amendments to Sections 574.6(d) and 574.10 under which these records would also be held for five years.

X. Administrative Amendments to 49 CFR Part 573 To Accommodate Final Rules Implementing 49 U.S.C. Sections 30166(l) and (m)

For many years, we have required manufacturers to furnish us with a copy of all notices, bulletins, other communications including warranty and policy extension communiques and product improvement bulletins regarding defects, whether or not safety related (49 CFR 573.8). Currently, this requirement is located in our regulation on defect and noncompliance reporting, 49 CFR Part 573. Given our intent to adopt a new regulation, Part 579 *Reporting of Information and Communications About Potential Defects*, it seems appropriate to transfer the subject matter of Section 573.8 to Part 579. Accordingly, in the Foreign Defect NPRM, we proposed a Section 579.5 which is identical to Section 573.8. Proposed Section 579.5 would become Section 579.5(a), under this early warning NPRM. Under proposed Section 579.5(b) we would receive additional documentation such as communications relating to a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or equipment where a manufacturer had not decided that a defect exists. When the first final rule is issued, implementing either Section 30166(l) or Section 30166(m), we will remove Section 573.8.

There currently exists a regulation cited as 49 CFR Part 579 *Defect and Noncompliance Responsibility.* This regulation sets forth the responsibilities of manufacturers for safety-related defects and noncompliances. As such, we feel that it would be appropriate for its specifications to be reflected in Part 573. Accordingly, we shall amend Part 573 to incorporate these specifications at the time our proposed new Part 579 becomes effective.

XI. Rulemaking Analyses

Regulatory Policies and Procedures. Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993) provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines as ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have considered the impact of this rulemaking under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking has been determined to be non-significant by the Office of Management and Budget under E.O. 12866. This action has also been determined to be not ''significant'' under DOT's regulatory policies and procedures because of the anticipated relatively low costs that would be required to implement the rulemaking (see the agency's discussion of impacts above as taken from the PRE). This action does not impose substantive requirements and only requires reporting of information in the possession of the manufacturer.

Regulatory Flexibility Act. NHTSA has considered the impact of this rulemaking action in relation to the

Regulatory Flexibility Act (5 U.S.C. Sec. 601 *et seq.*) Information on the number of enterprises manufacturing relevant equipment or vehicles currently sold in the U.S., by product category, is presented below. It should be noted that the employee figures within the parentheses are the employment thresholds for classification as a small business from the January 1, 2001 edition of 13 CFR 121.201—*Small Business Size Standards.* The categorization below is based on consolidated employment of any known parent company and its other subsidiaries.

1. Passenger cars and light trucks, including vans, SUV's and pickups. (1000 employees) *Ward's Automotive Yearbook 2000* lists 16 manufacturers of such vehicles sold in the United States, net of any that are now merged with or majority-controlled by another. All are large businesses.

In the 1998 (Preliminary) Regulatory Flexibility Analysis prepared for the FMVSS 208 (Advanced Air Bag) rulemaking, NHTSA stated that were four small manufacturers of (complete) motor vehicles in the U.S., accounting for <.1% of U.S. production, and, in addition, ''several hundred'' enterprises that modified or completed unfinished vehicles, of which many were van converters. Light truck conversions include those for recreational use as well as for light freight and passenger carriage, special transport of the handicapped and other work functions.[3] Under the proposed rule, a converter who certifies a vehicle would be either a manufacturer or an alterer, and subject to the reporting requirements. Conversions, it should be noted, are covered by the NAICS classification ''motor vehicle bodies produced on purchased chassis,'' and are also subject to the small business threshold of 1000 employees. Almost all final stage manufacturers and alterers certify fewer than 500 vehicles annually and would have very slight reporting requirements.

2. Medium and heavy trucks. (1000 employees) *Ward's Automotive Yearbook 2000* lists 12 manufacturers of such vehicles sold in the United States. All are large businesses. In addition, an unknown number of enterprises build specialty freight-carrying or work function bodies (including fire and heavy rescue apparatus) onto chassis produced by these manufacturers. Those enterprises which certify completed vehicles would be manufacturers subject to the reporting requirements of this proposed rule. Almost all final stage manufacturers and alterers certify fewer than 500 vehicles annually and would have very slight reporting requirements.

3. Buses. (1000 employees) In the 2000 (Preliminary) Regulatory Flexibility Act analysis prepared for the FMVSS Nos. 141 and 142 rulemaking (Platform lift systems), NHTSA estimated that there were 10 small manufacturers of transit and paratransit buses. There is one small manufacturer of school buses, and three small manufacturers of over-the-road buses.

4. Motorcycles. (500 employees) Only two motorcycle manufacturers could be identified from current editions of *Ward's* and *Standard and Poor's* as small businesses.

5. Trailers. (500 employees). We have identified 8 trailer manufacturers who produce 500 or more trailers per year. The remaining trailer manufacturers, even if small businesses, would have minimal reporting obligations under this rule.

6. Tires. (new—1000 employees; retreaded—500 employees) *Modern Tire Dealer* and *Rubber and Plastics News* together identify 10 companies manufacturing general-service highway vehicle tires sold in the U.S. under the companies' own or ''private brand'' trade names. All are large businesses. The International Tire and Rubber Association website states that there are approximately 1,126 retread tire plants in the U.S., of which approximately 95 percent are owned/operated by small businesses.

7. Child restraint systems. (500 employees) Child restraint systems are interpreted here as ''infant's car seats,'' classified as NAICS 3371247231 under the system now used in Part 121 in place of SIC codes, within ''furniture and related products.'' Available information on infant's car seats yields a total of 14 independent enterprises, of which seven are small manufacturers.

8. Small vehicle manufacturers, manufacturers of original equipment, and manufacturers of replacement equipment other than child restraint systems and tires. While there are manufacturers of fewer than 500 light vehicles, medium-heavy vehicles, buses, trailers, and motorcycles annually, and manufacturers of original and replacement equipment (other than manufacturers of child restraint systems and tires) that are small businesses, these manufacturers would have a reporting obligation under this regulation limited to incidents of death involving their products. These are expected to be rare. Thus, this rule would have only a slight impact on these manufacturers.

Executive Order 13132 (Federalism). Executive Order 13132 on ''Federalism'' requires us to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of ''regulatory policies that have federalism implications.'' The Executive Order defines this phrase to include regulations ''that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' A final rule based upon this NPRM would regulate the manufacturers of motor vehicles and motor vehicle equipment and would not have 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, as specified in Executive Order 13132.

Civil Justice Reform. A rule based on this NPRM would not have a retroactive or preemptive effect, and judicial review of it may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

Paperwork Reduction Act. The final rule will require manufacturers of motor vehicles and motor vehicle equipment to report information and data to NHTSA periodically and upon request. We may also adopt a standardized form for reporting numerical counts of information, so as to ensure consistency of responses, and are proposing appropriate spreadsheets in this NPRM. These provisions are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1329. Accordingly, the requirements proposed will be submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Request for Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you

[3] Some conversions of the larger versions of vans and pickups involve vehicles of over 8500 lbs. GVW rating, to which the Advanced Air Bag rulemaking did not apply.

to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the beginning of this document, under **ADDRESSES**.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA (NCC–30), at the address given at the beginning of this document under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation, 49 CFR Part 512.

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under **DATES**. Because we must issue a final rule not later than June 30, 2002, we are unlikely to extend the comment closing date for this notice. However, in accordance with our policies, to the extent possible, we will also consider comments that Docket Management receives after the specified comment closing date. If Docket Management receives a comment too late for us to consider in developing the final rule, we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address and times given near the beginning of this document under **ADDRESSES**.

You may also see the comments on the internet. To read the comments on the internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (http://dms.dot.gov/).

(2) On that page, click on ''search.''

(3) On the next page (http://dms.dot.gov/search/), type in the four-digit docket number shown at the heading of this document. Example: if the docket number were ''NHTSA–2001–1234,'' you would type ''1234.''

(4) After typing the docket number, click on ''search.''

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see.

You may download the comments. The comments are imaged documents, in either TIFF or pdf format. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

49 List of Subjects

49 CFR Part 574

Labeling, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements, Rubber and rubber products, Tires.

49 CFR Part 576

Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 579

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR chapter V is proposed to be amended as follows:

PART 574—TIRE IDENTIFICATION AND RECORDKEEPING

1. The authority for part 574 is revised to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 574.7(d) is proposed to be revised to read as follows:

§ 574.7 Information requirement—new tire manufacturers, new tire brand name owners.

* * * * *

(d) The information that is specified in paragraph (a)(4) of this section and recorded on registration forms submitted to a tire manufacturer or its designee shall be maintained for a period of not less than five years from the date on which the information is recorded by the manufacturer or its designee.

* * * * *

3. Section 574.10 is proposed to be amended by revising the final sentence to read as follows:

§ 574.10 Requirements for motor vehicle manufacturers.

* * * These records shall be maintained for a period of not less than 5 years from the date of sale of the vehicle to the first purchaser for purposes other than resale.

PART 576—RECORD RETENTION

4. The authority citation for part 576 is revised to read as follows:

Authority: 49 U.S.C. 322(a), 30117, 30120(g), 30141–30147; delegation of authority at 49 CFR 1.50.

5. Section 576.1 would be revised to read as follows:

§ 576.1 Scope.

This part establishes requirements for the retention by manufacturers of motor vehicles and of child restraint systems and of tires, of claims, complaints, reports, and other records concerning alleged and proven motor vehicle or motor vehicle equipment malfunctions that may be related to motor vehicle safety.

6. Section 576.3 would be revised to read as follows:

§ 576.3 Application.

This part applies to all manufacturers of motor vehicles, with respect to all records generated or acquired on or after August 16, 1969, and to all manufacturers of child restraint systems and tires, with respect to all records generated or acquired on or after [the effective date of the final rule].

7. Section 576.4 would be revised to read as follows:

§ 576.4 Definitions.

All terms in this part that are defined in 49 U.S.C. 30102 and part 579 of this chapter are used as defined therein.

8. Section 576.5 would be revised to read as follows

§ 576.5 Basic requirements.

As specified in § 576.7:

(a) Each manufacturer of motor vehicles and each manufacturer of child restraint systems shall retain all records described in § 576.6 of this part for a period of ten calendar years from the date on which they were generated or acquired by the manufacturer.

(b) Each manufacturer of tires shall retain all records described in § 576.6 of this part for a period of five calendar years from the date on which they were generated or acquired by the manufacturer.

(c) Each manufacturer of motor vehicles, original equipment, and replacement equipment shall retain each claim or notice related to an incident involving a death or injury.

(d) Each manufacturer of motor vehicles, child restraint systems, and tires shall retain each property damage claim, warranty claim, consumer complaint, and field report received from an authorized dealer of such manufacturer, for a period of five calendar years from the date the manufacturer acquires it, but need not retain it when the calendar year is or becomes ten years greater than the model year of any motor vehicle or child restraint system that is the subject of the document.

(e) Each manufacturer of motor vehicles, child restraint systems, and tires shall retain each field report received from either one of its employees or from the owner or operator of ten or more motor vehicles of the same make, model, and model year, that it has manufactured, and a copy of each document reported to NHTSA for a customer satisfaction campaign, consumer advisory, recall (other than that submitted pursuant to parts 573 and 577 of this chapter), for a period of one calendar year after it has received or generated such report or document.

9. Section 576.6 would be revised to read as follows:

§ 576.6 Records.

Records to be maintained by manufacturers under this part include all documentary materials, films, tapes, and other information-storing media that contain information concerning malfunctions that may be related to motor vehicle safety. Such records include, but are not limited to, reports and other documents, including material generated or communicated by computer, telefax or other electronic means, that are related to work performed under warranties; and any lists, compilations, analyses, or discussions of such malfunctions contained in internal or external correspondence of the manufacturer, including communications transmitted electronically.

10. Part 579 is proposed to be revised to read as follows:

PART 579—REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS

Subpart A—General

Sec.

579.1 Scope.
579.2 Purpose.
579.3 Application.
579.4 Terminology.
579.5 Notices, bulletins, customer satisfaction campaigns, consumer advisories, and other communications.
579.6 Address for submitting reports and other information.
579.7–579.10 [Reserved]

Subpart B—Reporting of Defects in Motor Vehicles and Motor Vehicle Equipment in Countries Other Than the United States

579.11–579.20 [Reserved]

Subpart C—Reporting of Early Warning Information

579.21 Reporting requirements for manufacturers of 500 or more light vehicles annually.
579.22 Reporting requirements for manufacturers of 500 or more medium-heavy vehicles annually.
579.23 Reporting requirements for manufacturers of 500 or more buses annually.
579.24 Reporting requirements for manufacturers of 500 or more motorcycles annually.
579.25 Reporting requirements for manufacturers of 500 or more trailers annually.
579.26 Reporting requirements for manufacturers of child restraint systems.
579.27 Reporting requirements for manufacturers of tires.
579.28 Reporting requirements for manufacturers of fewer than 500 vehicles annually, for manufacturers of original equipment, and for manufacturers of replacement equipment other than child restraint systems and tires.
579.29 Due date of reports, and other provisions.
579.30 Manner of reporting.

Authority: Sec. 3, Pub. L. 106–414, 114 Stat. 1800 (49 U.S.C. 30102–103, 30112, 30117–121, 30166–167); delegation of authority at 49 CFR 1.50.

Subpart A—General

§ 579.1 Scope.

This part sets forth requirements for reporting information and submitting documents that may help identify defects related to motor vehicle safety and noncompliances with Federal motor vehicle safety standards, including the reporting of foreign safety recalls and other safety-related campaigns conducted outside the United States under 49 U.S.C. 30166(l), early warning information under 49 U.S.C. 30166(m), and copies of communications about defects and noncompliances under 49 U.S.C. 30166(f).

§ 579.2 Purpose.

The purpose of this part is to enhance motor vehicle safety by specifying information and documents that manufacturers of motor vehicles and motor vehicle equipment must provide periodically to NHTSA with respect to possible safety-related defects and noncompliances in their products.

§ 579.3 Application.

(a) This part applies to all manufacturers of motor vehicles and motor vehicle equipment with respect to all vehicles and equipment that have been offered for sale, sold, or leased by the manufacturer, any parent corporation of the manufacturer, any subsidiary or affiliate of the manufacturer, or any subsidiary or affiliate of any parent corporation of the manufacturer.

(b) In the case of any report required under this part, compliance by either the fabricating manufacturer or the importer of the motor vehicle or motor vehicle equipment shall be considered compliance by both.

§ 579.4 Terminology.

(a) *Statutory terms.* The terms *dealer, defect, distributor, manufacturer, motor vehicle, motor vehicle equipment,* and *State* are used as defined in 49 U.S.C. 30102. For purposes of this part, the term *manufacturer* includes any parent corporation of the manufacturer, any subsidiary or affiliate of the manufacturer, any subsidiary or affiliate of any parent corporation of the manufacturer, and any legal counsel retained by the manufacturer.

(b) *Regulatory terms.* The terms *bus, GVWR, motorcycle, trailer,* and *truck* are used as defined in § 571.3(b) of this chapter.

(c) *Other terms.* The following terms apply to this part:

Administrator means the Administrator of the National Highway Traffic Safety Administration (NHTSA), or the Administrator's delegate.

Air service brakes means service brake systems based on an air actuation system.

Base means the detachable bottom portion of a child restraint system that may remain in the vehicle to provide a base for securing the system to a seat in a motor vehicle.

Bead means the area of a tire below the sidewall and in the rim contact area,

including: bead rubber components; bead bundle and rubber coating if present; the body ply and its turn-up including the rubber coating; rubber, fabric, or metallic bead reinforcing materials; and the inner-liner rubber under the bead area.

Body type means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo-carrying features and the roofline (e.g., sedan, fastback, hatchback).

Buckle and restraint harness means the components of a child restraint system that are intended to restrain a child seated in such a system, including the belt webbing, shield, pads, buckles, buckle release mechanism, belt adjusters, and belt positioning devices.

Child restraint system means any system that meets or is offered for sale in the United States as meeting the definition set out in S4 of § 571.213 of this chapter, or is offered for sale as a child restraint system in a foreign country.

Claim means a written request or demand for relief, including money or other compensation, assumption of expenditures, or equitable relief, related to a motor vehicle crash, accident, the failure of a component or system of a vehicle or an item of motor vehicle equipment, or fire. Claim includes but is not limited to a demand in the absence of a lawsuit, a complaint initiating a lawsuit, an assertion or notice of litigation, a settlement, covenant not to sue or release of liability in the absence of a written demand, and a subrogation request. A claim exists regardless of any denial or refusal to pay it, and regardless of whether it has been settled or resolved in the manufacturer's favor. The existence of a claim may not be conditioned on the receipt of anything beyond the document stating a claim.

Common green tires means tires that are produced to the same internal specifications as a tire brand, but that have, or may have, different external characteristics and may be sold under different model designations.

Consumer complaint means a communication of any kind made by a consumer (or other person) to or with a manufacturer, expressing dissatisfaction with a product, or relating the unsatisfactory performance of a product, or any actual or potential defect in a product, or any event that allegedly was caused by any actual or potential defect in a product, but not including a claim of any kind or a notice involving a fatality or injury.

Counterpart vehicle means a vehicle made in a foreign country that is equivalent to one made in the United States except that it may have a different name, labeling, driver side restraints, lighting or wheels/tires, or metric system measurements.

Customer satisfaction campaign, consumer advisory, recall, or other activity involving the repair or replacement of motor vehicles or motor vehicle equipment means a communication by a manufacturer to, or made available to, more than one dealer, distributor, lessor, lessee, other manufacturer, or owner, in the United States, whether in writing or by electronic means, relating to repair, replacement, or modification of a vehicle, or item of equipment, or a component of a vehicle or item of equipment, the manner in which a vehicle or item of equipment is to be operated or maintained, or advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment.

Dealer field report means a field report from a dealer or authorized service facility of a manufacturer of motor vehicles or motor vehicle equipment.

Equipment comprises original and replacement equipment:

(1) *Original equipment* means an item of motor vehicle equipment (other than a tire) that was installed in or on a motor vehicle at the time of its delivery to the first purchaser if the item of equipment was installed on or in the motor vehicle at the time of its delivery to a dealer or distributor for distribution; or the item of equipment was installed by the dealer or distributor with the express authorization of the motor vehicle manufacturer.

(2) *Replacement equipment* means motor vehicle equipment other than original equipment, and tires.

Field report means a communication in writing, including communications in electronic form, from an employee or representative of a manufacturer of motor vehicles or motor vehicle equipment, a dealer or authorized service facility of such manufacturer, or by an entity that owns or operates a fleet, to a manufacturer, regarding the failure, malfunction, lack of durability, or other performance problem of a motor vehicle or motor vehicle equipment, or any part thereof, produced by that manufacturer, regardless of whether verified or assessed to be lacking in merit.

Fire means combustion of any material in a vehicle as evidenced by, but not limited to, flame, smoke, sparks, or smoldering.

Fleet means more than ten motor vehicles of the same make, model, and model year.

Good will means the repair or replacement of a motor vehicle or item of motor vehicle equipment, including labor, paid for by the manufacturer, at least in part, when the repair or replacement is not covered under warranty.

Hydraulic service brakes means service brake systems based on a hydraulic actuation system.

Integrated child restraint system means a factory-installed built-in child restraint system as defined by S4 of § 571.213 of this chapter, or is offered for sale as a factory-installed built-in child restraint system in a vehicle sold in a foreign country.

Latches means a latching system and its components fitted to a vehicle's exterior door, rear hatch, liftgate, tailgate, trunk, or hood. This includes, but is not limited to, devices for the remote operation of a latching device such as remote release cables (and associated components), electric release devices, or wireless control release devices.

Light vehicle means any motor vehicle, except a bus, motorcycle, or trailer, with a GVWR of 10,000 lbs or less.

Make means a name that a manufacturer applies to a group of vehicles.

Medium-heavy vehicle means any motor vehicle, except a bus, motorcycle, or trailer, with a GVWR greater than 10,000 lbs.

Minimal specificity means:

(1) for a vehicle, the make, model, and model year,

(2) for a child seat, the model (either the model name or model number),

(3) for a tire, the model and size, and

(4) for other motor vehicle equipment, if there is a model or family of models, the model name or model number.

Model means a name that a manufacturer of motor vehicles applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type. For equipment, it means the name that its manufacturer uses to designate it.

Model year means, for vehicles, the year that a manufacturer uses to designate a discrete model of vehicle, irrespective of the calendar year in which the vehicle was manufactured and if a year is not so designated, the year the vehicle was manufactured. For equipment, it means the year that the equipment was manufactured.

Notice means a document received by or prepared by a manufacturer that does not include a demand for relief.

Parking brake means a mechanism designed to prevent the movement of a stationary motor vehicle.

Power train means the components or systems of a motor vehicle which transfer motive power from the engine to the wheels, including transmission (manual and automatic), clutch, transfer case, driveline, differential(s), and all driven axle assemblies.

Property damage means physical injury to tangible property.

Property damage claim means a claim for property damage, excluding that part of a claim, if any, pertaining solely to damage to a component or system of a vehicle or an item of equipment itself based on the alleged failure or malfunction of the component, system, or item, and further excluding matters addressed under warranty.

Reporting period means a calendar quarter of a year, unless otherwise stated.

Seat shell means the portion of a child restraint system that provides the structural shape, form and support for the system, and for other components of the system such as the seat padding, shield, belt attachment points, and anchorage points to allow the system to be secured to a passenger seat in a motor vehicle.

Sidewall means the area of a tire between the tread and the bead area of the tire, including: the sidewall rubber components; the body ply and its coating under the rubber in the sidewall area; and the inner-liner rubber under the body ply in the side areas.

Structure means any part of a motor vehicle that serves to maintain the shape and size of the vehicle, and which provides attachment and connectivity of all of the components of the vehicle, including frame members, the body of the vehicle, bumpers, doors, tailgate, hatchback, trunk lid, hood, and roof.

Suspension system means the components and systems of a motor vehicle including but not limited to springs, shock absorbers, and dampers, that are designed to minimize the impact on the vehicle chassis of shocks from the road surface irregularities that are transmitted through the wheels, and to provide stability when the vehicle is being operated through a range, of speed, load, and dynamic conditions.

Tread (also known as crown) means all materials in the tread area of the tire including: the rubber that makes up the tread; sub-base rubber, when present, between the tread base and the top of the belts; the belt material, either steel and/or fabric, and the rubber coating of the belt material, including any rubber inserts; the body ply and its coating rubber under the tread of the tire; and the inner-liner rubber under the tread.

Vehicle speed control means the systems and components of a motor vehicle that control vehicle speed either by command of the operator or by automatic control, including but not limited to the accelerator pedal, linkages, cables, springs, speed control devices (cruise control) and speed limiting devices.

Visual systems means the systems and components of a motor vehicle through which a driver views the surroundings of the vehicle including windshield, side windows, back window, and rear view mirrors, and systems and components used to wash and wipe windshields and back windows.

Warranty means any written affirmation of fact or written promise made in connection with the sale or lease of a motor vehicle or motor vehicle equipment by a manufacturer, distributor, or dealer to a buyer or lessee that relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time (including any extensions of such specified period of time), or any undertaking in writing in connection with the sale or lease by a manufacturer, distributor, or dealer of a motor vehicle or item of motor vehicle equipment to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking.

Warranty claim means mean any claim presented to a manufacturer for payment pursuant to a warranty program, an extended warranty program, or good will.

(d) *Foreign claims and notices.* For purposes of subpart C of this part:

(1) A motor vehicle sold or in use outside the United States is identical or substantially similar to a motor vehicle sold or offered for sale in the United States if—

(i) Such a vehicle has been sold in Canada or has been certified as complying with the Canadian Motor Vehicle Safety Standards;

(ii) Such a vehicle is listed in Appendix A to part 593 of this chapter or determined to be eligible for importation into the United States in any agency decision issued between amendments to Appendix A to part 593;

(iii) Such a vehicle is manufactured in the United States for sale in a foreign country;

(iv) Such a vehicle is a counterpart of a vehicle sold or offered for sale in the United States; or

(v) Such a vehicle uses the same vehicle platform as a vehicle sold or offered for sale in the United States.

(2) An item of motor vehicle equipment sold or in use outside the United States is identical or substantially similar to equipment sold or offered for sale in the United States if such equipment and the equipment sold or offered for sale in the United States have one or more components or systems that are the same, regardless of whether the part numbers are identical.

(3) A tire sold or in use outside the United States is substantially similar to a tire sold or offered for sale in the United States if it has the same model and size designation, or if it is identical in design except for the model name.

§ 579.5 Notices, bulletins, customer satisfaction campaigns, consumer advisories, and other communications.

(a) Each manufacturer shall furnish to NHTSA a copy of all notices, bulletins, and other communications (including those transmitted by computer, telefax, or other electronic means and including warranty and policy extension communiques and product improvement bulletins) other than those required to be submitted pursuant to § 573.5(c)(9) of this chapter, sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States, regarding any defect in its vehicles or items of equipment (including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications), whether or not such defect is safety-related.

(b) Each manufacturer shall furnish to NHTSA a copy of each communication relating to a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or equipment, that the manufacturer issued to, or made available to, more than one dealer, distributor, lessee, other manufacturer, owner, or purchaser, in the United States.

(c) If a notice or communication is required to be submitted under both paragraphs (a) and (b) of this section, it need only be submitted once.

(d) Each copy shall be in readable form and shall be submitted monthly, not more than five (5) working days after the end of each month. Each submission shall be accompanied by a document identifying each communication in the submission by name or subject matter and date.

§ 579.6 Address for submitting reports and other information

Information and reports required to be submitted to NHTSA pursuant to this part, if submitted by mail or on CD–ROM, must be addressed to the Associate Administrator for Safety Assurance, National Highway Traffic Safety Administration (NHTSA), 400 7th Street, SW., Washington, DC 20590. Information and reports may also be submitted by electronic means to NHTSA's website address: www.*odi@nhtsa.dot.gov.* Submissions must be made by a means that permits the sender to verify that the report was in fact received by NHTSA and the day it was received by NHTSA.

§§ 579.7—579.10 [Reserved]

Subpart B—Reporting of Defects in Motor Vehicles and Motor Vehicle Equipment in Countries Other Than the United States

§ 579.11—579.20 [Reserved]

Subpart C—Reporting of Early Warning Information

§ 579.21 Reporting requirements for manufacturers of 500 or more light vehicles annually.

For each reporting period, a manufacturer whose aggregate number of light vehicles manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each make, model and model year of light vehicle manufactured during the reporting period and the nine model years prior to the earliest model year of the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period, and the total model year production for all model years for which production has ceased. For all models that are manufactured with more than one type of fuel system, the information required by this subsection shall be reported separately for gasoline-powered vehicles and for non-gasoline-powered light vehicles.

(b) *Information on incidents involving death or injury.* For all light vehicles less than ten calendar years old at the beginning of the reporting period:

(1) A report on each incident involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death or injury was caused by a possible defect in the manufacturer's vehicle, together with each incident involving one or more death(s) occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's vehicle, if that vehicle is identical or substantially similar to a light vehicle that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the vehicle, the incident date, the number of deaths, the number of injuries for incidents occurring in the United (States, the State or foreign country where the incident occurred, each system or component of the vehicle that allegedly contributed to the incident, and whether the incident involved a fire, as follows: 01 for steering, 02 for suspension, 03 for service brakes, 04 for parking brakes, 05 for engine speed control including throttle and cruise control, 06 for airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), 07 for seat belts (including anchorages and other related components), 08 for integrated child restraint systems, 09 for door, hood, or hatch latches, 10 for tires, 11 for fuel system integrity, 12 for power train, 13 for electrical system, 14 for engine and engine cooling system, 15 for structure (other than latches), 16 for visual systems, 17 for seats, 18 for lighting, 19 for wheels, 20 for climate control system including defroster, 21 for trailer hitches and related attachments, 22 for fire, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the vehicle, and the number of incidents in which a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all light vehicles less than ten calendar years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.22 Reporting requirements for manufacturers of 500 or more medium-heavy vehicles annually.

For each reporting period, a manufacturer whose aggregate number of medium-heavy vehicles manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information separately with respect to each make, model and model year of medium-heavy vehicle manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period and the total model year production for all model years for which production has ceased. For all models that are manufactured with more than one type of fuel system, the information required by this subsection shall be reported separately for gasoline-powered vehicles and for non-gasoline-powered medium-heavy vehicles.

(b) *Information on incidents involving death or injury.* For all medium-heavy vehicles less than ten calendar years old at the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's vehicle together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's vehicle, or one that is identical or substantially similar to a medium-heavy vehicle that the manufacturer has offered for sale in the United States. The report shall be

organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the medium-heavy vehicle, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the vehicle that allegedly contributed to the incident, whether the incident involved a fire, as follows: 21 for steering, 22 for suspension, 23 for service brakes, 24 for parking brake, 25 for engine and engine cooling system, 26 for fuel system integrity, 27 for power train, 28 for electrical system, 29 for lighting, 30 for visual systems, 31 for climate control system including defroster, 32 for airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), 33 for seat belts (including anchorages and other related components), 34 for structure (other than latches), 35 for seats, 36 for engine speed control including cruise control, 37 for latches (door, hood, or hatch), 38 for tires, 39 for wheels, 40 for trailer hitches and related attachments, 41 for engine exhaust system, 42 for fire, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the vehicle, and the number of incidents where a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all medium-heavy vehicles less than ten calendar years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.23 Reporting requirements for manufacturers of 500 or more buses annually.

For each reporting period, a manufacturer whose aggregate number of buses manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information separately with respect to each make, model, and model year of bus manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period and the total model year production for all model years for which production has ceased. For all models that are manufactured with more than one type of fuel system, the information required by this subsection shall be reported separately for gasoline-powered buses and for non-gasoline-powered buses.

(b) *Information on incidents involving death or injury.* For all buses less than ten calendar years old at the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's bus together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's bus, or one that is identical or substantially similar to a bus that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the bus, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the bus that allegedly contributed to the incident, and whether the incident involved a fire, as follows: 51 for steering, 52 for suspension, 53 for service brakes, 54 for parking brake, 55 for engine and engine cooling system, 56 for fuel system integrity, 57 for power train, 58 for electrical system, 59 for lighting/horn/alarms, 60 for visual systems 61 for climate control system including defroster, 62 for airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), 63 for seat belts including anchorages and other related components, 64 for structure (other than latches), 65 for seats, 67 for engine speed control including throttle and cruise control, 68 for latches (door, hood, hatch), 69 for tires, 70 for wheels, 71 for trailer hitches and related attachments, 72 for engine exhaust system, 73 for fire, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the vehicle, and the number of incidents in which a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all buses less than ten calendar years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.24 Reporting requirements for manufacturers of 500 or more motorcycles annually.

For each reporting period, a manufacturer whose aggregate number of motorcycles manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information separately with respect to each model and model year of motorcycle manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period and the total model year production for all model years for which production has ceased.

(b) *Information on incidents involving death or injury.* For all motorcycles less than ten calendar years old as of the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's motorcycle together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's motorcycle, or one that is identical or substantially similar to a motorcycle that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the motorcycle, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the motorcycle that allegedly contributed to the incident, and whether a fire was involved, as follows: 81 for steering, 82 for suspension, 83 for service brakes, 84 for engine and engine speed control, 85 for fuel system integrity, 86 for powertrain, 87 for electrical system, 88 for lighting 89 for structure, 90 for engine speed control (including throttle and cruise control, 91 for tires, 92 for wheels, 93 for fires, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the motorcycle, and the number of incidents in which a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all motorcycles less than ten years old as of the date of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.25 Reporting requirements for manufacturers of 500 or more trailers annually.

For each reporting period, a manufacturer whose aggregate number of trailers manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information with respect to each make, model and model year of trailer manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period and the total model year production for all model years for which production has ceased.

(b) *Information on incidents involving death or injury.* For all trailers less than ten calendar years old as of the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's trailer together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's trailer, or one that is identical or substantially similar to a trailer that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the trailer, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the trailer that allegedly contributed to the incident, and whether a fire was involved, as follows: 101 for suspension, 102 for service brakes, 103 for parking brakes, 104 for fuel system integrity (camping/travel trailers), 105 for electrical system, 105 for lighting/horn/alarms, 106 for climate control systems (camping/travel trailers), 107 for structure (other than latches), 108 for latches, 109 for tires, 110 for wheels, 111 for hitches and related attachments, 112 for 63 for tires, 113 for fire, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the trailer, and the number of incidents in which a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all trailers less than ten calendar years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.26 Reporting requirements for manufacturers of child restraint systems.

For each reporting period, a person who has manufactured for sale, offered for sale, imported, or sold child restraint systems in the United States, shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information separately with respect to each model and model year of child restraint system manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting

period and the total model year production for all model years for which production has ceased.

(b) *Information on incidents involving death or injury.* For all child restraint systems less than ten calendar years old as of the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's child restraint system together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's child restraint system, or one that is identical or substantially similar to a child restraint system that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the child restraint system, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, and each system or component of the child restraint system that allegedly contributed to the incident and whether a fire was involved, as follows: 121 for buckle and restraint harness, 122 for seat shell, 123 for handle, 124 for base, and, only for incidents of death, 99 if another component is involved or if the component is not specified in the complaint, claim, or report.

(c) *Documents to be submitted.* For all child restraint systems less than ten years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during the reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.27 Reporting requirements for manufacturers of tires.

For each reporting period, a person who has manufactured for sale, offered for sale, imported, or sold, in the United States, tires shall submit the following information. For paragraphs (a) and (b) of this section, a manufacture shall submit separately for each model and model year produced during the reporting period and the nine calendar years prior to the earliest model year in the reporting period including models no longer in production. If the number of tires of the same size and design manufactured or imported does not exceed 15,000 tires in any single calendar year, the manufacturer shall report only information on incidents involving a death with respect to such tires, as specified in paragraph (b) of this section.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the tire model, the tire size, the plant where manufactured, the common green application, the serial code, the ''SKU'' code, application (original or replacement tire) and if original, the make model, and model year of the vehicle on which it is original equipment, production year, and warranty and total production information for the current production year and for all production years for which manufacture has ceased.

(b) *Information on incidents involving death or injury.* (1) A report on incidents involving one or more deaths or injuries occurring in the United States that are identified in claims against the manufacturer or in notices to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's tire together with incidents involving one or more death(s) occurring in foreign countries that is identified in claims against the manufacturer involving the manufacturer's tire, or one that is identical or substantially similar to a tire that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident, the manufacturer shall separately report the tire model, size of the tire, the DOT identification code, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, the make, model and model year of the vehicle on which the tire was installed, and each component of the tire allegedly involved and/or failure allegedly involved in the incident, as follows: 131 for tread, 132 for sidewall, 133 for bead, and, only for incidents of death, 99 if another component is allegedly involved, or if the component is not specified in the claim.

(c) *Numbers of property damage claims, field reports, and warranty claims (adjustments).* For all tires less than five calendar years old as of the date of the reporting period, for each tire model, the tire size, the SKU serial code, manufacturing plant, whether the application is as original or replacement tire, if original equipment, the make, model, and model year of the vehicle on which the tire was installed. The manufacturer shall separately report information on the number of property damage claims, field reports, and warranty claims (adjustments), involving the component of the tire or problem referred to in the claim, as specified in paragraph (b)(2) of this section.

§ 579.28 Reporting requirements for manufacturers of fewer than 500 vehicles annually, for manufacturers of original equipment, and for manufacturers of replacement equipment, other than child restraint systems and tires.

(a) *Applicability.* This section applies to all manufacturers of motor vehicles that are not required to file a report pursuant to §§ 579.21 through 579.25 of this part, to all manufacturers of original equipment, and to all manufacturers of replacement equipment other than manufacturers of tires and child restraint systems.

(b) *Information on incidents involving deaths.* For each reporting period, a manufacturer to which this section applies shall submit a report, pertaining to vehicles and/or equipment manufactured or sold during the calendar year of the reporting period and the nine calendar years prior to the reporting period, including models no longer in production, on each incident involving one or more deaths occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's vehicle or equipment, together with each incident involving one or more death(s) occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's vehicle or equipment, if it is identical or substantially similar to a vehicle or item of equipment that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(c) For each such incident, the manufacturer shall separately report the model and model year of the vehicle or equipment, the incident date, the number of deaths, the State or foreign country where the incident occurred, and each system or component of the

vehicle or equipment that allegedly contributed to the incident, and whether a fire was involved, as follows:

(1) For light vehicles, the system or component involved, and fire, shall be identified as specified in § 579.21(b)(2) of this part.

(2) For medium-heavy vehicles, the system or component involved, and fire, shall be identified as specified in § 579.22(b)(2) of this part.

(3) For buses, the system or component involved, and fire, shall be identified as specified in § 579.23(b)(2) of this part.

(4) For motorcycles, the system or component involved, and fire, shall be identified as specified in § 579.24(b)(2) of this part.

(5) For trailers, the system or component involved, and fire, shall be identified as specified in § 579.25(b)(2) of this part.

(6) For original and replacement equipment, a written identification of the alleged component or fire involved, in the manufacturer's own words.

§ 579.29 Due date of reports, and other provisions.

(a) *Due date of reports.* Each manufacturer of motor vehicles and motor vehicle equipment shall submit each report that is required by this subpart not later than 30 days after the last day of the reporting period.

(b) *One-time reporting of historical information.* No later than the date that each manufacturer subject to §§ 579.21 through 579.27 of this part must submit its first reports under those sections (April 30, 2003), the manufacturer shall also file corresponding reports, providing information on the numbers of property damage claims, consumer complaints, warranty claims, and field reports that it received in each calendar quarter from January 1, 2000 to December 31, 2002 for vehicles manufactured in model years 1994 through 2003, for child restraint systems manufactured on or after January 1, 1998, and for tires manufactured on or after January 1, 1998. Each report shall include production data, as specified in paragraph (a) of §§ 579.21 through 579.27 of this part and shall identify the alleged system or component related to the claim, incident, and other information, as specified in paragraph (c) of §§ 579.21 through 579.27 of this part.

(c) *Minimal specificity.* A claim or notice involving death, a claim or notice involving injury, a claim involving property damage, a consumer complaint, a warranty claim, a consumer complaint, or a field report need not be reported if it does not identify the vehicle or equipment with minimal specificity. If a manufacturer initially receives a claim, notice, or report in which the vehicle or equipment is not identified with minimal specificity, and subsequently obtains information that provides the requisite information needed to identify the product with minimal specificity the claim, etc. shall be deemed to have been received at that time.

(d) *Abbreviations.* Whenever a manufacturer is required to identify a State in which an incident occurred, the manufacturer shall use the two-letter abbreviations established by the United States Postal Service (e.g., AZ for Arizona). Whenever a manufacturer is required to identify a foreign country in which an incident occurred, the manufacturer shall use the English-language name of the country in non-abbreviated form

(e) *Claims of confidentiality.* If a manufacturer claims that any of the information, data, or documents that it submits is entitled to confidential treatment, it must make such claim in accordance with part 512 of this chapter. If a manufacturer submits a document that contain personal information about a person or persons, including but not limited to names, addresses, telephone numbers, driver licenses, credit cards, social security numbers or medical information, the manufacturer shall, at the same time, submit a copy of such document from which all such personal information has been redacted.

(f) *Additional related information that NHTSA may request.* In addition to information required periodically under this subpart, NHTSA may request other information that may help identify a defect related to motor vehicle safety.

§ 579.30 Manner of reporting.

(a) *Form of reports submitted.* (1) All reports required under paragraphs (a) through (c) of §§ 579.21 through 579.27 of this part shall be formatted by a manufacturer in either a Microsoft Excel spread sheet, or in a form readily importable into an Excel spread sheet, using the version of Excel that is current at the time the report is filed. The report shall be submitted to NHTSA's website address: www.*odi@nhtsa.dot.gov.* Alternatively, the report may be submitted to NHTSA on a CD–ROM, using the mailing address set forth in § 579.6 of this part. The report shall use the data elements specified in §§ 579.21 through 579.27 of this part. For data files smaller than the size limit of the Internet e-mail server of the Department of Transportation, a manufacturer may submit a report as an attachment to an e-mail message.

(2) Reports submitted under § 579.28 of this part may be submitted either in the form specified in paragraph (a)(1) of this section or as a paper document.

(b) *Form of documents submitted.* A copy of a document may be submitted as a photocopy of the document, or in digital form sent by electronic mail, on a computer diskette, or on a CD–ROM.

(c) *Designation of manufacturer contact.* At the time of its first submission, each manufacturer must designate by name, office telephone number, mailing address, and electronic mail address, an employee whom NHTSA may contact for resolving issues that may arise concerning submissions of reports and documents required by this subpart. The manufacturer shall promptly notify NHTSA of any changes in this information.

Issued on: December 14, 2001.

Kathleen C. DeMeter,

Acting Associate Administrator for Safety Assurance.

[FR Doc. 01–31382 Filed 12–17–01; 4:33 pm]

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Federal Register

Friday,

December 21, 2001

Part IV

Environmental Protection Agency

Standards for the Use or Disposal of Sewage Sludge; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7120–5]

Standards for the Use or Disposal of Sewage Sludge

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is giving final notice of its determination that numeric standards or management practices are not warranted for dioxin and dioxin-like compounds in sewage sludge that is disposed of at a surface disposal site or incinerated in a sewage sludge incinerator. In December 1999, EPA proposed to amend the Standards for the Use or Disposal of Sewage Sludge to limit dioxin and dioxin-like compounds in sewage sludge that is applied to the land. In that proposal, EPA also stated that the Agency was not proposing amendments to add numeric standards or management practice requirements for dioxins in sewage sludge that is placed in a surface disposal unit or incinerated in a sewage sludge incinerator. Final action on the proposal to amend the Standards for the Use or Disposal of Sewage Sludge for sewage sludge which is applied to the land will be published separately at a later date.

FOR FURTHER INFORMATION CONTACT: Arleen Plunkett, U.S. Environmental Protection Agency, Office of Water, Health and Ecological Criteria Division (4304), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. (202) 260–3418. *plunkett.arleen@epa.gov.*

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I. Affected Entities

Entities typically regulated by Standards for the Use or Disposal of Sewage Sludge are those that prepare sewage sludge and/or use or dispose of the sewage sludge through application to the land, placement in a surface disposal unit, or incineration in a sewage sludge incinerator. Categories and entities affected by today's action include:

Category	Examples of affected entities
State/Local/Tribal Government	Publicly-owned treatment works and other treatment works that treat domestic sewage, that prepare sewage sludge and/or dispose of sewage sludge by placement in a surface disposal unit or incineration in a sewage sludge incinerator.
Federal Government	Federal Agencies with treatment works that treat domestic sewage, that prepare sewage sludge and/or dispose of sewage sludge by placement in a surface disposal unit or incineration in a sewage sludge incinerator.
Industry	Privately-owned treatment works that treat domestic sewage, and persons who receive sewage sludge and change the quality of the sewage sludge before it is disposed in a surface disposal unit or incinerated in a sewage sludge incinerator.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities affected by today's Notice pertaining to Standards for the Use or Disposal of Sewage Sludge.

II. Docket Information

The record for this Notice has been established under docket number W–99–18 and includes supporting documentation as well as the printed paper versions of electronic materials. The record is available for inspection from 9 a.m. to 4 p.m. Eastern Standard or Daylight time, Monday through Friday, excluding legal holidays, at the Water Docket, Room EB 57, USEPA Headquarters, 401 M Street, SW., Washington, DC 20460. For access to the docket materials, please call 202–260–3027 to schedule an appointment.

For information on the existing rule in 40 CFR part 503, you may obtain a copy of A Plain English Guide to the EPA Part 503 Biosolids Rule on the Internet at *http://www.epa.gov/owm/bio.htm* or request the document (EPA publication number EPA/832/R–93/003) from: Municipal Technology Branch, Office of Wastewater Management (4204), Office of Water, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001.

III. Historical and Legal Background

EPA promulgated Standards for the Use or Disposal of Sewage Sludge (40 CFR part 503) under section 405(d) and (e) of the Clean Water Act (CWA), 33 U.S.C. 1345(d), (e), as amended by the Water Quality Act of 1987. In these amendments to section 405 of the CWA, Congress, for the first time, set forth a comprehensive program for reducing the potential environmental risks and maximizing the beneficial use of sewage sludge. As amended, section 405(d) of the CWA requires EPA to establish numeric limits and management practices that protect public health and the environment from the reasonably anticipated adverse effects of toxic pollutants in sewage sludge. Section 405(e) prohibits any person from disposing of sewage sludge from a publicly owned treatment works (POTW) or other treatment works treating domestic sewage through any use or disposal practice for which regulations have been established pursuant to section 405 except in compliance with the section 405 regulations.

Amended section 405(d) also established a timetable for the development of the sewage sludge use or disposal regulations. H. Rep. No. 1004, 99th Cong. 2d. Sess. 158 (1986). Section 405(d) calls for two rounds of sewage sludge regulations. In the first

round, EPA was to establish numeric limits and management practices for those toxic pollutants which, based on ''available information on their toxicity, persistence, concentration, mobility, or potential for exposure may be present in sewage sludge in concentrations which may adversely affect public health or the environment.'' CWA section 405(d)(2)(A). The second round was to address toxic pollutants not regulated in the first round ''which may adversely affect public health or the environment.'' CWA section 405(d)(2)(B).

EPA did not meet the timetable in section 405(d) for promulgating the first round of regulations, and a citizen's suit was filed to require EPA to fulfill this mandate. (*Gearhart* v. *Whitman*, Civ. No. 89–6266–HO (D. Ore.)). In accordance with the consent decree entered by the court in this case, EPA promulgated the first round of sewage sludge regulations in 1993, 40 CFR part 503. 58 FR 9248 (Feb. 19, 1993) (''Round One''). The consent decree also established a schedule for EPA to identify additional toxic pollutants in sewage sludge and completing the second round of regulation under section 405(d)(2)(B) (''Round Two''). In May 1993, EPA identified 31 pollutants not regulated in Round One that EPA was considering for regulation. In November 1995, EPA notified the court that it was revising the original list of 31 pollutants and considering two pollutant groups for the second round rulemaking: polychlorinated dibenzo-p-dioxins/dibenzofurans (PCDDs/Fs) and dioxin-like coplanar polychlorinated biphenyls (PCBs) (USEPA, 1996a). The consent decree required the Administrator to sign a notice for publication proposing Round Two regulations no later than December 15, 1999, and to sign a notice taking final action on the proposal no later than December 15, 2001.

On December 15, 1999, the Administrator signed a proposal to establish numerical limits for dioxins in sewage sludge that is applied to the land and proposed not to regulate dioxins in sewage sludge that is disposed of in a surface disposal unit or fired in a sewage sludge incinerator. 64 FR 72045 (Dec. 23, 1999).

IV. What Did EPA Propose for Dioxins in Sewage Sludge?

EPA proposed a numeric standard for ''dioxins'' in sewage sludge that is land applied, measured as toxic equivalents (TEQs), and related monitoring, recordkeeping and reporting requirements. EPA proposed a definition of ''dioxins'' to mean 29 specific congeners of polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans, and coplanar PCBs that have been found in sewage sludge. The proposed definition of ''dioxins'' specifies seven 2,3,7,8,-substituted congeners of polychlorinated dibenzo-p-dioxins (PCDDs), ten 2,3,7,8-substituted congeners of polychlorinated dibenzofurans (PCDFs), and twelve coplanar PCB congeners. See 64 FR 72048–72051 for a full discussion of proposed requirements for land application.

EPA also assessed the risk of exposure to dioxins in sewage sludge that is disposed of by placement in a surface disposal unit or incinerated in a sewage sludge incinerator. EPA concluded that no numerical limits on dioxins or additional management practices are needed for sludge disposed of in either of these manners; i.e., that existing regulation of surface disposal and sewage sludge incinerators is adequate to protect public health and the environment from any reasonably anticipated adverse effects of dioxins. Therefore EPA did not propose any regulatory changes to 40 CFR part 503, subparts C and E.

V. What Final Action Is EPA Taking Today?

EPA is providing final notice of its decision not to regulate dioxins in sewage sludge that is placed in a surface disposal unit or fired in a sewage sludge incinerator. As explained below in sections VI.B. and C., EPA has determined that no further regulation of sewage sludge that is placed in a surface disposal unit or incinerated in a sewage sludge incinerator is needed to protect public health and the environment from any reasonably anticipated adverse effects of dioxins. Therefore, no additional numeric limit, operational standard, or monitoring requirements are currently being established.

EPA will address at a later time the proposed provisions related to dioxin and dioxin-like compounds in sewage sludge that is land applied.

VI. Risk Assessment Methodologies and Results

A. Approach and Assumptions in EPA's Risk Assessments for Exposure to Dioxins Resulting From Surface Disposal and Incineration

As we explained in the proposal, EPA conducted separate risk assessments for surface disposal of sewage sludge and incineration of sewage sludge in a sewage sludge incinerator. (64 FR 72051–72055). The four steps of the risk assessment process include hazard identification, dose-response assessment, exposure assessment, and risk characterization. Both risk assessments used similar hazard identification and dose-response data and assumptions. However, the risk assessments examined different exposure pathways and have different risk characterizations. The following presents an overview of the approaches used for these risk analyses.

Today's final action is based on assessments of the risks to human health posed by dioxins that are in surface-disposed sewage sludge or sewage sludge incinerator emissions.[1] The hazard identified for these risk assessments is cancer as a human health endpoint from the compounds assessed. We took into account the impacts on human cancer risk nationwide. We examined the cancer risk of 2,3,7,8–TCDD and estimated several dose-response relationships for this congener (USEPA, 1994). The cancer risk of the other congeners included in the risk assessment are expressed in relation to the cancer risk of 2,3,7,8–TCDD (USEPA, 1994).

The risk assessments for the proposal evaluated cancer as the human health risk using the 1985 cancer slope factor for dioxin (USEPA, 1994). Because the Agency's Dioxin Reassessment has not yet been finalized, the final determination for surface disposal and incineration continues to be based on evaluation of cancer risk applying the 1985 cancer slope factor. Our conclusions on the protection of human health that support this no action decision would be the same even if we considered the 2000 Draft Dioxin Reassessment (USEPA, 2000a), since use of the pertinent information from the Draft Reassessment would increase the risks only slightly.

Regarding exposure pathways, our evaluation of surface disposal of sewage sludge considered the human health risks associated with drinking ground water contaminated by dioxins and breathing air containing volatilized dioxins. For incineration in a sewage sludge incinerator, we evaluated human exposure to dioxins directly through inhalation of gases and particles in the emissions from sewage sludge incinerators, and indirectly by consumption of crops and animal products produced on agricultural lands and home gardens affected by the

[1] Of the approximately 6.9 million dry metric tons produced annually in the United States, we estimate that less than two percent is placed in sewage sludge-only surface disposal units, and 19 percent is fired in sewage sludge incinerators (Bastian, 1997).

deposition of particles from sewage sludge incinerator emissions.

You will find below descriptions of routes of exposure (called the exposure pathways) through surface disposal and incineration of sewage sludge that we assessed. We then calculated risks associated with these pathways by comparing exposures with dose-response information for the pollutants.

B. Description of Surface Disposal Risk Assessment

We performed an exposure assessment in order to estimate the risk to humans from surface disposal of sewage sludge containing dioxins. In this exposure assessment we identified the population that may be exposed, determined the routes through which exposure to dioxins may occur, and estimated the magnitude, duration, and timing of dioxin doses that people may receive. This procedure resulted in a distribution of predicted individual exposures. We used this distribution of individual exposures to determine the types of individuals who may be at highest risk as well as those with average (''central tendency'') risks. High-end assumptions are intended to estimate risks that are expected to occur in small but definable ''high end'' portions of the subject population. This means that exposure is above the 90th percentile exposure in a population, but not higher than the individual in the population who has the highest exposure. To estimate high-end risk, we used some high-end parameters and some central tendency parameters. The central estimate of individual exposure was based on either the arithmetic mean or the median exposure. In addition to individual descriptors, we also estimated population risk to obtain an estimate of the number of health effects that might be expected in the population over a specific time period.

1. Overview of Risk Assessment Methodology for Surface Disposal

This risk assessment methodology focused on the last two steps of the risk assessment process, exposure assessment and risk characterization. The hazard identification and dose-response assessment portions of the risk assessment were taken from the External Review Draft Dioxin Reassessment Document (USEPA, 1994).

The purpose of this analysis was to estimate the total concentration of dioxins, furans, and coplanar PCBs that can be present in sewage sludge and still be protective of human health when sewage sludge is managed by surface disposal in monofills (i.e., sludge-only landfills) or surface impoundments. In order to assess the potential exposures from dioxins in sewage sludge placed in a surface disposal unit, we characterized the management practices associated with surface disposal facilities. This included ascertaining the environmental settings where surface disposal of sewage sludge may occur and identifying scenarios under which contaminants in sewage sludge may be transported through the environment to a human receptor.

We considered two possible exposure pathways: volatilization of dioxins from the surface disposal facility with subsequent inhalation of these pollutants and the leaching of dioxins to groundwater with subsequent consumption of this groundwater. Based on the general requirements and management practices for surface disposal under subpart C of the 40 CFR part 503 standards and the fact that dioxin congeners have an extremely low water solubility, we concluded that there is an insignificant chance that dioxins would be released to groundwater or surface water even during extreme wet weather conditions. Part 503, subpart C includes management practices designed to prevent groundwater and surface water contamination. For example, 40 CFR 503.24(d) prohibits the siting of an active sewage sludge surface disposal unit within 60 meters of an active seismic fault to prevent or significantly mitigate contamination of groundwater as a result of seismic events. These management practices also include requirements that prevent or significantly mitigate contamination of surface water. 40 CFR 503.24(b), (g). These requirements specify that an active sewage sludge surface disposal unit shall not restrict the flow of a base flood; runoff from an active sewage sludge unit shall be collected and disposed under applicable requirements; and the runoff collection system employed for the active sewage sludge unit shall have the capacity to handle runoff from a 24 hour, 25 year storm event. These requirements in part 503, subpart C for surface disposal units, therefore, serve to either prevent or significantly mitigate dioxin transport to and subsequent contamination of groundwater and surface waters.

2. Key Assumptions for the Surface Disposal Risk Assessment

There are two principal configurations used for surface disposal today (USEPA, 1990). We considered each to determine which had the highest potential for dioxin exposure to the modeled population. We then modeled the worse case (USEPA, 1999a).

The first surface disposal configuration that we considered is a monofill that is an unlined, sewage sludge-only trench fill receiving dewatered sludge with a solids content greater than 20%. Operating procedures for monofills established in 40 CFR 503.25 require vector control, which may include application of daily cover, and § 503.22 requires a written closure and post closure plan, including final cover provisions.

The second surface disposal configuration that we considered is a surface impoundment for which we assumed a continuous inflow of sewage sludge with a solids content of between 2% and 5%. For surface impoundments, a vertical outflow pipe maintained the surface liquid level at a constant height, and liquid was assumed to leave the impoundment both in the outflow (possibly for return to the treatment works) and in seepage through the floor of the impoundment. Over time, particulate settling would occur and a denser layer of solids accumulated on the floor of the impoundment. Eventually, this layer of solids reached the top of the impoundment and no further inflow was possible.

In order to assess the maximum level of risk for the surface disposal, surface impoundments were the modeled configuration. Surface impoundments are considered to be the worse of the two cases for dioxin transport and subsequent human exposure for the following reasons. With respect to exposure from volatilized dioxins, we assumed that, unlike monofills, there was no daily cover applied to the surface impoundment to reduce volatilization of dioxins to the ambient air. However, upon closure, we assumed that the surface impoundment was covered under the applicable requirements of part 503, subpart C. Pollutants, including dioxins, also can more readily leach to groundwater from surface impoundments than from monofills. This results from a greater hydraulic head in surface impoundments to transfer pollutants through the bottom of the unit.

Our exposure evaluation and risk assessment for surface impoundments (USEPA, 1999a) concluded that there is an insufficient flux of dioxins to ambient air from volatilization and to groundwater from leaching to result in a significant risk to exposed individuals. Therefore, placement of sewage sludge in a monofill also was determined not to result in a significant risk from dioxins to exposed individuals.

The following were the major assumptions used in the surface disposal risk assessment:

—Pollutant mass was assumed to enter the surface impoundment through continuous inflow of sewage sludge and leave through four loss processes: degradation within the impoundment; seepage through the floor; liquid overflow to a treatment facility; and volatilization.
—Rates of pollutant loss (including volatilization) were assumed to be ''first-order'' (i.e., the higher the concentration of the pollutant, the greater the rate of loss).
—Pollutants were assumed to be either attached to the surface of the sludge particles or dissolved in the surrounding water and to be at equilibrium (i.e., in a state of balance between the liquid and solid phases).
—Rates of pollutant transfer and loss when the impoundment is half-filled with solids were assumed to be typical of the surface impoundment both before and after it fills with sewage sludge.

3. Surface Disposal Risk Characterization

We found that the risks to human health from the surface disposal of sewage sludge to be extremely small. The incremental cancer risk to a highly exposed individual (i.e., ''high end'' risk) did not exceed 3.5 in ten million (3.5×10^{-7}) for either exposure pathway (USEPA, 1999a). Dioxins have extremely low volatility and would not be expected to offer significant exposure through inhalation. Also, dioxins do not dissolve readily in water. Even in the absence of a liner, combined with high porosity soil and a short distance to ground waters, only insignificant amounts of dioxins could ever reach the groundwater. For these reasons, we conclude that no action to regulate dioxins for sewage sludge surface disposal is necessary.

The surface disposal risk assessment supporting the proposal for no action did not explicitly consider cancer risks based on infant or childhood exposures. Based on the overall low cancer risk estimated for surface disposal of sewage sludge in that risk assessment which supports this final action, EPA has concluded that the cancer risk to infants and children due to exposure to dioxins from surface-disposed sewage sludge is not expected to be significant.

The surface disposal risk assessment also did not explicitly consider ecological risks. Surface disposal units are sited, designed, operated, and maintained to contain and isolate sewage sludge in order to minimize or eliminate exposure to humans and other organisms. The human health risk assessment that was performed for surface disposal units identified only two relevant exposure pathways for receptor populations: volatilization of dioxins to the atmosphere and leaching to groundwater. The summed exposures and subsequent incremental cancer risk estimated for dioxins from these two pathways to the modeled highly exposed human populations were very low (i.e., 3.5×10^{-7}). As already noted, dioxins have low volatility which results in insignificant volatilization. Dioxins also are extremely hydrophobic (i.e., do not readily dissolve in water), which likewise results in minimal leaching to groundwater and subsequent transport to surface waters to impact aquatic organisms. Based on the properties of dioxins and the design and operational characteristics of the disposal units, only an insignificant quantity of dioxins could move to the surrounding media to expose humans and other species. In addition dioxins exhibit similar mechanisms of toxicity across vertebrate species, including humans (USEPA 2000a). Therefore, while ecological impacts could not be predicted, we assumed that the results of the sewage sludge risk assessments that protect humans are also generally protective for ecological species.

In sum, EPA concluded that existing regulations are adequate to protect public health and the environment from the reasonably anticipated adverse effects of dioxins in sewage sludge that is surface-disposed.

C. Description of Incineration Risk Assessment

We used four steps to estimate risks from firing sewage sludge in sewage sludge incinerators (USEPA, 2000b). First, we estimated the rate at which pollutants are emitted from incinerator stacks. Next, we estimated the movement of pollutants in air near incinerators, including estimates of how much pollutant plumes overlap. We then overlaid maps of expected ground-level concentrations of pollutants and human populations. Finally, we determined the extent and nature of resulting health risks of human exposure to emitted dioxins.

The last step was accomplished by performing a multi-pathway risk assessment for exposure to dioxins that result from the firing of sewage sludge in a sewage sludge incinerator. The risk assessment estimated hypothetical average and high end risks to the highly-exposed sub-populations of farmers and home gardeners. We evaluated the risk to the hypothetical highly-exposed individual who is exposed by both a direct route (*e.g.*, inhalation) and indirect routes (*e.g.,* eating contaminated food). In addition, we conducted a probabilistic analysis to estimate the range of risks for home gardeners and farmers impacted by the modeled facilities and to quantify the uncertainty associated with these estimates.

In response to peer review comments, EPA corrected an emission rate for one sewage sludge incinerator and recalculated risks. We also combined the risk assessment and the risk characterization into a single document (USEPA, 2000b). Finally, we clarified the discussion and explanation of the multi-pathway exposure and risk model that was used in this risk assessment.

We considered multiple hearth units without afterburners to be the worst case technology for sewage sludge incineration and likely the highest emitters of dioxins and coplanar PCBs. The analysis focused on the six highest emitting incinerators for dioxins/dibenzofurans and coplanar PCBs from an initial screening of 135 incinerators so as to provide a high end to a bounding estimate of the risk from sewage sludge incineration.

1. Overview of Risk Assessment Methodology for Incineration

The assessment considered 15 exposure pathways. We evaluated those pathways expected to result in the highest risk estimates for which data were available. We selected two exposure scenarios to represent highly-exposed sub-populations that reside near sewage sludge incinerators: (1) Beef and dairy farmers consuming home produced meat, dairy and crops and, at recreational fisher levels, fish caught near sewage sludge incinerators; and (2) home gardeners consuming home-grown produce grown near a sewage sludge incinerator as a portion of their diet. For both scenarios, we estimated average and high end exposures for children and adults at locations where they are expected to reside. We used a geographical information system to identify land uses and terrain around facilities, to identify watershed and water body parameters for estimating fish and drinking water ingestion risks, and to provide census information about farmers and residents exposed to incinerator emissions. We estimated the numbers of individuals exposed and the associated risks for six population age groups.

2. Key Assumptions for the Incineration Risk Assessment

Many important factors in estimating exposure vary from facility to facility. As a result, the highest emitting facility will not always produce the highest risk. We therefore selected the six highest emitting incinerators that also resulted in the highest potential inhalation exposures from the initial screening assessment of 135 incinerators. The variables that are important for exposure assessment and considered in the screen include, for example, distance to exposed population, activities of the exposed population, effective release height of pollutants, and meteorological conditions. We also considered emission rates, emission release characteristics, and actual populations near the facilities in the initial screening assessment.

To address high end risk, plausible ranges of values for key exposure and model variables were modeled using Monte Carlo procedures. This analysis estimated the range of possible risk values and their probability of occurring. The variables considered for the Monte Carlo modeling were identified by sensitivity analyses. The variables were exposure duration, beef and dairy consumption, beef and dairy biotransfer factors, air to plant transfer, dry sludge throughput, adult inhalation rate, and fraction of time an adult is indoors and outdoors.

The large number of exposure values used in the risk assessment are shown in appendix B of the Technical Support Document for incineration (USEPA, 2000b). Unless otherwise noted in the Technical Support Document, the source of the exposure values used in the incineration risk assessment is the EPA Exposure Factors Handbook (USEPA, 1997). The following is a summary of a few key values:

- Adult body weight is 71.8 kilograms (kg).
- Body weight of a 3–5 year old is 17.5 kg.
- Exposure duration for the farmer is 17.3 years.
- Exposure duration for the home gardener is 12 years.
- Adult inhalation rate is 13.3 cubic meters each day.
- Child 3–5 years old inhalation rate is 8.3 cubic meters each day.
- Child daily soil ingestion rate is 0.1 grams each day.
- Adult daily soil ingestion rate is 0.05 grams each day.
- Adult daily fish ingestion rate is 0.162 grams per kg. body weight per day.

For the farmer exposure pathway, we evaluated the inhalation of vapor and particle-bound pollutants released from the incinerator stack(s), soil ingestion, ingestion of homegrown fruits and vegetables, ingestion of home-produced beef and dairy products, ingestion of drinking water from nearby surface water bodies, and ingestion of fish at recreational fisher levels from those water bodies. The home gardener pathway included inhalation of vapor and particle-bound pollutants, soil ingestion, ingestion of homegrown fruits and vegetables, and ingestion of drinking water from surface water bodies. For infants in both home gardener and farm families, breast milk ingestion from an exposed mother also is included. Dermal exposure to soil and water, and consumption of other animal products were not quantified since exposures from these pathways are expected to be significantly less than the pathways evaluated.

Cancer risks due to infant and childhood exposures were calculated as a part of the multi-pathway sewage sludge incineration risk assessment. Risks were estimated for infants and children aged: less than one year, 1–2 years, 3–5 years, 6–11 years, and 12–17 years for both the home gardener and the farmer/recreational fisher exposure scenarios. The infant age group also included exposure via breast milk ingestion. In all scenarios modeled for infants and children, the estimated lifetime cancer risks were similar to those modeled for adults, and were less than or equal to 1×10^{-6}.

3. Incineration Risk Characterization

We found that average and high-end risks were about the same for farmers and home gardeners. However, estimated risks were higher for receptors closer to the facility than farther away in both groups. The most significant pathway for the farmer was ingestion of home-grown beef and dairy products and was ingestion of home-grown produce for the home gardener. At locations where farmers and home gardeners are likely to reside near the six assessed facilities, potential risks ranged from 1×10^{-8} to 1×10^{-6} for farmers, and from 4×10^{-8} to 1×10^{-6} for gardeners. For infants of farmers, the highest estimated risks for the breast milk ingestion pathway were 2×10^{-8}, and were 5×10^{-8} for infants of home gardeners. These risks are at or below the Agency's acceptable risk range of 1×10^{-6} to 1×10^{-4}. Furthermore, based on census data, an extremely small numbers of farmers are predicted to be exposed to risk levels near the upper end of the predicted range. The risk assessment estimates that the average and high-end risks for highly exposed sub-populations in the proximity of the six largest dioxin emitters are at or below the range of acceptable risks.

Additionally, the concentration of dioxins in sewage sludge fed into sewage sludge incinerators does not influence the amounts of dioxins being emitted from the incinerator. The key factors influencing the amount of dioxins being emitted are the combustion conditions in the incinerator, incinerator design, and the efficiency and operational conditions of any air pollution control devices used on the incinerator. The Agency's Dioxin Source Inventory (USEPA, 2001a) estimated that total dioxins (chlorinated dioxins and chlorinated dibenzofurans only) being emitted from all of the Nation's sewage sludge incinerators was approximately 14.8 g. TEQ per year in 1995, a very minor fraction of the total North American dioxin inventory, which was 3255 g. TEQ per year as of 1995. The amount of dioxins emitted from sewage sludge incinerators is expected to be further reduced as the self-implementing means to meet the requirement for all sewage sludge incinerators to comply with either 100 parts per million (ppm) total hydrocarbons (THC) or 100 ppm carbon dioxide (CO) in their emissions are implemented. 40 CFR 503.45, 64 FR 42552, 42560 (Aug. 4, 1999).

We reviewed plans for any future changes for the six multiple hearth incinerators used in our risk assessment to determine if any significant reductions in emissions of dioxin and dioxin-like compounds might be expected in the future. The operators of three of the six incineration facilities indicated that no changes that might reduce emissions were planned in the foreseeable future. These facilities are currently meeting the total hydrocarbon emission limitation of 100 ppm.

One facility started up a new fluidized bed incinerator in June 2000, replacing two existing multiple hearth incinerators. One of the two existing multiple hearth incinerators will remain as a backup incinerator, with only occasional use. Testing of fluidized bed incinerators has demonstrated more complete destruction of organic compounds than in multiple hearth incinerators (USEPA, 1992). Another facility has shut down its incineration operation completely and is drying their sewage sludge instead.

The operator of the largest and highest emitting of the incineration facilities plans to start eliminating incineration of sewage sludge in their multiple hearth incinerators over the next three to four

years. This facility plans to use a new high temperature process to convert sludge to a glass-like aggregate. An initial evaluation indicates that the aggregate process is cost-effective. The facility operator expects to submit a permit application within the next year to build the first aggregate unit. If this initial unit is successful, the operator will submit another permit application to build additional units to replace the entire multiple hearth incineration facility. However, if the new aggregate process does not prove feasible, then this facility will continue to use the existing multiple hearth incinerators. The facility operator also may consider building fluidized bed incinerators to start replacing the aging multiple hearth incinerators.

EPA promulgated amendments to the incineration subpart of the Part 503 standards on August 4, 1999 (64 FR 42551–42573). These amendments included a provision making all sewage sludge incineration requirements self-implementing. All incinerator owners/operators must now continuously monitor for either THC or CO emissions and operate their incinerators to limit either THC or CO emissions to 100 ppm or less (40 CFR 503.40, 503.44, 503.45 (a)). We will continue to inspect the operations and records of these incinerators to assure attainment of the THC or CO limits.

The exposure and risk assessments performed for dioxins from sewage sludge incinerators estimated very low exposure and subsequent incremental cancer risk (i.e., 1×10^{-6}) to the modeled highly exposed human population. This small incremental dioxin exposure from incineration of sewage sludge predicts that contamination of surrounding environmental media such as soils, surface water, and sediments is also small. On this basis, we concluded that sewage sludge incineration also would not appreciably increase dioxin concentrations in surrounding environmental media. In addition, dioxins exhibit similar mechanisms of toxicity across vertebrate species, including humans (USEPA 2000a). For these reasons, we would not expect ecological species to suffer adverse effects due to dioxins from sewage sludge incineration.

In making our final decision, we considered the results of the completed risk assessment for dioxins emissions from sewage sludge incinerators, the comments to our proposal not to set national standards for dioxin and dioxin-like compounds for sewage sludge incinerators, and the projected reductions of dioxin and dioxin-like compounds in emissions from sewage sludge incinerators. Based on the results summarized above, we conclude that no further regulatory action is needed to protect public health and the environment from adverse effects from dioxins in sewage sludge fired in a sewage sludge incinerator.

VII. Summary of Public Comments and EPA Responses

EPA received over 200 comments on the proposed amendments to the Standards for the Use and Disposal of Sewage Sludge. The majority of these comments concerned the proposed amendments to 40 CFR part 503, subpart B, land application of sewage sludge. EPA will address those comments when the Agency takes final action on the proposed amendments to subpart B of part 503. Today's final action concerns only the surface disposal and sewage sludge incinerator portions of part 503, found in subparts C and E. EPA's decision not to regulate dioxins in sewage sludge that is placed in a surface disposal unit is based in part on discrete portions of the risk assessment for land application. Regarding comments on the risk assessment, EPA is responding to those comments that relate directly to surface disposal as part of today's final action.

A. Major Comments Applicable to Both Surface Disposal and Incineration

We received relatively few comments on our proposal not to directly regulate dioxin and dioxin-like compounds in sewage sludge disposed in surface disposal and sewage sludge incineration facilities. The most prevalent comment that we received was overall support for the Agency's proposal not to further regulate dioxins for sewage sludge-only surface disposal units and incinerators. This group of commenters included a number of municipalities and treatment works associations, a sewage sludge processing company and a trade association. These commenters agreed that the risk to human health from dioxins in sewage sludge disposed in these types of facilities was very small and did not warrant setting limits. One municipality which supported the proposal not to further regulate surface disposal and incineration suggested that this decision be supported with a risk assessment similar to the risk assessment conducted for land application. This commenter apparently was unaware that comparable risk assessments which evaluated the appropriate exposure pathways for these management practices were conducted to support the Agency's proposal not to further regulate surface disposal and incineration.

A comment from a public policy institute stated that the decision not to regulate dioxins in sewage sludge disposed of by surface disposal and incineration is unacceptable because dioxin has been linked to health effects other than cancer. The commenter suggested that we evaluate other health effects, particularly reproductive and developmental toxicity. A comment from an environmental advocacy organization expressed a similar concern specifically about the incineration decision. We agree that other significant health effects may be associated with dioxin and dioxin-like compounds, but existing methodologies are not available to develop probabilistic estimates of human health non-cancer risks or to determine levels that would be without risk. Because the predicted cancer risk for dioxin is so low (i.e., 10^{-6} or less), we believe that existing regulations for surface disposal and sewage sludge incineration are adequate to protect public health from both cancer and non-cancer effects.

One State commenter asked if there is a connection between these actions not to regulate sewage sludge surface disposal and incinerators, and the effluent guidelines and standards for landfills at 40 CFR part 445. There is no connection intended or implied by the Agency.

B. Major Comments on Surface Disposal

One treatment authority stated that dioxin limits should be set for surface disposal sites which are operated similarly to land application sites (i.e., for cattle grazing and food crop production). We are aware of only two surface disposal sites which are operated in this manner. The current part 503 regulation addresses this situation: § 503.24(k) and (l) prohibit growing crops or grazing animals on active surface disposal sites ''unless the owner/operator * * * demonstrates to the permitting authority that through management practices public health and the environment are protected from any reasonably anticipated adverse effects of pollutants in sewage sludge * * *.''

A comment from an environmental advocacy group expressed concern that dioxins may become soluble and contaminate ground water when in the presence of solvents and surfactants, also found in sewage sludge. Data from the National Sewage Sludge Survey, which analyzed for more than 400 chemicals, indicate that the concentrations of solvents and surfactants in sewage sludge are relatively small (USEPA 1990). On this basis, we assumed that solubilization of dioxin and dioxin-like compounds by

solvents and surfactants in sewage sludge would not be significant.

C. Major Comments on Incineration

A comment from a public policy institute noted that we gave no explanation for our use of different assumptions for soil ingestion by children in risk assessments for incineration and land application to support our proposals (0.1 grams/day and 0.4 grams/day, respectively.) The apparent difference in the two values is attributable to the different approaches incorporated in the risk assessments for the land application and incineration proposals. The land application proposal was supported by a deterministic risk assessment for which single point values are assumed for various input parameters. The commenter is correct that the land application risk assessment for the proposal assumed 0.4 grams/day for soil ingestion by children. For incinerator risk assessment, we conducted a probabilistic analysis that uses distributions of values for exposure variables where a range of data is available, including soil ingestion by children. This distribution included low end values, mid-range values, and high end values. Soil ingestion by children at a rate 0.1 grams/day is the mean value and 0.4 grams/day is a high end value.

This commenter also stated that no additional dioxin exposure to humans should be allowed as a result of sewage sludge incineration. A comment from an environmental advocacy organization expressed a similar concern. We agree with the principle that additional exposure to dioxin should be minimized and are concentrating our resources on reducing the emissions from the sources which have the highest dioxin emissions in order to achieve this reduction. The total annual dioxins emitted from sewage sludge incinerators are very small in comparison to other sources (USEPA, 2001). Furthermore, based on the very low predicted risk, we are confident that no further regulatory action is necessary.

Another comment from the same public policy institute questioned EPA's finding that the estimated risks were higher for individuals close to a sewage sludge incinerator than those farther away since dioxins can travel more than 100 miles from their source. We agree that dioxins can travel for extended distances from the source, but disagree that the risks would be the same or higher for individuals farther away from the source. Our assessment estimated close-in risks as well as risks out to 30 miles. The assessment estimated risks at locations where individuals are likely to be found and calculated risks at sites of maximum exposure whether or not people are at these sites. The assessment looked at risk from inhalation as well as ingestion of food and water. In all cases the estimated risks were not significant (USEPA, 2000b).

Finally, this commenter expressed concern that if sewage sludge incinerators are upgraded as EPA is predicting, the ash from these incinerators will become even more toxic and hazardous to land apply. This concern appears to be based on the assumption that dioxins that are removed from the air emissions will be recycled in the fly and bottom ash from the incinerator. The upgrades for multiple hearth incinerators are designed to destroy dioxin-like compounds by increasing the temperature and time of exposure of emissions exiting from the multiple hearth incinerators. Fly ash collected by particulate collection systems have been exposed to the increased temperature and time conditions before their collection. Thus not only are the stack emissions of dioxin-like compounds greatly reduced, but any dioxin-like compounds contained in the fly ash is greatly reduced. In addition, the bottom ash from multiple hearth incinerators is not affected by the installation of air pollution equipment on the exit gas stream. In the situation where a multiple hearth incinerator is replaced with a fluidized bed incinerator, the net production of dioxin-like compounds in a fluidized bed combustion chamber has been demonstrated to be an order of magnitude less than that occurring in a multiple hearth incinerator. Thus the replacement of a multiple hearth incinerators with a fluidized bed incinerator will reduce the dioxin-like compounds in both the stack emissions and in the ash removed from the fluidized bed incinerator.

A public interest group contended that the incinerator risk assessment looks only at inhalation exposures. The commenter stated that the major issue with dioxin emissions from incinerators is not inhalation but deposition to the soil, crops, and water in the neighboring area. The commenter believes that without including data on increased generation and/or deposition of particulates due to sludge burning, the incineration risk analysis fails to adequately address the dangers posed to nearby residents from the combination of dietary impacts and inhalation factors. In response, the Agency notes that, as described above, the incineration risk assessment estimated risks from both direct inhalation and ingestion of substances impacted by deposition of incinerator emissions. The ingestion scenarios included ingestion of beef and dairy products, fish, and vegetables by children and adults, and soil ingestion by children.

A comment from an environmental advocacy group raised a number of concerns about deficiencies in the risk model EPA used in developing the proposal for incineration, including: protection of children and fetuses; use of deterministic methods instead of probabilistic methods; consideration of synergistic effects of pollutant exposures; consideration of ecological impacts; and background levels of human exposure to dioxins.

Cancer risks due to infant and childhood exposures were calculated as a part of the multi-pathway sewage sludge incineration risk assessment. Risks were estimated for infants and children aged: Less than one year, 1–2 years, 3–5 years, 6–11 years, and 12–17 years for both the home gardener and the farmer/recreational fisher exposure scenarios. The infant age group also included exposure via breast milk ingestion. In all scenarios modeled for infants and children, the estimated lifetime cancer risks were similar to those modeled for adults, and were less than or equal to 1×10^{-6}.

The incineration risk assessment was deterministic in approach. However, probabilistic methods and data distributions formed the second part of the risk assessment. This probabilistic component served as a sensitivity instrument and was used to select the most appropriate input values for the deterministic model runs. Finally, this risk assessment was subjected to external peer review. This review found that the risk assessment was scientifically sound.

At the present time, there is no method for evaluating synergistic health effects from exposure to pollutants with different mechanisms or modes of toxicity.

The exposure and risk assessments performed for dioxins from sewage sludge incinerators estimated very low exposure and subsequent incremental cancer risk (i.e., 1×10^{-6}) to the modeled highly exposed human population. This small incremental dioxin exposure from incineration of sewage sludge predicts that contamination of surrounding environmental media such as soils, surface water, and sediments is also small. On this basis, we concluded that sewage sludge incineration also would not appreciably increase dioxin concentrations in surrounding environmental media. In addition, dioxins exhibit similar mechanisms of toxicity across vertebrate species,

including humans. For these reasons, we would not expect ecological species to suffer adverse effects due to dioxins from sewage sludge incineration.

Our decision was based on the incremental exposure to dioxins from incineration of sewage sludge, in line with Agency procedures for assessing cancer risks. However, EPA did consider background levels of exposure to dioxins in making this decision. We compared the incremental dioxin exposure from sewage sludge incineration to background dioxin exposure and concluded that no further regulatory action is needed to protect public health.

A treatment works association commenter agreed with the proposed decision not to regulate dioxin emissions from sewage sludge incinerators, but expressed concerns that the complex modeling used in the incineration risk assessments had not been adequately peer-reviewed, has largely not been verified, and has not been subjected to rigorous quality control measures. This commenter stated that most of the references for the modeling performed in the risk assessment have not themselves been peer-reviewed, and that adequate evaluation of such complex modeling requires a longer period than the 90 days allotted for public comments. We agree that the complex models were not individually peer-reviewed prior to proposal. However the entire incineration risk assessment using these models was peer-reviewed and appropriately revised prior to making our final determination. Furthermore, the verification to date shows that the models perform reasonably well for dioxins and furans (Lorber, *et. al.,* 2000). We are currently conducting a lengthy peer review and extensive model verification for an updated multi-pathway model (the Total Risk Integrated Methodology—TRIM) that will eventually replace the multi-pathway model used in the incinerator risk assessment. The models used in the risk assessment for sewage sludge incinerators are the best available at this time and adequate for purposes of this action. We also note that the comment period was originally 60 days, and EPA was requested to extend the comment period to allow for more time to review the technical support documents. EPA agreed and reopened the comment for an additional 30 days. 65 FR 1278 (March 2, 2000). Consistent with similar Agency actions, we believe that a 90 day comment period was reasonable for this action.

A State environmental agency commented that dioxin emissions from medical waste combustors and solid waste combustors should be further reduced since these are the main sources of air deposition compared to wastewater treatment plants. EPA has issued guidance and regulations for reduction of dioxin emissions from both municipal waste combustors and medical waste incinerators that have already resulted in drastic reductions of dioxin-like compounds. For municipal waste combustors, national emissions of dioxin-like compounds have been reduced from 4,170 g. TEQ per year in 1990 to 40.6 g. TEQ per year in 2000. Continued compliance with current regulations is expected to further reduce emissions to 12 g. TEQ per year by 2005 (USEPA, 1999b). For medical waste incinerators, emissions of dioxin-like compounds have been reduced from 600 g. TEQ per year in 1990 to 150 g. TEQ per year in 2000 and further reductions are expected to drop to 5–7 g. TEQ per year by 2002 (USEPA, 1996b).

VIII. List of References

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Dated: December 14, 2001.

Christine Todd Whitman,

Administrator.

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Federal Register

Friday,

December 21, 2001

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 154

Procedures for Reimbursement of Airports, On-Airport Parking Lots and Vendors of On-Airfield Direct Services to Air Carriers for Security; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 154

[Docket No. FAA—2001–11172 Notice No. 01–13]

RIN 2120–AH60

Procedures for Reimbursement of Airports, On-Airport Parking Lots and Vendors of On-Airfield Direct Services to Air Carriers for Security Mandates

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing procedures for certain operators to apply for reimbursement of allowable costs incurred to comply with certain security requirements imposed by the FAA or Transportation Security Administration (TSA) on or after September 11, 2001. These procedures are need to inform airport operations, on-airport parking lots, and vendors of on-airfield direct services to air carriers how to apply for reimbursement of allowable costs. In the event that funds are appropriated for this purpose, the FAA or TSA would use the applications to approve reimbursement of allowable costs as described in this proposed rule.

DATES: Submit comments by January 22, 2002.

ADDRESSES: Address your comments to the Dockets Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590. You must identify the docket number FAA–2001–11172 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA and the TSA received your comments, include a self-addressed, stamped postcard. You may also submit comments through the Internet to *http://dms.dot.gov*.

You may review the public docket containing comments to these regulations in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Barry Molar, Manager, Airports Financial Assistance Division, Office of the Associate Administrator for Airports, (202) 267–3831, or Frank J. San Martin, Airports Law Branch, Office of the Chief Counsel, (202) 267–3199/3473 Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested person are invited to participate in this rulemaking by submitting written data, views, or arguments. Comments relating to environmental, energy, federalism, or international trade impacts that might result from this amendment also are invited. Comments must include the regulatory docket or amendment number and must be submitted in duplicate to the address above. All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the public docket. The docket is available for public inspection before and after the comment closing date.

The FAA will consider all comments received on or before the closing date for comments. Late-filed comments will be considered to the extent practicable. The proposals in this Notice may be changed in light of the comments received.

See **ADDRESSES** above for information on how to submit comments.

Availability of Proposed Rule

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search.*).

(2) On the search page type in the last five digits of the Docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the rulemaking.

You can also get an electronic copy using the Internet through FAA's web page at *http://www.faa.gov/avr/armhome.htm* or the Government Printing Office's web page at *http://www.access.gpo.gov/su_docs/aces/aces140html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this final rule.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information and advise about compliance with statutes and regulations within the FAA's jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official. Internet users can find additional information on SBREFA on the FAA's web page at *http:www.faa.gov/avr/arm/sbrefa.htm* and send electronic inquiries to the following Internet address: *9–AWA–SBREFA@faa.gov.*

Background

As a consequence of the terrorists attacks on the United States on September 11, 2001, airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers have been required to dramatically increase security.

Acting to preserve the continued viability and security of the U.S. air transportation system, Congress enacted, and President Bush signed, the Aviation and Transportation Security Act (''the Act),'' Public Law 107–71, 115 Stat. 597 (November 19, 2001).

Section 121(a) of the Act authorized to be appropriated to the Secretary of Transportation for fiscal years 2002 and 2003 a total of $1.5 billion to reimburse airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers for direct costs incurred to comply with new, additional, or revised security requirements imposed by the FAA or the TSA on or after September 11, 2001. Under Section 121(b), cost must be documented to the satisfaction of the Secretary using sworn financial statements or other appropriate data demonstrating that the cost is eligible for reimbursement and was in fact incurred.

Section 121(c) requires that within 30 days (by December 19, 2001) and after consultation with airports operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers, the Secretary publish in the **Federal Register** the procedures for filing claims for reimbursement under section 121 of eligible costs incurred. In December 2001, FAA airports, security, and counsel staff consulted on proposed claim procedures, as required by the Act, with representatives of Airports Council International, Metropolitan Washington Airports Authority, Maryland Aviation Administration, American Association of Airport

Executives, National Air Transportation Association (NATA), individual NATA members who provide services to air carriers, and vendors of on-airfield services. Consultations with representatives of on-airport parking lots are pending. Airport operators advised that a high percentage of on-airport parking lots are controlled by the airports and not by independent business entities.

This action contains the proposed procedures for filing claims for reimbursement under section 121 of eligible costs incurred by airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers.

Section-by-Section Analysis

Subpart A—General Provisions

Section 154.1 What Is the Purpose of This Part?

This section states the purpose of part 154, which is to carry out the statutory provisions of the Act with respect to reimbursement of airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers for direct costs, incurred to comply with new, additional, or revised security mandates imposed by the FAA or TSA on or after September 11, 2001.

Section 154.3 Definitions

This section provides definitions for the terms used in the Act. Several definitions incorporate terms from the act or other existing sources. The term ''air carrier'' is defined as in 49 U.S.C. 40102 and ''airport'' is defined as it is found in 49 U.S.C. 47102(2). The definition of ''airport'' is broader than current definitions because the Act does not limit reimbursement to airport operators who are eligible to receive federal Airport Improvement Program grants or to airports in the National Plan of Integrated Airport Systems (NPIAS).

The terms ''on-airport parking lot'' and ''vendor of on-airfield direct services to air carriers'' are defined to identify the two other groups of possible applicants for reimbursement under the Act. The definition of ''on-airport parking lot'' excludes those on-airport parking lots controlled by airport operators. Claims for direct costs incurred by an on-airport parking lot controlled by an airport operator would be included in the airport operator's application. The statutory term ''vendor of on-airfield direct services to air carriers'' by terms requires that the direct service to an air carrier be conducted on the airfield. Direct services to an air carrier include, cleaning, fueling, maintenance, baggage handling, food and beverage services, or other services for aircraft on the airfield. The term ''on-the airfield'' is not defined in the Act or in Title 49, United States Code. For purposes of this Part the term airfield denotes the aircraft operating area of an airport, where most of the aeronautical activities occur. The location of the vendor's business need not be on the airport so long as the work is performed on the airfield. For example, a vendor that repairs aircraft must perform at least part of the service on the airfield to be covered. Other definitions were incorporated with modifications from the Federal Acquisition Regulations, 48 CFR part 31, Office of Management and Budget circulars, and similar sources reflecting generally accepted accounting terms.

The definitions of ''eligible security requirements'' reflects the condition imposed by the Act that reimbursement be limited to direct costs incurred to comply with new, additional, or revised security requirements imposed by the FAA or TSA on or after September 11, 2001. The security requirements found in security directives, emergency amendments, orders, regulations, approved airport and air carrier security programs, contingency measures, and implementing instructions constitute sensitive security information (SSI) under 14 CFR part 191. Applicants are required to associate a specific provision in the applicable Security Directive, emergency to a security program under Part 107, Part 108, or Part 129, order, regulation or other directive with each claimed direct cost and identify it as security sensitive information under 14 CFR part 191 in the application. That information would be withheld from public disclosure under the terms of part 191. Claims for reimbursement submitted under these procedures would be initially reviewed by the field offices of the FAA's Office of Civil Aviation Security Operations or the appropriate office of the TSA to determine whether the claim is appropriately based on new, additional, or revised security requirements imposed by the FAA or TSA on or after September 11, 2001.

Section 154.5 What Funds Will the FAA Distribute Under This Part?

The Act authorizes to be appropriated to the Secretary of Transportation $1.5 billion in reimbursement of direct costs for fiscal years (FY) 2002 and 2003. As of the date of this proposed rule no funds have been appropriated for reimbursement under Section 121. The FAA plans to disburse funds under Section 121 of the Act after appropriation by Congress for FY 2002 and/or FY 2003. In contrast to Section 119 of the Act, which provides for funding for aviation security with Airport Improvements Program (AIP) funds under 49 U.S.C. § 47101 *et seq.*, the amount authorized to be appropriated under section 121 is not considered AIP funds.

Reimbursement provided under Section 121 of the Act would qualify as Federal assistance pursuant to 49 U.S.C. § 47133. Therefore, airport operator recipients of reimbursement under Section 121 of the Act would be subject to the restriction on use of airport revenues of 49 U.S.C. § 47133. Neither Section 47133 nor its legislative history explained the term Federal assistance. In Section II(A) of FAA Policy and Procedures Concerning the Use of Airport Revenue, 64 FR 7696, (February 16, 1999), the FAA provided a non-exclusive list of five types of federal airport grants and conveyances that is considered to be Federal financial assistance. Reimbursements under Section 121 would be similar to federal airport grants in that they constitute reimbursement for funds spend by the airport operator.

Section 154.7 How Much of an Eligible Applicant's Estimated Reimbursement Will Be Distributed Under This Part?

As discussed below, June 1, 2002 would be the due date for applications, and only costs incurred between September 11, 2001 and March 31, 2002 will be considered. The FAA would consider all applications together to determine the allowable costs. If the total of allowable costs exceeds the amounts appropriated, the FAA would allocate funds on a pro-rated basis, based on the ratio of each applicant's allowable costs to the total of all allowable costs claimed. If additional funds are subsequently appropriated, the FAA would give priority to fully reimbursing unreimbursed allowable costs incurred before March 31, 2002.

If the total of allowable costs is less than the amounts appropriated, the FAA would pay claimed expenses in full (subject to 10 percent withholding for audited results) and establish by **Federal Register** notice a due date for a new round of applications. Consistent with the Act applicants will receive reimbursement for which they demonstrate that they are eligible. To be eligible to receive reimbursement, an applicant would have to demonstrate to the satisfaction of the FAA that it has actually incurred direct costs for the purposes specified in the Act. The burden of proof with respect to

eligibility rests with applicants applying for reimbursement.

Section 154.9 What Are the Limits on Reimbursement to the Applicants?

Pursuant to the Act, applicants would only be reimbursed for direct costs incurred to comply with new, additional, or revised security requirements imposed by the FAA or TSA on or after September 11, 2001. Initial applications would be limited to allowable costs incurred during the period between September 11, 2001 and March 31, 2002, so that applicants may have time to determine their direct costs under their normal accounting procedures. Direct costs, as explained in the discussion of the definitions section above, would be the only costs allowable for reimbursement under Section 121 of the Act. Direct costs are those costs that airport operators, on-airport parking lots and vendors of on-airfield direct services to air carriers can demonstrate to be unique to the new, additional, or revised security requirements. Unallowable costs include indirect costs, lost revenue, operating losses, prudent measures, normal costs, and capital costs, as well as pre-September 11, 2001 costs. In addition, costs that would be eligible for reimbursement but that are otherwise recovered by the eligible applicant are generally not reimbursable. Where costs are recovered by a direct surcharge or charge-back for incremental security costs, or by a specific grant, insurance payment, or other financial assistance device, the costs would not be reimbursed. Where the cost was recovered by a general increase in prices or rates and charges, the FAA may approve reimbursement, subject to a requirement that the eligible applicant provide an appropriate rebate to its customers, tenants, or users.

Section 154.11 Who Is Eligible To Apply for Compensation Under This Part?

Airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers would be eligible to apply. Airport operator applicants would not be limited to public airports or certain categories of privately owned public use airports that are eligible to receive AIP grants under the terms of 49 U.S.C. 47102, and they would not limited to airports in the National Plan of Integrated Airport Systems (NPIAS).

Subpart B—Application Procedures

Section 154.13 When Must Applicants Apply for Reimbursement?

All eligible entities would submit a completed application in triplicate, which must be received by June 1, 2002. Submissions would reflect costs incurred from September 11, 2001 through March 30, 2002. Unless an applicant could demonstrate to the satisfaction of the FAA that extremely unusual extenuating circumstances, completely beyond its control, prevented it from making a timely submissions, the FAA would not accept a late submission. If funds initially appropriated under this Part exceed total allowable costs or if additional funds become available, the FAA would publish a new due date for new applications in the **Federal Register.**

Section 154.15 To What Address Must Applicants Send Their Application?

This section provides the address to which applicants must submit their application. The FAA would not accept applications sent to another address. In addition, applications would be required to be mailed or personally delivered. Faxes and e-mails alone would not be acceptable, unless hard copies are also submitted by mail or personal delivery. Hand-carried applications will be subject to arrangements to receive hand-carried applications consistent with current FAA security procedures. Applications also must be complete, containing all the required information. The FAA would not accept incomplete applications.

Section 154.17 What Documentation is Necessary To Support an Application?

The application must include the completed form in Appendix A. The applicant would be required to support the costs it claims for reimbursement with the normal invoices, vouchers, payrolls and supporting accounting records that constitute adequate documentary evidence for the purposes of an independent audit. Supporting accounting records include general and specialized journals, ledgers, manuals, and supporting worksheets and other analyses; and corroborating evidence such as invoices, and vouchers. Audited financial statements are adequate support provided they show the specific costs submitted for reimbursement. Documentary evidence would be required to show that the amounts requested for reimbursement. Documentary evidence would be required to show that the amounts requested for reimbursement were actually incurred. Budget estimates or cost allocations would not be sufficient by themselves to establish a claim for reimbursement. This standard of documentation is the same as the standard used in FAA's Policy and Procedures Concerning the Use of Airport Revenue.

Applicants would be required to identify the specific security requirement and the FAA or TSA source document associated with each claimed allowable cost. This information would be identified as security sensitive information, subject to confidential treatment under 14 CFR Part 191 and would be marked with the warning provided in Section 154.17. The FAA or TSA would review this information to verify that the cost was incurred to satisfy an eligible security requirement. Questions concerning security requirements applicable to a particular eligible applicant may be addressed to Special Projects Officer, Office of Civil Aviation Security Operations (202) 267–7296 or 7262 at the Federal Aviation Administration. Airport operators must also certify that they have consulted with their non-air carrier tenants regarding an adjustment of rates and charges in accordance with section 122 of the Act.

Section 154.19 Must Applicants Certify The Truth and Accuracy of Data They Submit?

This section provides the form of a certification that the Chief Executive Officer, Chief Financial Officer, or Chief Operating Officer, or equivalent official, of an applicant would be required to make the respect to applications for reimbursement and participation in the reimbursement program. The certification would attest to the truth and accuracy of the information and compliance with Section 121 of the Act.

Section 154.21 What Records Must Applicants Retain?

An applicant that applies for reimbursement under this part would be required to retain all books, records, and other source and summary documentation supporting its claims for reimbursement of direct costs pursuant to Section 121 of the Act. This requirement includes, but is not limited to, retaining supporting evidence and documentation demonstrating the validity of the data provided; obtaining and retaining all reports, working papers and supporting documentation pertaining to audits or review conducted by independent auditors under the requirements of this part.

An applicant would be required to preserve and maintain this

documentation for five years in a manner that readily permits its audit and examination by representatives of the FAA, the TSA, the Office of the Secretary, Department of Transportation (including the Office of the Inspector General), the Comptroller General of the United States, or other authorized Federal agencies. An applicant must make all requested data available within one week from a request by such activities.

Section 154.23 Are Applicants That Participate in This Program Subject to Audit?

All claims by applicants are subject to audit the FAA, TSA, Office of the Secretary of Transportation (including the Office of Inspector General), the Comptroller General, or other authorized Federal agencies. All information submitted with the application and all records and documentation retained would be subject to audit.

To accommodate each applicant's normal fiscal year and audit cycle, the FAA would partially release approved reimbursements prior to completion of the annual audit on the condition that the audit will be forwarded to the FAA (same address as the application) within 30 days after completion. Until completion of the audit, the FAA would retain 10% of the approved reimbursement. Upon receipt of the audit, the Department would adjust the reimbursement to conform to the results of audit and the requirements of this Rule.

Airport operators must follow the Office of Management and Budget Circular No. A–133 Single Audit Requirements (for availability see 5 CFR 1310.3); consequently, their requests for reimbursement must be treated as though the amount had been a Federal award and audited in accordance with OMB Circular A–133. If the airport operator did not have Federal assistance of $300,000 or more to meet the criteria for having a single audit, that operator may rely on the submission of supporting documentation as specified in section 154.17. Vendors of on-airfield direct services to air carriers, parking lot operators, and other entities that request reimbursement but are not subject to OMB Circular A–133 would be required to comply with the following requirements. For requests of $300,000 or more, the amount must be subject to annual audit and the amount for the period under audit must be commented upon and certified by the auditor. If the amount requested for reimbursement spans more than one audit period, the independent auditor must comment and certify the amount for each period. As an alternative, the applicant may submit a single certified audit report that specifically addresses the amount requested for reimbursement. For requests under $300,000, the applicant, as an alternative to audit, may submit with its application its supporting documentation, as specified in Section 154.17.

Paperwork Reduction Act

This rule contains information collection requirements subject to the Paperwork Reduction Act (PRA), specifically the application documents that airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers must submit to the FAA to obtain reimbursement. The title, description, and respondent description of the information collections as well as an estimate of the annual recordkeeping and periodic reporting burden are shown below. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Procedures for Reimbursement of Airports for Security Mandates.

Need for Information: The information is required to administer the requirements of the Act.

Use of Information: The FAA would use the data submitted by the applicants to determine whether the applicants' documented costs are eligible for reimbursement under the Act as direct costs, incurred by operators, on-airport parking lots, or vendors of on-airfield direct services to air carriers to comply with new, additional, or revised security requirements imposed by the FAA or TSA on or after September 11, 2001.

Frequency: For this final rule, the FAA will collect the information once, unless an additional application period is necessary to apply for additional appropriated funds.

Respondents: THe respondents include a possible estimated 4000 applicants. This number is based on an estimate of the number of commercial service airports, with assumptions of one parking operator per airport and 5 vendors of on-airfield services to air carriers.

Burden Estimate: Total of 16,000 burden hours (4 hours per application multiplied by an estimated 4,000 potential applicants). Total cost to industry would be approximately $455,200.

Form(s): The data would be collected both electronically and from paper sources.

Average Burden Hours per Respondent: 4 hours per applicant at an average cost of about $114 per respondent.

The Office of Management and Budget has approved this information collection, with Control Number .

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify the costs. Under this proposed rule no entity would be required to take any action so that the economic impact is minimal. Since its costs and benefits do not make it a ''significant regulatory action'' as defined in the Order, we have not prepared a ''regulatory evaluation,'' which is the written cost/benefit analysis ordinarily required for all rulemaking under the DOT Regulatory and Procedures. We do not need to do the latter analysis where the economic impact is minimal.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, 5 U.S.C. 601–612, directs the FAA to fit regulatory requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation. We are required to determine whether a proposed or final action will have a ''significant economic impact on a substantial number of small entities'' as defined in the Act. If we find that the action will have a significant impact, we must do a ''regulatory flexibility analysis.''

Under this proposed rule no entity would be required to take any action. Those that choose to apply under this proposed rule may obtain a benefit. The costs of complying are those stated in the Paperwork Reduction Act section in this preamble, and are minimal. Therefore, we certify that this action will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activity that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for

U.S. standards. The FAA has assessed the potential effect of this rulemaking and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (UMRA), enacted as Public Law 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector.

This proposed rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power responsibilities among the various levels of government. Therefore, we have determined that this proposal does not have federalism implications.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy (NEPA) environmental impact statement. In accordance with FAA Order 1050.ID, appendix 4, paragraph 4(j) this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of this proposal has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that this rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 154

Airports, Business and industry, Reimbursement, Reporting and recordkeeping requirements.

The Amendments

For the reasons set forth in the preamble, the FAA proposes to add new part 154 to Title 14, Code of Federal Regulations, to read as follows:

PART 154—PROCEDURES FOR REIMBURSEMENT OF AIRPORTS, ON-AIRPORT PARKING LOTS AND VENDORS OF ON-AIRFIELD DIRECT SERVICES TO AIR CARRIERS FOR SECURITY MANDATES

Subpart A—General Provisions

Sec.

154.1 What is the purpose of this part?
154.3 Definitions.
154.5 What funds will the FAA distribute under this part?
154.7 How much of an eligible applicant's estimated reimbursement will be distributed under this part?
154.9 What are the limits on reimbursement to applicants?
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Subpart B—Application Procedures

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154.17 What documentation is necessary to support an application?
154.19 Must applicants certify the truth accuracy of data they submit?
154.21 What records must applicants retain?
154.23 Are applicants that participate in this program subject to audit?
Appendix A to Part 154—Form for Application for Reimbursement

Authority: Section 121 of Pub. L. 107–71, 115 Stat. 597.

Subpart A—General Provisions

§ 154.1 What is the purpose of this part?

The purpose of this part is to establish procedures to implement section 121 of the Aviation and Transportation Security Act (''the Act''), Public Law 107–71, 115 Stat. 597. This statutory provision authorizes appropriations to reimburse airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers, for direct costs incurred by such operators to comply with new, additional, or revised security requirements imposed by the FAA or the Transportation Security Administration (TSA) on or after September 11, 2001.

§ 154.3 Definitions

The following terms apply to this part:

Air carrier means any U.S. carrier or foreign air carrier as defined in 49 U.S.C. 40102.

Airport means any U.S. airport as defined in 49 U.S.C. 47102.

Airport operator means the owner or individual, public, or business entity that controls the daily operation, maintenance, and management of an airport.

Allowable cost means the direct costs incurred by an eligible applicant to comply with eligible security requirement son or after September 11, 2001.

Capital cost means a cost that in accordance with accrual accounting procedures would not be charged as an expense to a single fiscal period. Capital costs include expenditures for extensive terminal or parking garage remodeling, road construction, and installation of permanent barricades. The costs of minor terminal and parking alterations, installation of temporary barricades, such as Jersey barriers, and minor purchases of equipment are not considered to be capital costs. Any project or purchase that would be AIP eligible under the standards of eligibility in effect prior to enactment of the Act is a capital expenditure. The eligible applicant's normal cost accounting procedures will weigh heavily for determining whether a transaction should be considered a current year expenditure or a capital expenditure. Entities that are on a cash accounting basis should apply accrual accounting principles to determine whether a transaction is a current year expenditure or a capital expenditure.

Costs otherwise recovered means costs that would otherwise be eligible for reimbursement under this part, but that the eligible agency passed through to vendors, customers, subcontractors, or the public, or costs that were recovered through insurance, grant programs, or other kinds of aid.

Direct costs means the costs that eligible applicants can specifically identify as being unique to new, additional, or revised security requirements imposed by the FAA or the TSA on or after September 11, 2001. Such sots must be incurred on or after September 11, 2001 and may not be allocable from or to other cost pools or cost objectives.

Eligible applicant means an airport operator, on-airport parking lot, or vendor of on-airfield direct services to air carriers eligible to apply for reimbursement under this part.

Eligible security requirement means a new, additional, or revised security requirement imposed by the FAA or the TSA through a Security Directive, emergency amendment to a security program under Part 107, Part 108 or Part 129 of this chapter, order, regulation, or other directive on or after September 11, 2001.

Indirect costs are any costs that are not directly identified with a single, final cost objective. Indirect administrative costs are the accounting, budgeting, data processing, legal services, insurance, office space, utilities, printing, reproduction, and other costs that are not directly traceable to the new additional, or revised security requirements. Indirect management costs are those costs incurred from the corporate, division, and local officers and supervisors that were reasonable for implementing the new, additional, or revised security requirements, but who also continued to have their normal managerial or supervisory responsibilities. For example, a local supervisor may have been responsible for implementing the reissuance of security badges, but that supervisor may have also continued with his normal duties, such as, the routine scheduling of shift personnel or the supervision of personnel in the normal course of their duties.

Lost revenue means those revenues which the eligible applicant would have earned were it not for measures required by the Department of Transportation or law enforcement agencies in response to the events of September 11, 2001. An example of lost revenue is the lost revenue from parking spaces that were placed out of service as the result of FAA security requirements. Lost revenue also includes, but is not limited to, the loss of airport landing fees resulting from decreased air traffic as the result of FAA suspending air operations, and reduced fees paid by airport vendors due to the lost sales that they incurred as the result of FAA suspending air operations.

Normal costs means the costs incurred by eligible applicants for the purpose of airport security that are not directly related to the new, additional, or revised security requirements imposed by the FAA or the TSA on or after September 11, 2001.

On-airport parking lot means the individual or business entity, other than an airport operator, that controls through lease or other business arrangement with an airport operator, the daily operation, maintenance, and management of a parking lot located on land identified as airport property on an airport property map.

Operator losses mean the losses resulting from decreased revenue or increased expenses resulting from FAA security requirements.

Pre-September 11, 2001 costs means costs otherwise budgeted or expended prior to September 11, 2001.

Prudent measure means a new or additional measure undertaken by an eligible applicant to improve airport and passenger security which was not directly ordered by the FAA. Contracting for on-airport catering to provide meals for law enforcement officers located at the airport in response to an FAA security directive but not specifically directed by the FAA would be an example of a prudent measure.

Unallowable costs means those costs that do not meet the definitions of allowable and direct costs. Unallowable costs include capital costs, indirect costs, normal costs, lost revenue, operating losses, and prudent measures, as well as pre-September 11, 2001 costs.

Vendor of on-airfield direct services to air carriers means an individual or business entity, other than the serviced air carrier or airport operator, that provides through a fee arrangement cleaning, fueling, maintenance, baggage handling, food and beverages or other services for aircraft on the airfield. For the purposes of this definitions, an air carrier that performs such services for another air carrier is considered to be a vendor when performing the same or similar services on the airfield. For purposes of this part the term airfield denotes the aircraft operating area of an airport where most of the aeronautical activities occur. The location of the vendor's business need not be on the airport so long as the work is performed on the airfield.

§ 154.5 What funds will the FAA distribute udner this part?

(a) Through the regulations in this part, the FAA is distributing reimbursement authorized under section 121 of the Act, to the extent such funds are appropriated by Congress. As of December 21, 2002, no such funds have been appropriated.

(b) The reimbursement provided under this part to an airport is Federal assistance within the meaning of 49 U.S.C. 47133, and Federal financial assistance within the meaning of the FAA Policy and Procedures Concerning the Use of Airport Revenue published on February 16, 1999 (for availability see http://www.faa.gov/arp/fedreg/htm).

§ 154.7 How much of an eligible applicant's estimated reimbursement will be distributed under this part?

Upon appropriation, and after all applications are received in accordance with this part, the FAA will determine the total amount of all allowable costs requested. In the event the total allowable costs exceed appropriated funds, the FAA will approve reimbursement of a uniform percentage of allowable costs that equates the total approved reimbursements with the appropriated amount. In the event that additional funds are subsequently made available, the FAA will give priority to fully reimbursing allowable costs claimed in initial applications. If total allowable costs are less than appropriated funds, the FAA will publish a notice in the **Federal Register** of the due date for the filing of further applications.

§ 154.9 What are the limits on reimbursement to applicants?

(a) The FAA approves reimbursement only for allowable costs, subject to the limitation in paragraph (c)(3) of this section.

(b) Initial applications must be limited to allowable costs incurred during the period between September 11, 2001 and March 31, 2002.

(c) The following items are not eligible for reimbursement:

(1) Unallowable costs.

(2) Lost revenue.

(3) Costs otherwise recovered. Where the costs are recovered by direct charge, surcharge, or charge-back for incremental or new security costs, or by a specific grant, insurance payment, or other financial assistance device, the costs will not be reimbursed. Where the cost are recovered by a general increase in prices or rates and charges, the FAA may approve reimbursement, subject to a requirement that the eligible applicant provide an appropriate rebate of reimbursed amounts to its customers, tenants, or users.

§ 154.11 Who is eligible to apply for reimbursement under this part?

The following are eligible to apply for reimbursement under this part:

(a) Airport operators.

(b) On-airport parking lots.

(c) Vendor of on-airfield direct services to air carriers.

Subpart B—Application Procedures

§ 154.13 When must applicants apply for reimbursement?

(a) All eligible applicants must submit an initial completed application covering the period September 11, 2001 through March 31, 2002. The FAA must receive applications by June 1, 2002.

(b) If funds initially appropriated for reimbursement under this part exceed total allowable costs included in all applications, or if additional funds subsequently become available, the FAA will publish a new application due date in the **Federal Register**.

§ 154.15 To what address must applicants send their applications?

(a) You must submit your application, and all required supporting information,

in hard copy (not solely by fax or electronic means) in triplicate to the following address: Federal Aviation Administration, Office of Airport Planning and Programming, Airport Financial Assistance Division, APP–500, 800 Independence Avenue SW., Washington, DC 20591.

(b) If your complete application is not sent to the address in paragraph (a) of this section, the FAA will not accept it.

§ 154.17 What documentation is necessary to support an application?

(a) The application must include the completed form in Appendix A of this Part. You must support the costs of claims for reimbursement with the normal invoices, vouchers, payrolls, and supporting accounting records that constitute adequate documentary evidence for the purposes of an independent audit. Supporting accounting records include general and specialized journals, ledgers, manuals, and supporting worksheets and other analyses, and corroborating evidence such as invoices and vouchers. You must supply a copy of this supporting documentation to the FAA upon request. Audited financial statements are adequate support provided they show the specific costs submitted for reimbursement. Documentary evidence must show that the amounts requested for reimbursement were actually incurred. Budget estimates or cost allocations are not sufficient by themselves to establish a claim for reimbursement.

(b) You must designate the specific security requirement and the Federal Aviation Administration or Transportation Security Administration source document associated with each claimed allowable cost by citing the Security Directive number and paragraph, Emergency Amendment number and paragraph, or other specific cite. You must identify this information as sensitive security information (SSI) under 14 CFR Part 191, by marking the top and bottom of the first page ''Sensitive Security Information'' and marking each page that contains SSI with the following:

Warning:

THIS DOCUMENT CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER THE PROVISIONS OF 14 CFR PART 191. THE INFORMATION MAY NOT BE RELEASED IN ANY FORM WITHOUT THE EXPRESS PRIOR WRITTEN CONSENT OF THE ADMINISTRATOR OR ASSOCIATE ADMINISTRATOR FOR CIVIL AVIATION SECURITY, ACS–1. IN ACCORDANCE WITH 49 U.S.C. 40119, THIS INFORMATION IS EXEMPT BY STATUTE FROM DISCLOSURE UNDER THE FOIA. UNDER THE PROVISIONS OF 14 CFR 191.5(D), VIOLATORS ARE SUBJECT TO CIVIL PENALTY OR OTHER ACTION BY THE FAA.

(c) The Federal Aviation Administration or Transportation Security Administration will review this information to verify that the cost was incurred to satisfy an eligible requirement. Questions concerning security requirements applicable to a particular eligible applicant may be addressed to Special Projects Officer, Office of CAS Operations (202) 267–7296 or 7262 at the Federal Aviation Administration.

(d) You must certify that you have consulted with airport tenants regarding adjustment in rental rates in accordance with section 122 of the Act.

(e) You must document the extent to which you recovered costs otherwise eligible for reimbursement.

§ 154.19 Must applicants certify the truth and accuracy of data they submit?

The Chief Officer (CEO), Chief Financial Officer (CFO), or the Chief Operating Officer (COO) must certify the request for reimbursement on the form in Appendix A of this part. The certification must attest to the truth and accuracy of the information and to compliance with Section 121 of the Aviation and Transportation Security Act.

§ 154.21 What records must applicants retain?

As an applicant that applies for reimbursement under this part:

(a) You must retain all books, records, and other source and summary documentation supporting your claims for reimbursement of direct costs pursuant to Section 121 of the Act. This requirement includes, but is not limited to:

(1) Supporting evidence and documentation demonstrating the validity of the data you provide; and

(2) All reports, working papers, and supporting documentation pertaining to audits or review conducted by independent auditors under the requirements of this part.

(b) You must preserve and maintain this documentation in a manner that readily permits its audit and examination by representatives of the FAA, the TSA, the Office of the Secretary, Department of Transportation (including the Office of the Inspector General), the Comptroller General of the United States, or other authorized Federal agencies.

(c) You must retain this documentation for five years.

(c) You must make all requested data available within one week from a request by the FAA, the TSA, the Office of the Secretary, the Department of Transportation (including the Office of the Inspector General), the Comptroller General of the United States, or other authorized Federal agencies.

§ 154.23 Are applicants that participate in this program subject to audit?

(a) All requests for reimbursement are subject to audit. All information you submit with your applications and all records and documentation that you retain are also subject to audit.

(b) To accommodate each eligible applicant's normal fiscal year and audit cycle, the FAA will partially release approved reimbursement prior to completion of the annual audit on the condition that the audit will be forwarded to the FAA (same address as the application) within 30 days after completion. Until completion of the audit, the FAA will retain 10% of the approved reimbursement. Upon receipt of the audit, the Department will adjust the reimbursement to conform with the results of audit and the requirements of this part.

(c) Airport operators that are non-Federal local governments, and non-profit organizations, must follow the Office of Management and Budget Circular No. A–133 Single Audit Requirements (for availability see 5 CFR 1310.3). Consequently, their requests for reimbursement must be treated as though the amount had been a Federal award and must be audited in accordance with OMB Circular A–133. If the airport operator did not have Federal assistance of $300,000 or more to meet the criteria for having a single audit, that operator follow the procedures set forth in paragraph (d)(2) of this section governing requests ''under $300,000.''

(d) Vendors of on-airfield direct services to air carriers, parking lot operators, and other eligible applicants that request reimbursement but are not subject to OMB Circular A–133 (for availability see 5 CFR 1310.3) must comply with the following requirements:

(1) For requests of $300,000 or more, the amount must be subject to annual audit and the amount for the period under audit must be commented upon and certified by the auditor. If the amount requested for reimbursement spans more than one audit period, the independent auditor must comment and certify the amount for each period. As an alternative, the applicant may submit a single certified audit report that specifically addresses the amount requested for reimbursement.

(2) For requests under $300,000, the eligible applicant, as an alternative to audit, may submit with its application copies of its supporting documentation, as described in § 154.17(a) upon request by the FAA.

(e) Questions regarding audit procedures, or the reimbursement form may be addressed to AAS–400, at (202) 267–5879.

(f) The auditor is not responsible for expressing an opinion on whether a particular claimed cost was incurred to comply with an eligible requirement. That determination will be made by the FAA or the TSA based on the information submitted with the application as set forth in § 154.17. Information identified in § 154.17(b) is SSI and may be disclosed to auditors only on a need to know basis, in accordance with part 191 of this chapter. Each auditor is considered to be employed by, contracted to, or acting for an airport operator or air carrier, and is responsible for restricting disclosure of SSI in accordance with § 191.5 of this chapter.

Appendix A to Part 154—Form for Application for Reimbursement

BILLING CODE 4910–13–M

AVIATION AND TRANSPORTATION SECURITY ACT SECTION 121

APPLICATION TO PART 154 FOR REIMBURSEMENT OF NEW, ADDITIONAL, OR REVISED SECURITY REQUIREMENTS

Name	**Type of entity** (airport operator, on-airport parking lot, vendor of on-airfield direct services to air carriers).
Address	**Telephone Number**
Airport(s) Associated with the Request for Reimbursement (list on attachment if required)	
Filing – Is this a revised or Original Filing?	

ACCOUNT INFORMATION

Bank Routing Number	(9 Positions)
Account Number	
Name of Account	
Type of Account	

Total Reimbursement Claimed (from attached cost incurred sheets)	$

CERTIFICATIONS

I Certify that the information contained in this form is a true and accurate request for reimbursement of the allowable - direct costs permitted under Section 121 of the ATSA P.L.107-71, 115 Stat. 597. I understand that falsification of this claim for reimbursement may result in criminal prosecution resulting in fine and/or imprisonment. (18 U.S.C. 1001)
[APPLICABLE ONLY TO AIRPORT OPERATORS] I Certify that the airport identified above has consulted with tenants at the airport regarding adjustments in rental rates in accordance with the terms of section 122 of the ATSA, P.L. 107-71, 115 Stat. 597.

Certifying Officer (signature) **Date**

Print Name and Title (CEO, CFO, or COO) **Telephone Number**

Cost Incurred By Category

Please provide a separate sheet for each category of cost for which you request reimbursement. For instance, new background checks, reissuance of security badges, additional security patrols, additional security check points, installation of barricades, and terminal, airfield, cargo, and parking facility modifications are separate cost categories.

Cost Category	

Description of the new, additional, or revised security requirement imposed by the FAA or the TSA on or after September 11, 2001.

Type –New, Additional, or Revised	

COST SUMMARY

Expense	**Contracted for or Budgeted amount Prior to 9/11/01**	**Actual Cost**	**Difference**
Wage and Salary			
Contracts			
Equipment			
Materials			
Land			
Miscellaneous (not to exceed 5% of the cost category)			
Other (Please attached a list)			
Subtotals			

RECOVERED COSTS SUMMARY

Costs recovered through direct charge, surcharge, charge-back, insurance payment, grant etc.	$
Costs recovered through general increase in prices, lease rates or rates and charges	

Total Reimbursement Claimed for Cost Category	$

Issued in Washington, DC on December 17, 2001.

Jane F. Garvey,

Administrator.

[FR Doc. 01–31435 Filed 12–18–01; 3:57 pm]

BILLING CODE 4910–13–C

Federal Register

Friday,

December 21, 2001

Part VI

Department of Education

Office of Educational Research and Improvement (OERI), Cognition and Student Learning (CASL) Research Grant Program; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.305H]

Office of Educational Research and Improvement (OERI), Cognition and Student Learning (CASL) Research Grant Program

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2002.

Purpose of Program: The purpose of this program is to improve student learning by supporting a new program of research that brings recent advances in cognitive science and neuroscience to bear on significant educational problems. The overarching goal of this program of research is to establish a scientific foundation for educational practice by supporting research on key processes of attention, memory, and reasoning that are essential for learning and that are likely to produce substantial gains in academic achievement.

Eligible Applicants: Public and private agencies, institutions, and organizations, including for-profit and non-profit organizations; institutions of higher education; State and local educational agencies; and regional educational laboratories.

Deadline for Receipt of Letter of Intent: February 5, 2002.

A Letter of Intent is *optional*, but encouraged, for each application. The Letter of Intent is for OERI planning purposes and will not be used in the evaluation of the application.

Applications Available: December 21, 2001.

Deadline for Transmittal of Applications: April 15, 2002.

Estimated Available Funds: Up to $3,000,000 for the first year of this program.

The estimated amount of funds available for new awards is based on the Administration's request for this program for FY 2002. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $75,000 to $500,000.

Estimated Size of Awards: The size of the awards will be commensurate with the nature and scope of the work proposed.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Page Limits: The application must include the following sections: title page form (ED 424), one-page abstract, research narrative, literature cited, curriculum vitae for principal investigators(s) and other key personnel, budget summary form (ED 524) with budget narrative, appendix, and statement of equitable access (GEPA 427). The research narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the research narrative (text plus all figures, charts, tables, and diagrams) to the equivalent of 25 pages and the appendix to 20 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the research narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to the title page form, the one-page abstract, the budget summary form and narrative budget justification, the curriculum vitae, literature cited, or the assurances and certifications. Our reviewers will not read any pages of your application that—

- Exceed the page limit if you apply these standards; or
- Exceed the equivalent of the page limit if you apply other standards.

We have found that reviewers are able to conduct the highest quality review when applications are concise and easy to read, with pages consecutively numbered.

Applicable Statute and Regulations: (a) 20 U.S.C. 6031; (b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75 (except as limited in 34 CFR 700.5), 76, 77, 80, 81, 82, 85, 86 (part 86 applies only to Institutions of Higher Education), 97, 98, and 99; and (c) The regulations in 34 CFR part 700.

Selection Criteria: The Secretary selects the following selection criteria in 34 CFR 700.30(e) to evaluate applications for new grants under this competition. The criteria below will receive the following percentage weights.

(a) National Significance (.2)

(b) Quality of the Project Design (.5)

(c) Quality and Potential Contributions of Personnel (.2)

(d) Adequacy of Resources (.1)

Strong applications for CASL grants clearly address each of the applicable selection criteria. They make a well-reasoned and compelling case for the national significance of the problems or issues that will be the subject of the proposed research, and present a research design that is complete, clearly delineated, and incorporates sound research methods. In addition, the personnel descriptions included in strong applications make it apparent that the project director, principal investigator, and other key personnel possess training and experience commensurate with their duties.

Collaboration: We encourage collaboration in the conduct of research. For example, major research universities and institutions may collaborate with historically underrepresented institutions, such as Historically Black Colleges and Universities, Hispanic-Serving Institutions, and Tribal Colleges and Universities.

Pre-Application Meeting: We will hold a pre-application meeting on February 19, 2002 to discuss the funding priority. You are invited to participate. You will receive technical assistance and information about the funding priority. Participants are also encouraged to use this meeting to engage in substantive discussion about prior empirical research and the nature of high quality research in this new area. The meeting will be held at the U.S. Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue, NW., room 101, Washington, DC, between 1 p.m. and 4 p.m. A summary of the meeting will be posted on the Internet at: *http://www.ed.gov/offices/OERI*

Assistance to Individuals With Disabilities at the Meeting

The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT** at least two weeks before the scheduled meeting date. Although we will attempt to meet a request we receive after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

SUPPLEMENTARY INFORMATION: Cognitive science and neuroscience have been dynamic areas of research over the past fifteen years, producing breakthroughs in our basic understanding of the brain and behavior. Although this research has identified key processes of

attention, memory, and reasoning that are essential for learning, it has yet to be systematically applied to significant educational problems. Therefore, OERI is interested in funding research that builds on these advances and meaningfully connects them to profound and pervasive problems in learning or academic achievement. In this competition, we focus on cognitive psychology rather than linguistics, artificial intelligence, or other areas of cognitive science. We seek research proposals on both basic information processing (problems in encoding, processing information in working memory, storage, and retrieval of knowledge) and higher order cognition (problems in executive function and monitoring, inferential and critical thinking, and verbal and quantitative reasoning). Ranging from basic to higher order cognition, the following topics are illustrative foci for research:

Attention: Research has identified complex attentional mechanisms at the neural and behavioral level that govern information encoding. Little is known, however, about the encoding of information presented to students, notably, how much information is encoded, how attentional mechanisms are implicated in failures to encode, and the degree to which encoding failure explains academic failure, particularly among students who would not be characterized as having attention deficit disorder. Clearly, the effectiveness of teaching and learning interventions depend on whether students process those interventions, and it may well be that effectiveness can be improved by increasing the quality and degree of student attention. Furthermore, attentional and related information-processing systems undergo significant development with age and experience, and such development interacts with task and contextual variables to affect cognitive performance. Research is needed that bridges the gap between detailed, rigorous models of attention (and its development) and successful academic performance.

Memory: Recent research suggests that memory can be conceived of as a property of brain systems and as an outcome of the brain's processing, rather than as a distinct item stored in a specific brain location. Thus, memory is both a part and a product of information-processing activities that are crucial for learning. For example, in working memory, presented information is both stored and operated on, as when students add a series of numbers in their head (i.e., mental arithmetic). Indeed, thinking, problem solving, comprehension, judgment, and long-term retention are related to operations in working memory; all but the simplest tasks also recruit executive control in managing working memory. Although research has related working memory to individual differences in test performance, few process analyses have been done to either isolate sources of difficulties in school-related tasks or to design process-based interventions to reduce those difficulties. Most recently, research on memory has focused on multiple memory systems and processes in long-term memory, which would be tapped to different degrees in different academic tasks. Although theorists differ about the exact nature of these multiple memories, research has demonstrated that learners harbor memories for presented material that are elicited with varying success in different testing environments. Thus, research might profitably focus on how to improve retrieval of these implicit memories for learned material, how memory systems differ in their support for reasoning and problem solving, and how representations in memory can more accurately reflect what has been taught.

Reasoning: Although the seeds of reasoning competence appear to be planted early in development, logical and other forms of reasoning continue to develop significantly into late adolescence. Rudimentary reasoning is required for students to comprehend textbooks, follow class lectures and discussions, and to write and think effectively on their own. Research has distinguished different kinds of reasoning errors in laboratory tasks, which can be ameliorated in different ways. Furthermore, research has shown that students are not trapped in cognitive stages until they are ''ready to learn,'' but, rather, they can learn to improve their reasoning at each stage of development. Research is needed that links this work on reasoning development and performance to the amelioration of reasoning problems in important academic contexts, such as high-stakes testing. Students who fail to master these higher-order reasoning skills are unlikely to compete effectively in a fast-moving economy in which new learning and problem solving are routinely required.

Applicants must focus on research that has the potential to produce substantial gains in academic achievement. Dependent variables may include: measures of cognitive processes, such as conceptual understanding; performance on problems from textbooks, homework exercises, and other ordinarily and widely assigned school tasks; items such as those customarily given on standardized tests (*e.g.,* SATs, NAEP); and other measures of learning or cognition that are demonstrably relevant to academic achievement.

Priority

This competition focuses on projects designed to meet the following absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet the priority.

Absolute Priority

Despite their relevance to learning, recent advances in cognitive science and neuroscience have remained virtually untapped in education. This program of research on Cognition and Student Learning seeks to establish a scientific foundation for educational practice by building on these theoretical and empirical advances and applying them to significant problems in learning or academic achievement. Specifically, proposals are solicited that address either 1 or 2 below.

1. Mechanisms of basic information processing, such as the following, and their relation to significant problems in learning or academic achievement.

a. Attention.

b. Working memory.

c. Learning processes: Acquisition and retention.

d. Storage in and retrieval from long-term memory.

e. Interference and inhibition.

2. Mechanisms of higher order cognition, such as the following, and their relation to significant problems in learning or academic achievement.

a. Executive function and monitoring.

b. Metamemory/memory strategies.

c. Meaning extraction (literal and figurative) for words, sentences, discourse, and complex events.

d. Inference and critical thinking: derivation of semantic, logical, and pragmatic inferences, situation models, and other mental representations.

e. Similarity, categorization, and analogical reasoning.

f. Non-verbal reasoning (e.g., spatial, scientific, quantitative reasoning).

g. Conceptual development (e.g., biology, music, calculus).

h. Judgment and decision-making.

Proposed research must be motivated by a specific conceptual framework and relevant prior empirical evidence, both of which must be clearly articulated. The research must have the potential to advance fundamental knowledge that bears on solving important problems in learning or academic achievement. The proposal must indicate method and why the approach taken optimally addresses the research question. Any approach

must incorporate a valid process that allows for generalization beyond the study participants. Proposals must indicate which of the following approaches is to be used:

1. Experiment (control group; randomized assignment—both required).
2. Quasi-experiment (comparison group, stratified random assignment, groups comparable at pretest, statistical adjustment for comparability).
3. Correlational study (simple, multiple/logistic regression, structural equation modeling, hierarchical linear modeling).
4. Other quantitative (e.g., simulation).
5. Descriptive study using qualitative techniques (e.g., ethnographic methods; focus groups; classroom observations; case studies; single subject designs).

The design of studies should be clear: Independent and dependent, or predictor and criterion, variables should be distinguished. Proposed research is expected to employ the most sophisticated level of design and analysis that is appropriate to the research question. For research questions that cannot be answered using a randomized assignment experimental design, the proposal should spell out the reasons why such a design is not applicable and why it would not represent a superior approach (compared to the selected design).

Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, in order to make timely grant awards in FY 2002, the Secretary has decided to issue this application notice without first publishing a proposed priority for public comment. These regulations will apply to the FY 2002 grant competition only. The Secretary takes this action under section 437(d)(1) of the General Education Provisions Act.

OERI is conducting this grant competition under the national research institutes authority for the purpose of funding projects that will establish a new stream of research bridging basic cognitive science and educational application. Cognitive science, including studies of learning, memory, decision making, language acquisition, higher order thinking skills, as well as the brain mechanisms underlying these abilities, has shown explosive growth in the last 25 years. Indeed, along with genomic science, many believe that the cognitive and brain sciences have generated the greatest scientific progress of the late 20th century. Basic research within the disciplines of psychology, linguistics, and neuroscience has generated new and important fundamental knowledge on how people learn. However, most of this research has been conducted in laboratory settings, with samples of convenience, and with tasks that are artificial. Translations of this research into educational practice have either not occurred or have not gotten further than abstract statements of principles.

The new program of research sponsored by OERI is intended to move research in the cognitive and brain sciences into schools, expanding the knowledge base to school settings, and to develop new programs and interventions that take advantage of that knowledge base.

Thus for the first time OERI is soliciting applications that will address the lack of substantial interplay between the applied problems of schools and learners, and the cognitive and brain sciences.

In a separate **Federal Register** notice to be published in the near future, the Assistant Secretary will ask for public comment on this priority for the purpose of designing and conducting future grant competitions for this research.

Pilot Project for Electronic Submission of Applications

In FY 2002, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Cognition and Student Learning Research Grant Program (CFDA 84.305H) is one of the programs included in the pilot project. If you are an applicant under the CASL program, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Within three working days of submitting your electronic application, fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from the e-APPLICATION system.
2. Make sure that the institution's Authorizing Representative signs this form.
3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
4. Place the PR/Award number in the upper right hand corner of ED 424.
5. Fax ED 424 to the Application Control Center at (202) 260–1349.

We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the CASL Program at: *http://e-grants.ed.gov.*

Due to software upgrades, it is anticipated that the e-Application software will be unavailable for several days in mid-January. The tentative dates for this system down time are January 11–21, 2002. Please check this site for future updates on system availability.

We have included additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application package.

FOR APPLICATIONS AND FURTHER INFORMATION CONTACT: Valerie Reyna, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, room 600, Washington, DC 20208. Telephone: (202) 219–1385 or via Internet: *Valerie.Reyna@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT.**

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting Valerie Reyna. However, the

Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Program Authority: 20 U.S.C. 6031.

Dated: December 18, 2001.

Grover J. Whitehurst,

Assistant Secretary for Educational, Research and Improvement.

[FR Doc. 01–31503 Filed 12–20–01; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

Friday,
December 21, 2001

Part VII

The President

Executive Order 13240—Council of Europe in Respect of the Group of States Against Corruption

Executive Order 13241—Providing an Order of Succession Within the Department of Agriculture

Executive Order 13242—Providing an Order of Succession Within the Department of Commerce

Executive Order 13243—Providing an Order of Succession Within the Department of Housing and Urban Development

Federal Register
Vol. 66, No. 246
Friday, December 21, 2001

Presidential Documents

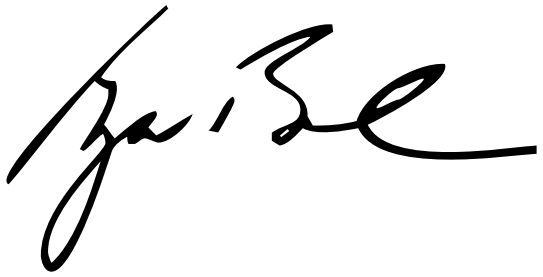
Title 3—

The President

Executive Order 13240 of December 18, 2001

Council of Europe in Respect of the Group of States Against Corruption

By the authority vested in me as President by the Constitution and the laws of the United States, including section 1 of the International Organizations Immunities Act (22 U.S.C. 288) (the ''Act''), and having found that the Council of Europe in Respect of the Group of States Against Corruption (GRECO) is a public international organization in which the United States participates within the meaning of the Act, I hereby designate GRECO as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the Act. This designation is not intended to abridge in any respect privileges, exemptions, or immunities that such organization may have acquired or may acquire by international agreement or by law.



THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31665
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13241 of December 18, 2001

Providing an Order of Succession Within the Department of Agriculture

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Agriculture (Secretary) during any period when both the Secretary and the Deputy Secretary of Agriculture (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) Under Secretary of Agriculture for Farm and Foreign Agricultural Services;

(b) Under Secretary of Agriculture for Marketing and Regulatory Programs;

(c) Under Secretary of Agriculture for Rural Development;

(d) Under Secretary of Agriculture for Food, Nutrition, and Consumer Services;

(e) Under Secretary of Agriculture for Natural Resources and Environment;

(f) Under Secretary of Agriculture for Research, Education, and Economics;

(g) Under Secretary of Agriculture for Food Safety;

(h) General Counsel of the Department of Agriculture;

(i) Assistant Secretary of Agriculture for Administration; and

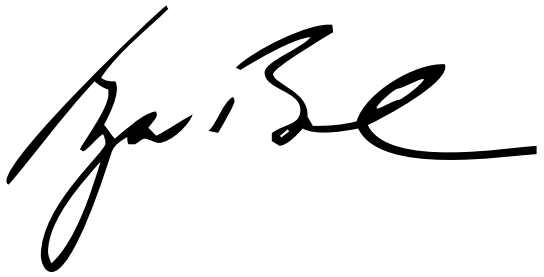
(j) Assistant Secretary of Agriculture for Congressional Relations.

Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(j) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

Sec. 4. Executive Order 11957 of January 13, 1977, is hereby revoked.



THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31666
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13242 of December 18, 2001

Providing an Order of Succession Within the Department of Commerce

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Commerce (Secretary) during any period when both the Secretary and the Deputy Secretary of Commerce (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) General Counsel of the Department of Commerce;

(b) Under Secretary of Commerce for International Trade;

(c) Under Secretary of Commerce for Economic Affairs;

(d) Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration;

(e) Under Secretary of Commerce for Technology;

(f) Under Secretary of Commerce for Export Administration;

(g) Chief Financial Officer of the Department of Commerce and Assistant Secretary of Commerce in charge of Administration; and

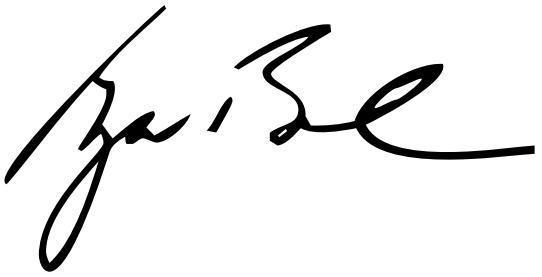
(h) Assistant Secretary of Commerce in charge of Legislative and Intergovernmental Affairs.

Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(h) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

Sec. 4. Executive Order 11880 of October 2, 1975, Executive Order 12998 of April 5, 1996, and section 26 of Executive Order 12608 of September 9, 1987, are hereby revoked.



THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31667
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13243 of December 18, 2001

Providing an Order of Succession Within the Department of Housing and Urban Development

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Housing and Urban Development (Secretary) during any period when both the Secretary and the Deputy Secretary of Housing and Urban Development (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) General Counsel of the Department of Housing and Urban Development;

(b) Assistant Secretary of Housing and Urban Development in charge of Housing-Federal Housing Commission;

(c) Assistant Secretary of Housing and Urban Development in charge of Community, Planning and Development;

(d) Assistant Secretary of Housing and Urban Development in charge of Public and Indian Housing;

(e) Assistant Secretary of Housing and Urban Development in charge of Policy Development and Research;

(f) Assistant Secretary of Housing and Urban Development in charge of Fair Housing and Equal Opportunity;

(g) Assistant Secretary of Housing and Urban Development in charge of Congressional and Intergovernmental Relations;

(h) Assistant Secretary of Housing and Urban Development in charge of Administration; and

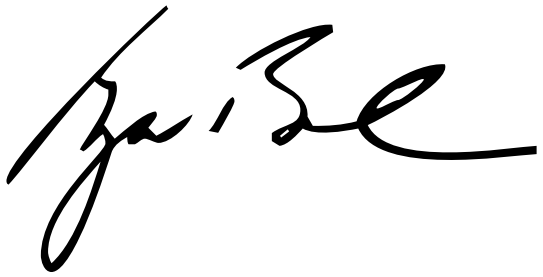
(i) Assistant Secretary of Housing and Urban Development in charge of Public Affairs.

Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(i) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

Sec. 4. Executive Order 11274 of March 30, 1996, is hereby revoked.



THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31668
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

Federal Register

Friday,
December 21, 2001

Part VIII

The President

Executive Order 13244—Providing an Order of Succession Within the Department of the Interior

Executive Order 13245—Providing an Order of Succession Within the Department of Labor

Executive Order 13246—Providing an Order of Succession Within the Department of the Treasury

Executive Order 13247—Providing an Order of Succession Within the Department of Veterans Affairs

Federal Register
Vol. 66, No. 246
Friday, December 21, 2001

Presidential Documents

Title 3—

The President

Executive Order 13244 of December 18, 2001

Providing an Order of Succession Within the Department of the Interior

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of the Interior (Secretary) during any period when both the Secretary and the Deputy Secretary of the Interior (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) Solicitor of the Department of the Interior;

(b) Assistant Secretary of the Interior in charge of Policy, Management and Budget;

(c) Assistant Secretary of the Interior in charge of Land and Minerals Management;

(d) Assistant Secretary of the Interior in charge of Water and Science;

(e) Assistant Secretary of the Interior for Fish and Wildlife and Parks; and

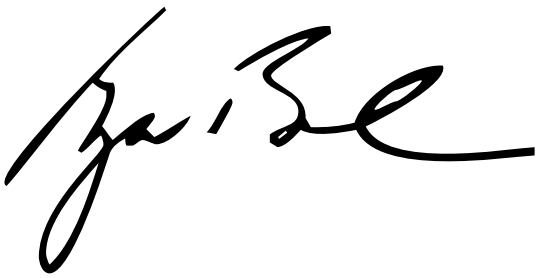
(f) Assistant Secretary of the Interior for Indian Affairs.

Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(f) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

Sec. 4. Executive Order 11487 of October 6, 1969, is hereby revoked.



THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31669
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13245 of December 18, 2001

Providing an Order of Succession Within the Department of Labor

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Labor (Secretary) during any period when both the Secretary and the Deputy Secretary of Labor (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) Solicitor of Labor;

(b) Assistant Secretary of Labor in charge of Administration and Management;

(c) Assistant Secretary of Labor in charge of Policy;

(d) Assistant Secretary of Labor in charge of Congressional and Intergovernmental Affairs;

(e) Assistant Secretary of Labor in charge of the Employment and Training Administration;

(f) Assistant Secretary of Labor in charge of the Employment Standards Administration;

(g) Assistant Secretary of Labor in charge of the Pension and Welfare Benefits Administration;

(h) Assistant Secretary of Labor for Occupational Safety and Health;

(i) Assistant Secretary of Labor for Mine Safety and Health;

(j) Assistant Secretary of Labor in charge of the Office of Public Affairs;

(k) Assistant Secretary of Labor for Veterans' Employment and Training; and

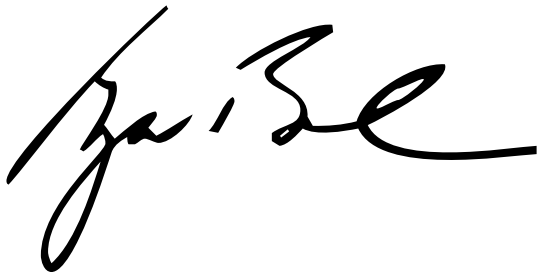
(l) Assistant Secretary of Labor in charge of the Office of Disability Employment Policy.

Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(l) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

Sec. 4. Executive Order 10513 of January 19, 1954, is hereby revoked.



THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31670
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13246 of December 18, 2001

Providing an Order of Succession Within the Department of the Treasury

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of the Treasury (Secretary) during any period when both the Secretary and the Deputy Secretary of the Treasury (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) Under Secretaries of the Treasury (including the Under Secretary of the Treasury for Enforcement), in the order in which they shall have taken the oath of office as such officers;

(b) General Counsel of the Department of the Treasury; and

(c) Deputy Under Secretaries of the Treasury and those Assistant Secretaries of the Treasury appointed by the President by and with the consent of the Senate, in the order in which they shall have taken the oath of office as such officers.

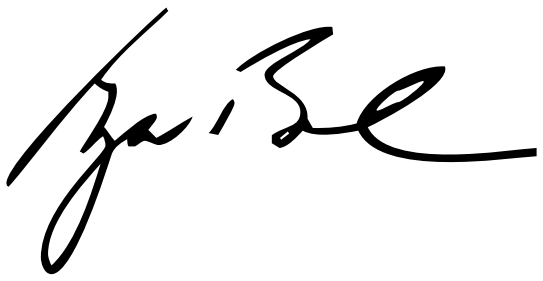
Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(c) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent

permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

Sec. 4. Executive Order 11822 of December 10, 1974, is hereby revoked.



THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31671
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13247 of December 18, 2001

Providing an Order of Succession Within the Department of Veterans Affairs

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Sec. 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Veterans Affairs (Secretary) during any period when both the Secretary and the Deputy Secretary of Veterans Affairs (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) Under Secretary of Veterans Affairs for Health;

(b) Under Secretary of Veterans Affairs for Benefits;

(c) Under Secretary of Veterans Affairs for Memorial Affairs;

(d) General Counsel of the Department of Veterans Affairs;

(e) Assistant Secretaries of Veterans Affairs, in the order in which they shall have taken the oath of office as Assistant Secretaries, other than the Chief Financial Officer and, if an Assistant Secretary, the Chief Information Officer;

(f) Chief Information Officer of the Department of Veterans Affairs, if the Chief Information Officer is an officer appointed by the President by and with the consent of the Senate;

(g) Chief Financial Officer of the Department of Veterans Affairs; and

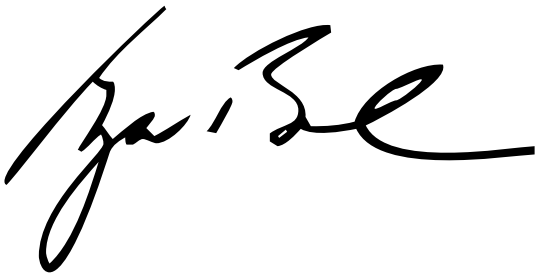
(h) Chairman, Board of Veterans' Appeals.

Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(h) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter

33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.



THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31672
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

Federal Register

Friday,

December 21, 2001

Part IX

Department of Justice

Office of the Attorney General

28 CFR Part 104

September 11th Victim Compensation Fund of 2001; Interim Final Rule

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 104

[CIV 104P; AG Order No. 2541–2001]

RIN 1105–AA79

September 11th Victim Compensation Fund of 2001

ACTION: Interim final rule with request for comments.

SUMMARY: Shortly after the September 11, 2001 terrorist attacks, the President signed the ''September 11 Victim Compensation Fund of 2001'' (the ''Fund'') into law as Title IV of Public Law 107–42 (''Air Transportation Safety and System Stabilization Act'') (the ''Act''). The Act authorizes compensation to any individual (or the personal representative of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes on that day. The Act provides that the Fund will be administered by a Special Master appointed by the Attorney General. On November 26, 2001, the Attorney General appointed Kenneth R. Feinberg as Special Master.

The Department of Justice, in consultation with the Special Master, is issuing certain procedural rules so the Special Master may commence operations of the program as soon as practicable. In order to allow the Special Master to begin distributing funds, the Department is issuing this rule as an ''Interim Final Rule'' that will have the force and effect of law immediately upon publication. This rule is designated ''interim,'' however, because the Department is also seeking further comment for a period of 30 days as part of its further review and may expand or adjust aspects of the rule after receiving additional comments.

DATES: This interim rule takes effect on December 21, 2001. Comments in response to this notice are due by January 22, 2002.

ADDRESSES: Comments on the interim rule should be submitted by e-mail to: *victimcompensation.comments@usdoj.gov*, or by telefax to 301–519–5956. Telefaxes should be limited to 15 pages. Comments may also be mailed to Kenneth L. Zwick, Director, Office of Management Programs, Civil Division, U.S. Department of Justice, Main Building, Room 3140, 950 Pennsylvania Avenue NW, Washington, DC 20530. However, the Department encourages commenters to submit their comments by e-mail or telefax. Comments received are public records. The name and address of the commenter should be included with all submissions. The comments will be made available on the Victim Compensation Fund Web site, *www.usdoj.gov/victimcompensation*. Comments will also be available for public inspection at a reading room in Washington, DC. Arrangements to visit the reading room must be made in advance by calling 888–714–3385 (TDD: 888–560–0844).

FOR FURTHER INFORMATION CONTACT: Kenneth L. Zwick, Director, Office of Management Programs, Civil Division, U.S. Department of Justice, Main Building, Room 3140, 950 Pennsylvania Avenue NW, Washington, DC 20530, telephone 888–714–3385 (TDD 888–560–0844).

SUPPLEMENTARY INFORMATION:

Statement by the Special Master

The September 11th Victim Compensation Fund of 2001 is an unprecedented expression of compassion on the part of the American people to the victims and their families devastated by the horror and tragedy of September 11. The Act itself (specifically Title IV—Victim Compensation), and the attached regulations drafted and implemented pursuant to the Act, are designed to bring some measure of financial relief to those most devastated by the events of September 11. In one important sense, the Fund symbolizes the commitment of the American people to those most in need. It is an example of how Americans rally around the less fortunate.

The attached regulations have two objectives: (1) To provide fair, predictable and consistent compensation to the victims of September 11 and their families throughout the life of the program; and (2) to do so in an expedited, efficient manner without unnecessary bureaucracy and needless demands on the victims. The regulations highlight a fast track administrative compensation program, eliminating the red tape, time and expense of a traditional lawsuit. Quick payment to eligible claimants characterizes this program.

The Fund offers the eligible claimant an alternative to litigation. To succeed in the courtroom, a victim of the September 11 tragedy, or his or her representative, would be compelled to litigate, probably for many years at excessive cost, and with all the uncertainty of result which is part of the litigation process. Among the hazards of such a court proceeding are: Would liability be demonstrated? Against whom? Would sufficient funds be available to pay in full any resulting tort award? Would the verdict, even if favorable, withstand appellate challenge?

Trade-offs are required in developing Fund procedures that are different than those in the more conventional lawsuit. It is possible to develop an alternative administrative scheme, providing speedy and efficient compensation, which will help bring some closure to the events of September 11. We should not require its victims to revisit the tragic events of September 11 over and over again during the pendency of a lawsuit in our courts.

In formulating the regulations, we heeded the instruction of the Attorney General to help the neediest of victims as quickly as possible. Accordingly, under these regulations, an eligible claimant can receive an *immediate* advance payment of $50,000 in cases involving death, or $25,000 in certain cases involving serious physical injury. These payments are downpayments only, advanced to provide immediate financial assistance to those in need.

We were required, of course, to adhere to the language which Congress set out in the statute, including the provisions requiring that awards be offset by all collateral source compensation such as benefits from life insurance and other government programs. However, we did find ambiguity in the statute as to gifts provided to victims and their families by private charities. These regulations do not require that awards be offset by such private charitable assistance.

We have concluded that the purpose of the Act is not simply to examine economic and noneconomic harm, but also to provide compensation that is just and appropriate in light of claimants' individual circumstances. We have concluded that any methodology that does nothing more than attempt to replicate a theoretically possible future income stream would lead to awards that would be insufficient relative to the needs of some victims' families, and excessive relative to the needs of others. The statute specifies that individual circumstances beyond economic and noneconomic harm should be taken into account. It is our view that, absent extraordinary circumstances, awards in excess of $3 million, tax-free, will rarely be appropriate in light of individual needs and resources. At the same time, we want to ensure that victims' families are receiving at least a minimum level of resources to help meet their needs and rebuild their lives. Thus, we have concluded that the families of deceased victims should receive a combined total

of at least $500,000 from this program, other state and Federal programs, life insurance policies and other sources of compensation. Similarly, the baseline for single decedents should be $300,000. This ensures that every needy claimant's total compensation from this program and other sources will be at least equal to these threshold amounts.

In sum, the September 11th Victim Compensation Fund of 2001 is an attempt by the American people to demonstrate their solidarity with, and generosity for, those injured by the terrible September 11 attack on our country. It provides an alternative compensation scheme to the traditional tort system, a method of providing substantial and quick compensation to those who elect to participate.

Neither this Fund nor any monetary compensation can possibly provide a full measure of relief to those who have suffered as a result of September 11. But the Fund will provide appropriate compensation and some measure of comfort to those whose lives have been torn asunder by the events of September 11.

Background

The following discussion provides background information and explanation of the regulations promulgated herein. Section A describes the statutory backdrop for the regulations; Section B discusses the Department's rulemaking procedures to date; Section C addresses Eligibility; Section D pertains to Advance Benefits; Section E discusses Final Awards made by the Fund; Section F describes the Special Master's claims evaluation process; and Section G relates to Assistance to Claimants. The text of the regulations is set forth following these explanatory sections. A catalog of public commentary is set forth thereafter as an Appendix. More detailed information regarding the program, including a flow chart of applicable procedures and a table of estimated or ''presumed'' awards, will be available on the Victims Compensation Fund Web site at *www.usdoj.gov/victimcompensation.*

A. The Statute

The President signed the ''September 11th Victim Compensation Fund of 2001'' (the ''Fund'') into law on September 22, 2001, as Title IV of Public Law 107–42 (''Air Transportation Safety and System Stabilization Act'') (''the Act''). The purpose of this Fund is to provide compensation to eligible individuals who were physically injured as a result of the terrorist-related aircraft crashes of September 11, 2001, and compensation through a ''personal representative'' for those who died as a result of the crashes. Generally, eligibility is limited to: (1) Individuals on the planes at the time of the crashes (other than the terrorists); and (2) individuals present at the World Trade Center, the Pentagon or the site of the crash in Pennsylvania at the time of the crashes or in the immediate aftermath of the crashes.

The Fund is designed to provide a no-fault alternative to tort litigation for individuals who were physically injured or killed as a result of the aircraft hijackings and crashes on September 11, 2001. Others who may have suffered losses as a result of those events (e.g., those without identifiable physical injuries but who lost employment) are not included in this special program. Indeed, compensation will be provided only for losses caused on account of personal physical injuries or death, even though the victims may have suffered other losses, such as property loss. For this reason, the Department and the Special Master anticipate that all awards from the Fund will be free of federal taxation. *See* I.R.C. § 104(a)(2) (stating that damages received ''on account of personal physical injuries or physical sickness'' are excludable from gross income for purposes of federal income taxation).

A claimant who files for compensation waives any right to file a civil action (or to be a party to an action) in any federal or state court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, except for actions to recover collateral source obligations.

Determinations on eligibility and the amount of compensation are to be made by the Special Master. After determining whether an individual is an eligible claimant under the Act, the Special Master is to determine the amount of compensation to be awarded based upon the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

The law also provides that the Special Master is to make a final determination on any claim within 120 days from when the claim was filed and, if an award is made, to authorize payment within 20 days thereafter. The determinations of the Special Master are final and are not reviewable by any court. Claims with the Fund must be filed on or before two years after the effective date of these regulations, i.e. December 22, 2003. Payments from the Fund are made by the United States Government, which in turn obtains the right of subrogation to each award.

Pursuant to the Act, regulations addressing certain administrative matters must be issued within 90 days of enactment. Section 407 of the Act provides that the Department, in consultation with the Special Master, promulgate regulations on four matters by December 21, 2001:

(1) Forms to be used in submitting claims;

(2) The information to be included in such forms;

(3) Procedures for hearing and the presentation of evidence; and

(4) Procedures to assist an individual in filing and pursuing claims under this title.

In addition, section 407 authorizes, but does not require, the Department to issue additional rules to implement the program. This Interim Final Rule addresses issues beyond the four specifically required by the Act in order to create a program that will be efficient, will treat similarly situated claimants alike, and will allow potential claimants to make informed decisions regarding whether to file claims with the Fund. Nonetheless, the Department recognizes that it cannot anticipate all of the issues that will arise over the course of the program and that there will inevitably be many difficult issues that the Special Master will have to resolve in the course of making determinations on individual claims.

B. Rulemaking History to Date

On November 5, 2001, the Department requested public input on a number of issues. 66 FR 55901. The Department noted that, at that time, the Special Master had not yet been appointed, but that it wanted as much public comment as feasible before issuing the regulations by December 21, 2001. On November 26, 2001, the Attorney General appointed Kenneth R. Feinberg as Special Master. As called for by the Act, this interim final rule is promulgated in consultation with the Special Master.

The Department received more than 800 comments in response to the Department's Notice of Inquiry. Some were very brief and only spoke to a single issue; others responded to the Department's questions on a point by point basis. Still others contained detailed analyses, recommendations and even proposed regulatory language.

The range of commenters was very broad. Some commenters identified themselves as citizens, taxpayers or law professors, and many identified themselves as individuals who had contributed to charities for those impacted by the terrorist crashes. Many other commenters identified themselves as members of victims' families, partners or close friends, including some from organizations and groups of

survivors. Several commenters identified themselves as employers who lost a significant number of employees in the crashes. A number of commenters identified themselves as residents of housing near ''Ground Zero'' in New York.

In addition, the Department received comments from many organizations including the American Insurance Association, the American Arbitration Association, the American Bar Association, Trial Lawyers Care, New York Trial Lawyers' Association, New York City Bar Association, Massachusetts Bar Association, National Center for Victims of Crime, National Association of Crime Victim Compensation Boards, the Oklahoma Crime Victim Compensation Board, Consumers Union, Public Citizen, the National Right To Life Committee, the Lamda Legal Defense & Education Fund, the American Civil Liberties Union, the Association of Flight Attendants, the Council on Foundations, the Nonprofit Coordinating Committee of New York, Independent Sector, the Alternative Dispute Resolution of the Federal Bar Association, the Alliance of Fiduciary Consultants, and the Foreign Claims Settlement Commission.

Individual members of Congress, groups of members, and members of the Senate leadership also provided comments. Further, joint comments were submitted on behalf of the New York City Mayor, the New York Governor, and the New York Attorney General, by members of the New York Assembly, and by the Attorney General of Connecticut.

Comments were also submitted by United Airlines and American Airlines, and from various individuals and companies who identified themselves as having expertise or experience in the administration of claims programs.

The Department has read every submission it received in response to this notice, from handwritten notes to scholarly discussions. The Department wants to express its appreciation for the time and careful thought reflected in those submissions.

While the Department has reviewed every submission it received, it will not regulate on every topic addressed in those comments. Over 70 separate topics were identified; almost two dozen full size notebooks are necessary to organize all of the comments by topic. All of the comments will be retained by the Department for subsequent consideration when it reviews comments on this interim final rule, and the comments will remain posted on the Department's web site where they may be reviewed by the public. The Department was pleased to see that some comments responded to others placed on the web site, and hopes this facility will continue to be of interest to the public.

It is not feasible to repeat here all of the suggestions received in the comments, let alone directly respond to each. The Appendix to this interim final rulemaking highlights some of the points raised by commenters in order to indicate the range of views received on how various issues should be approached.

C. Eligibility

Section 405(b) of the Act requires the Special Master to determine whether a claimant is an ''eligible individual'' under section 405(c). ''Eligibility,'' in turn, is defined by the Act to include: (1) individuals (other than the terrorists) aboard American Airlines flights 11 and 77 and United Airlines flights 93 and 175; (2) individuals who were ''present at'' the World Trade Center, the Pentagon, or the site of the aircraft crash at Shanksville, Pennsylvania at the time or in the immediate aftermath of the crashes; or (3) personal representatives of deceased individuals who would otherwise be eligible. Moreover, to be eligible for an award, an individual must have suffered physical harm or death as a result of one of the terrorist-related air crashes. This interim final rule addresses eligibility by defining the terms ''present at the site,'' ''immediate aftermath,'' ''physical harm,'' and ''personal representative.''

''Present at the site'': This rule defines the term ''present at the site'' (i.e. the World Trade Center, Pentagon, or Shanksville site) to mean physically present at the time of the crashes or immediate aftermath:

(1) In the buildings or portions of buildings that were destroyed as a result of the airplane crashes; or

(2) In any area contiguous to the crash sites that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or collapse of buildings (generally, the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured persons).

There are several reasons for this geographic limitation. First, this geographic limitation comports with the plain meaning of the statutory term ''present at.'' Second, this geographic limitation is consistent with the further statutory requirement of physical injury or death, because the zone designated is that in which there was a demonstrable risk of physical harm from falling debris, explosions, or fire.

''Immediate aftermath'': This rule defines the term ''immediate aftermath'' of the crashes to mean, for purposes of all claimants other than rescue workers, the period of time from the crashes until 12 hours after the crashes. This time frame appears to cover all of those who suffered physical injury or death, with the exception of rescue workers.

With respect to rescue workers who assisted in efforts to search for and recover victims, the regulations define ''the immediate aftermath'' to include the period from the crashes until 96 hours after the crashes. The regulations provide for this longer time period for rescue workers in recognition of their heroic efforts and their selfless reasons for being at the sites, and responds to a request by the Mayor of New York City that the program recognize the high level of danger and difficulty during the first four days of rescue operations.

''Physical harm'': This rule defines the term ''physical harm'' to mean an objectively verifiable physical injury that was treated by a medical professional within 24 hours of the injury having been sustained or within 24 hours of rescue and either required hospitalization as an in-patient for at least 24 hours or caused, either temporarily or permanently, partial or total physical disability, incapacity, or disfigurement.

There are several reasons for this definition. The statutory term ''physical harm'' indicates that Congress did not intend for this Fund to compensate those who suffered only emotional harm or property damage. The statutory term ''physical harm'' also indicates that Congress did not intend for this Fund to cover those who face only a risk of future injury (i.e. latent harm that does not fully manifest itself within the statutory time period for this Fund). Indeed, because participation in this Fund precludes claimants from recovering through tort litigation, those with latent injuries that later became manifest would likely be *undercompensated* if they sought compensation now from the Fund before the injuries became manifest. Conversely, those who recovered for latent injuries that did *not* later become manifest could be *overcompensated* if they recovered from the Fund. While Congress might later consider whether an administrative program for latent harm caused by the September 11, 2001 terrorist-related aircraft crashes may be appropriate, the language of the statute that created this Fund does not contemplate awards for that purpose.

''Personal Representative'': Section 405(c)(2)(C) provides that in the case of an individual who is deceased but who otherwise meets the other criteria for eligibility, a claim can be filed by the Personal Representative of the decedent. Section 405(c)(3)(A) provides that no more than one claim may be submitted by an individual or on behalf of a deceased individual.

In many or most cases, the identity of the ''Personal Representative'' will not be in dispute. Where there are disputes, two issues arise: (1) What are the rules for determining who is the Personal Representative?; and (2) who should apply the rules and resolve the dispute?

As to the first issue, the regulations rely on state law. Subject to certain contingencies, this rule defines the term ''Personal Representative'' to mean an individual appointed by a court of competent jurisdiction as the Personal Representative of the decedent or as the executor or administrator of the decedent's will or estate. In the event that no Personal Representative or executor or administrator has been appointed by any court of competent jurisdiction, and such issue is not the subject of pending litigation or other dispute, the Special Master may, in his discretion, determine that the Personal Representative is the person named by the decedent in the decedent's will as the executor or administrator. In the event no will exists, the Special Master may, in his discretion, determine that the Personal Representative is the first person in the line of succession established by the laws of the state of the decedent's domicile governing intestacy.

Reliance on state law is necessary in part because those who file for recovery under the Fund waive their rights to recover through litigation, in which state law would determine the identity of the appropriate representatives of the decedent, or the decedent's estate, to bring suit. Thus, if the identity of Personal Representatives for purposes of this Fund were determined by federal regulation, there could be many situations in which the representative as defined by state law would choose litigation while the Personal Representative as defined by federal regulation would seek to recover from the Fund.

The second issue raises questions of program administration. Disputes between relatives, former spouses and other interested parties can be exceptionally fact-intensive and time-consuming. Indeed, state courts often spend considerable time and resources resolving such matters. The Special Master cannot accomplish his statutory duties if bogged down with these types of complex disputes. Nor would it be advisable for the Special Master to attempt to step in and supplant state court practice or the testamentary intent of decedents. Consequently, the rule provides that the Special Master has no obligation to arbitrate, litigate or otherwise resolve disputes as to the identity of the Personal Representative. Instead, to ensure that funds are not needlessly tied up due to disputes regarding the identity of the Personal Representative, the regulations provide that the disputing parties may agree *in writing* to the identity of a Personal Representative to act on their behalf, who may seek and accept payment from the Fund while those disputing parties work to settle their dispute. In appropriate cases, the Special Master may determine an award, but place the payment in escrow until the dispute regarding the Personal Representative is finally resolved.

Finally, the determination of the Personal Representative is not the same question as the determination of who ultimately will receive the award. In that regard, this rule provides that the Personal Representative shall distribute the award in a manner consistent with the law of the decedent's domicile or any applicable rulings made by a court of competent jurisdiction. However, in order to assure that the families of needy victims receive adequate compensation, the regulations further provide that the Personal Representative shall, before payment is authorized, provide to the Special Master a plan for distribution of any award received from the Fund. Notwithstanding any other provision of these regulations or any other provision of state law, in the event that the Special Master concludes that the Personal Representative's plan for distribution does not appropriately compensate the victim's spouse, children, or other relatives, the Special Master may direct the personal representative to distribute all or part of the award be distributed to such spouse, children, or other relatives.

D. Advance Benefits

In order to comply with the Attorney General's November 26, 2001 instructions to the Special Master to pay benefits to eligible claimants as quickly as possible, these regulations permit claimants to seek immediate ''Advance Benefits'' in the fixed amount of $50,000 in the case of deceased individuals and $25,000 in the case of severely injured individuals who required hospitalization for one week or more.

To qualify for advance benefits, applicants must complete a short form (the ''Eligibility Form'') identifying basic eligibility and indicating that advance benefits would assist them in confronting current or immediate financial hardships. Such forms will be made available at claims intake centers as they are established, in response to telephone requests (888–714–3385, 202–305–1352, TDD: 888–560–0844), and on the Victims Compensation Fund Web site at *www.usdoj.gov/victimcompensation.*

Eligible claimants may apply for and receive advance benefits and then file their lengthier ''Personal Injury Compensation Form'' or ''Death Compensation Form'' at any time within the two-year time frame for filing claims under the program. This will allow needy eligible claimants to obtain prompt advance payments even though they may need more time to collect full information regarding the amount of compensation they seek. The 120-day period for determination of compensation will be stayed or tolled until the claimant files the completed ''Personal Injury Compensation Form'' or ''Death Compensation Form'' needed to allow the Special Master to determine the amount of the final award. However, once a claimant applies for Advance Benefits, the claimant will be deemed to have waived the right to file a civil action in state or federal court for damages sustained as a result of the September 11 attacks.

Advance benefits will be treated as advance payments on ultimate awards from the Fund. Thus, the amount of any advance benefits received will be deducted from the claimant's subsequent award.

E. Final Awards Made by the Fund

Section 405(b) of the Act provides that the Special Master shall compensate eligible claimants based on the harm to the claimant (including both economic loss and noneconomic losses), the facts of the claim, and the individual circumstances of the claimant. The Act further provides that the Special Master shall determine the claimant's eligibility and the amount of compensation within 120 days.

The Special Master and the Department have studied the language of the Act, the varying public comments, evidence and data about the many victims of the September 11 attacks, and economic and demographic studies and data in fashioning the interim final rule. After this careful consideration, the Special Master and the Department have concluded that the following principal objectives should guide any determination of economic and noneconomic losses.

The first objective is that the process should be efficient, straightforward, and understandable to the claimants. This objective is based in part upon the statutory requirement that the Special Master review each claim and make an award determination within 120 days of filing. More important, however, is that claimants be able to enter the program—or choose not to enter the program—with an understanding of how their claims will be treated. This is especially important because the Act provides that, upon submission of a claim, a claimant waives the right to file a civil action for damages sustained as a result of the September 11 attacks. For claimants to make an informed decision regarding this waiver, they should have some understanding of how their award will be calculated and how much they would receive from the Fund should they decide to file a claim.

The second objective is that each claimant should, to the greatest extent possible, be treated fairly based on the claimant's own individual circumstances and relative to other claimants. While the circumstances of death for many victims will differ, those circumstances will in many cases be unknowable. In principle, similarly situated claimants should not receive dramatically differing treatment.

After careful consideration, the Special Master and the Department have concluded that, in order best to achieve these principal objectives, the Special Master should develop a methodology for calculating *presumed* economic and noneconomic losses that is based on readily identifiable individual circumstances for each claimant, such as age, prior income levels, marital status, and the number and ages of the victim's dependents. A methodology for determining presumed economic and noneconomic losses will also assist the Special Master in making fair and appropriate compensation determinations swiftly and efficiently within the time frame permitted by the Act.

In order to enable claimants to make informed decisions regarding whether to submit a claim under the Fund and, if so, whether to submit evidence of extraordinary individual circumstances that could justify departure from the presumed awards, the interim final rule directs the Special Master to publish schedules, tables, or charts of presumed determinations for economic and noneconomic losses. While these schedules, tables, or charts cannot cover every possible claimant (e.g., injured claimants), they are extensive and detailed enough to provide the majority of potential claimants with a general dollar range into which their awards may fall.

Nonetheless, the Special Master and the Department recognize that it will be impossible to fashion a presumptive methodology that will take into account *all* of the individual facts and circumstances for every claimant. Rather, some claimants may have extraordinary individual circumstances that justify departure from the presumed awards. Thus, the interim final rule provides that claimants may request that the Special Master depart from the presumed economic and noneconomic losses based upon a demonstration of extraordinary circumstances that the presumed award methodology does not adequately address.

Economic loss: Determination of economic loss requires a prediction about each claimant's future. This assessment will be, by its nature, somewhat speculative. While the determination of economic loss should be based upon facts regarding the individual victim where those facts are available, some facts cannot be predicted on an individualized basis.

The regulations also provide that the Special Master's schedules, tables, or charts should identify presumed determinations of economic loss up to a salary level commensurate with the 98th percentile of individual income in the United States. The Department recognizes that projecting earnings over worklife for people with extraordinary annual incomes is a very complex exercise, often requiring a detailed evaluation of variable and often complex formulae for nonvariable income, differing work life expectations, often highly volatile industries or markets, and other factors that are not often subject to easy generalization. We have also concluded that the purpose of the Act is not simply to examine economic and noneconomic harm, but also to provide compensation that is just and appropriate in light of the financial needs and resources of claimants. Any methodology that does nothing more than attempt to replicate a theoretically possible future income stream would lead to awards that would be insufficient relative to the needs of some victims' families, and excessive relative to the needs of others. Therefore, a claimant should not assume that he or she will receive an award greater than the presumed award simply because the victim had an income that exceeded the income for the 98th percentile. Indeed, the Act's requirement that the Special Master consider ''the individual circumstances of the claimant'' indicates that the Special Master may consider a particular claimant's financial needs and resources, just as the Department and the Special Master considered the needs of the claimants in concluding that no claimant bringing a claim on behalf of a deceased victim should receive less than $500,000 or $300,000 before collateral source offsets.

If a claimant seeks review of a presumed award, the Special Master may consider a range of information, including demographic information on retirement trends for high wage earners, the individual's historical expenses, savings, and any other factors he deems relevant, including economic trends, information available from the Bureau of Labor Statistics, the Census Bureau and other entities on *average* income and retirement age for the victim's profession or even for the victim's former employer. Claimants should not expect awards grossly in excess of the highest awards listed on the Special Master's presumed award chart, as the individual circumstances of the wealthiest and highest-income claimants will often indicate that multi-million dollar awards out of the public coffers are not necessary to provide them with a strong economic foundation from which to rebuild their lives.

The Special Master and the Department recognize that the extent of physical injury for those victims who survived the September 11 attacks may vary to a degree that does not lend itself to a schedule, table, or chart. If the claimant's injury causes only a temporary disability, the Special Master may consider evidence regarding the length of time the claimant was absent from his employment in determining the appropriate compensation for economic loss. For those victims who suffered permanent physical disability, the Special Master may rely upon his economic loss methodology, but adjust the award based upon the extent of the physical disability. In evaluating claims of disability, the Special Master will, in general, make a determination regarding whether the claimant is capable of performing his or her usual profession in light of the injuries.

With respect to claims of total permanent disability, the Special Master may accept a determination of disability made by the Social Security Administration as evidence of disability without any further medical evidence or review. The Special Master may also consider determinations of permanent total disability made by other governmental agencies or private insurers in evaluating the claim. The Special Master may require an evaluation of the claimant's disability and ability to perform his or her occupation from medical experts.

With respect to claims of partial disability, the Special Master may consider evidence of the effect of the partial disability on the claimant's ability to perform his or her usual occupation as well as the effect of the partial disability on the claimant's ability to participate in usual daily activities.

Noneconomic losses: Each person who was killed or injured in the September 11 attacks suffered grievous harm, and each person experienced the unspeakable events of that day in a unique way. Some victims experienced terror for many minutes, as they were held hostage by terrorists on an airplane or trapped in a burning building. Some victims had no warning of what was coming and died within seconds of a plane hitting the building in which they worked. While these circumstances may be knowable in a few extraordinary circumstances, for the vast majority of victims these circumstances are unknowable.

After extensive fact finding, public outreach, and review of public comments, the Special Master and the Department have concluded that the most rational and just way to approach the imponderable task of placing a dollar amount upon the pain, emotional suffering, loss of enjoyment of life, and mental anguish suffered by the thousands of victims of the September 11 attacks is to assess the noneconomic losses for categories of claimants. The most obvious distinction is between those who died and those who suffered physical injury but survived.

The regulations therefore set a *presumed* award for noneconomic losses sustained. For those victims who died as a result of the September 11 aircraft crashes, the presumed noneconomic losses will be $250,000, plus an additional $50,000 for the spouse and each dependent of the deceased victim. That $250,000 figure is roughly equivalent to the amounts received under existing federal programs by public safety officers who are killed while on duty, or members of our military who are killed in the line of duty while serving our nation. *See* 38 U.S.C. 1967 (military personnel); 42 U.S.C. 3796 (Public Safety Officers Benefit Program). The latter figures—$50,000 for the spouse and each dependent—include a noneconomic component of ''replacement services loss.''

For those victims who suffered physical injury but survived the September 11 attacks, the Special Master may establish a methodology for estimating their noneconomic losses. The Special Master may determine that it is appropriate to give some percentage of the noneconomic loss award given for victims who died, based upon the extent of the injury.

The Special Master and the Department recognize, however, that no presumed award can take into account all of the unique individual circumstances of each claimant. Accordingly, as noted above, claimants may either accept the presumed award or instead attempt to demonstrate in a hearing before the Special Master extraordinary circumstances that justify departure from the presumed award.

Collateral Sources: Section 405(b)(6) of the Act provides that the Special Master *shall* reduce the amount of compensation by the amount of the collateral source compensation ''a claimant has received or is entitled to receive'' as a result of the terrorist-related aircraft crashes of September 11, 2001. The interim final rule provides that collateral sources will include life insurance, pension funds, death benefit programs, and payments by federal, state, or local governments related to the terrorist-related aircraft crashes of September 11, 2001. While many public commenters voiced strong opposition to the inclusion of some or all of these as collateral source compensation, the Act expressly includes each one within the definition of ''collateral sources.''

At the same time, the Act does not address whether certain other types of payments constitute collateral source compensation. The interim final rule provides that the following are *not* collateral source compensation:

(1) The value of services or in-kind charitable gifts such as provision of emergency housing, food, or clothing; and

(2) Charitable donations distributed to the beneficiaries of the decedent, to the injured claimant, or to the beneficiaries of the injured claimant by private charitable entities; provided, however, that the Special Master may determine that funds provided to victims or their families through a private charitable entity constitute, in substance, a collateral source as described above.

The Department has concluded that charitable contributions should not be considered collateral source compensation within the meaning of the Act because, among other reasons, such charitable contributions are different in kind from the collateral sources listed in the Act. Moreover, because the collateral offset only applies to collateral source compensation that the claimant has received or is entitled to receive, deducting charitable awards from the amount of compensation would have the perverse effect of encouraging potential donors to withhold their giving until after claimants have received their awards from the Fund.

F. The Claims Evaluation Process

Section 405(b)(4) of the Act provides that a claimant, after the filing of the claim, has the right to present evidence to the Office of the Special Master. The statute specifically provides that the claimant has the right to present witness statements and documents, the right to obtain legal counsel, and such other due process rights as are determined to be appropriate by the Special Master.

The interim final regulations provide claimants with a choice of two Procedural Options—Track A or Track B. If a claimant selects *Track A,* the Claims Evaluator will determine eligibility and the claimant's presumed award and, within 45 days of the date the claim was deemed filed, notify the claimant in writing of the eligibility determination, the amount of the presumed award, and the right to request a hearing before the Special Master or his designee under § 104.33 of these regulations. After an eligible claimant has been notified of the presumed award, the claimant may either accept the presumed compensation determination as the final determination and request payment, or may instead request a review before the Special Master or his designee pursuant to § 104.33. If a claimant opts for a review, the claimant may make supplemental submissions. The Special Master may alter or modify the award if the presumed award was calculated erroneously, or if the claimant demonstrates extraordinary circumstances indicating that the presumed award does not adequately address the claimant's injury. There will be no further review or appeal from this determination.

If the claimant selects *Track B,* a Claims Evaluator will determine eligibility within 45 days of the date the claim was deemed filed, but shall not determine the claimant's presumed award. The Claims Evaluator will then notify the claimant in writing of the eligibility determination. Upon notification of eligibility, the claimant will proceed to a hearing pursuant to § 104.33. At such hearing, the Special Master or his designee will utilize the presumed award methodology, but may modify or vary the award if the claimant presents extraordinary circumstances not adequately addressed by the presumed award methodology. There shall be no review or appeal from this determination.

Hearings, when sought, will be held by the Special Master or his designee. These hearings shall be conducted in a nonadversarial manner, the objective of which will be to permit the claimant to present information or evidence that the claimant believes is necessary to a full understanding of the claim. Claimants will be permitted, but not required, to present witnesses, including expert witnesses. The hearing officer shall be permitted to examine the credentials of experts.

The hearings shall be limited in length to a time period determined by the Special Master or the relevant hearing officer, but generally not to exceed two hours. The hearings shall, to the extent practicable, be scheduled at times and in locations convenient to the claimant or his or her representative. The claimant shall be entitled to be represented by an attorney in good standing, but it is not necessary that the claimant be represented by an attorney.

G. Assistance to Claimants

In its November 5, 2001 Notice of Inquiry, the Department noted that section 405(a) of the Act establishes some specific requirements with respect to the claim form and the information to be included. The law requires the Special Master to develop a claim form to use in filing claims for compensation under this program. The Special Master is to ensure that the form can be filed electronically if it is determined to be practicable. Moreover, by law, the form must include a statement of the factual basis for eligibility and information regarding income in recent years. In addition, the form is to request information from the claimant as to: (1) The physical harm suffered by a victim, or information confirming the death of the victim, as a result of the terrorist-related aircraft crashes of September 11, 2001; (2) income tax returns for recent years and other records; and (3) documentation regarding collateral source compensation including life insurance policies and government or employment-related programs which have or may provide funds or benefits to the claimant.

The Department believes that it is important that this Fund be accessible to potential claimants who have limited resources and who are not trained in the law. Rather than attempt to address in detail the means by which the Special Master should provide assistance to claimants, these regulations leave the Special Master with discretion to implement steps to provide assistance to claimants and to make this Fund accessible to them.

Because the Act does not provide for payment of legal or other fees by the Fund, these regulations do not impose any limits on the types or amount of fees that claimants may pay their attorneys or others providing assistance. Although the Department's regulations do not set specific limits on attorneys fees separate from those existing in state law or attorney ethical standards, the Department believes that contingency arrangements exceeding 5% of a claimant's recovery from the Fund would not be in the best interest of the claimants.

The Department contemplates that the Special Master will have discretion to inform potential claimants of the nature of the Fund so that they may make informed decisions regarding the types or amount of fees that they pay for legal or other assistance. For example, the Special Master may notify claimants and potential claimants of the availability of free legal services. Likewise, the Special Master may inform claimants and potential claimants that the Fund is a no-fault, administrative scheme that should not involve the kind of risks and expense that would justify any significant contingency fees.

These regulations similarly do not address the manner in which claimants may use funds that they receive from the Fund, except that the Personal Representatives must agree in an acknowledgment and release form to distribute the award to the beneficiaries of the decedent in accordance with the decedent's will or applicable state law or ruling by a court of competent jurisdiction. While the Department does not believe that it is appropriate for the Special Master to place further legal restrictions on the claimants' or beneficiaries' use of payments from the Fund, the Department does contemplate that the Special Master will have discretion to provide claimants with information regarding annuities or other financial planning devices or to offer structured awards with periodic payments.

Application of Various Laws and Executive Orders to This Rulemaking

Administrative Procedure Act, 5 U.S.C. 553

This rule provides for compensation to eligible individuals who were physically injured and to the personal representatives of those who were killed as a result of the terrorist-related aircraft crashes of September 11, 2001. In order to provide compensation to eligible claimants as expeditiously as possible, Congress set a short 90-day deadline for the issuance of these regulations. The Department did seek public input on the issues, but it was not possible for the Department to prepare and publish a proposed rule for notice and comment within that very short time period.

The APA provides that an agency need not go through proposed rulemaking and comment before issuing rules to implement benefits programs. 5 U.S.C. 553(a)(2). Moreover, the Department, in consultation with the Special Master, determined that taking the time to draft and publish a proposed rule for notice and comment before this rule took effect would have been impracticable in light of the short time between the enactment of the statute and the deadline for rulemaking, and also would have been contrary to the public interest, which strongly favors prompt disbursement of benefits. Accordingly, the Department has determined that there is ''good cause'' for exempting this rule from the provision of the Administrative Procedure Act that requires a notice of proposed rulemaking and the opportunity for public comment. 5 U.S.C. 553(b)(B).

For the same reasons, the Department also finds ''good cause'' for exempting this rule from the provision of the Administrative Procedure Act providing for a delayed effective date. 5 U.S.C. 553(d). Delaying the opportunity for eligible claimants to seek Advance Benefits or to file claims under the Act would be contrary to the public interest.

Congressional Review Act

The Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget has designated this interim final rule as a ''major rule'' as that term is defined by the Congressional Review Act (''CRA''), 5 U.S.C. 801 *et. seq.* Pursuant to section 808(2) of the CRA, the Department finds that ''good cause'' exists for establishing an effective date for this rule upon publication because delay would be impracticable in light of the short time between the enactment of the statute and the deadline for rulemaking, and also would be contrary to the public interest favoring prompt disbursement of benefits.

Paperwork Reduction Act of 1995

The Department of Justice, Civil Division, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been granted, and this information collection

has been assigned OMB control number 1105–0073. The proposed information collection is published to obtain comments from the public and affected agencies. The emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530.

During the first 60 days of this same review period, a regular review of this information collection will be undertaken. All comments and suggestions, or questions regarding additional information, including obtaining a copy of the proposed information collection instrument with instructions, should be directed to Office of the Special Master, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530. We request written comments and suggestions from the public and affected agencies concerning the proposed emergency collection of information.

Your comments should address one or more of the following four points:

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

(2) Evaluate the accuracy of the 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:* New Collection.

(2) *Title of the Form/Collection:* Registration/Eligibility Form and Application for Emergency Benefits from the Victim Compensation Fund.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* SM–001, Office of the Special Master, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals who were physically injured and personal representatives of those killed as a result of the terrorist-related aircraft crashes of September 11, 2001. Abstract: The information collected from the Registration/Eligibility Form and Application for Emergency Benefits from the Victim Compensation Fund will be used to make advance payments to those claimants deemed eligible by the Special Master or his designee.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 5,000 claimants with an average of 6.0 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 30,000 hours annually.

If additional information is required, contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW, Suite 1600, Washington, D.C. 20004.

Privacy Act of 1974

The Department of Justice, Civil Division is establishing a new Privacy Act system of records entitled ''September 11th Victim Compensation Fund of 2001, JUSTICE/CIV–008.'' By law, regulations addressing certain administrative matters for the September 11th Victim Compensation Fund of 2001 must be issued within the 90-day period established by Congress. The Privacy Act notice will be published with no routine uses, so that it will be effective on the date published. It is likely that amendments to this notice, including routine uses, will be published at a later date, with the opportunity to comment. In the interim, disclosures necessary to process claims will be made only with the written consent of claimants or as otherwise authorized under 5 U.S.C. 552a(b).

Regulatory Flexibility Act

These regulations set forth procedures by which the Federal government will award compensation benefits to eligible victims of the September 11, 2001 terrorist attacks. Under 5 U.S.C. 601(6), the term ''small entity'' does not include the Federal government, the party charged with incurring the costs attendant to the implementation and administration of the Victims Compensation Fund. To the extent that small entities, including small government entities, will be economically affected by the promulgation of these regulations, such effects will likely be minimal. Further, the number of entities that will be affected will, in all probability, fall short of a ''substantial number'' of small entities. In fact, the Department believes that the promulgation of these rules will play a considerable role in reducing the amount of complex, private litigation, wherein a substantial number of small (and large) entities would undoubtedly be significantly impacted.

Accordingly, the Department has reviewed this rule in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities because it provides compensation to eligible individuals who were physically injured as a result of the terrorist-related aircraft crashes of September 11, 2001, and compensation through a ''personal representative'' for those who were killed as a result of those crashes. This rule provides compensation to individuals, not to entities.

Unfunded Mandates Reform Act of 1995

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

Executive Order 12866—Regulatory Planning and Review

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has been reviewed by the Office of Management and Budget.

Executive Order 13132—Federalism

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

Department individually notified national associations representing elected officials of the initial request for comment and will be taking similar action in connection with the interim final rule.

List of Subjects in 28 CFR Part 104

Disaster assistance, Disability benefits, Terrorism.

Accordingly, for the reasons set forth in the preamble, Part 104 of chapter I of Title 28 of the Code of Federal Regulations is added to read as follows:

PART 104—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

Subpart A—General; Eligibility

104.1 Purpose.
104.2 Eligibility definitions and requirements.
104.3 Other definitions.
104.4 Personal Representative.
104.5 Foreign claims.
104.6 Amendments to this rule.

Subpart B—Filing for Compensation; Application for Advance Benefits

104.21 Filing for compensation.
104.22 Advance benefits.

Subpart C—Claim Intake, Assistance, and Review Procedures

104.31 Procedure for claims evaluation.
104.32 Eligibility review.
104.33 Hearing.
104.34 Publication of awards.
104.35 Claims deemed abandoned by claimants.

Subpart D—Amount of Compensation for Eligible Claimants

104.41 Amount of compensation.
104.42 Applicable state law.
104.43 Determination of presumed economic loss for decedents.
104.44 Determination of presumed noneconomic losses for decedents.
104.45 Determination of presumed economic loss for claimants who suffered physical harm.
104.46 Determination of presumed noneconomic losses for claimants who suffered physical harm.
104.47 Collateral sources.

Subpart E—Payment of Claims

104.51 Payments to eligible individuals.
104.52 Distribution of award to decedent's beneficiaries.

Subpart F—Limitations

104.61 Limitation on civil actions.
104.62 Time limit on filing claims.
104.63 Subrogation.

Subpart G—Measures to Protect the Integrity of the Compensation Program

104.71 Procedures to prevent and detect fraud.

Authority: Title IV of Pub. L. 107–42, 115 Stat. 230, 49 U.S.C. 40101 note.

Subpart A—General; Eligibility

§ 104.1 Purpose.

This part implements the provisions of the September 11th Victim Compensation Fund of 2001, Title IV of Public Law 107–42, 115 Stat. 230 (Air Transportation Safety and System Stabilization Act) to provide compensation to eligible individuals who were physically injured as a result of the terrorist-related aircraft crashes of September 11, 2001, and to the ''personal representatives'' of those who were killed as a result of the crashes. All compensation provided through the Fund will be on account of personal physical injuries or death.

§ 104.2 Eligibility definitions and requirements.

(a) *Eligible claimants.* The term *eligible claimants* means:

(1) Individuals present at the World Trade Center, Pentagon, or Shanksville, Pennsylvania site at the time of or in the immediate aftermath of the crashes and who suffered physical harm, as defined herein, as a direct result of the terrorist-related aircraft crashes;

(2) The Personal Representatives of deceased individuals aboard American Airlines flights 11 or 77 and United Airlines flights 93 or 175; and

(3) The Personal Representatives of individuals who were present at the World Trade Center, Pentagon, or Shanksville, Pennsylvania site at the time of or in the immediate aftermath of the crashes and who died as a direct result of the terrorist-related aircraft crash.

(4) The term eligible claimants does *not* include any individual or representative of an individual who is identified to have been a participant or conspirator in the terrorist-related crashes of September 11.

(b) *Immediate aftermath.* The term *immediate aftermath* of the crashes shall mean, for purposes of all claimants other than rescue workers, the period of time from the crashes until 12 hours after the crashes. With respect to rescue workers who assisted in efforts to search for and recover victims, the immediate aftermath shall include the period from the crashes until 96 hours after the crashes.

(c) *Physical harm.*

(1) The term *physical harm* shall mean a physical injury to the body that was treated by a medical professional within 24 hours of the injury having been sustained or within 24 hours of rescue; and

(i) Required hospitalization as an in-patient for at least 24 hours; or

(ii) Caused, either temporarily or permanently, partial or total physical disability, incapacity or disfigurement.

(2) In every case not involving death, the physical injury must be verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.

(d) *Personal Representative.* The term *Personal Representative* shall mean the person determined to be the Personal Representative under § 104.4 of this part.

(e) *Present at the site.* The term *present at the site* (i.e., the World Trade Center, Pentagon, or Shanksville, Pennsylvania site) shall mean physically present at the time of the crashes or in the immediate aftermath:

(1) In the buildings or portions of buildings that were destroyed as a result of the airplane crashes; or

(2) In any area contiguous to the crash sites that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses (generally, the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured persons).

§ 104.3 Other definitions.

(a) *Beneficiary.* The term *beneficiary* shall mean a person entitled under the laws of the decedent's domicile to receive payments or benefits from the estate of or on behalf of the decedent on whose behalf the claim to the Fund was filed.

(b) *Dependents.* The Special Master shall identify as dependents those persons so identified by the victim on his or her federal tax return for the year 2000 unless:

(1) The claimant demonstrates that a minor child of the victim was born or adopted on or after January 1, 2001;

(2) Another person became a dependent in accordance with then-applicable law on or after January 1, 2001; or

(3) The victim was not required by law to file a federal income tax return for the year 2000.

(c) *Spouse.* The Special Master shall identify as the spouse of a victim the person reported as spouse on the victim's federal tax return for the year 2000 unless:

(1) The victim was married or divorced in accordance with applicable state law on or after January 1, 2001; or

(2) The victim was not required by law to file a federal income tax return for the year 2000.

(d) *The Act. The Act,* as used in this part, shall mean Public Law 107–42, 115 Stat. 230 (''Air Transportation Safety and System Stabilization Act''), 49 U.S.C. 40101 note.

(e) *Victim.* The term *victim* shall mean an eligible injured claimant or a decedent on whose behalf a claim is brought by an eligible Personal Representative.

§ 104.4 Personal Representative.

(a) *In general.* The Personal Representative shall be:

(1) An individual appointed by a court of competent jurisdiction as the Personal Representative of the decedent or as the executor or administrator of the decedent's will or estate.

(2) In the event that no Personal Representative or executor or administrator has been appointed by any court of competent jurisdiction, and such issue is not the subject of pending litigation or other dispute, the Special Master may, in his discretion, determine that the Personal Representative for purposes of compensation by the Fund is the person named by the decedent in the decedent's will as the executor or administrator of the decedent's estate. In the event no will exists, the Special Master may, in his discretion, determine that the Personal Representative for purposes of compensation by the Fund is the first person in the line of succession established by the laws of the decedent's domicile governing intestacy.

(b) *Notice to beneficiaries.* Any purported Personal Representative must, before filing an Eligibility Form, provide written notice of the claim (including a designated portion of the Eligibility Form) to the immediate family of the decedent (including, but not limited to, the decedent's spouse, former spouses, children, other dependents, and parents), to the executor, administrator, and beneficiaries of the decedent's will, and to any other persons who may reasonably be expected to assert an interest in an award or to have a cause of action to recover damages relating to the wrongful death of the decedent. Personal delivery or transmission by certified mail, return receipt requested, shall be deemed sufficient notice under this provision. The claim forms shall require that the purported Personal Representative certify that such notice (or other notice that the Special Master deems appropriate) has been given. In addition, as provided in § 104.21(b)(5) of this part, the Special Master may publish a list of individuals who have filed Eligibility Forms and the names of the victims for whom compensation is sought, but shall not publish the content of any such form.

(c) *Objections to Personal Representatives.* Objections to the authority of an individual to file as the Personal Representative of a decedent may be filed with the Special Master by parties who assert a financial interest in the award up to 30 days following the filing by the Personal Representative. If timely filed, such objections shall be treated as evidence of a ''dispute'' pursuant to paragraph (d) of this section.

(d) *Disputes as to identity.* The Special Master shall not be required to arbitrate, litigate, or otherwise resolve any dispute as to the identity of the Personal Representative. In the event of a dispute over the appropriate Personal Representative, the Special Master may suspend adjudication of the claim or, if sufficient information is provided, calculate the appropriate award and authorize payment, but place in escrow any payment until the dispute is resolved either by agreement of the disputing parties or by a court of competent jurisdiction. Alternatively, the disputing parties may agree *in writing* to the identity of a Personal Representative to act on their behalf, who may seek and accept payment from the Fund while the disputing parties work to settle their dispute.

§ 104.5 Foreign claims.

In the case of claims brought by or on behalf of foreign citizens, the Special Master may alter the requirements for documentation set forth herein to the extent such materials are unavailable to such foreign claimants.

§ 104.6 Amendments to this rule.

In the event that amendments are subsequently made to any section of this Part, claimants are entitled to have their claims processed in accordance with the provisions that were in effect at the time that their claims were submitted under § 104.21(d).

Subpart B—Filing for Compensation; Application for Advance Benefits

§ 104.21 Filing for compensation.

(a) *Compensation form; ''filing.''* Except for applications for Advance Benefits pursuant to § 104.22, no claim may be considered until the claimant has submitted both an ''Eligibility Form'' *and* either a ''Personal Injury Compensation Form'' or a ''Death Compensation Form.'' A claim shall be deemed ''filed'' for purposes of section 405(b)(3) of the Act (providing that the Special Master shall issue a determination not later than 120 days after the date on which a claim is filed), and for any time periods in this part, when a Claims Evaluator determines that both the Eligibility Form and either a Personal Injury Compensation Form or a Death Compensation Form are substantially complete. *Provided,* however, that if a claimant files an Eligibility Form requesting Advance Benefits pursuant to § 104.22 of this part without filing either a ''Personal Injury Compensation Form'' or a ''Death Compensation Form,'' the claim shall be deemed ''filed'' when the Claims Evaluator determines that the Eligibility Form is substantially complete, but the time period for determination and any time periods in this part shall be stayed or tolled as described in § 104.22(g) of this part.

(b) *Eligibility Form.* The Special Master shall develop an Eligibility Form that will require the claimant to provide information necessary for determining the claimant's eligibility to recover from the Fund.

(1) The Eligibility Form may require that the claimant certify that he or she has dismissed any pending lawsuit seeking damages as a result of the terrorist-related airplane crashes of September 11, 2001 (except for actions seeking collateral source benefits) within 90 days of the effective date of this part pursuant to section 405(c)(3)(B)(ii) of the Act and that there is no pending lawsuit brought by a dependent, spouse, or beneficiary of the victim.

(2) The Special Master may require as part of the notice requirement pursuant to § 104.4(b) that the claimant provide copies of a designated portion of the Eligibility Form to the immediate family of the decedent (including, but not limited to, the spouse, former spouses, children, other dependents, and parents), to the executor, administrator, and beneficiaries of the decedent's will, and to any other persons who may reasonably be expected to assert an interest in an award or to have a cause of action to recover damages relating to the wrongful death of the decedent.

(3) The Eligibility Form may require claimants to provide the following proof:

(i) Proof of death: Death certificate or similar official documentation;

(ii) Proof of presence at site: Documentation sufficient to establish presence at one of the crash sites, which may include, without limitation, a death certificate, records of employment, contemporaneous medical records, contemporaneous records of federal, state, city or local government, an affidavit or declaration of the decedent's or injured claimant's employer, or other

sworn statement (or unsworn statement complying with 28 U.S.C. 1746) regarding the presence of the victim;

(iii) Proof of death on board aircraft: Death certificate or records of American or United Airlines or other sufficient official documentation;

(iv) Proof of physical harm: Contemporaneous medical records of hospitals, clinics, physicians, licensed medical personnel, or registries maintained by federal, state, or local government, and records of all continuing medical treatment;

(v) Personal Representative: Copies of relevant legal documentation, including court orders; letters testamentary or similar documentation; proof of the purported Personal Representative's relationship to the decedent; copies of wills, trusts, or other testamentary documents; and information regarding other possible beneficiaries as requested by the Eligibility Form;

(vi) Any other information that the Special Master deems necessary to determine the claimant's eligibility.

(4) The Special Master may also require waivers, consents, or authorizations from claimants to obtain directly from third parties tax returns, medical information, employment information, or other information that the Special Master deems relevant in determining the claimant's eligibility or award, and may request an opportunity to review originals of documents submitted in connection with the Fund.

(5) Application for Advance Benefits: The Eligibility Form shall include a section allowing claimants to indicate that they wish to apply for Advance Benefits. Claimants who apply for such Advance Benefits must certify on that Form that they have not yet received $450,000 in collateral source compensation if they are bringing a claim on behalf of a deceased victim with a spouse or dependent, $250,000 in collateral source compensation if they are bringing a claim on behalf of a deceased victim who was single with no dependents, or an amount in excess of their lost wages plus out-of-pocket medical expenses if they are an injured claimant. All such claimants also must state on the Form facts establishing financial hardship that would justify a determination that they are in need of Advance Benefits.

(6) The Special Master may publish a list of individuals who have filed Eligibility Forms and the names of the victims for whom compensation is sought, but shall not publish the content of any such form.

(c) *Personal Injury Compensation Form and Death Compensation Form.* The Special Master shall develop a Personal Injury Compensation Form that each injured claimant must submit. The Special Master shall also develop a Death Compensation Form that each Personal Representative must submit. These forms shall require the claimant to provide certain information that the Special Master deems necessary to determining the amount of any award, including information concerning income, collateral sources, benefits, and other financial information, and shall require the claimant to state the factual basis for the amount of compensation sought. It shall also allow the claimant to submit certain other information that may be relevant, but not necessary, to the determination of the amount of any award.

(1) Claimants shall, at a minimum, submit all tax returns that were filed for the years 1998, 1999, and 2000. The Special Master may, at his discretion, require that claimants submit copies of tax returns or other records for any other period of years he deems appropriate for determination of an award. The Special Master may also require waivers, consents, or authorizations from claimants to obtain directly from third parties medical information, employment information, or other information that the Special Master deems relevant to determining the amount of any award.

(2) Claimants may attach to the ''Personal Injury Compensation Form'' or ''Death Compensation Form'' any additional statements, documents or analyses by physicians, experts, advisors, or any other person or entity that the claimant believes may be relevant to a determination of compensation.

(d) *Submission of a claim.* Section 405(c)(3)(B) of the Act provides that upon the submission of a claim under the Fund, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, except for civil actions to recover collateral source obligations. A claim shall be deemed submitted for purposes of section 405(c)(3)(B) of the Act when the claim is deemed filed pursuant to § 104.21, regardless of whether any time limits are stayed or tolled.

(e) *Provisions of information by third parties.* Any third party having an interest in a claim brought by a Personal Representative may provide written statements or information regarding the Personal Representative's claim. The Claims Evaluator or the Special Master or his designee may, at his or her discretion, include the written statements or information as part of the claim.

§ 104.22 Advance Benefits.

(a) *Advance Benefits.* Eligible Claimants may apply for immediate ''Advance Benefits'' in a fixed amount as follows:

(1) $50,000 for Personal Representatives; and

(2) $25,000 for injured claimants who meet the requirements of paragraph (d) of this section.

(b) *Credit against award.* The Advance Benefit shall be credited against any final compensation award so that the amount of the Advance Benefit is deducted from the final award under this program.

(c) *Application for Advance Benefits.* An otherwise eligible claimant may seek Advance Benefits to alleviate financial hardship faced by the claimant (or financial hardship faced by the beneficiaries of the decedent) by submitting an Eligibility Form described in § 104.21(b) and indicating thereon that he or she is applying for Advance Benefits.

(d) *Eligibility for Advance Benefits.* In the case of a Personal Representative, the claimant may be deemed eligible for Advance Benefits if a Claims Evaluator or the Special Master or his designee determines that the claimant is eligible to recover under the Fund. In the case of an injured claimant, the claimant may be deemed eligible for Advance Benefits when the Special Master or his designee determines that the claimant is eligible to recover under the Fund *and* that the claimant's physical injury required hospitalization for one week or more.

(e) *Authorization of payments.*

(1) Payment in the amount described in paragraph (a) of this section will be authorized immediately upon a determination that the claimant is eligible for Advance Benefits and the claimant is:

(i) An injured claimant;

(ii) A Personal Representative who was the spouse of the deceased victim on September 11, 2001; or

(iii) A Personal Representative who has obtained the consent of the spouse of the deceased victim (or, if there is no surviving spouse, all of the dependents of the deceased victim) to file for Advance Benefits.

(2)(i) With respect to other Personal Representatives, payment will be authorized within 15 days after the determination that the claimant is eligible for Advance Benefits, provided that no other individual has asserted a colorable conflicting claim as the Personal Representative with respect to the decedent and the Personal

Representative identifies and has given notice to the beneficiaries to whom such Advance Benefits will be distributed.

(ii) In the event that a colorable conflicting claim has been asserted, no Advance Benefit will be paid until a final eligibility determination has been made.

(f) *Tolling of 120-day clock and other time periods.* A claimant filing an Eligibility Form requesting Advance Benefits before filing a Personal Injury Compensation Form or Death Compensation Form will be deemed to have waived his right to commencement of the 120-day period in section 405(b)(3) of the Act (providing that the Special Master shall provide notice to the claimant of his determination within 120 days after the date on which a claim is filed). The 120-day period and all other time limitations in this part, except those applicable to Advance Benefit payments, shall be stayed or tolled until such time that a Claims Evaluator determines that the claimant's Personal Injury Compensation Form or Death Compensation Form is substantially complete.

Subpart C—Claim Intake, Assistance, and Review Procedures

§ 104.31 Procedure for claims evaluation.

(a) *Initial review.* Claims Evaluators shall review the forms filed by the claimant and either deem the claim ''filed'' (pursuant to 104.21(a)) or notify the claimant of any deficiency in the forms or any required documents.

(b) *Procedural tracks.* Each claim will be placed on a procedural track, described herein as ''Track A'' and ''Track B,'' selected by the claimant on the Personal Injury Compensation Form or Death Compensation Form.

(1) *Procedure for Track A.* The Claims Evaluator shall determine eligibility and the claimant's presumed award pursuant to §§ 104.43 to 104.46 of this part and, within 45 days of the date the claim was deemed filed, notify the claimant in writing of the eligibility determination, the amount of the presumed award, and the right to request a hearing before the Special Master or his designee under § 104.33 of this part. After an eligible claimant has been notified of the presumed award, the claimant may either accept the presumed compensation determination as the final determination and request payment, or may instead request a review before the Special Master or his designee pursuant to § 104.33. Claimants found to be ineligible may appeal pursuant to § 104.32.

(2) *Procedure for Track B.* The Claims Evaluator shall determine eligibility within 45 days of the date the claim was deemed filed, but shall not determine the claimant's presumed award; the Claims Evaluator shall notify the claimant in writing of the eligibility determination. Upon notification of eligibility, the claimant will proceed to a hearing pursuant to § 104.33. At such hearing, the Special Master or his designee shall utilize the presumptive award methodology as set forth in §§ 104.43 to 104.46 of this part, but may modify or vary the award if the claimant presents extraordinary circumstances not adequately addressed by the presumptive award methodology. There shall be no review or appeal from this determination.

(c) *Multiple claims from the same family.* The Special Master may treat claims brought by or on behalf of two or more members of the same immediate family as related or consolidated claims for purposes of determining the amount of any award.

§ 104.32 Eligibility review.

Any claimant deemed ineligible by the Claims Evaluator may appeal that decision to the Special Master or his designee by filing an eligibility appeal on forms created by the office of the Special Master.

§ 104.33 Hearing.

(a) *Supplemental submissions.* The claimant may prepare and file Supplemental Submissions within 21 calendar days from notification of either the presumed award (Track A) or eligibility (Track B). The Special Master shall develop forms appropriate for Supplemental Submissions.

(b) *Conduct of hearings.* Hearings shall be before the Special Master or his designee. The objective of hearings shall be to permit the claimant to present information or evidence that the claimant believes is necessary to a full understanding of the claim. The claimant may request that the Special Master or his designee review any evidence relevant to the determination of the award, including without limitation: Factors and variables used in calculating economic loss; the identity of the victim's spouse and dependents; the financial needs of the claimant; facts affecting noneconomic loss; and any factual or legal arguments that the claimant contends should affect the award. Claimants shall be entitled to submit any statements or reports in writing. The Special Master or his designee may require authentication of documents, including medical records and reports, and may request and consider information regarding the financial resources and expenses of the victim's family or other material that the Special Master or his designee deems relevant.

(c) *Location and duration of hearings.* The hearings shall, to the extent practicable, be scheduled at times and in locations convenient to the claimant or his or her representative. The hearings shall be limited in length to a time period determined by the Special Master or his designee, but generally not to exceed two hours. The claimant may elect whether the hearing shall be public or private.

(d) *Witnesses, counsel, and experts.* Claimants shall be permitted, but not required, to present witnesses, including expert witnesses. The Special Master or his designee shall be permitted to question witnesses and examine the credentials of experts. The claimant shall be entitled to be represented by an attorney in good standing, but it is not necessary that the claimant be represented by an attorney.

(e) *Waivers.* The Special Master shall have authority and discretion to require any waivers necessary to obtain more individualized information on specific claimants.

(f) *Track A review of presumed award.* For proceedings under Track A, the Special Master or his designee shall make a determination whether:

(1) There was an error in determining the presumptive award, either because the claimant's individual criteria were misapplied or for another reason; or

(2) The claimant presents extraordinary circumstances not adequately addressed by the presumptive award.

(g) *Determination.* The Special Master shall notify the claimant in writing of the final amount of the award, but need not create or provide any written record of the deliberations that resulted in that determination. There shall be no further review or appeal of the Special Master's determination.

§ 104.34 Publication of awards.

In order to assist potential claimants in evaluating their options of either filing a claim with the Special Master or filing a lawsuit in tort, the Special Master reserves the right to publicize the amounts of some or all of the awards, but shall not publish the name of the claimants or victims that received each award. If published, these decisions would be intended by the Special Master as general guides for potential claimants and should not be viewed as precedent binding on the Special Master or his staff.

§ 104.35 Claims deemed abandoned by claimants.

The Special Master and his staff will endeavor to evaluate promptly any information submitted by claimants. Nonetheless, it is the responsibility of the claimant to keep the Special Master informed of his or her current address and to respond within the duration of this two-year program to requests for additional information. Claims outstanding at the end of this program because of a claimant's failure to complete his or her filings shall be deemed abandoned.

Subpart D—Amount of Compensation for Eligible Claimants.

§ 104.41 Amount of compensation.

As provided in section 405(b)(1)(B)(ii) of the Act, in determining the amount of compensation to which a claimant is entitled, the Special Master shall take into consideration the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant. The individual circumstances of the claimant may include the financial needs or financial resources of the claimant or the victim's dependents and beneficiaries. As provided in section 405(b)(6) of the Act, the Special Master shall reduce the amount of compensation by the amount of collateral source compensation the claimant (or, in the case of a Personal Representative, the victim's beneficiaries) has received or is entitled to receive as a result of the terrorist-related aircraft crashes of September 11, 2001. In no event shall an award (before collateral source compensation has been deducted) be less than $500,000 in any case brought on behalf of a deceased victim with a spouse or dependent, or $300,000 in any case brought on behalf of a deceased victim who was single with no dependents.

§ 104.42 Applicable state law.

The phrase ''to the extent recovery for such loss is allowed under applicable state law,'' as used in the statute's definition of economic loss in section 402(5) of the Act, is interpreted to mean that the Special Master is not permitted to compensate claimants for those categories or types of economic losses that would not be compensable under the law of the state that would be applicable to any tort claims brought by or on behalf of the victim.

§ 104.43 Determination of presumed economic loss for decedents.

In reaching presumed determinations for economic loss for Personal Representatives bringing claims on behalf of decedents, the Special Master shall consider sums corresponding to the following:

(a) *Loss of earnings or other benefits related to employment.* The Special Master, as part of the process of reaching a ''determination'' pursuant to section 405(b) of the Act, shall develop a methodology and publish schedules, tables, or charts that will permit prospective claimants to estimate determinations of loss of earnings or other benefits related to employment based upon individual circumstances of the deceased victim, including: The age of the decedent as of September 11, 2001; the number of dependents who survive the decedent; whether the decedent is survived by a spouse; and the amount and nature of the decedent's income for recent years. The decedent's salary/income in 1998–2000 shall be evaluated in a manner that the Special Master deems appropriate. The Special Master may, if he deems appropriate, take an average of income figures for each of those three years. The Special Master's methodology and schedules, tables, or charts shall yield presumed determinations of loss of earnings or other benefits related to employment for annual incomes up to but not beyond the 98th percentile of individual income in the United States for the year 2000. In cases where the victim was a minor child, the Special Master may assume an average income for the child commensurate with the average income of all wage earners in the United States.

(b) *Medical expense loss.* This loss equals the out-of-pocket medical expenses that were incurred as a result of the physical harm suffered by the victim (i.e., those medical expenses that were not paid for or reimbursed through health insurance). This loss shall be calculated on a case-by-case basis, using documentation and other information submitted by the Personal Representative.

(c) *Replacement services loss.* For decedents who did not have any prior earned income, or who worked only part time outside the home, economic loss may be determined with reference to replacement services and similar measures.

(d) *Loss due to death/burial costs.* This loss shall be calculated on a case-by-case basis, using documentation and other information submitted by the personal representative and includes the out-of-pocket burial costs that were incurred.

(e) *Loss of business or employment opportunities.* Such losses shall be addressed through the procedure outlined above in paragraph (a) of this section.

§ 104.44 Determination of presumed noneconomic losses for decedents.

The presumed noneconomic losses for decedents shall be $250,000 plus an additional $50,000 for the spouse and each dependent of the deceased victim. Such presumed losses include a noneconomic component of replacement services loss.

§ 104.45 Determination of presumed economic loss for claimants who suffered physical harm.

In reaching presumed determinations for economic loss for claimants who suffered physical harm (but did not die), the Special Master shall consider sums corresponding to the following:

(a) *Loss of earnings or other benefits related to employment.* The Special Master may determine the loss of earnings or other benefits related to employment on a case-by-case basis, using documentation and other information submitted by the claimant, regarding the actual amount of work that the claimant has missed or will miss without compensation. Alternatively, the Special Master may determine the loss of earnings or other benefits related to employment by relying upon the methodology created pursuant to § 104.43(a) and adjusting the loss based upon the extent of the victim's physical harm.

(1) *Disability; in general.* In evaluating claims of disability, the Special Master will, in general, make a determination regarding whether the claimant is capable of performing his or her usual profession in light of the injuries.

(2) *Total permanent disability.* With respect to claims of total permanent disability, the Special Master may accept a determination of disability made by the Social Security Administration as evidence of disability without any further medical evidence or review. The Special Master may also consider determinations of permanent total disability made by other governmental agencies or private insurers in evaluating the claim. The Special Master may require that the claimant submit an evaluation of the claimant's disability and ability to perform his or her occupation prepared by medical experts.

(3) *Partial disability.* With respect to claims of partial disability, the Special Master may consider evidence of the effect of the partial disability on the claimant's ability to perform his or her usual occupation as well as the effect of the partial disability on the claimant's ability to participate in usual daily activities.

(b) *Medical Expense Loss.* This loss equals the out-of-pocket medical

expenses that were incurred as a result of the physical harm suffered by the victim (*i.e.,* those medical expenses that were not paid for or reimbursed through health insurance). In addition, this loss equals future out-of-pocket medical expenses that will be incurred as a result of the physical harm suffered by the victim (*i.e.,* those medical expenses that will not be paid for or reimbursed through health insurance). These losses shall be calculated on a case-by-case basis, using documentation and other information submitted by the claimant.

(c) *Replacement services loss.* For injured claimants who did not have any prior earned income, or who worked only part-time outside the home, economic loss may be determined with reference to replacement services and similar measures.

(d) *Loss of business or employment opportunities.* Such losses shall be addressed through the procedure outlined above in paragraph (a) of this section.

§ 104.46 Determination of presumed noneconomic losses for claimants who suffered physical harm.

The Special Master may determine the presumed noneconomic losses for claimants who suffered physical harm (but did not die) by relying upon the noneconomic losses described in § 104.44 and adjusting the losses based upon the extent of the victim's physical harm. Such presumed losses include any noneconomic component of replacement services loss.

§ 104.47 Collateral sources.

(a) *Payments that constitute collateral source compensation.* The amount of compensation shall be reduced by all collateral source compensation, including life insurance, pension funds, death benefit programs, and payments by federal, state, or local governments related to the terrorist-related aircraft crashes of September 11, 2001.

(b) *Payments that do not constitute collateral source compensation.* The following payments received by claimants do *not* constitute collateral source compensation:

(1) The value of services or in-kind charitable gifts such as provision of emergency housing, food, or clothing; and

(2) Charitable donations distributed to the beneficiaries of the decedent, to the injured claimant, or to the beneficiaries of the injured claimant by private charitable entities; provided, however, that the Special Master may determine that funds provided to victims or their families through a private charitable entity constitute, in substance, a payment described in paragraph (a) of this section.

Subpart E—Payment of Claims

§ 104.51 Payments to eligible individuals.

Not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under the Fund, the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

§ 104.52 Distribution of award to decedent's beneficiaries.

The Personal Representative shall distribute the award in a manner consistent with the law of the decedent's domicile or any applicable rulings made by a court of competent jurisdiction. The Personal Representative shall, before payment is authorized, provide to the Special Master a plan for distribution of any award received from the Fund. Notwithstanding any other provision of these regulations or any other provision of state law, in the event that the Special Master concludes that the Personal Representative's plan for distribution does not appropriately compensate the victim's spouse, children, or other relatives, the Special Master may direct the Personal Representative to distribute all or part of the award be distributed to such spouse, children, or other relatives.

Subpart F—Limitations

§ 104.61 Limitation on civil actions.

(a) *General.* Section 405(c)(3)(B) of the Act provides that upon the submission of a claim under the Fund, the claimant waives the right to file a civil action (or to be a party to an action) in any federal or state court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, except that this limitation does not apply to civil actions to recover collateral source obligations. The Special Master shall take appropriate steps to inform potential claimants of section 405(c)(3)(B) of the Act.

(b) *Pending actions.* Claimants who have filed a civil action or who are a party to such an action as described in paragraph (a) of this section may not file a claim with the Special Master unless they withdraw from such action not later than March 21, 2002.

§ 104.62 Time limit on filing claims.

In accordance with the Act, no claim may be filed under this part after December 22, 2003.

§ 104.63 Subrogation.

Compensation under this Fund does not constitute the recovery of tort damages against a third party nor the settlement of a third party action, and the United States shall be subrogated to all potential claims against third party tortfeasors of any victim receiving compensation from the Fund. For that reason, no person or entity having paid other benefits or compensation to or on behalf of a victim shall have any right of recovery, whether through subrogation or otherwise, against the compensation paid by the Fund.

Subpart G—Measures to Protect the Integrity of the Compensation Program

§ 104.71 Procedures to prevent and detect fraud.

(a) *Review of claims.* For the purpose of detecting and preventing the payment of fraudulent claims and for the purpose of assuring accurate and appropriate payments to eligible claimants, the Special Master shall implement procedures to:

(1) Verify, authenticate, and audit claims;

(2) Analyze claim submissions to detect inconsistencies, irregularities, duplication, and multiple claimants; and

(3) Ensure the quality control of claims review procedures.

(b) *Quality control.* The Special Master shall institute periodic quality control audits designed to evaluate the accuracy of submissions and the accuracy of payments, subject to the oversight of the Inspector General of the Department of Justice.

(c) *False or fraudulent claims.* The Special Master shall refer all evidence of false or fraudulent claims to appropriate law enforcement authorities.

Dated: December 19, 2001.

John Ashcroft,

Attorney General.

Note: This Appendix will not appear in the Code of Federal Regulations.

Appendix to Preamble—Summary of Public Comments Submitted in Response to the November 5, 2001 Notice of Inquiry and Advance Notice of Rulemaking

The following is a summary of the comments the Department of Justice (''the Department'') received in response to its Notice of Inquiry published on November 5, 2001. The Notice of Inquiry sought input on numerous issues regarding potential regulations for the ''September 11 Victim Compensation Fund of 2001'' (the ''Fund''), which was signed into law as Title IV of Public Law 107–42 (''Air Transportation

Safety and System Stabilization Act'') (the ''Act'').

Over 800 comments were received by the November 26, 2001 deadline established by the Department. Additionally, hundreds of comments have been received since that date. Every comment was—and continues to be—reviewed, considered, and catalogued into one or more of 72 different topics. While the following summary does not address every issue raised by commenters, it provides a general synopsis of the most often raised issues. The summary is not intended to be an exhaustive illustration of every issue contemplated by the Special Master or the Department. Indeed, as mentioned above, all comments were considered in the promulgation of these interim final rules. Finally, the summarized issues below are not arranged in any particular order of importance or level of volume.

The Effective Date of This Interim Final Rule

While the Act specified that this rule should be issued by December 21, 2001, it did not specify when they should become effective. Accordingly, the Department sought comment on this issue. The Department noted that the Administrative Procedure Act generally provides that rules not go into effect for at least 30 days absent ''good cause.''

Many commenters favored an immediate effective date so that claims could be filed right away. Many indicated an immediate need for relief and expressed frustration about their experiences with obtaining short-term assistance from other sources. However, some commenters thought an immediate effective date would be difficult to implement because the Special Master would need time to hire personnel and to set up the operation of the program before beginning to process claims.

A number of commenters suggested a compromise—making available some amount of short-term relief on an immediate basis to eligible claimants, and then commencing the more detailed review process necessary to provide a final award. Some suggested using flat amounts for these immediate awards, while another commenter suggested establishing an interest-free line of credit upon which families could draw. Another suggestion was that claims for immediate assistance be prioritized by ''need.''

Eligibility

In its November 5, 2001, Notice of Inquiry, the Department noted that section 405(b) of the statute requires the Special Master to determine whether a claimant is an ''eligible individual'' under section 405(c). ''Eligibility,'' in turn, is defined by the Act to include: (1) individuals (other than the terrorists) aboard American Airlines flights 11 and 77 and United Airlines flights 93 and 175; or (2) individuals who were ''present at'' the World Trade Center, the Pentagon, or the site of the aircraft crash at Shanksville, Pennsylvania at the time or in the immediate aftermath of the crashes; or (3) personal representatives of deceased individuals who would otherwise be eligible. Moreover, to be eligible for an award, an individual must have suffered physical harm or death as a result of one of the terrorist-related air crashes. The Department sought comment on whether a Departmental regulation or a statement of policy by the Special Master would be appropriate to clarify these criteria, and if so, what those criteria should be.

The Department specifically invited comment on the following questions related to eligibility:

- How should ''present at'' be interpreted?
- Should the term ''physical harm'' be limited to serious injuries, as it is under some other no-fault compensation schemes, (see, e.g., N.Y. Ins. Law § 5102), or should it be construed more broadly?
- Should ''physical harm'' be limited to currently identifiable injuries?
- Can and should the program address latent, but not yet evident, harm?
- What duration of time is intended by the statutory phrase ''immediate aftermath''?

(1) ''Present At'' And ''Immediate Aftermath''

Many of the comments addressed the question of how to define the terms ''present at the site'' and ''immediate aftermath,'' especially for purposes of those who were in New York at the time of the crashes. Some commenters urged a broad definition of these terms. They recommended that anybody in New York City be considered ''present'' because the debris and ash from the collapse of the World Trade Towers was widespread. Residents who live near the Ground Zero site in New York urged that they be eligible to recover under the Fund.

In contrast, other commenters argued for a narrower definition of the terms, asserting that the legislation intended to constrain the Fund to the locus of the buildings themselves, and to some very limited time period after the crashes. One comment recommended that ''immediate aftermath'' be defined as 48 hours after the crashes.

(2) Physical Harm

With respect to the nature of harm involved, some commenters asserted there should be no lower boundary for ''nonserious'' injuries. Of those who commented on the point, there were disagreements as to whether post-traumatic stress could be considered physical harm for purposes of filing a claim under the Fund. Certain commenters indicated that many people suffered substantial stress from witnessing the attacks and devastation and that they should be eligible to recover from the Fund. However, others argued that the Fund was not intended to cover psychological injury because the language of the statute specifically requires that the claimant suffer ''physical harm.'' These commenters feared that recovery for stress-related injuries would open a Pandora's Box of less serious claims, which, in turn, may reduce the amount of compensation issued to those with the most serious physical injuries.

(3) Latent Harm

Some of the comments focused on the problem of latent injuries and diseases. Several commenters mentioned the coughing they have experienced as a result of exposure to the crash site in New York, and some nearby residents expressed concern about latent harm that might accrue from returning to their homes before the conclusion of the rescue and cleanup efforts. On the other hand, other commenters expressed concern about covering any harms that do not manifest themselves within the two-year lifetime of the Fund. They argued the Fund was not designed to compensate for latent harm primarily because the Fund only exists for two years, and many injuries may not become manifest until after that time.

(4) Eligibility of Victims And Survivors

Some commenters addressed the meaning of the word ''victim.'' For example, some commenters urged that any unborn child who died should be considered eligible for an award as a victim. With respect to a different group of potential claimants, some commenters argued that illegal aliens should not be eligible for awards. However, other commenters did not think that legal status should preclude an award from the Fund.

With regard to claims on behalf of decedent victims, the comments evidenced a tremendous amount of confusion about whether the statute intended to cover only the losses incurred by the victim or the losses incurred by relatives and others. Some commenters noted that section 405 of the Act provides that only claims on behalf of the victim can be filed with the Fund, presumably leaving to the courts any claims by family members or partners on their own behalf. However, some commenters noted that section 403 of the Act states that its purpose is to provide compensation to any individual ''or relatives of a deceased individual'' who were killed as a result of the terrorist-related aircraft crashes. The commenters further noted that various types of losses that may be compensated by the Fund pursuant to section 402 are akin to those that in civil actions are normally considered losses to survivors rather than to the victim.

Many commenters commented on the ''eligibility'' of particular ''survivors'' of the victim. Some suggested that only a spouse and children be considered ''eligible.'' Others expressed concern as to whether parents, divorced spouses, children of a prior marriage, and others with a legal relationship would be ''eligible'' for an award under the Fund. In this regard, a number of comments specifically urged that non-married partners and others with a non-traditional relationship be considered ''eligible'' for an award. Some commenters opposed the idea of extending eligibility under the Fund to those in non-traditional relationships and argued for a narrower definition of eligibility.

Similarly, there were a number of comments about how ''eligible'' survivors would participate in the decision of whether to submit an application to the Fund, since in their view the application to the Fund would prohibit all of them from filing civil litigation. Some commenters explicitly suggested the law be interpreted to allow claims both on behalf of the decedent's estate and on behalf of any survivors, and suggested that such claims could be consolidated for decision before the Special Master. Others, however, specifically recommended that claims be limited to those on behalf of the estate. Many commenters, presuming that to

be the case, recommended that the state courts be responsible for designating the representative to represent the estate, and that any award be distributed in accordance with the requirements of the will or state intestacy law.

Assistance to Claimants

In its Notice of Inquiry of November 5, 2001, the Department noted that it would appear that these requirements—combined with the statutory time frame for the Special Master to reach a decision once a claim is filed—contemplate a detailed form and filing. Accordingly, the Department invited comments on whether there are actions the Special Master should be required to take before he can accept a claim, or deem a claim ''filed.'' The Department noted that the statute appeared to provide a very limited time frame for the Special Master to evaluate a claim before making a decision—120 days from the date a claim is filed. Accordingly, the Department sought comment on whether the Special Master should be permitted to dismiss a claim as not properly filed for lack of adequate supporting information and, if so, whether an individual should thereafter be permitted to refile the claim. Comments were also solicited on whether it would be advisable to include in the rules a procedure where the time for making a determination could be extended by agreement.

The Department also requested comment on the design and content of the claim forms in light of the statutory requirements, as well as on making the forms and their instructions readable and readily available. The Department also sought comment on how it should implement the statutory requirement that claimants be provided with assistance.

While most of those who commented supported maintaining firm deadlines, many commenters suggested that a claimant be able to ''halt the clock'' at the claimant's discretion for various purposes (e.g., to provide further evidence before the claim is evaluated, to allow more time to prepare for a hearing, or to allow for an administrative review of an initial award determination). Some suggested that the Special Master also have the authority not to start the clock until the claim contained sufficient information upon which an award determination could be made, or to halt the process for a set period of time to allow for review of an initial determination (provided that the claimant concurred with that decision).

A number of commenters stressed that a claimant should not lose the right to proceed with their claim due to an incomplete file. One commenter suggested the Special Master should have 14 days to review a claim before deciding if there is enough information to proceed. Several commenters suggested that claimants not be required to waive their right to litigation until it was determined the claimant was eligible to recover from the Fund. Similarly, some commenters stated they would have difficulty deciding whether or not to opt into the fund (and thus waive their right to sue) if they did not have some idea or presumption of the range of recovery they might expect from the Fund.

Many commenters urged the Department to establish a simplified procedure for initiating a claim with the Fund. They expressed frustration with the barrage of paperwork required to apply for assistance with other organizations. Some employers offered to provide information on behalf of their employees or survivors in an effort to reduce the paperwork burden on claimants. On the other hand, some noted that—in light of the pro bono legal assistance that has been offered to the survivors—claimants would have the option to have the assistance of an attorney to complete the forms. A number of commenters suggested a two-step claims process that would involve a simple initial submission, followed by a more asserted effort to collect additional information with the guidance of claimant assistance personnel from the Office of the Special Master.

A number of commenters had suggestions as to how the Special Master might assist claimants both in filing claims and completing the claims process. Many suggested that local offices be established in New York City, Washington DC, Pennsylvania, and other cities that served as the domicile of victims. Some urged that outreach efforts be made to locate potential claimants and make them aware of the program's operations. Some mentioned that outreach should include multi-lingual assistance and publications. One group suggested that each Hearing Office have an Applicant's Assistant. Others suggested the Special Master hire victim advocates to assist claimants throughout the process.

The Claims Evaluation Process

The Department solicited comment on whether every claimant should be granted an oral hearing or whether paper hearings may be sufficient, and what types of oral hearing might be practicable in light of the statutory time frames.

Further, the Department sought comment on how evidence might be established and whether it is authorized to enforce requests made by the hearing officer to third parties for evidence that is necessary to a proceeding (e.g., evidence that might bear on whether all aspects of the claim file on which the decision will be based are accurate and complete). The Department sought comment on whether such proceedings should be recorded, whether such proceedings should be held in a location convenient to the claimant, how to deal with scheduling conflicts, and whether the opportunity for a hearing can be waived by a claimant through inaction or unwarranted delay.

Many commenters had opposing views on the role hearings should play in claims evaluation. Some commenters—comparing this program to civil litigation—viewed the hearings as essential to each and every claim. These commenters recommended hearings as a sort of ''mini-trial,'' which would include rules of evidence (albeit relaxed rules) and adversarial questioning of witnesses. Using the same analogy, however, these commenters suggested that many claims could be ''settled'' based on only the paper submissions. Other comments suggested the hearings be more akin to an opportunity—for those claimants who want to exercise it—to make an informal oral presentation of their cases. They viewed the hearing as an opportunity to ensure that the decision maker was aware of their individual circumstances. Many of these commenters also suggested, for various reasons, that not all claimants would want a hearing. Some commenters suggested allowing claimants, upon filing a claim, to elect among different ''tracks''—one that would involve a hearing, and one that would not.

On the question of who should be hired as hearing officers, suggestions included retired trust executives, retired judges, attorneys experienced in handling high volume caseloads, and those experienced in civil litigation. Some commenters recommended there be a panel of hearing officers rather than one hearing officer. A number of commenters also recommended that claimants have the opportunity for review of their award to ensure that the decision maker was aware of their individual circumstances.

Many commenters submitted detailed procedural suggestions for the claims process. Among other things, these suggestions dealt with how eligibility and damages could be established through the use of affidavits under penalty of perjury in the event relevant documents had been lost as a result of the crashes themselves (e.g., designations of beneficiaries maintained by employers). Additionally, a number of commenters suggested the Special Master have the right to subpoena evidence required to make a determination.

Awards Under the Fund

(1) Meeting the 120-Day Deadline

The Department invited comment on what means and mechanisms could be implemented to allow just compensation within the statutorily-mandated 120-day period for processing claims. In particular, the Department sought input on whether and how statistical methodologies should be developed and used as a starting point for decision, and whether publication of hypothetical or presumptive awards for classes of individuals would assist potential claimants in determining whether to opt into the Fund. For the most part, these comments were encapsulated in discussions regarding the calculation of damages; namely, economic and noneconomic losses.

(2) Calculating ''Economic Losses''

The Department sought specific comment on how the Special Master should determine ''economic losses.'' Although retaining experts is certainly not prohibited, the Special Master will not require any claimant to obtain legal counsel or other experts to assist in proving or presenting evidence of damages. The Special Master may, however, draw on available information from appropriate specialists in relevant fields to analyze economic losses. The Department invited comment regarding the necessary qualifications for such specialists, the data that should be utilized, the methodologies that should be employed, the documentation that should be required for every claimant, and how state law should bear upon such determinations. In addition, the Department invited comments on how to address the economic losses of individuals whose lost

future income streams would have been highly contingent, variable, or unpredictable.

As expected, the range of comments on how best to calculate economic losses was widely varied. One group suggested a minimum value be calculated based on median income and remaining years of work, with flexibility to adjust the award after hearing all the evidence in individual cases. Similarly, certain comments suggested the use of a grid would be appropriate in certain circumstances to identify presumed awards. Others urged that no type of grid be used.

In terms of presumptive valuation, a few commenters recommended that awards mirror the amount a party could anticipate receiving from personal injury or wrongful death actions. Others disagreed. Many recognized the limited opportunities now available to potential plaintiffs filing claims in civil courts arising out of the September 11, 2001 terrorist attacks. At least one commenter argued that the fairest approach in determining economic losses is that which insurance companies use in settling claims.

Some commenters indicated that economic awards should not be based on differences in individual income prior to the crash. Some suggested using a flat dollar figure per surviving family member (e.g., $250,000 for each survivor). Another suggested a flat amount for death at $100,000, injury at $50,000, and various other losses at slated dollar figures. On the other hand, some commenters felt the purpose of the program is to act as a substitute for civil damage actions, and that efforts should be made to determine and take into consideration the amount of income likely lost by a decedent. A large number of comments were received with respect to how to establish such income (e.g., average over a certain number of prior years, plus information supplied by employers on future prospects).

(3) Calculating ''Noneconomic Losses''

The Department also sought comment as to ''noneconomic losses.'' Most notably, the Department invited comments regarding whether, and in what manner, the Special Master can or should draw meaningful distinctions between both those victims who died in different locations and those who suffered similar injuries. The Department also invited comments on whether the Department should (as some have suggested) issue regulations determining the amount of noneconomic loss for classes of similarly situated individuals or whether, instead, the Special Master should determine all noneconomic loss on a detailed claim-by-claim basis. Further, the Department requested comment on what facts and circumstances should be considered in determining noneconomic losses for each individual, and what standards should be employed.

Comments regarding noneconomic losses were similarly varied. One commenting association suggested noneconomic losses—such as pain and suffering—should be standardized because such losses do not vary by income strata. Numerous commenters advocated a ''fixed'' noneconomic award, stating that the government should not attempt to draw distinctions in the amount of pain suffered by victims or their survivors. One commenter suggested the most equitable process for determining noneconomic awards would be an elective process. Under this proposed method, a claimant could elect to have the award calculated by use of a matrix, or alternatively, could present evidence at a hearing to establish the amount to which the claimant believes he or she is entitled. A number of commenters argued that the statute necessitated an entirely individualized determination of noneconomic losses in every case. A group representing survivors of decedents suggested that noneconomic losses must be uncapped and based, in part, on the number and age of any surviving children or dependents, the current and future pain and suffering experienced by the victim's family, and the severity of pain suffered by the victim himself or herself.

(4) Taxation

A number of commenters raised questions about the taxability of various kinds of awards issued under the Fund. Several commenters asserted that compensation from the Fund should be nontaxable under federal law, similar to various types of tort awards. Another commenter stated that state victim compensation fund awards generally are not taxable, either by the state or the federal government. On the other hand, another commenter stated he did not see the purpose of distributing taxpayers' money to victims, and urged taxing the awards so as to return some of the money to the Treasury.

Collateral Sources

The Department sought comments on the issue of collateral sources. Although the Act requires that collateral sources be deducted from awards issued under the Fund (and explicitly outlines examples of certain types of collateral sources), the Department invited comment as to how the term ''collateral source'' should be defined.

(1) General Comments

Despite the explicit language in the Act, a number of commenters took issue with deducting any collateral sources whatsoever. Although many recognized that both the Department and the Special Master are bound to follow the language in the Act, they nonetheless argued that collateral sources are—in many states—not offset in wrongful death suits. Some urged that the type of collateral source offsets should be interpreted narrowly. A number of commenters also suggested that if collateral source benefits to a victim are to be offset, a counter-offset should be made for the premiums or contributions made by the victim to purchase various benefits. Others specifically suggested that only the value of collateral benefits funded by a victim's employer should be offset.

Many commenters, however, asserted that the program should not ''unjustly enrich'' the victims or their survivors, and supported the use of widespread offsets. Some of these comments mentioned that—although the statute does not provide either a ceiling or floor for the amount of awards—the Fund may have only a limited pool of resources to distribute to claimants (akin to the funds being collected and distributed by charitable organizations), and suggested the need to help those most in need. Other comments noted that unjust enrichment should not flow through tax-payer dollars. It was mentioned that many taxpayers—who ultimately will provide the funds under the program—also sent in charitable contributions not to unjustly enrich victims or their families, but, rather, solely to help them through these troubled times.

(2) ''A claimant has received or is entitled to receive''

Some commenters specifically focused on the word ''claimant'' in the phrase ''a claimant has received or is entitled to receive,'' and urged that any collateral source benefits not paid or to be paid directly to the claimant not be deducted from the award. These comments were often parallel to those concerning the question of whose losses are to be compensated under the Fund: only those of the decedent (estate), or those of others as well. (See the discussion of Eligibility.)

A number of comments also focused on the words ''entitled to receive.'' Some recommended that only those collateral benefits scheduled to be paid as a result of contractual or other clear obligations should be deducted from an award. Others recommended that only the present value of any future contingent awards be considered in making any offset.

(3) Life Insurance

Many commenters were frustrated that the Act requires life insurance proceeds to be deducted from awards. Many asserted that deducting life insurance will penalize those who planned ahead. One suggested that life insurance should only be offset if payable to a dependent of the victim, and another group of commenters indicated that only the sums received by the eligible applicant net of all taxes that exceed the premiums—or other payments made by the applicant—be deducted. A number suggested that if life insurance is to be offset, the premiums paid should be returned to the victim by reducing the amount of the benefit offset.

(4) Pensions

While similar concerns (as to life insurance) were raised in connection with pensions, a more common comment concerned the meaning of the term ''pension.'' For example, some commenters noted that pensions are not normally considered to be ''compensation for a loss'' but are instead akin to savings.

(5) Workers Compensation And Victim Assistance Programs

One commenter pointed out that most of the victims may be eligible for workers' compensation benefits because they were killed while on the job. Further, with respect to those receiving benefits under New York law, the compensation insurer can terminate workers' compensation payments—absent claimants obtaining consent to enter the Fund—if benefits are being paid to the injured workers or survivors. New York State legal authorities confirmed the noteworthiness of this issue, and

recommended that workers' compensation payments not be considered a collateral source to this extent.

With respect to state victim assistance funds, one commenter noted that 42 U.S.C. 10602(e)—which generally provides that state crime victim boards may refuse to pay out benefits if another Federal program is paying benefits—was explicitly amended to exclude payments made under the September 11th Victim Compensation Fund of 2001. The commenter suggested that some programs covered under that code provision—that have already made payments—may be entitled to reimbursement as a result.

(6) Charitable Contributions

Many victims of the terrorist-related crashes on September 11, 2001, have or may receive support from special funds set up to assist them, as well as from special programs established by some of their employers to share future profits and the like. Accordingly, whether to reduce Fund awards by the amount of such contributions was one of the issues given the most attention in the comments. Notably, this issue was discussed in a number of news articles at about the time the Notice of Inquiry was issued.

Commenters were heavily divided on this issue. Many were strongly opposed to reducing awards by the amount of charity funding received. This includes some commenters who donated to charities established for this purpose, as well as employers who established funds to help the families of the victims. Many insisted that funds collected by employers solely for the purpose of compensating victims of the September 11 attacks should not be deemed a collateral source. Many drew a distinction between funds provided for short-term assistance and need, and those designed to compensate victims for their losses.

On the other hand, a number of comments from those who contributed money to various charities viewed the purposes of the charities and the Fund as one and the same; namely, compensating the victims. These commenters asserted they had not intended making contributions to unjustly enrich the families, and would hesitate to make such contributions in the future if their help turns out only to ensure persons maintain a certain lifestyle.

A number of commenters also pointed to the practical difficulties of trying to establish what claimants may have received from charities. Some suggested the Fund should have access to any database of charitable contributions, including one that was reported to be under consideration in New York.

After discussing these factors, some commenters suggested that the Special Master only offset charitable contributions over a certain amount. A few commenters suggested only offsetting charities set up for longer term assistance to the victims (e.g., tuition funds or scholarships for the children of all the victims).

Payment of Awards

Some commenters expressed the view that payments by the fund should be in the form of ''structured settlements'' or annuities rather than in lump sum. One commenter suggested payments to children should go to a trustee for the benefit of the child. However, other commenters argued for lump sum payments and objected to the government placing any restrictions on the claimants' award.

Limitations on Fees for Assistance And Payment by the Special Master

The Department requested comments on whether the Special Master has the authority to limit the types and amounts of fees that can be charged by counsel, accountants, experts or others who are retained by claimants to assist them to file and pursue compensation claims, and whether such fees can and should be paid by the Special Master directly out of compensation awards. The Department also solicited comments on what limitations, if any, the rules should impose on non-attorney, non-claimant representatives' participation in filing claims.

A number of commenters noted that the right to be represented by counsel is provided by the statute, that not all claimants would be comfortable using pro-bono counsel to represent their interests, and that payment of attorneys' fees is necessary to ensure representation by counsel of choice. Some of these commenters suggested, however, that fees could be limited so as not to exceed 10% of the award to claimant. Paradoxically, some commenters opposed using any amount of money from the Fund to pay legal fees.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 717/P.L. 107–84

Muscular Dystrophy Community Assistance, Research and Education Amendments of 2001 (Dec. 18, 2001; 115 Stat. 823)

H.R. 1766/P.L. 107–85

To designate the facility of the United States Postal Service located at 4270 John Marr Drive in Annandale, Virginia, as the ''Stan Parris Post Office Building''. (Dec. 18, 2001; 115 Stat. 831)

H.R. 2261/P.L. 107–86

To designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, as the ''Earl T. Shinhoster Post Office''. (Dec. 18, 2001; 115 Stat. 832)

H.R. 2299/P.L. 107–87

Department of Transportation and Related Agencies Appropriations Act, 2002 (Dec. 18, 2001; 115 Stat. 833; 42 pages)

H.R. 2454/P.L. 107–88

To redesignate the facility of the United States Postal Service located at 5472 Crenshaw Boulevard in Los Angeles, California, as the ''Congressman Julian C. Dixon Post Office''. (Dec. 18, 2001; 115 Stat. 875)

H.J. Res. 71/P.L. 107–89

Amending title 36, United States Code, to designate September 11 as Patriot Day. (Dec. 18, 2001; 115 Stat. 876)

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